

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN MARTIN, RHONDA BREWER,
DAVID McCOY, MARY O'GRADY, and
MARISSA ELYSE SANCHEZ,

Plaintiffs,

v.

CITY OF ALBUQUERQUE,

Defendant.

Civil Action No. 1:18-CV-31-RB-KBM

**JOINT STIPULATION AND [PROPOSED] ORDER REGARDING
NONENFORCEMENT OF ALBUQUERQUE CODE OF ORDINANCES § 8-2-7-2 AND
WITHDRAWAL OF MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs John Martin, Rhonda Brewer, David McCoy, Mary O'Grady, and Marissa Elyse Sanchez (collectively, Plaintiffs), and defendant City of Albuquerque (the City), by and through their undersigned counsel, hereby stipulate as follows:

1. During the pendency of this litigation, and until such time as the court enters a final judgment in the same, the City – including all of its departments, instrumentalities, officers, employees, or other subdivisions or agents – shall delay enforcement of Albuquerque Code of Ordinances § 8-2-7-2 (the Ordinance).

2. As used in the preceding paragraph, “enforcement of Albuquerque Code of Ordinances § 8-2-7-2” shall include arresting, charging, or prosecuting any person pursuant to the Ordinance; ordering any person to refrain from speaking or to leave any public place pursuant to the Ordinance; or threatening or attempting to undertake any of the foregoing actions pursuant to the Ordinance. Nothing in this Joint Stipulation shall be construed to prevent or impede the City

from enforcing any other law within its jurisdiction.

3. The City agrees to publicize the terms of this joint stipulation to its departments, instrumentalities, officers, and employees, including but not limited to the Albuquerque Police Department, and to direct those departments, instrumentalities, officers, and employees to abide by its terms.

4. Nothing in this Joint Stipulation shall be construed to constitute a waiver or admission by the City regarding any of its defenses of the Ordinance, including but not limited to defenses regarding the necessity, validity or constitutionality of the Ordinance.

5. Plaintiffs hereby withdraw the Motion for Preliminary Injunction (Doc. No. 2) filed on January 11, 2018.

6. Plaintiffs hereby consent to an extension of time for the City to respond to the Plaintiff's complaint until March 5, 2018. Accordingly, pursuant to Fed. R. Civ. P. 6(b)(1)(A), the parties jointly request that the court grant the City leave to file a response to the Plaintiff's complaint on or before March 5, 2018.

Respectfully submitted,

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Dated: February 8, 2018

[PROPOSED] ORDER

Having considered the parties' Stipulation filed on February 8, 2018 (Doc. No. 21), and good cause appearing, the Court hereby GRANTS the parties' Stipulation. Plaintiffs' Motion for Preliminary Injunction (Doc. No. 2) is withdrawn. The City shall file its response to the Complaint on or before March 5, 2018.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE