

1 Paul V. Avelar (AZ Bar no. 023078)
INSTITUTE FOR JUSTICE
2 398 South Mill Avenue, Suite 301
Tempe, Arizona 85281
3 (480) 557-8300
pavelar@ij.org
4

Diana K. Simpson* (CO Bar no. 43591)
5 Suranjan Sen* (TN Bar no. 038830)
INSTITUTE FOR JUSTICE
6 901 North Glebe Road, Suite 900
Arlington, Virginia 22203
7 (703) 682-9320
diana.simpson@ij.org; ssen@ij.org
8 * *pro hac vice application to be filed*

9 **IN THE UNITED STATES DISTRICT COURT FOR THE**
10 **DISTRICT OF ARIZONA**

11 Norma Thornton,

Plaintiff,

12 v.

13 City of Bullhead City, Arizona,

14 Defendant.

No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

15
16 **INTRODUCTION**

17 1. This civil-rights lawsuit challenges an ordinance that makes it a crime,
18 punishable by imprisonment, to share prepared food in public parks “for charitable
19 purposes.”

20 2. Plaintiff Norma Thornton, a retired former restaurant owner and
21 grandmother, started regularly sharing her home-cooked food with the needy in 2018.
22 Several days a week, Norma would share her wholesome, complete, hot meals in the

1 public park with anyone who asked, including people experiencing homelessness and
2 low-income people who live nearby. Norma would provide plates and utensils, and she
3 would always ensure that she left the area clean. Norma hoped that her efforts would not
4 only keep people alive but also help them turn things around. Moreover, Norma hoped
5 her example could inspire her community to do more to help those in need.

6 3. But Bullhead City, Arizona, does not want people feeding those in need. In
7 2021, the City enacted an ordinance banning people from sharing prepared food in public
8 parks “for charitable purposes.” This ordinance directly targeted the efforts of people like
9 Norma.

10 4. On March 8, 2022, Norma was sharing her food in a local public park when
11 an officer of the Bullhead City Police Department approached her. The officer arrested
12 Norma, and the City prosecuted her. After Norma rejected a plea deal, the City dropped
13 its charge—though the City clarified that it would prosecute Norma should she violate
14 the ordinance again.

15 5. The City’s ordinance violates Norma’s constitutional rights. The
16 prohibition violates her right to engage in charitable acts and to share food with the
17 needy, which is protected by the Due Process and Privileges or Immunities clauses of the
18 Fourteenth Amendment to the U.S. Constitution. The disparate treatment between people
19 sharing food for charitable purposes and people sharing food for non-charitable purposes
20 also violates her right to equal protection, which is protected by the Equal Protection
21 Clause of the Fourteenth Amendment to the U.S. Constitution. For those reasons,
22 Plaintiff Norma Thornton seeks relief in this Court.

1 **JURISDICTION AND VENUE**

2 6. Plaintiff brings this civil-rights lawsuit under the U.S. Constitution, the
3 Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C.
4 §§ 2201–02.

5 7. Plaintiff seeks declaratory and injunctive relief against the City’s
6 enforcement of Bullhead City Code of Ordinances §§ 5.36.010–.080, facially and as-
7 applied to Plaintiff. Plaintiff brings her claims under the Due Process, Equal Protection,
8 and Privileges or Immunities clauses of the U.S. Constitution.

9 8. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.

10 9. Venue lies in this Court under 28 U.S.C. § 1391(b)(1)–(2).

11 **THE PARTIES**

12 10. Plaintiff Norma Thornton is a citizen of the United States and a resident of
13 Bullhead City, Arizona.

14 11. Defendant Bullhead City is a municipal corporation in Mohave County,
15 Arizona.

16 **FACTUAL ALLEGATIONS**

17 12. Norma Thornton grew up in poverty. Seven decades later, she still vividly
18 remembers nights when her family went hungry. She strongly believes that all citizens
19 should help ensure that no one in their community experiences such hunger.

20 13. Norma continued to experience hardship in some of her adult years. After
21 the death of her first husband, Norma and her five children spent six months living in an
22 old school bus while she looked for work. The family survived on the generosity of

1 others, and Norma still considers it her responsibility to help anyone she encounters in
2 need.

3 14. Before retirement, Norma spent more than a decade owning and operating a
4 commercial restaurant in Alaska. Norma helped support her family by preparing and
5 serving food to the public for years.

6 15. Today, Norma is a 78-year-old grandmother who retired to Bullhead City
7 several years ago.

8 16. As a new resident of Bullhead City, she witnessed the area’s poverty. She
9 decided to keep herself busy by contributing to her new community. From early 2018
10 until March 8, 2022, Norma regularly used a local public park to share her home-cooked
11 food with people in need.

12 **BULLHEAD CITY’S POOREST**

13 17. Soon after moving to Bullhead City, Norma learned that many people in
14 her new community could not afford food. According to the most recent data from the
15 U.S. Census Bureau, Bullhead City has a population of over 40,000, with more than 17%
16 living below the poverty line. In total, more than 33,000 people live in poverty in the
17 surrounding areas of Mohave County.

18 18. Even people living above the poverty line can experience “food insecurity,”
19 or a lack of consistent access to enough food for an active, healthy lifestyle.

20 19. The unhoused in Bullhead City tend to sleep in the desert, out of sight.
21 During the day, some spend time in the nearby Bullhead City Community Park, where
22 they can sit at park tables, take refuge in the shade from the punishing Arizona sun, and

1 use the public washrooms. The park is located about three-quarters of a mile away from
2 where the homeless often sleep. It is also near Norma’s house and is where she
3 encounters people in need.

4 20. No one lives in the park; there are no tents, for example, and camping on
5 city land is illegal. But people of all walks congregate there during the day to enjoy the
6 public amenities, including its bathrooms, benches, tables, shade, and scenery.

7 21. Nonprofit organizations and churches run food pantries in Bullhead City
8 that locals may use. Upon information and belief, there are three food pantries in
9 Bullhead City: Food for Families–Bullhead City Food Bank; St. Vincent de Paul; and the
10 Salvation Army. Although these provide a very important service to the community, they
11 do not fully solve the area’s hunger challenges. They are geographically limited, and they
12 have a limited amount and selection of food and limited operating hours.

13 22. The three food pantries are scattered throughout Bullhead City; none are
14 within two miles of the Community Park, where the homeless are during the day.

15 23. The three food pantries have limited hours; none are open more than 25
16 hours per week, with each only open in the middle of the day in the work week. None are
17 open on evenings or weekends.

18 24. None of the food pantries in Bullhead City serve hot, prepared meals.

19 25. For example, at St. Vincent de Paul, people may pick up a single bag of
20 food once per day between 9 a.m. and 2 p.m., Monday–Friday. The bag consists of dried
21 or canned food, which generally requires further preparation, such as the addition of hot
22

1 water. Otherwise, food is limited to one box per family, once a month, available only
2 upon proof of local residence.

3 26. Many needy people in the area either do not own a car or cannot afford to
4 pay for the gas to drive to food pantries or shelters. Many also cannot afford bus fare.

5 27. Walking to food pantries or shelters can be prohibitively difficult—a multi-
6 mile trek with limited sidewalks and busy roads is demanding any time of year and made
7 much worse in the hot Arizona sun.

8 28. Some needy people are unable to visit the food pantries during their limited
9 hours of operation.

10 29. Most of the food available at the three food pantries, including foods like
11 dried beans and raw meats, cannot be consumed unless cooked. Not all poor members of
12 the community have access to a kitchen or cooking supplies.

13 30. Organizations that offer prepared, regular meals are difficult or impossible
14 for many needy people to access.

15 31. In addition to the food pantries, nonprofit organizations and churches
16 operate homeless shelters in Bullhead City. Upon information and belief, there are three
17 homeless shelters in Bullhead City: the Legacy Foundation Christine Stamper Center for
18 Help & Hope, operated by Catholic Charities, which provides 46 beds for temporary
19 emergency shelter; the Praise Chapel Men’s Discipleship Program, which can support up
20 to 26 men as part of a Christian evangelical education; and WestCare Safe House, a 54-
21 bed transitional living and domestic violence shelter.

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1 32. As with the food pantries, the shelters provide a critical service but are
2 insufficient for the area’s needs, leaving many without shelter overnight.

3 33. For example, and upon information and belief, Catholic Charities routinely
4 fills each of its beds, with its guests frequently staying for periods of thirty days.
5 Although it offers three cooked meals per day, breakfast and supper are available only to
6 overnight guests. The only meal available for walk-in guests is lunch.

7 34. Praise Chapel’s Discipleship Program is open only to men. Upon
8 information and belief, some needy men are unable to utilize the Program because of
9 religious disagreement. Food is not available to anyone except overnight guests.

10 35. Out of WestCare Safe House’s 54 beds, 24 are reserved for women and
11 children fleeing domestic abuse. The remaining 30 are for transitional patients who must
12 be referred either by a medical provider or a court; walk-ins are not accepted. Food is not
13 available to anyone except overnight guests.

14 36. In addition to bed limitations imposed by shelters, some people avoid
15 shelters for various reasons. For instance, there is little to no anonymity at shelters, some
16 are ashamed of their financial situation, while others conflict with shelter-imposed
17 curfews.

18 37. Ultimately, some food is available from shelters and food pantries in
19 Bullhead City, but it is inadequate to feed the area’s hungry and particularly inadequate
20 for the homeless. Upon information and belief, nowhere in Bullhead City other than
21 shelters and food pantries routinely provides free food to those in need.

22

NORMA FEEDS THE NEEDY

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2 38. When Norma moved to Bullhead City, she encountered needy people in
3 Bullhead City Community Park, down the road from her home. She decided that the park
4 would be an ideal place to share her food with those in need. She observed that, in the
5 daytime, needy people were already at the park. She saw that people would be able to use
6 the picnic tables, pavilions, and waste receptacles. And she appreciated the park's
7 scenery, located on the banks of the Colorado River.

8 39. Norma also observed that this particular park, though frequented by people
9 in need, is several miles away from the nearest shelter or food pantry. Walking that
10 distance can be difficult, so Norma figured she could help bring food to the people
11 already in this park.

12 40. For four years, Norma regularly spent her afternoons preparing meals at
13 home, then sharing them in the park with anyone wanting a plate.

14 41. Some of the people Norma has served are homeless, though they do not
15 spend nights at the park.

16 42. Some of the people Norma has served are not homeless, but they hardly
17 have enough money to cover the cost of their housing and, therefore, depend on
18 charitable donations of food.

19 43. Norma prepares hot and fresh meals from scratch, just as she had done in
20 her restaurant. Her meals always include some kind of protein (usually meat), as well as
21 fresh fruits and vegetables. She aims to provide those in need with a complete nutritional
22 balance that also tastes good.

1 44. Norma always provides utensils and plates, and she always takes care to
2 ensure that the area is left cleaner than she found it.

3 45. At one point, Norma was serving her food seven days a week. After her
4 husband retired and stopped traveling for work, however, Norma settled on serving food
5 four or five times per week.

6 46. In each food-serving session, Norma was typically in the park for around
7 two hours, including time spent setting up, sharing food, and cleaning the area.

8 47. Norma tries to bring enough food with her for everyone to have a second
9 serving if they wish. She has never turned anyone away.

10 48. Norma hoped that others would see her in the park and be inspired to
11 perform charity of their own. She especially encouraged other volunteers to serve food on
12 days when she would not be serving.

13 49. Some people in need who regularly depended on Norma’s food would help
14 Norma set up her food on park picnic tables and then help Norma clean up afterward.

15 50. The number of needy people who would partake of Norma’s food in the
16 park varied but averaged to around thirty per day.

17 51. No one has reported falling ill from eating food that Norma has shared.

18 **BULLHEAD CITY CRIMINALIZES CHARITABLY FEEDING PEOPLE IN PUBLIC PARKS**

19 52. On February 16, 2021, Bullhead City’s City Council passed Ordinance
20 2021-01, which imposes a permit requirement on anyone sharing prepared food in any
21 public park—if done “for charitable purposes at no cost, or for a nominal charge.”

22 Bullhead City Code of Ordinances (hereinafter “BCO”) §§ 5.36.020–.030.

1 53. The permit’s conditions are so restrictive that, in practice, it is not a permit
2 requirement but is a categorical prohibition on giving prepared food to the needy in
3 public parks.

4 54. Under no circumstances can prepared food be charitably shared in a public
5 park for more than a single two-hour window, once per month. “No location will host
6 more than one [permitted food sharing] event per month,” and “[n]o food sharing event
7 may continue for more than two hours.” BCO § 5.36.050. This is true regardless of who
8 serves at a particular location: Once anyone charitably shares prepared food in a
9 particular location in a given month, no one else may do so that month.

10 55. But even then, “[p]ermittees shall hold no more than one event per month,
11 regardless of location.” BCO § 5.36.050.

12 56. Applicants must request a permit between 5 and 60 business days before
13 their desired monthly two-hour sharing window. BCO § 5.36.040.

14 57. In addition to paying permitting fees, Applicants must submit “a refundable
15 deposit in the amount of two hundred fifty dollars for maintenance and cleaning costs and
16 agree to reimburse the city for maintenance and cleaning costs in excess of the deposit.”
17 BCO § 5.36.040.

18 58. Applicants must “[p]rovide proof of general liability insurance with
19 coverage limits in the amount of one million dollars per occurrence with the City named
20 as an additional insured by endorsement.” BCO § 5.36.040.

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22

1 **THE CITY ALLOWS OTHER FOOD SHARING WITHOUT RESTRICTION**

2 59. While criminalizing the charitable sharing of prepared food in public parks,
3 the City allows other forms of food sharing to occur without restriction.

4 60. No permit requirement applies if food of any kind is being shared for
5 something other than “charitable purposes.” As the Bullhead City Attorney clarified at
6 the February 16, 2021 City Council meeting, residents may freely share prepared food in
7 the City’s public parks for a birthday party featuring as many as fifty or more guests. In
8 other words, a person can give out food to their friends but cannot give the exact same
9 food to someone they are trying to help.

10 61. No permit requirement applies to the charitable sharing of food that is not
11 “prepared food.” Thus, the City allows people to distribute “sealed pre-packaged foods
12 readily available from retail outlets and intended for consumption directly from the
13 package” in public parks for charitable purposes. BCO § 5.36.020.

14 62. The City allows the unrestricted sharing of such “pre-packaged foods” in
15 public parks, even though the ordinance purports to combat “litter, trash and other
16 debris,” BCO § 5.36.010.

17 63. Litter, trash, and other debris is more of a concern for pre-packaged foods
18 than for prepared foods.

19 64. In discussing the bill that became the food-sharing restrictions in Chapter
20 5.36, City officials made clear that the bill’s goal was to bring an end to homeless people
21 receiving food in public parks. For instance, City Manager Toby Cotter stated that the bill
22 was a discussion about the best way to help the homeless, and that the best place to feed

1 the homeless is in a homeless shelter. *See* Bullhead City, Ariz. Regular City Council
2 Meeting, Feb. 16, 2021, 22:30–23:25, [https://bullheadcity.granicus.com/
3 MediaPlayer.php?view_id=2&clip_id=1456](https://bullheadcity.granicus.com/MediaPlayer.php?view_id=2&clip_id=1456). Further, the discussion among City
4 Councilmembers focused on where homeless people could eat. *Id.*, 1:15:00–2:02:40.

5 65. A little over a year later, City Manager Cotter reported on “the homeless
6 enforcement.” He discussed the City’s enforcement of its food-sharing restrictions as part
7 of the City’s efforts to clear out homeless encampments. *See* Bullhead City, Ariz. Regular
8 City Council Meeting, Apr. 5, 2022, 34:08–38:35, [https://bullheadcity.granicus.com/
9 MediaPlayer.php?view_id=2&clip_id=1567](https://bullheadcity.granicus.com/MediaPlayer.php?view_id=2&clip_id=1567).

10 66. Indeed, the City’s position “is to not allow people to sleep on public lands
11 . . . and same thing with feeding in the parks.” *Id.*, 37:15–38:35; *see also* BCO
12 §§ 12.12.040 (prohibiting people from being in a public park overnight), 5.36.030
13 (prohibiting people from sharing food in a public park).

14 67. If the City were genuinely concerned about “protect[ing] public health,
15 safety and welfare,” BCO § 5.36.010, and thought the presence of food was a health
16 hazard, it would have prohibited the distribution of all prepared food, regardless of
17 motivation. If the City were genuinely concerned about reducing litter, BCO § 5.36.010,
18 it would have prohibited the distribution of pre-packaged foods, which generate more
19 litter than prepared foods. But the City’s real goal is to remove all homeless people from
20 using public parks, which it seeks to accomplish by prohibiting charitable food sharing by
21 well-meaning residents like Norma.

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1 **THE CITY PROSECUTES NORMA FOR GIVING FOOD TO THE NEEDY**

2 68. On March 8, 2022, Norma used the Bullhead City Community Park as a
3 place to serve her hot, home-prepared food to people in need. When she was done serving
4 food, she cleaned up the area, leaving no litter.

5 69. After she cleaned, she was loading her car when an officer of the Bullhead
6 City Police Department approached her. The officer, as recorded by his police body
7 camera, said that Norma had violated the ordinance prohibiting the unpermitted
8 charitable sharing of food in public parks. After speaking with the City’s Police Chief
9 about whether to take Norma to jail, the officer let Norma go with a citation—though he
10 clarified that “this is still technically an arrest.”

11 70. The Chief told the arresting officer to emphasize that Norma cannot
12 continue sharing her food with the needy in the park, and that she would be jailed if she
13 does it again. The arresting officer relayed that to Norma, saying that she was “lucky”
14 this time, but “if this happens again, I am being told point blank that you will be looking
15 at jail for the night, at least.”

16 71. Not wanting to be sent to jail or have a criminal record, Norma reluctantly
17 stopped serving her food at the park.

18 72. A month later, Norma appeared before the Municipal Court to resolve the
19 citation. Expecting the matter would be akin to a minor speeding ticket (where, at most,
20 she might have to pay a small fine), Norma had not thought she needed an attorney and
21 did not secure one.

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1 73. The judge explained to Norma that she was accused of a Class 2
2 misdemeanor, which carries a punishment of up to \$750 in fines (not including court
3 costs) and four months' imprisonment. *See* BCO § 1.08.010(B)(2).

4 74. The City Prosecutor offered Norma a plea deal where she would agree to
5 perform community service and serve two years of probation. Norma refused, for she did
6 not feel she was "guilty" of anything.

7 75. The Municipal Court scheduled further hearings in anticipation of a trial,
8 and Norma obtained *pro bono* criminal defense counsel.

9 76. In July 2022, the City Prosecutor moved to dismiss the charge against
10 Norma with prejudice. As the reason, the City Prosecutor stated that "defendant was
11 unfamiliar with the new law. She now understands it."

12 77. Accordingly, the Municipal Court dismissed the criminal charge against
13 Norma with prejudice.

14 **NORMA NOW SERVES THE NEEDY IN AN EXPOSED ALLEY**

15 78. As a retiree of limited means, Norma cannot afford the costs of obtaining a
16 "food sharing event" permit.

17 79. Even if she could, Norma wishes to serve her prepared food to the needy in
18 the public park far more often than the single two-hour window, one day per month, with
19 at least five days' advance notice, allowed under the permit. Norma wishes to serve her
20 prepared food, instead of sealed, packaged food from the grocery store, because it is more
21 cost-effective for her to make food from scratch. Beyond that, she derives value in
22

1 making food to share with those in need, for whom home-cooked meals are few and far
2 between and a welcome gift.

3 80. But for the ordinance, Norma would serve her prepared food to the needy in
4 the Bullhead City Community Park between 12 and 20 days per month. But the ordinance
5 prohibits her from doing this: She must have a permit, but even with a permit she is
6 limited to serving once per month, for two hours, and only at a location where no one else
7 has served within the last month.

8 81. Other volunteers have also stopped sharing food in the park after Norma's
9 arrest.

10 82. Concerned for the well-being of the needy people who frequented Bullhead
11 City Community Park, Norma began to search for a location nearby where she might be
12 allowed to continue her charitable efforts. This was difficult, as the area around the park
13 is largely open desert, the river, and a busy state highway leading to a mostly commercial
14 area featuring mostly jet ski rental shops.

15 83. Norma eventually obtained permission from one jet ski shop to utilize its
16 private alley.

17 84. Multiple times per week around 5 p.m., Norma brings her home-prepared
18 food and a folding table to that alley. She serves her food to people in need, as she had
19 done in the park. She never turns anyone away, she tries to bring enough for seconds, and
20 she always cleans up afterward.

21 85. Nevertheless, the alley's location is far less desirable and practical than the
22 Community Park.

1 86. The alley has no shade except one fence. It has no tables or chairs, leaving
2 people to sit on the dusty ground. It has no accessible washroom or toilet.

3 87. By contrast, the Bullhead City Community Park has a variety of picnic
4 tables and benches, with options for shade including a large central pavilion. Public
5 restrooms provide toilets and handwash basins, as well as clean drinking water.

6 88. Some people take food from Norma in the alley and then eat it in the park
7 where she used to serve the food.

8 89. Norma’s small car is not large enough to fit much more than herself, her
9 husband, food, serving utensils, cleaning supplies, and a single table.

10 90. It is difficult and physically taxing on Norma, a 78-year-old grandmother,
11 to serve food in the alley. Without shade, Norma must deal with the Arizona sun. Without
12 readily available tables, she must bring her own. Without any place to sit, Norma must
13 stand the entire time. As a result, Norma is now able to share her food with the needy
14 fewer days per week, and for shorter lengths of time, than she could at the park.

15 91. Below is a photograph taken of Norma, in the alley where she currently
16 serves her food to the needy:

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92. Below is a photograph taken of the area of Bullhead City Community Park where Norma served her food to the needy for four years, without incident until her arrest:

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93. Norma has tried to spread word of her new location, but fewer people make it to the alley compared with when she was at the park. On an average afternoon in the alley, she serves less than half the people she used to at the park.

INJURY TO PLAINTIFF

94. Norma is called to provide needy people with nutritionally wholesome, made-from-scratch meals she prepares in her own home kitchen, using the skills she developed running her commercial restaurant. For four years, she served those meals in the Bullhead City Community Park, which she found an ideal place for reaching and serving those in need. But for the City’s ordinance criminalizing the sharing of prepared food in public parks “for charitable purposes,” Norma would still be serving her food there.

1 95. At her current location away from the park—without shade, chairs, or
2 tables—it is more difficult for Norma to serve the needy. Consequently, she must cut
3 some of the days that she would otherwise be serving at the park.

4 96. Norma’s new location accommodates her feeding fewer people than the
5 Bullhead City Community Park did. She is less visible to the area’s needy, so fewer
6 people notice or make it to her new location than did before. Unlike at the park, she
7 cannot help new people who did not previously know about her because there are no
8 needy people who just happen to be around the alley. Forcing Norma and those she helps
9 to a back alley makes Norma’s charity efforts seem shameful and it makes those she
10 helps feel less like normal, equal people.

11 97. The City will not allow Norma, or anyone else, to share prepared food with
12 the needy in any public park for more than two hours, once per month.

13 98. The City will not allow Norma, or anyone else, to share prepared food with
14 the needy in Bullhead City Community Park, if someone else has done so within the
15 previous month.

16 99. Because of the City’s actions and threats of imprisonment, Norma is
17 prevented from sharing her food with the needy in public parks, including Bullhead City
18 Community Park.

19 100. As a consequence, Norma is able to serve fewer people, and more needy
20 people go hungry than they otherwise would.

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1 108. The City is violating Norma’s substantive due process right to engage in
2 charitable acts, which includes the right to share food with the needy. The City is
3 enforcing an ordinance that criminalizes the sharing of food in public parks “for
4 charitable purposes.” That ordinance cannot survive constitutional scrutiny.

5 109. The due-process guarantee of the Fourteenth Amendment to the U.S.
6 Constitution provides that no state shall “deprive any person of life, liberty, or property,
7 without due process of law”

8 110. The Due Process Clause protects against state infringement of, amongst
9 other things, those fundamental rights and liberties that are deeply rooted in our Nation’s
10 history and traditions or are implicit in the concept of ordered liberty. State action that
11 infringes on fundamental rights is reviewed under strict judicial scrutiny.

12 111. Everyone, including Norma, has a fundamental right to engage in voluntary
13 acts of charity to support members of their community in need, wherever they find them.
14 This right is deeply rooted in our Nation’s history and traditions and is implicit in the
15 concept of ordered liberty.

16 112. The fundamental right to perform charitable acts includes a right to prepare
17 and share food with the needy.

18 113. The Due Process Clause also protects non-fundamental rights by protecting
19 people from arbitrary, irrational, or unreasonable regulations or government actions of
20 any kind.

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1 114. Both facially and as applied to Norma, Bullhead City’s ordinance
2 criminalizing the sharing of prepared food with the needy in public parks violates the
3 fundamental right to engage in charitable acts.

4 115. There is no compelling, substantial, important, or rational reason to prevent
5 people from sharing their safe, prepared food with the needy in public parks.

6 116. The City’s ban on sharing prepared food in public parks is not necessary to
7 achieve, narrowly tailored to, reasonably related to, or rationally related to any
8 compelling, substantial, or legitimate governmental interest.

9 117. Criminalizing the sharing of prepared food in public parks “for charitable
10 purposes” is not consistent with this Nation’s historical tradition of regulating charitable
11 activities.

12 118. The City’s ban fails strict or heightened scrutiny. People like Norma are
13 prevented from assisting the needy, where the needy happen to be and where, like any
14 other member of the public, they have a right to be. That violates the fundamental right to
15 support members of the community in need.

16 119. The ban also fails rational basis scrutiny, as it is arbitrary, irrational,
17 unreasonable, and oppressive.

18 120. BCO §§ 5.36.010–.080 is the City’s own policy or custom.

19 121. As applied to Norma, the provisions of BCO §§ 5.36.010–.080 violate the
20 right to due process guaranteed by the Fourteenth Amendment.

21 122. On its face, the provisions of BCO §§ 5.36.010–.080 violate the right to due
22 process guaranteed by the Fourteenth Amendment.

1 123. Unless the provisions set forth above are declared unconstitutional and
2 permanently enjoined from operation, Plaintiff and others will continue to suffer great
3 and irreparable harm.

4 **Count II:**
5 **Fourteenth Amendment to the U.S. Constitution**
6 **(Violation of Norma Thornton’s Right to Equal Protection)**

7 124. Plaintiff adopts and realleges the allegations contained in paragraphs 1–106
8 as though fully set forth here.

9 125. The City has violated Norma’s right to equal protection under the law. The
10 City has criminalized the sharing of food in public parks “for charitable purposes.” These
11 restrictions do not apply to people undertaking the exact same activity and serving the
12 exact same food when motivated by a non-“charitable” purpose. Such differential
13 treatment does not survive constitutional scrutiny.

14 126. The Equal Protection Clause of the Fourteenth Amendment requires
15 government officials to treat similarly situated individuals similarly.

16 127. A government classification must rationally relate to a legitimate
17 governmental purpose. The Equal Protection Clause protects against arbitrary, irrational,
18 or illegitimate classifications of any kind.

19 128. People sharing food at a public park “for charitable purposes” are similarly
20 situated to people sharing food at a public park for another purpose.

21 129. Yet those wishing to share their food out of charity are prohibited from
22 doing so, while those motivated by a non-charitable purpose may share their food freely.

1 130. In distinguishing between people sharing food at the park out of charity and
2 people sharing food at the park for other purposes, the City is violating the former
3 group’s equal-protection rights.

4 131. There is no compelling, substantial, important, rational, or legitimate reason
5 for the City to criminalize acts that are motivated by charitable spirit, while leaving
6 unregulated the same acts when they are motivated by other purposes.

7 132. Criminally sanctioning people because their actions are motivated by
8 charitable spirit is not necessary to achieve, narrowly tailored to, reasonably related to, or
9 rationally related to any legitimate governmental interest.

10 133. BCO §§ 5.36.010–.080 is the City’s own policy or custom.

11 134. As applied to Norma, the provisions of BCO §§ 5.36.010–.080 violate the
12 right to equal protection guaranteed by the Fourteenth Amendment.

13 135. On its face, the provisions of BCO §§ 5.36.010–.080 violate the right to
14 equal protection guaranteed by the Fourteenth Amendment.

15 136. Unless the provisions set forth above are declared unconstitutional and
16 permanently enjoined, Plaintiff and others will continue to suffer great and irreparable
17 harm.

18 **Count III:**
19 **Fourteenth Amendment to the U.S. Constitution**
20 **(Violation of Norma Thornton’s Right to Privileges or Immunities of Citizenship)**

21 137. Plaintiff adopts and realleges the allegations contained in paragraphs 1–106
22 as though fully set forth here.

1 138. The City is violating Norma’s privileges or immunities of citizenship. As a
2 citizen, Norma has a right to engage in charitable acts to support her community. The
3 City has effectively banned anyone, including Norma, from sharing prepared food in
4 public parks “for charitable purposes.” That ban cannot survive constitutional scrutiny.¹

5 139. The privileges or immunities of American citizenship, as protected by the
6 Fourteenth Amendment, include the right to engage in acts of charity to support one’s
7 community. This right is deeply rooted in our Nation’s history and traditions and implicit
8 in the concept of ordered liberty.

9 140. The aforementioned right includes the right to prepare and share food with
10 the needy.

11 141. The City’s ordinance criminally prohibiting the sharing of prepared food in
12 the public park “for charitable purposes” violates the right of citizens to engage in
13 charitable acts.

14 142. There is no compelling, substantial, important, or rational reason to prevent
15 someone from sharing safe food in public parks “for charitable purposes.”

16 143. The City’s ban on the charitable sharing of food in public parks is not
17 necessary to achieve, narrowly tailored to, reasonably related to, or rationally related to
18 any compelling, substantial, or legitimate governmental interest.

19
20
21 _____
22 ¹ Plaintiff concedes that this claim is currently foreclosed by the *Slaughterhouse Cases*,
83 U.S. 36 (1872). She raises it here to preserve it for appellate review.

1 144. The City’s ban fails any level of scrutiny, whether strict, heightened, or
2 rational basis. Citizens like Norma are prevented from assisting the needy, where the
3 needy happen to be—and where, like any other member of the public, they have a right to
4 be. That violates citizens’ right to support members of the community in need.

5 145. Criminalizing the sharing of prepared food in public parks “for charitable
6 purposes” is not consistent with this Nation’s historical tradition of regulation.

7 146. The ban is also arbitrary, irrational, unreasonable, and oppressive.

8 147. BCO §§ 5.36.010–.080 is the City’s own policy or custom.

9 148. As applied to Norma, the provisions of BCO §§ 5.36.010–.080 violate the
10 right to privileges or immunities of citizenship guaranteed by the Fourteenth Amendment.

11 149. On its face, the provisions of BCO §§ 5.36.010–.080 violate the right to
12 privileges or immunities of citizenship guaranteed by the Fourteenth Amendment.

13 150. Unless the provisions set forth above are declared unconstitutional and
14 permanently enjoined, Plaintiff and others will continue to suffer great and irreparable
15 harm.

16 **PRAYER FOR RELIEF**

17 Plaintiff respectfully requests that the Court grant the following relief:

18 A. A declaratory judgment that, as applied to Norma Thornton and others
19 similarly situated, Bullhead City’s ordinance, BCO §§ 5.36.010–.080,
20 violates the Due Process Clause, the Privileges or Immunities Clause, and
21 the Equal Protection Clause of the Fourteenth Amendment to the U.S.
22 Constitution.

- 1 B. A declaratory judgment that, on its face, Bullhead City’s ordinance, BCO
- 2 §§ 5.36.010–.080, violates the Due Process Clause, the Privileges or
- 3 Immunities Clause, and the Equal Protection Clause of the Fourteenth
- 4 Amendment to the U.S. Constitution.
- 5 C. A preliminary and permanent injunction prohibiting the City from
- 6 enforcing its ordinance, BCO §§ 5.36.010–.080, against Norma or anyone
- 7 else.
- 8 D. \$1.00 in nominal damages for each and every violation of Norma’s rights
- 9 under a provision of the U.S. Constitution.
- 10 E. Reasonable costs and attorneys’ fees pursuant to 42 U.S.C. § 1988; and
- 11 F. Such other legal or equitable relief as this Court may deem appropriate and
- 12 just.

13 Dated: October 25, 2022

Respectfully submitted,

14 Diana K. Simpson* (CO Bar no. 43591)
15 Suranjan Sen* (TN Bar no. 038830)
16 INSTITUTE FOR JUSTICE
901 North Glebe Road, Suite 900
Arlington, VA 22203
17 T: (703) 682-9320
F: (703) 682-9321
18 E: diana.simpson@ij.org; ssen@ij.org

/s/ Paul V. Avelar
Paul V. Avelar (AZ Bar no. 023078)
INSTITUTE FOR JUSTICE
398 South Mill Avenue, Suite 301
Tempe, Arizona 85281
T: (480) 557-8300
F: (480) 557-8305
E: pavelar@ij.org

19 **pro hac vice application to be filed*

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