



PROVIDENT LAW

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION**

ST. HERMAN'S TABLE, an Arizona
nonprofit corporation; and LANCE BRACE,

Plaintiffs,

vs.

CITY OF PHOENIX

Defendants.

Case No. _____

**PLAINTIFFS' EMERGENCY
APPLICATION FOR A TEMPORARY
RESTRAINING ORDER
AND MOTION FOR PRELIMINARY
INJUNCTION**

Plaintiffs, St. Herman's Table and Lance Brace, by counsel and for their
Complaint against the Defendant, plead as follows:



1 **PLAINTIFFS’ EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING ORDER**
2 **AND MOTION FOR PRELIMINARY INJUNCTION**

3 Lance Brace (“Mr. Brace”) and St. Herman’s Table (“St. Herman’s”) hereby apply to
4 this Court pursuant Federal Rule of Civil Procedure 65 and Local Rule 65.1 for a temporary
5 restraining order (“TRO”) and preliminary injunction against the Defendant, the City of
6 Phoenix (“the City”). The Plaintiffs seek this relief to prohibit the City from enforcing against
7 Mr. Brace, St. Herman’s, and St. Herman’s volunteers and associates its *Medical Treatment*
8 *and Food Distribution in Parks Ordinance* (“the Ordinance”), which is set to take effect on
9 June 5, 2026.
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11 This application is made with notice to the City as set forth in the Declaration of
12 Movant’s counsel, Ann-Marie White René. The Plaintiffs respectfully request emergency
13 relief as further delay will cause immediate and irreparable harm. *See* L. R. Civ. 65.1; Fed. R.
14 Civ. P. 65. Further, the City has been on actual notice of this dispute for over four weeks, as
15 the Plaintiffs’ attorney sent a demand letter on May 1, 2026, requesting an exemption for the
16 Plaintiffs from the Ordinance’s enforcement but received no response. Accordingly, the
17 Plaintiffs now respectfully request that no later than June 11, 2026, the Court rule on this
18 emergency request and enter the relief requested herein, and in accordance with the Proposed
19 Order attached hereto.
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22 **EVIDENCE IN SUPPORT OF EMERGENCY RELIEF AND PRELIMINARY INJUNCTION**

23 In support of their Emergency Application for a TRO and Motion for Preliminary
24 Injunction, the Plaintiffs submit: (1) a copy of the Ordinance as Exhibit 1; (2) Mr. Brace’s
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1 Declaration (“Brace Decl.”) and its accompanying attachments as Exhibit 2; and, (3) the
2 Declaration of Movant’s Counsel (“White René Decl.”) as Exhibit 3.

3 **FACTS**

4 As of June 5, 2026, unless the Court temporarily restrains the City, Mr. Brace and St.
5 Herman’s face criminal prosecution for engaging in their religious exercise of feeding the
6 homeless at Cave Creek Park at Cactus (“Cave Creek Park”) in Phoenix. Every Thursday
7 evening, Mr. Brace and St. Herman’s provide a meal, water, Bibles, and small hygiene
8 products to the homeless. *Id.* ¶ 14. St. Herman’s cleans up both before and after it feeds the
9 homeless each week and does not leave trash or litter behind. *Id.* ¶ 21. They do not provide
10 needles or medical supplies. *Id.* ¶ 15. And neither St. Herman’s nor Mr. Brace have ever been
11 cited by the City under any of its trash, littering, noise, or crowd ordinances. *Id.* ¶ 26.

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14 Ultimately, St. Herman’s goal is to introduce Jesus Christ to whom it ministers through
15 practical help and by word. *Id.* ¶¶ 10, 29. Before St. Herman’s serves its meal every Thursday,
16 St. Herman’s offers a prayer in the park in which several of St. Herman’s homeless neighbors
17 have joined. Brace Decl. ¶ 16. St. Herman’s volunteers continue to offer to pray with anyone
18 who is so inclined while at Cave Creek Park, and St. Herman’s routinely engages in
19 conversation with the homeless about God. Brace Decl. ¶ 16.
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22 But on May 6, 2026, the City Council passed the Ordinance, which makes it a Class 1
23 Misdemeanor for any individual or organization with a “charitable or similar humanitarian
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1 purpose[]” to host a “food distribution event” without a permit.¹ Ex. 1. Permits are only valid
2 for a few hours on a single day, and the Ordinance prohibits the issuance of more than two
3 permits per month per eligible park for those seeking to provide *either* a “food distribution
4 event” *or* medical treatment in the park. Ex. 1; Ex. 2, Brace Decl. Attachment 4. That is, under
5 the Ordinance, the Plaintiffs must compete with other charitable, humanitarian, and medical
6 individuals and organizations for the two available permits at Cave Creek Park each month.
7 *See* Ex. 1. Further, the Ordinance’s implementing rules make it impossible for St. Herman’s
8 to even apply for the permits available each month and severely hampers its ability to continue
9 its ministry by relegating to the asphalt parking lot St. Herman’s volunteers and those it
10 serves. Ex. 2, Brace Decl. ¶¶ 41-45. The Ordinance forces Mr. Brace and St. Herman’s to
11 cease engaging in their weekly ministry each Thursday at Cave Creek Park or face criminal
12 prosecution. *Id.* ¶¶ 34-39.

15 Strikingly, however, the Ordinance exempts from criminalization “family events such
16 as celebrations, weddings, meals, or reunions or informal gatherings of family or family
17 friends.” Ex. 1. But under the First Amendment’s Free Exercise Clause, governments cannot
18 treat any secular activity more favorably than religious exercise. Further, the Ordinance’s
19 permitting requirement in a traditional public forum is an unconstitutional prior restraint on
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22 ¹ The City of Phoenix separately requires all gatherings of more than 50 people to first
23 submit a Special Activity Request to the City. *See* CITY OF PHOENIX, *Special Activity*
24 *Request*, available here [https://www.phoenix.gov/administration/departments/parks/rentals-](https://www.phoenix.gov/administration/departments/parks/rentals-permits/special-activity-request.html)
25 [permits/special-activity-request.html](https://www.phoenix.gov/administration/departments/parks/rentals-permits/special-activity-request.html) (last visited May 25, 2026). As explained herein, the
26 Ordinance challenged by the Plaintiffs regulates gatherings of individuals of less than 50 but
treats those gatherings differently depending on motive and purpose.



1 free speech. For these reasons, the Plaintiffs respectfully seek both a TRO and preliminary
2 injunctive relief from this Court allowing them to continue their ministry at Cave Creek Park
3 without the threat of criminal prosecution until their constitutional claims can be adjudicated.²

4 ARGUMENT AND AUTHORITIES

5 Under Federal Rule of Civil Procedure 65, a court may issue a TRO before a
6 preliminary injunction hearing in order to preserve the status quo. *Winter v. Nat. Res. Def.*
7 *Council, Inc.*, 555 U.S. 7, 22 (2008). The standard for a TRO and for a preliminary injunction
8 are the same. *See Stuhlberg Int'l Sales Co., Inc. v. John D. Brush & Co. Inc.*, 240 F.3d 832,
9 839 n.7 (9th Cir. 2001). A plaintiff seeking a TRO and injunctive relief under Rule 65 must
10 show: (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in
11 the absence of injunctive relief; (3) the balance of equities tips in his favor; and (4) an
12 injunction is in the public interest. *See id.*

13 Moreover, a court may issue a TRO without notice where specific facts demonstrate
14 that immediate and irreparable injury will result before the opposing party can be heard. Fed.
15 R. Civ. P. 65(b)(1). Nonetheless, in this case, the City was given notice of this dispute four
16 weeks ago, to which the Plaintiffs never received a response. Brace Decl.¶¶ 51-52 and Brace
17 Attachment 5. Likewise, the Plaintiffs' Complaint and this Application/Motion and its
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22 ² Although the Plaintiffs bring both facial and as applied challenges in Counts I and II
23 in their Complaint, for clarity, the Plaintiffs only bring this Motion based on their as applied
24 challenges. Accordingly, the relief that the Plaintiffs request at this juncture is only that the
25 City be enjoined from enforcing the Ordinance against Mr. Brace, St. Herman's, and its
26 volunteers and associates based on Free Exercise and/or prior restraint of free speech as
applied.

1 supporting evidence have been sent on this day both electronically and by process server to
2 the City Attorney’s Office. White René Decl. ¶¶ 9-10.

3 Now, each element of the four-part *Winter* test is satisfied here, and the case for relief
4 is overwhelming.

5 **I. *The Plaintiffs are likely to succeed on the merits of their Counts I and II***

6 **a. Count I – Free Exercise Challenge to the Ordinance – As Applied**

7 In *Fulton v. City of Philadelphia*, the Supreme Court reaffirmed that “laws incidentally
8 burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause
9 so long as they are neutral and generally applicable.” 593 U.S. 522, 533 (2021) (citing *Emp.*
10 *Div., Dep’t of Hum. Res. v. Smith*, 494 U.S. 872, 892 (1990)). The Court further explained
11 that a law is *not* generally applicable—and thus strict scrutiny applies—if the government has
12 “in place a system of individual exemptions.” *Id.* In such a situation, it may not refuse to
13 extend that system to cases of ‘religious hardship[.]’” *Id.* at 534 (citations omitted). The
14 Ordinance here has exemptions for other park users, so strict scrutiny must be applied under
15 *Fulton*.
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17 Moreover, after *Fulton*, in *Tandon v. Newsom*, the Court rejected California’s COVID-
18 regulations that allowed for secular activities to bring together three or more households
19 but prohibited religious in-home services of the same number. *Tandon*, 593 U.S. 61 (2021).
20 The Court outlined two specific principles for determining when a law is not neutral and
21 generally applicable for purposes of determining the level of scrutiny of a free exercise claim.
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1 First, “government regulations are not neutral and generally applicable, and therefore trigger
2 strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular
3 activity more favorably than religious exercise.” *Id.* at 62 (emphasis in original). Second,
4 “whether two activities are comparable for purposes of the Free Exercise Clause must be
5 judged against the asserted government interest that justifies the regulation at issue.” *Id.*
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7 Here, the Ordinance violates the Free Exercise Clause as applied to the Plaintiffs. The
8 Ordinance makes it a Class 1 Misdemeanor for any individual or organization to host a “Food
9 Distribution Event” without a permit. Ex. 1. “Food Distribution Event” is defined by
10 subsection B.6. of the Ordinance as:
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12 a gathering conducted by a private individual or organization, for charitable or
13 similar humanitarian purposes, at a park, that is planned, organized, or
14 conducted to distribute food to any member of the general public at no cost or
for a nominal charge.

- 15 i. Private events, not open to the general public, where food is served
16 such as family gatherings, picnics, social organization events, or
17 sporting events where food is served only for participants of those
events are not food distribution events.

18 Ex. 1.

19 And, in Subsection G of the Ordinance, titled “Exceptions”, Section 4 states:

20 For avoidance of doubt, subsection D of this section does not apply to any
21 event that was not planned or intended to serve or distribute food to the
22 general public. This includes *but is not limited to*:

- 23 i. Family events such as celebrations, weddings, *meals*, or reunions
or informal gatherings of family *or* family friends; and
24 ii. Events that are not open to the general public or events to which the
25 general public is not invited.
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Ex. 1 (emphasis added).

1 Plainly, the Ordinance is not neutral or generally applicable. The Ordinance requires
2 religious individuals and organizations to seek a permit under it to feed their neighbors and
3 friends or otherwise be prosecuted but does not require the same of secular individuals or
4 groups hosting a birthday party with burgers and cake. Both create noise and litter. But the
5 latter can use the park any day, anywhere, for any purpose. They need not even apply for a
6 permit, post insurance, or obtain food handler certificates, which the Plaintiffs must do to
7 even have potential access to the City's parks twice a month. Brace Decl. ¶¶ 45-47 and Brace
8 Attachment 4. Because the Ordinance treats much more favorably those with non-religious,
9 non-charitable purposes, despite the same risks to government interests, it is subject to strict
10 scrutiny. *Tandon* at 62.

13 To survive strict scrutiny, a government must demonstrate that its policy "advances
14 'interests of the highest order' and is narrowly tailored to achieve those interests." *Fulton*,
15 593 U.S. at 522 (quoting *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 546
16 (1993)). Like in *Fulton* and *Tandon*, the City's Ordinance fails such scrutiny for several
17 reasons.

19 First, "[t]he creation of a system of exceptions . . . undermines the City's contention
20 that its [] policies can brook no departures." *Fulton*, 593 U.S. at 542. Here, the Ordinance
21 categorically exempts from criminalization meals at social gatherings the same size as St.
22 Herman's. Ex. 1. For this reason alone, the City's alleged interest of preventing "large
23 crowds, increased noise, obstruction of public spaces, litter, and the accumulation of trash,
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1 debris, and food waste”, Ex. 1., is undermined by the Ordinance’s failure to regulate *secular*
2 meals or celebrations. Second, the City’s alleged interest is not a compelling one of “the
3 highest order.” *Fulton*, 593 U.S. at 541 (quoting *Church of Lukumi Babalu Aye, Inc.* 508
4 U.S. at 546). Preventing crowds, noise, litter, and the accumulation of trash simply are not
5 sufficiently compelling interests to justify permitting restrictions on the free exercise of
6 religion. *See, e.g., Fulton*, 593 U.S. at 541 (rejecting City of Philadelphia’s alleged
7 interests in prohibiting Catholic Social Services from declining to place foster children with
8 same-sex couples as not sufficiently compelling). Third, as testified to by Deputy City
9 Manager Cynthia Aguilar at the City Council meeting when the Ordinance was adopted, the
10 City does not have *any* evidence supporting its alleged interest. Ms. Aguilar was asked “what
11 empirical evidence do[es the City] have that restricting care distribution will result in
12 measurable cleaner parks?” She responded: the City “do[es] not have data that is specific to
13 that on park property.” Ex. 2, Brace Decl. ¶ 38 at 1:21:30. As *Fulton* explained, “speculation”
14 in support of a government interest “is insufficient to satisfy strict scrutiny.” *Fulton*, 593
15 U.S. at 542. Because the City’s alleged interests are supported by nothing *but* speculation,
16 the ordinance fails strict scrutiny. *Id.*

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18 Finally, less restrictive means are available to further the Ordinance’s alleged interests
19 without violating the First Amendment. For example, the City can enforce its noise, trash,
20 crowd, and litter ordinances already on the books against any individual or entity that violates
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1 them in its parks.³

2 As applied to the Plaintiffs, the Ordinance substantially burdens their free exercise
3 rights and is not generally applicable. And the City cannot meet the resulting strict scrutiny
4 as it fails both the compelling interest and least restrictive means tests.

5 **b. Count II – First Amendment Unconstitutional Prior Restraint On Speech – As**
6 **Applied**

7 Food distribution is an expressive activity protected by the First Amendment.
8 *See Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1032 (9th Cir.
9 2006) (citing *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 901 F.3d 1235,
10 1243 (11th Cir. 2018); *Food Not Bombs Houston v. City of Houston, Texas*, No. 4:24-CV-
11 0338, 2024 WL 623913, at *4 (S.D. Tex. Feb. 14, 2024)). And, [“t]he protections afforded by
12 the First Amendment are nowhere stronger than in streets and parks, both categorized for First
13 Amendment purposes as traditional public fora.” *Berger v. City of Seattle*, 569 F.3d 1029,
14 1037 (9th Cir. 2009) (*en banc*) (citations omitted). Thus, a “permitting requirement is a prior
15 restraint on speech and [] bears a heavy presumption against its constitutionality.” *Id.*
16 (citations and internal quotations omitted). For a permitting scheme to be valid under the First
17 Amendment, it “(1) must not delegate overly broad discretion to a government official; (2)
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22 ³ *See* Phoenix, Az., City Code § 2-22 (2026) (imposing liability upon any person
23 responsible for a party, gathering, or event that requires a police response); *Id.* § 27-10 (2026)
24 (prohibiting the dumping of waste and hazardous waste on public property); *Id.* § 23-11
25 (prohibiting, among other things, the obstruction of a public street, alley, sidewalk, or
26 highway); *Id.* § 23-12 (prohibiting unreasonably loud, disturbing, unnecessary noise within
city limits); *Id.* § 23-13 (prohibiting noises detrimental to life, health, or public peace).

1 must not be based on the content of the message; (3) must be narrowly tailored to serve a
2 significant governmental interest; and (4) must leave open ample alternatives for
3 communication.” *Santa Monica Food Not Bombs*, 450 F.3d at 1037.

4 *i. The Ordinance grants the Director unbridled discretion.*

5 “[A] law cannot condition the free exercise of First Amendment rights on the unbridled
6 discretion of government officials.” *Desert Outdoor Adver. v. City of Moreno Valley*, 103
7 F.3d 814, 818 (9th Cir. 1996). “Regulations must contain narrow, objective, and definite
8 standards to guide the licensing authority and must require the official to provide an
9 explanation for his decision.” *Long Beach Area Peace Network v. City of Long Beach*, 574
10 F.3d 1011, 1025 (9th Cir. 2009) (internal quotation marks, citations, and alterations omitted).
11 To determine whether an ordinance impermissibly grants “the licensing official
12 . . . unduly broad discretion,” courts consider whether the language of the ordinance
13 “contain[s] adequate standards to guide the official’s decision and render it subject to effective
14 judicial review.” *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 323 (2002). Such guidelines
15 mitigate the “risk that [the licensor] will favor or disfavor speech based on its content.” *Id.* at
16 323. Among the factors to consider is whether the ordinance contains “narrowly drawn,
17 reasonable and definite standards” that guide the hand of the administrator. *Forsyth County*
18 *v. Nationalist Movement*, 505 U.S. 123, 133 (1992). The Supreme Court has expressed
19 particular concern about laws that do not require the licensor to “provide any explanation for
20 his decision, and [where] that decision is unreviewable.” *Id.*; *see also Thomas*, 534 U.S. at
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324.

In *Seattle Affiliate of the Oct. 22nd Coalition to Stop Police Brutality v. City of Seattle*, the Ninth Circuit held that a Seattle ordinance was unconstitutional because “by its terms g[ave] the Chief of Police unbridled discretion to force marchers off the streets and onto the sidewalks, unchecked by any requirement to explain the reasons for doing so or to provide some forum for appealing the chief’s decision.” 550 F.3d 788, 791 (9th Cir. 2008). The Court acknowledged that the ordinance was content-neutral but still found that it delegated overly broad discretion to a government official and as such, was unconstitutional. *Id.* at 798.

Here, subsection E of the Ordinance details the Director of the Phoenix Parks and Recreation Department’s discretion. *See* Ex. 1. The Ordinance states that the Director:

1. Is authorized to issue permits authorizing the following services:
 - i. Medical treatment in a park and/or
 - ii. A food distribution event in the park
2. Is authorized to adopt rules and procedures for the issuance of permits for such services, *including, but not limited to*, rules and procedures to minimize disruption to other park uses, ensure the safety of park guests, and maintain parks in a clean and sanitary condition.
3. Shall ensure that the rules and procedures for issuing permits for such services:
 - i. Require that the Director not issue more than two (2) permits for such services for the same park in any calendar month;
 - ii. Require that medical treatment activities be conducted only:
 - i. On a park’s parking lots or other hardscape areas, but not including sports courts, designated picnic areas, or similar dedicated park amenity spaces and
 - ii. In an enclosure sufficient to ensure patient privacy and the containment of any waste. Such enclosures might include, but are not limited to:
 1. Medical tents or other similar tents with a roof, all opaque sides and a tarp or other impermeable floor, and

2. Vehicles, such as ambulances or RVs, that are equipped and intended for mobile treatment within the enclosed space of the vehicle;

- iii. Require that permittees agree to provide adequate indemnification and insurance;
- iv. Require that permittees affirm that medical care at medical treatment events will be provided only by properly licensed professionals acting within the scope of their licensure; and
- v. Require that permits are issued only for neighborhood parks with parking lots, community parks, regional parks (excluding sports complexes).

Ex. 1 (emphasis added).

This language grants the Director unbridled discretion to issue only two food distribution and/or medical treatment permits in the three ways the Ninth Circuit has condemned. *Seattle Affiliate v. City of Seattle*, 550 F.3d at 791. First, the Ordinance provides no basis by which the Director is to determine which individual(s) or organization(s) are to receive the two permits per park per month. To the contrary, the Ordinance *requires* the Director to subjectively decide which individuals and organizations—religious, medical, charitable, or otherwise—are granted the limited permits. This is ripe for abuse by allowing the Director to favor or disfavor certain individuals or organizations’ speech based on its content. *Thomas*, 534 U.S. at 323. As the Supreme Court has explained, “[a] licensing standard which gives an official authority to censor the content of [] speech differs *toto coelo* from one limited by its terms, or by nondiscriminatory practice, to considerations of public safety and the like.” *Thomas*, 534 U.S. at 322–23 (citation omitted). Second, the Ordinance requires no explanation from the Director for his decision to favor one individual or organization over another. And third, the Ordinance provides no mechanism by which to



1 appeal the Director’s decision. The Ordinance grants entirely unchecked discretion to the
2 Director and is therefore unconstitutional. *See Seattle Affiliate of the Oct. 22nd Coalition to*
3 *Stop Police Brutality*, 550 F.3d at 791.

4 ii. *The Ordinance is not content-neutral.*

5 Even putting aside the unbridled discretion granted to the Director, the Ordinance is
6 also not a constitutional permitting scheme for a second reason: it is not content-neutral.
7 “Content-based laws—those that target speech based on its communicative content—are
8 presumptively unconstitutional and may be justified only if the government proves that they
9 are narrowly tailored to serve compelling state interests.” *Reed v. Town of Gilbert*, 576 U.S.
10 155, 163 (2015). Here, the Ordinance’s permitting and criminalization provisions only apply
11 to specific speakers and small groups: those that distribute food for charitable, religious, or
12 humanitarian purposes. The Ordinance leaves unimpeded social conversations but impedes
13 religious conversations, encouragement, and counsel. The Ordinance exempts secular social
14 gatherings from criminalization but bans weekly gatherings if an official subjectively judges
15 the friendships as rooted in religious or humanitarian motives or message.
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17 Because the Ordinance is content-based, it triggers strict scrutiny. *Reed*, 576 U.S. at
18 163. And for all of the same reasons as detailed herein, the City’s alleged interest in regulating
19 or prohibiting crowds, noise, litter, and trash is not a compelling one. Moreover, the
20 Ordinance is not narrowly drawn to address these interests; the City already has ordinances
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adequately regulating these concerns. The Ordinance’s permitting scheme is content-based and not narrowly tailored. It is unconstitutional.

II. Without injunctive relief, the Plaintiffs will suffer irreparable harm.

As the Ninth Circuit has observed, “[i]rreparable harm is relatively easy to establish in a First Amendment case” because the party seeking the injunction “need only demonstrate the existence of a colorable First Amendment claim.” *Cal. Chamber of Com. v. Council for Educ. & Rsch. on Toxics*, 29 F.4th 468, 482 (9th Cir. 2022). Here, the Plaintiffs have undoubtedly met that low bar. They face criminal prosecution for engaging in their constitutionally protected weekly ministry and speech. Unless this Court intervenes, St. Herman’s and Mr. Brace face irreparable harm. *Elrod v Burns*, 427 U.S. 347, 373 (1976).

III. The balance of equities tip in the Plaintiffs’ favor and an injunction is in the public interest.

Finally, when the government opposes a preliminary injunction, “[t]he third and fourth factors of the preliminary-injunction test—balance of equities and public interest—merge into one inquiry.” *Porretti v. Dzurenda*, 11 F.4th 1037, 1050 (9th Cir. 2021). The “balance of equities” concerns the burdens or hardships to a complainant compared with the burden on the government if an injunction is ordered. *Id.* The public interest mostly concerns the injunction’s impact on nonparties rather than parties. *Id.* (citation omitted). But “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *X Corp. v. Bonta*, 116 F.4th 888, 904 (9th Cir. 2024) (citation omitted). Moreover, “when a party raises serious First Amendment questions, that alone compels a finding that the balance of hardships

tips sharply in its favor.” *Id.* (citation modified).

St. Herman’s and Mr. Brace are feeding and befriending the homeless, cleaning Cave Creek Park, and spreading Christ’s hope among the hopeless. The First Amendment protects their religious exercise, and the public benefits from it. The public interest and balance of the equities tip sharply in the Plaintiffs’ favor.

IV. The Court Should Require No Bond

Under Federal Rule of Civil Procedure 65(c), the Court has discretion to set the amount of any security that “the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Here, given the strength of the Plaintiffs’ constitutional claims in Counts I and II, and the fact that it is *the Plaintiffs* who face costs should they be criminally cited under the Ordinance, the Plaintiffs respectfully request that the Court require no bond, or in the alternative, require only a nominal bond.

CONCLUSION AND REQUESTED RELIEF

The Ordinance is subject to strict scrutiny under the Free Exercise Clause as it treats secular activity more favorably than that which is religiously motivated. The City cannot meet the compelling interest and least restrictive means tests, and so the Ordinance violates the free exercise rights of the Plaintiffs. Additionally, the Ordinance’s permitting scheme is an unconstitutional prior restraint on free speech, as it grants unbridled discretion to the Director of the Phoenix Parks and Recreation Department, is content-based, and is not narrowly drawn.

1 For these reasons, the Plaintiffs respectfully request that the Court enter a TRO and a
2 preliminary injunction prohibiting the City from applying the Ordinance to any volunteer or
3 associate of St. Herman's, including Mr. Brace, until the merits of their civil rights claims can
4 be fully adjudicated.

5 **DATED** this 2nd day of June 2026.

6 **PROVIDENT LAW®**

7 

8 Christopher J. Charles, Esq.

9 *Ann-Marie White René*

10 Ann-Marie White René, Esq.

11 *Pro Hac Vice**

12 Virginia Bar License No. 91166

13 (*Pro Hac Vice Application Pending)

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Exhibit 1

ORDINANCE G-7514

AN ORDINANCE AMENDING PHOENIX CITY CODE
CHAPTER 24 PARKS AND RECREATION TO ADD NEW
SECTION RELATING TO CERTAIN SERVICES IN PARKS

WHEREAS, individuals and organizations have historically provided services, including the distribution of food and medical care, at no cost or low cost to individuals in need. Such activities align with the city's overall aspiration to provide supportive care to vulnerable populations that frequently take place in parks.

WHEREAS, in addition to providing services needed to vulnerable populations, these activities can also strain the parks and city resources, frequently creating large crowds, increased noise, obstruction of public spaces, litter, and the accumulation of trash, debris, and food waste. These activities can damage public property and limit others' ability to access, share, and enjoy the parks.

WHEREAS, the intent of this Ordinance is to establish a framework for safer, orderly, and fair use and management of the parks, making every effort to ensure welcoming and positive access to them.

WHEREAS, the purpose of this Ordinance is to establish reasonable time, place, and manner restrictions on certain service events occurring at parks and thereby protect public health, safety, and welfare by requiring individuals and organizations that conduct certain service events at parks to first obtain permits and comply with applicable regulations.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. Phoenix City Code, Chapter 24, is amended as follows:

SEC. 24-45 CERTAIN SERVICES IN PARKS

A. THIS SECTION APPLIES TO PARKS AS DEFINED IN PHOENIX CITY CODE CHAPTER 24.

B. DEFINITIONS. THE FOLLOWING WORDS, TERMS, AND PHRASES HAVE THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

1. "CAREGIVER" MEANS A PERSON WHO ACCOMPANIES TO AND FROM THE PARK AND CARES FOR SOMEONE WHO IS SICK OR DISABLED OR AN ADULT WHO ACCOMPANIES TO AND FROM THE PARK AND CARES FOR AN INFANT OR CHILD AND INCLUDES A FAMILY MEMBER, LEGAL GUARDIAN, BABYSITTER, NANNY, FRIEND, TEACHER, NURSE, OR MEDICAL PRACTITIONER OF THE PERSON BEING CARED FOR.
2. "DEPARTMENT" MEANS THE CITY OF PHOENIX PARKS AND RECREATION DEPARTMENT.
3. "DIRECTOR" MEANS THE DIRECTOR OF THE CITY OF PHOENIX PARKS AND RECREATION DEPARTMENT.
4. "FAMILY MEMBER" MEANS A PERSON WHO IS BY BLOOD, ADOPTION, OR MARRIAGE A PARENT, GRANDPARENT, GREAT-GRANDPARENT, SIBLING OF THE WHOLE OR HALF BLOOD, STEPBROTHER, STEPSISTER, AUNT, UNCLE, GREAT-AUNT, GREAT-UNCLE, OR FIRST COUSIN.
5. "FOOD" MEANS ANY PRODUCT, OTHER THAN WATER OR ELECTROLYTE BEVERAGES, DISTRIBUTED OR SOLD FOR HUMAN CONSUMPTION, THE SALE OR DISTRIBUTION OF WHICH IS NOT PROHIBITED BY LAW.
6. "FOOD DISTRIBUTION EVENT" MEANS A GATHERING CONDUCTED BY A PRIVATE INDIVIDUAL OR ORGANIZATION, FOR CHARITABLE OR SIMILAR HUMANITARIAN PURPOSES, AT A PARK, THAT IS PLANNED, ORGANIZED, OR CONDUCTED TO DISTRIBUTE FOOD TO ANY MEMBER OF THE GENERAL PUBLIC AT NO COST OR FOR A NOMINAL CHARGE.
 - i. PRIVATE EVENTS, NOT OPEN TO THE GENERAL PUBLIC, WHERE FOOD IS SERVED SUCH AS FAMILY GATHERINGS, PICNICS, SOCIAL ORGANIZATION EVENTS, OR SPORTING EVENTS WHERE FOOD IS SERVED ONLY FOR PARTICIPANTS OF THOSE EVENTS ARE NOT FOOD DISTRIBUTION EVENTS.

7. "MEDICAL TREATMENT" MEANS ANY ACT THAT INVOLVES THE USE OF NEEDLES, SYRINGES, OTHER MEDICAL SHARPS, OR PRODUCES MEDICAL WASTE AS DEFINED BY A.R.S. § 49-701(32), INCLUDING BUT NOT LIMITED TO BANDAGES AND DRESSINGS.

C. MEDICAL TREATMENT IN PARKS. IT IS PROHIBITED:

1. FOR ANY PERSON, GROUP, OR ORGANIZATION TO POSSESS A NEEDLE, SYRINGE, OR OTHER MEDICAL SHARP CAPABLE OF POSING A STICK OR PUNCTURE HAZARD, UNLESS: (A) SUCH PERSON ALSO POSSESSES THE MEDICATION TO BE ADMINISTERED BY SUCH NEEDLE, SYRINGE, OR OTHER MEDICAL SHARP AND (B) SUCH MEDICATION IS CURRENTLY AND VALIDLY PRESCRIBED TO THAT PERSON OR TO A PERSON ACCOMPANYING THEM AND FOR WHOM THEY ARE A PARENT OR OTHER CAREGIVER.
2. FOR ANY PERSON, GROUP, OR ORGANIZATION TO CONDUCT THE SALE, DISTRIBUTION, OR EXCHANGE OF SYRINGES OR NEEDLES OR CONDUCT A NEEDLE EXCHANGE OR A NEEDLE EXCHANGE PROGRAM.
3. FOR ANY PERSON, GROUP, OR ORGANIZATION TO PROVIDE MEDICAL TREATMENT TO ANY PERSON OTHER THAN (A) A FAMILY MEMBER OR (B) A PERSON TO WHOM THEY ARE A CAREGIVER WITHOUT OBTAINING A PERMIT FROM THE DIRECTOR AUTHORIZING THE PROVISION OF SUCH MEDICAL TREATMENT.
4. FOR ANY PERSON, GROUP, OR ORGANIZATION TO PROVIDE PERMITTED OR OTHERWISE AUTHORIZED MEDICAL TREATMENT IN A PARK WITHOUT REMOVING FROM THE PARK, AFTER SAID TREATMENT IS COMPLETED, ALL NEEDLES, SYRINGES, OTHER MEDICAL SHARPS, OR MEDICAL WASTE AS DEFINED BY A.R.S. § 49-701(32), INCLUDING BUT NOT LIMITED TO BANDAGES AND DRESSINGS, THAT WERE USED IN SUCH TREATMENT.

D. FOOD DISTRIBUTION IN PARKS. IT IS PROHIBITED:

FOR ANY PERSON, GROUP, OR ORGANIZATION TO CONDUCT A FOOD DISTRIBUTION EVENT AT A PARK WITHOUT OBTAINING A PERMIT FROM THE DIRECTOR PRIOR TO THE EVENT.

E. SERVICES PERMITS. THE DIRECTOR:

1. IS AUTHORIZED TO ISSUE PERMITS AUTHORIZING THE FOLLOWING SERVICES:
 - i. MEDICAL TREATMENT IN A PARK; AND/OR
 - ii. A FOOD DISTRIBUTION EVENT IN A PARK.
2. IS AUTHORIZED TO ADOPT RULES AND PROCEDURES FOR THE ISSUANCE OF PERMITS FOR SUCH SERVICES, INCLUDING, BUT NOT LIMITED TO, RULES AND PROCEDURES TO MINIMIZE DISRUPTION TO OTHER PARK USES, ENSURE THE SAFETY OF PARK GUESTS, AND MAINTAIN PARKS IN A CLEAN AND SANITARY CONDITION.
3. SHALL ENSURE THAT THE RULES AND PROCEDURES FOR ISSUING PERMITS FOR SUCH SERVICES:
 - i. REQUIRE THAT THE DIRECTOR NOT ISSUE MORE THAN TWO (2) PERMITS FOR SUCH SERVICES FOR THE SAME PARK IN ANY CALENDAR MONTH;
 - ii. REQUIRE THAT MEDICAL TREATMENT ACTIVITIES BE CONDUCTED ONLY:
 1. ON A PARK'S PARKING LOTS OR OTHER HARDSCAPE AREAS, BUT NOT INCLUDING SPORTS COURTS, DESIGNATED PICNIC AREAS, OR SIMILAR DEDICATED PARK AMENITY SPACES AND
 2. IN AN ENCLOSURE SUFFICIENT TO ENSURE PATIENT PRIVACY AND THE CONTAINMENT OF ANY WASTE. SUCH ENCLOSURES MIGHT INCLUDE, BUT ARE NOT LIMITED TO:
 - a. MEDICAL TENTS OR OTHER SIMILAR TENTS WITH A ROOF, ALL OPAQUE SIDES AND A TARP OR OTHER IMPERMEABLE FLOOR, AND
 - b. VEHICLES, SUCH AS AMBULANCES OR RVs, THAT ARE EQUIPPED AND INTENDED FOR MOBILE MEDICAL TREATMENT WITHIN THE ENCLOSED SPACE OF THE VEHICLE;
 - iii. REQUIRE THAT PERMITTEES AGREE TO PROVIDE ADEQUATE INDEMNIFICATION AND INSURANCE;

- iv. REQUIRE THAT PERMITTEES AFFIRM THAT MEDICAL CARE AT MEDICAL TREATMENT EVENTS WILL BE PROVIDED ONLY BY PROPERLY LICENSED PROFESSIONALS ACTING WITHIN THE SCOPE OF THEIR LICENSURE; AND
- v. REQUIRE THAT PERMITS ARE ISSUED ONLY FOR NEIGHBORHOOD PARKS WITH PARKING LOTS, COMMUNITY PARKS, OR REGIONAL PARKS (EXCLUDING SPORTS COMPLEXES).

F. A PERSON, GROUP, OR ORGANIZATION THAT HAS OBTAINED A PERMIT PURSUANT TO SUBSECTION E OF THIS SECTION SHALL DISPLAY THE PERMIT UPON REQUEST. THE PERMIT HOLDER AND ALL PERSONS COVERED BY THE PERMIT SHALL ABIDE BY ANY STIPULATIONS OF USE SET FORTH IN THE PERMIT. THE PERMIT MAY BE REVOKED FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

G. EXCEPTIONS.

1. SUBSECTION C OF THIS SECTION DOES NOT APPLY TO:

- i. FIRST RESPONDERS, INCLUDING FIREFIGHTERS, LAW ENFORCEMENT OFFICERS, PARAMEDICS, EMERGENCY MEDICAL TECHNICIANS, OR OTHER INDIVIDUALS (INCLUDING AN EMPLOYEE OF A LEGALLY ORGANIZED AND RECOGNIZED VOLUNTEER ORGANIZATION, WHETHER COMPENSATED OR NOT), WHO, IN THE COURSE OF THEIR PROFESSIONAL DUTIES, RESPOND TO LAW ENFORCEMENT, FIRE, MEDICAL, HAZARDOUS MATERIAL, OR OTHER SIMILAR EMERGENCIES.
- ii. ANY PERSON RENDERING AID TO ANOTHER PERSON EXPERIENCING A SUDDEN INJURY OR EMERGENCY.
- iii. LICENSED PROFESSIONALS ACTING WITHIN THE SCOPE OF THEIR LICENSES AND AT AN OTHERWISE CITY-PERMITTED EVENT (FOR EXAMPLE, A SPORTING COMPETITION, TOURNAMENT, FUN RUN, OR SPECIAL ACTIVITY).
- iv. THE DISTRIBUTION OF INTRA-NASAL NALOXONE IN NON-EMERGENCY OR EMERGENCY SITUATIONS.

2. SUBSECTION C(1) OF THIS SECTION DOES NOT APPLY TO AN EMPLOYEE, VOLUNTEER, OR PARTICIPANT OF A PROGRAM ESTABLISHED PURSUANT TO A.R.S. § 36-798.51 WHO POSSESSES A NEEDLE OR SYRINGE AND WHO PROVIDES VERIFICATION THAT THE NEEDLE OR SYRINGE WAS OBTAINED FROM AN OVERDOSE AND DISEASE PREVENTION PROGRAM ESTABLISHED PURSUANT TO A.R.S. § 36-798.51.
3. FOR AVOIDANCE OF DOUBT, SUBSECTION D OF THIS SECTION DOES NOT APPLY TO ANY EVENT THAT WAS NOT PLANNED OR INTENDED TO SERVE OR DISTRIBUTE FOOD TO THE GENERAL PUBLIC. THIS INCLUDES BUT IS NOT LIMITED TO:
 - i. FAMILY EVENTS SUCH AS CELEBRATIONS, WEDDINGS, MEALS, OR REUNIONS OR INFORMAL GATHERINGS OF FAMILY OR FAMILY FRIENDS; AND
 - ii. EVENTS THAT ARE NOT OPEN TO THE GENERAL PUBLIC OR EVENTS TO WHICH THE GENERAL PUBLIC IS NOT INVITED.

H. VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

PASSED by the City Council of the City of Phoenix this 6th day of May
2026.

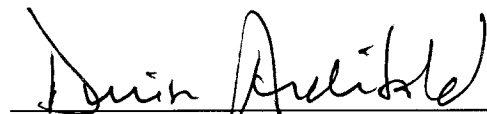


MAYOR

05/07/2026

Date

ATTEST:


Denise Archibald, City Clerk



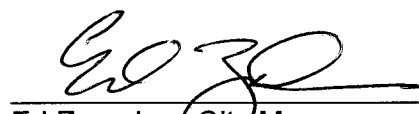
APPROVED AS TO FORM:
Julie M. Kriegh, City Attorney



By:


Assistant Chief Counsel

REVIEWED BY:


Ed Zuercher, City Manager

DSC:phs:(LF26-0926);05/06/26:4935-3168-2982



PROVIDENT LAW

Exhibit 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION**

St. Herman's Table, an Arizona nonprofit corporation; and,
Lance Brace,

Plaintiffs,

v.

Case No. _____

City of Phoenix,

Defendant.

DECLARATION OF LANCE BRACE

L. Brace hereby declares as follows:

1. My name is Lance Brace. I am a resident of Arizona. I live in the City of Phoenix ("the City").
2. I am a practicing Orthodox Christian.
3. I am a member of Exaltation of the Holy Cross Orthodox Church, located in Phoenix.
4. I am also President of St. Herman's Table ("St. Herman's"), a ministry of Exaltation of the Holy Cross Orthodox Church.
5. St. Herman's is incorporated as a domestic nonprofit corporation with the State of Arizona. Attached as Attachment 1 to this Declaration is a copy of St. Herman's Articles of Incorporation.
6. St. Herman's Board of Directors consists of five individuals, including myself.
7. St. Herman was a Russian Orthodox monk who, along with others, founded a mission in Alaska in the late 18th century. It is said that St. Herman and his missionaries converted thousands of people to Christian Orthodoxy in the Kodiak region. I chose to

name St. Herman's after him so that we could be led by his intercession to feed and share the Gospel of Jesus Christ with the poor and hungry.

8. The Orthodox Church teaches that almsgiving is a mandatory act of love. Almsgiving is considered the "third pillar" of virtue alongside prayer and fasting. Almsgiving involves voluntary, sacrificial giving—money, time, or goods—to the needy in Christ's name, aiming to combat one's own greed, to demonstrate Christ-like love, and to assist one's neighbor. Similarly, the Orthodox Church teaches that its followers are called to preach the Gospel and proclaim the Good News of Jesus Christ.
9. Around the time of my conversion to the Orthodox Church, I felt compelled by the Holy Spirit to begin St. Herman's to meet my obligation of almsgiving.
10. St. Herman's purpose is to provide for the needy and to seek the spiritual renewal of all of those to whom we minister by speaking with them about Jesus.
11. St. Herman's mission statement is: "We serve the hungry in the name of Jesus Christ, offering food, prayer, and kindness, trusting God to supply what we lack."
12. This religious mission is based on my and St. Herman's' sincere belief that feeding the hungry in Jesus' name and testifying to the Gospel is in obedience to the commission of our Lord in Scripture (Matthew 5.16; Matthew 7.12; Matthew 25. 31-46; Matthew 28.18-20; Acts 1.8; Isaiah 58.7-10).
13. To fulfill my almsgiving and evangelism as an Orthodox Christian, as well as St. Herman's mission, every Thursday evening, St. Herman's goes to Cave Creek Park at Cactus ("Cave Creek Park") in the City to feed and minister to the homeless at no cost to them.

14. St. Herman's typically spends about an hour-and-a-half to two-hours in the park.

During this time, St. Herman's offers a meal, water, Bibles, and small hygiene products, to the homeless.

15. When I say "small hygiene products" I mean shampoos, soaps, toothpaste, and the like. St. Herman's does not provide medical supplies or medications to any individual.¹ St. Herman's does not provide any type of needles to those it serves.

16. Before we serve the meal, every Thursdays, St. Herman's offers a prayer in which we invite anyone who wishes to participate to be a part of. Several of our homeless neighbors have joined us for this prayer. During our time in the park, we offer to pray with anyone who engages with us. We tend to engage in these prayers towards the end of the evening once everyone has eaten and there are more conversations happening. St. Herman's routinely engages in conversation with the homeless about God.

17. I personally bring an icon of an Orthodox saint from my personal collection to Cave Creek Park every Thursday. For example, on May 14, 2026, I brought an icon of St. Porphyrios of Kafsokalyvia. On May 7, 2026, I brought an icon of St. Moses the Black. We also give out 4x6 inch prints of an icon of St. Herman that has our Church information on the back.

18. St. Herman's volunteers all wear crosses, most of them being the Russian Orthodox Cross. The Russian three bar cross is different enough that I often get a lot of questions about it and it leads to a conversation about Christ. I personally wear my

¹ In the past, St. Herman's has provided band-aids and antibacterial cream to those we serve. However, due to the Ordinance, St. Herman's has ceased providing these items effective June 5, 2026.

18. Orthodox Cross outside of my shirt and wear black shirts with the cross imprinted on the shirt to encourage conversation about them.

19. St. Herman's typically serves between 12 to 25 people every Thursday. We rarely, if ever, serve more than 25 people. From the best of my recollection, we have never served more than 30.

20. The number of St. Herman's volunteers who attend each Thursday varies by week. The five Board members are St. Herman's primary volunteers, but not all are able to attend every week. Sometimes St. Herman's also has other Parishioners volunteer.

21. Each of St. Herman's current volunteers is either a baptised member of the Orthodox Church or a Catechumen (someone who is preparing to enter the Church). St. Herman's would welcome non-Orthodox volunteers if they wish to join us as that would also serve as an opportunity to introduce them to Orthodoxy.

22. I, and the other St. Herman's volunteers, make sure to clean up both before and after St. Herman's feeds the homeless in the park each week. We do not leave trash or litter behind.

23. I have never encountered a needle during my time at Cave Creek Park. If I saw any needle, I would immediately alert those around me to avoid the area until I could carefully dispose of it while wearing gloves, or I would alert someone who would safely dispose of the needle, such as a city employee.

24. St. Herman's dispenses from the park within a couple of hours every Thursday. St. Herman's never uses a sound amplifier for its Thursday ministry.

25. As far as I am aware, St. Herman's has never been the subject of a complaint to the City.
26. Neither I nor St. Herman's have ever been cited by the City for violating any littering, trash, noise, or crowd ordinance.
27. We have never had a large crowd congregate by our table at Cave Creek Park, even when we are serving food. Our table works "buffet-style". Someone takes a plate and walks down the table collecting the food and small hygiene items that he or she needs. That individual then finds a spot nearby to eat. There is never a long line or crowd of people at St. Herman's table, and the sidewalk is always passable.
28. In addition to meeting the needs of our unhoused neighbors in food and drink, St. Herman's purpose is ultimately to see God work within those with whom we come into contact with and to welcome them to our Church.
29. Through consistent contact each week, I and St. Herman's volunteers have formed relationships and friendships with many of the homeless individuals that we meet at Cave Creek Park.
30. For example, there is one individual who is disabled (he only has one leg) who routinely meets St. Herman's at Cave Creek Park on Thursday. He has informed me that sometimes, the meal that St. Herman's provides to him is the only complete meal he has received that week.
31. There is another individual who regularly meets me and St. Herman's at Cave Creek Park on Thursday. This individual did not easily warm up to me and the other St.

- Herman's volunteers. It took considerable time for this person to trust that St. Herman's is there to help him faithfully each week without judgment or conditions.
32. It is clear to me that these two individuals reside somewhere close to Cave Creek Park and do not have reliable transportation to travel to other parks.
33. Ultimately, St. Herman's goal is to be used by God to bring His love to these individuals, and the others whom St. Herman's serves, and to see them embrace the Gospel as taught by the Orthodox Church.
34. Prior to the passage of the City's *Medical Treatment and Food Distribution in Parks Ordinance* (hereinafter, "the ordinance"), I attended the April 8, 2026 Community Meeting about the ordinance at the Sunnyslope Community Center. This meeting was held before City Manager Cynthia Aguilar. I testified at the meeting.
35. Specifically, I testified that the ordinance would prohibit me and St. Herman's from being able to fulfill our religious obligations and mission. After I spoke, Deputy City Manager Cynthia Aguilar asked me to e-mail her my comments after the meeting. I did so, but I did not receive any e-mail back. Attached as Attachment 2 to this Declaration is a copy of the comments that I made at the April 8, 2026 Community Meeting and the comments that I e-mailed to Ms. Aguilar.
36. I also attended the City Council meeting on May 6, 2026. I again testified at the May 6th meeting, informing the City Council that the ordinance would prohibit me and St. Herman's from being able to fulfill our almsgiving and evangelistic ministry. Mayor Kate Gallego, Councilwoman Betty Guardado, Councilwoman Ann O'Brien, Councilwoman Debra Stark, Councilman Kevin Robinson, and Councilwoman Kesha

Hodge-Washington were all present at the meeting. A copy of the comments that I gave at the meeting on May 6, 2026 are attached to this Declaration as Attachment 3.

37. At the May 6, 2026 City Council meeting, Mayor Kate Gallego, Councilwoman Betty Guardado, Councilwoman Ann O'Brien, Councilwoman Debra Stark, Councilman Kevin Robinson, and Councilwoman Kesha Hodge-Washington all voted in favor of the ordinance. The ordinance passed at that meeting.

38. I was present for the entirety of the May 6, 2026 City Council meeting. The video posted on the City of Phoenix's official YouTube account is a true and accurate recording of the meeting. The recording is available here: <https://www.youtube.com/watch?v=RMCOpePmtGI>.

39. My understanding of the ordinance is that St. Herman's is required to seek a permit for any "food distribution event" that it seeks to hold. I believe this is so because the ordinance defines a "food distribution event" as "a gathering conducted by a private individual or organization, for charitable or similar humanitarian purposes, at a park, that is planned, organized, or conducted to distribute food to any member of the general public at no cost or for a nominal charge." I assume that St. Herman's mission qualifies as a "charitable or similar humanitarian purpose[].".

40. However, I also understand that under the ordinance "private" gatherings, such as friends getting together for dinner, are not required to get a permit. It is unclear to me whether St. Herman's weekly ministry may qualify as a "private" gathering under the ordinance.

41. After the ordinance was passed, I learned that city officials had already drafted administrative rules for the ordinance's implementation prior to the City Council meeting but did not disclose them. They were posted on the City website the next morning along with the application. I reviewed the rules promulgated by the Parks and Recreation Department and the permit application as required by the ordinance. Attached as Attachment 4 to this Declaration is a true and accurate copy of the implementing rules and the permit application.

42. The ordinance, its previously undisclosed implementing rules, and the permit application process make it impossible for me and St. Herman's to even apply for a permit and ultimately, to fulfill our ministry for several reasons.

43. First, the ordinance requires that only two permits be granted for each eligible park per month. On this basis alone, I and St. Herman's are criminally prohibited from continuing to engage in our weekly ministry at Cave Creek Park.

44. Second, the ordinance's implementing rules and permit application make it impossible for St. Herman's to even apply for the permits because the information required *at the time of the permit application* is not even known to St. Herman's that far in advance. Specifically, the permit application requires that an organization seeking a permit must submit their application for a three-month determination. For example, the Fall 2026 applications open June 1-June 19, 2026 for permits in September-December 2026. The permit application requires that at the time of application, the organization seeking the permit must identify who will attend and provide Food Handler Certificates for each of those individuals. As explained above, St. Herman's

volunteers for its weekly Thursday ministry at Cave Creek Park are determined on a week-to-week basis. Sometimes, there are only a few volunteers available to attend. Other times, different Parishioners from the Church may volunteer. Moreover, St. Herman's is always accepting willing and able Parishioners, or others, who wish to assist on Thursday evenings. St. Herman's is unable to identify three-months in advance who exactly will be attending its Thursday evening ministry, let alone confirm that all volunteers have Food Handler Certificates.

45. Third, the ordinance's implementing rules make clear that any permit issued under the ordinance will only allow food to be distributed in the parking lot at Cave Creek Park. Specifically, the regulations state that "Medical Treatment and Food Distribution Services Permits are only approved in parking lot areas or other hardscape areas designated by the Department, excluding sports courts, designated picnic areas, sidewalks, perimeter walks, and roadways, or similar dedicated park amenity spaces." The only area that I am aware that qualifies for the permit under this definition at Cave Creek Park is the parking lot. St. Herman's typically sets up its table on the edge of the park's sidewalks so that individuals can easily pass by our table and the needy can sit down on park benches or tables under any tree shade, and so that the volunteers can sit with them and speak with them about Christ. Requiring all volunteers and the homeless to only congregate on the black-top parking lot will discourage attendance by both groups of people, particularly in the hot months, since the parking lot has no shade and radiates heat. Further, I do not believe it is safe for the homeless or St. Herman's volunteers—who often bring their children with

them—to congregate in the parking lot. Moreover, as I've explained herein, St. Herman's purpose is to demonstrate Christ's love to the homeless. Segregating them to the parking lot, when others are able to freely eat and drink in the park, does not allow St. Herman's to convey this message.

46. Fourth, the ordinance requires that St. Herman's provide evidence of indemnity insurance of \$2 million with any application for single use of any park. St. Herman's is in the process of obtaining this insurance, but it does not have it at this time so we are unable to apply for a permit for any of the summer months.

47. At this time, both I and St. Herman's are prepared to peaceably continue our weekly ministry at Cave Creek Park despite the threat of prosecution by the City under the ordinance. St. Herman's is prepared to continue to feed and minister to the homeless at Cave Creek Park every Thursday once the ordinance goes into effect on June 5, 2026.

48. I have a wife and three children who often volunteer at St. Herman's Thursday ministry at Cave Creek Park with me. As an Orthodox Christian, I believe that I must set a Godly example for my children. My wife and I therefore take our children to the park when we are volunteering with St. Herman's so that they may witness us feeding and ministering to those in need.

49. However, due to the ordinance, my wife and I have decided that once the ordinance goes into effect, she and our children will no longer attend St. Herman's weekly ministry at Cave Creek Park. We have made this decision in case I am cited or arrested while fulfilling my almsgiving, so that our children will not witness that and

so that she will be able to care for them in case I am unable to immediately return home.

50. I have also spoken with others who regularly volunteer with St. Herman's. I have been told by one individual that he no longer intends to volunteer with St. Herman's on Thursday at Cake Creek Park because of the threat of prosecution. Additionally, like myself, many of the other volunteers have decided to no longer bring their spouses or children with them on Thursday evening for the same reasons that I have articulated.

51. Prior to filing this lawsuit and before the City Council adopted the ordinance, St. Herman's attorneys sent the Phoenix City Attorney a letter detailing my and St. Herman's' objections to the ordinance and explaining why it violates the First Amendment. A copy of the letter is attached to this Declaration as Attachment 5.

52. Neither the City Attorney nor the City Council responded to our letter. Instead, the ordinance was passed on May 6, 2026. It is my understanding that the City intends to fully enforce the ordinance beginning on its effective date of June 5, 2026.

53. Neither I nor St. Hermans nor our Church have any ill-will toward the City or the City Council members. We do not desire publicity or the diversion of litigation. We only wish to continue to feed the needy in our City, as a religious offering and out of Christian love for our neighbor.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2026



Lance Brace

Enclosed are the following:

Attachment 1



STATE OF ARIZONA
ARIZONA CORPORATION COMMISSION
VERIFICATION OF FORMATION
ARTICLES OF INCORPORATION

I, the undersigned Executive Director of the Arizona Corporation Commission,
hereby verify that:

St Herman's Table

ACC Business ID: **25049620**

a Domestic Nonprofit Corporation, is duly registered under the laws of the state of
Arizona on the 16th day of April, 2026.

This verification relates only to the legal formation of the above business as of the
date of this Certificate, and is not an endorsement, recommendation, or approval of
the business condition, activities, affairs or practices.

IN WITNESS WHEREOF, I have hereunto
set my hand, affixed the official seal of the
Arizona Corporation Commission, and
issued this Certificate on this date: **16th**
day of April, 2026



Douglas R. Clark

DOUGLAS R. CLARK,
EXECUTIVE DIRECTOR

Attachment 2

Hello. My name is Lance Brace. I am an Orthodox Christian, and I run an organization called St. Herman's Table.

In Orthodox Christianity, we have three primary spiritual disciplines: prayer, fasting, and almsgiving. Almsgiving is not optional. It is a required and essential practice of the Christian life, most often expressed by feeding the hungry.

As I read this proposal, I asked a simple question: what exactly does this ordinance prohibit St. Herman's Table from doing?

It does not prohibit being in the park.

It does not prohibit the homeless being in the park.

It does not prohibit speaking with the homeless.

It does not prohibit gathering.

It prohibits one thing: the act of handing a hungry person something to eat.

That act is called almsgiving. It is a religious practice.

This ordinance therefore imposes a direct burden on the free exercise of religion. It conditions the ability to practice that religion on obtaining government permission, subject to limited permits, discretionary approval, and requirements (such as insurance) that many small, volunteer ministries cannot meet.

I want to be clear: I am not here to argue against order, safety, or cleanliness in our parks. Those are legitimate concerns. But those concerns can be addressed without prohibiting or effectively prohibiting acts of charity. For example, the city can enforce existing littering laws, require groups to clean up all trash after distributing food, and ensure walkways and park access remain unobstructed, without limiting service to two permits per month or imposing requirements that make participation realistically impossible for small, volunteer groups.

For two thousand years, the Church has fed the hungry as a core part of its life and witness. That practice will continue.

No Christian can be required to seek Caesar's permission to fulfill a religious obligation such as feeding the hungry. The role of government is not to stand between a person and their duty to love their neighbor.

As a matter of conscience and faith, I cannot/will not refrain from almsgiving, and I cannot accept a system in which that obligation requires prior permission from the government.

If this ordinance passes, it will not end acts of charity. It will only place those acts in conflict with the law.

I urge you to reconsider this proposal.

Thank you.

Attachment 3

Hello. My name is Lance Brace. I lead an outreach ministry called St. Herman's Table.

Every Thursday evening, we go to Cave Creek Park at Cactus to feed people who are hungry.

This is not just volunteer work. This is a Christian ministry.

In the Orthodox Christian faith, feeding the hungry is called almsgiving. It is not optional. It is a core religious practice that has been carried out *in public spaces* for millennia. [half pause]

When we do this, we are not just handing out food. We are bringing the Love of God to our homeless neighbors. [slowly] We are bringing the Light of Christ into their lives. We bring them to Church. We pass out Bibles and Icons. We pray for and with them.

This ordinance places an undue burden on our ministry, and would make it impossible to continue.

It requires permission. It limits when it can happen. And it creates a system where small, volunteer-led ministries like ours may not be able to continue at all.

And I want to be very clear about something.

No person of faith should need permission from the government to practice our religion in this peaceful, helping way, like the Church has been doing for 2,000 years.

[pause]

At the same time, this ordinance does not burden secular activities in the same way. It creates a distinction where feeding the hungry—because of what it is and who it serves—is treated differently.

And ultimately, this ordinance will not stop almsgiving.

It will not stop the Church from feeding the hungry where they are.

It will only force people of conscience to choose between engaging with our faith and submitting to the law.

That is not a position the City should be putting its people in.

We all want our parks to be clean and safe. That is important. But those concerns can be addressed without placing barriers in front of people trying to help.

I ask you to reconsider this ordinance.

Thank you.

Attachment 4

May 7, 2026

RE: Medical Treatment and Food Distribution Parks Services Permit – Summer 2026 Allocation Period

Dear Applicant,

Thank you for your interest in the Medical Treatment and Food Distribution Parks Services Permit. Yesterday, the Phoenix City Council approved Ordinance G-7514 which becomes effective on June 7, 2026. As a result, the application process to obtain a Parks Services permit for the first allocation period is now open. You can find the permit application, required documentation and certifications, and a list of eligible parks on our official website: phoenix.gov/parks/servicespermit

To ensure a smooth process, please complete all sections of the application and include all required documents. Incomplete applications may delay or affect the approval process. Submit completed application packets via email to: pks.servicespermit@phoenix.gov

Due to the ordinance becoming effective on June 7, the application cycle for the first allocation period is on an abbreviated timeline. The first allocation period covers permit requests for June 7 through August 31, 2026. The application window closes on May 22. Staff will notify organizations regarding the status of their permit on June 4. Future cycles will provide more advance notice prior to the start of the allocation period.

Please be aware of the upcoming schedule for the next allocation period, which covers Services Permit requests for September through December 2026. The application period for that cycle will open on June 1 and will close on June 19. We will upload the application for that cycle to our website soon.

Also of note, applications for Services Permits are accepted on a rolling basis for the currently open allocation period.

We appreciate your continued commitment to serving the community and look forward to coordinating these essential services with you.

Our team is here to help. If you have any questions, please call 602-262-6862 or email pks.servicespermit@phoenix.gov.

Sincerely,

Martin Whitfield
Parks and Recreation Department Director

MEDICAL TREATMENT / FOOD DISTRIBUTION SERVICES PERMIT APPLICATION

Any organization seeking to provide medical treatment and/or food distribution services on eligible City of Phoenix Parks and Recreation owned property must submit a request with the City of Phoenix Parks and Recreation Department and adhere to City of Phoenix Code.

Summer 2026 Application Timeline

To apply for Services Permits for the Summer 2026 Allocation Period (June-August), applications can begin to be submitted on May 7, 2026, through May 22, 2026. To help ensure applications are processed timely, carefully review and provide complete responses to each portion, ensuring requested documentation is included with the applications. Incomplete applications may delay or limit the approval process.

- **May 22-28** - Services Permit Allocation Committee reviews requests and makes permit allocations
- **June 4** - Notification of Services Permit application status
- **June 7** - First day of Services Permits in parks

Applications may continue to be submitted on a rolling basis during the summer allocation period and will be evaluated for availability.

Please follow the process outlined below:

1. **Submit a complete Services Permit Request Form** to the Parks and Recreation Department Director's Office to: pbs.servicespermit@phoenix.gov
2. **Eligible Park Sites:** Park sites eligible for Services Permits are included in Attachment A.
3. **No Fee:** There are no fees associated with Medical Treatment and Food Distribution Services Permits
4. **Applications** are reviewed and approved through the Parks and Recreation Department Director's Office for compliance with Phoenix City Code 24-45 and the Parks Code of Conduct. All requests will be subject to following:
 - a. No more than two Services Permits per eligible park site are available within the same calendar month.
 - b. Medical Treatment and Food Distribution Services Permits are for a two-hour increment, plus a 30-minute set up, and 30-minute teardown.
 - c. Medical Treatment and Food Distribution Services Permits are only approved in parking lot areas or other hardscape areas designated by the Department, excluding sports courts, designated picnic areas, sidewalks, perimeter walks, and roadways, or similar dedicated park amenity spaces.
 - d. Medical Treatment Services are permitted only in medical vehicles intended for mobile medical treatment or a medical tent or similar with a roof, all opaque sides and an impermeable floor that is sufficient to ensure patient privacy and the containment of any waste.

- e. Food Distribution Services are permitted with popup tent(s) or open-air food service and an may include tables, chairs
 - f. All Services Permit events must be posted with signage identifying the services provider.
 - g. All waste produced by the permitted services must be removed from the park site by the service organization/organizer.
 - h. If requesting multiple Service Permit events, please list the event dates in order of priority.
- 5. **Indemnification and Insurance** is required for each request submitted to the City of Phoenix Parks and Recreation Department.
- 6. **Licensure for Medical Professionals** is required to be submitted for any organization/individual that is requesting to use a park space for medical treatment services. All medical treatment must be provided under the care of a licensed provide acting within the scope of their licensure during the entire event. A copy of each License must be sent with the allocation request to include the following:
 - i. Centers for Medicare and Medicaid (CMS) Clinical Laboratory Improvement Amendment (CLIA) ID #
 - ii. Laboratory name, and address of CLIA certificate
 - iii. AZDHS license #
- 7. **Food Handler's Certificates** are required to be submitted for any organization/individual that is requesting to use a park space for food distribution. All individuals serving food are required to have a Food Handler's Certificate that includes the distribution of food products. A copy of each Certificate must be sent with the allocation request and posted at each service event.
<https://www.maricopa.gov/5114/Food-Restaurants>
- 8. **Additional Permits** for Special Activity Requests, amplified sound, and inflatables can be found on the Parks and Recreation website: phoenix.gov/parks/rentalsandpermits
Beer permits are not permitted for Medical Treatment or Food Distribution service events.
- 9. **Display of Approved Services Permit** is required at each service event. The permit holder and all personnel covered by the Services Permit shall abide by any stipulations of use set forth in the permit.
- 10. **Display of Organization/Individual Signage** is required to be posted at each services event identifying the services provider.
- 11. **Park Code of Conduct Policy** must be complied with for any service event within the eligible park. See Attachment B.



Medical Treatment and Food Distribution Services Permit Application

2026 SUMMER ALLOCATION - Requesting park site use from June 7 to August 31. Requests

are accepted from May 7 to May 22. Permit notifications will occur beginning June 4. Please

email completed form and all required documents to pks.servicespermit@phoenix.gov

Organization Name: _____

Organization Main Point of Contact: _____

Organization Address: _____ City: _____ Zip: _____

Contact: Phone: _____ Email: _____

Organization Second Point of Contact: _____

Contact: Phone: _____ Email: _____

Event 1 - Name and Description. For medical, provide information for tents/vehicles. Date: _____

Medical Treatment ☐ OR Food Distribution ☐

Potential Number of Participants: _____

Additional Permits Needed: _____

Preferred Location: _____

1st Alternate Location: _____

2nd Alternate Location: _____

Time Requested – includes two-hour service period plus 30 minutes for setup and 30 minutes for teardown between 8am or park opening (whichever is later) to 10pm:

Event 2 - Name and Description. For medical, provide information for tents/vehicles. Date: _____

Medical Treatment ☐ OR Food Distribution ☐

Potential Number of Participants: _____

Additional Permits Needed: _____

Preferred Location: _____

1st Alternate Location: _____

2nd Alternate Location: _____

Time Requested – includes two-hour service period plus 30 minutes for setup and 30 minutes for teardown between 8am or park opening (whichever is later) to 10pm:

Event 3 - Name and Description. For medical, provide information for tents/vehicles. Date: _____
Medical Treatment ☐ OR Food Distribution ☐

Potential Number of Participants:

Additional Permits Needed:

Preferred Location:

1st Alternate Location:

2nd Alternate Location:

Time Requested – includes two-hour service period plus 30 minutes for setup and 30 minutes for teardown between 8am or park opening (whichever is later) to 10pm:

Event 4 - Name and Description. For medical, provide information for tents/vehicles. Date: _____
Medical Treatment ☐ OR Food Distribution ☐

Potential Number of Participants:

Additional Permits Needed:

Preferred Location:

1st Alternate Location:

2nd Alternate Location:

Time Requested – includes two-hour service period plus 30 minutes for setup and 30 minutes for teardown between 8am or park opening (whichever is later) to 10pm:

Additional Pertinent Information:

By signing below, I acknowledge that this is only a request for a Services Permit at an eligible City of Phoenix park. I understand submittal of this request does not guarantee a Services Permit. I will not advertise any City of Phoenix park site until I have received a Services Permit from the City of Phoenix Parks and Recreation Director's Office.

Printed Name: _____

Signature: _____

Date: _____

(Internal Office Use Only)

Date Received: _____

Received By (City Staff Name): _____

Permit Number: _____ Number of Hours Received: _____ COI Exp. Date: _____

Park Sites Provided: _____



Certificate of Insurance Requirements

Those organizations or commercial operations that are considered to expose the City of Phoenix to risk are required to provide a certificate of insurance, listing the City of Phoenix as an additional insured. Those operations that are required to provide insurance include; but are not limited to, the following: catering, commercial food service, carnival games/rides, organized sporting competitions, dog shows, food distribution in the park, and medical treatment events.

- A minimum of \$2,000,000.00 in general liability coverage is required. Additional coverage or higher limits may be required based on the nature of the activity.
- The City of Phoenix is to be named both “Additional Insured” and “Certificate Holder”.
- The following wording must appear in the description box on the certificate:
 - “The City of Phoenix, its officers, officials, agent, employees and volunteers are named as additional insured in respect to (name of event, date(s) and location)”.

NOTE: If your organization/business does multiple events in the City parks in the course of a year, you may use the following wording in the description box on the certificate:

- “The City of Phoenix, its officers, officials, agents, employees and volunteers are named as additional insured in respect to all operations/events held by (business organization name) in any City of Phoenix parks”.
- The following wording must appear in the certificate holder box on the certificate:

City of Phoenix Parks and Recreation Department
200 W. Washington 16th Floor
Phoenix, AZ. 85003
- Insurance certificates are due 30 days prior to your activity. Please submit a copy with your allocation request.

Certificate of Insurance (Sample)

CERTIFICATE OF LIABILITY INSURANCE			(DATE)	
AGENT NAME & ADDRESS		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. COMPANIES AFFORDING COVERAGE (NAME & ADDRESS)		
INSURED NAME & ADDRESS		COMPANY LETTER A COMPANY LETTER B		
COVERAGE THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAYBE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.				
CO TYPE OF INSURANCE LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIABILITY LIMITS
GENERAL LIABILITY		02/23/99	02/23/00	GENERAL AGGREGATE
				\$2,000,000
				PRODUCTS OM PROP AGG
				\$1,000,000
				PERSONAL & ADV INJURY
				\$1,000,000
				EACH OCCURRENCE
COMMERCIAL GENERAL LIAB.				\$1,000,000
				\$1,000,000
				\$1,000,000
				\$1,000,000
OWNERS & CONTRACTORS				\$1,000,000
				\$1,000,000
				\$1,000,000
AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT
				BODILY INJURY
				(PER PERSON)
				\$
ANY AUTO				BODILY INJURY
				(PER ACCIDENT)
				\$
ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				PROPERTY DAMAGE
				\$
EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE
				\$
				AGGREGATE
EMPLOYER'S LIABILITY				SELF INS RETENTION
				\$
Other				EACH OCC.
				\$
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS THE CITY OF PHOENIX, A MUNICIPAL CORPORATION, AND IT'S OFFICERS, OFFICIALS, AGENT'S AND EMPLOYEE'S ARE NAMED AS ADDITIONAL INSURED				

ATTACHMENT A

Service Eligible Parks

Rev. Date 4/17/2026

LOCATION	PARK TYPE	ACRES	COUNCIL	ADDRESS
Cortez Park	Community	30.38	1	3434 W Dunlap Ave
Deem Hills Park	Community	39.07	1	26777 N Deem Hills Pky
Paseo Highlands Park	Community	37.2	1	3435 W. Pinnacle Peak Rd
51st Avenue & Sweetwater Avenue Park	Community	44.12	1	51st Avenue and Sweetwater Ave
Cactus Park	Community	31.61	1	3801 W Cactus Rd
Acoma Park	Neighborhood	10.26	1	14421 N. 39th Ave
Conocido Park	Neighborhood	27.59	1	15645 N 31st Ave
Hoshoni Park	Neighborhood	8.5	1	8515 N. 39th Ave
Surrey Park	Neighborhood	9.22	1	3835 W. Joan De Arc Ave
Telephone Pioneers of America Park	Neighborhood	7.48	1	1946 W Morningside Dr
Deer Valley Park	Regional	51.9	1	19602 N 19 Ave
Buffalo Ridge I Park	Community	42.19	2	19250 N. 16th St
Desert Broom Park	Community	44.3	2	29440 N. Cave Creek Rd
Desert Horizon Park	Community	36.38	2	16002 N 56th St
Sereno Park	Community	37.69	2	5702 East Sweetwater Ave
Cashman Park	Neighborhood	10.16	2	22222 N. 44th St
Desert Willow Park	Neighborhood	12.1	2	4040 E. Desert Willow Parkway
Dove Valley Park	Neighborhood	4.8	2	4740 E Rancho Paloma Dr
Dynamite Park	Neighborhood	18.53	2	4550 E. Dynamite Blvd
John W. Teets Park	Neighborhood	15.57	2	4380 E. Ramuda Dr
Mountain View Community Center Park	Neighborhood	11.86	2	1104 E. Grovers Avenue
Palomino Park	Neighborhood	11.07	2	15815 N. 30th St
Tramonto Park	Neighborhood	12.2	2	35425 N. 32nd Dr
Paradise Valley Park	Regional	79.38	2	17402 N 40th St
Lookout Mountain Park	Community	27.91	3	14441 N 18 St
Mountain View Park	Community	35.46	3	9901 N. 7th Avenue
Roadrunner Park	Community	35.79	3	3502 E Cactus Rd
Sweetwater Park	Community	19.61	3	13230 North 44th St
Venturoso Park	Community	15.6	3	14425 N 32nd St
Cave Creek Park- Cactus	Neighborhood	28.28	3	Greenway, South to ACDC
Cave Creek Park- Cholla	Neighborhood	74.87	3	2505 W. Cholla St.
Cave Creek Park- Larkspur	Neighborhood	34.32	3	Greenway, South to ACDC
Cave Creek Park- Sandlilly	Neighborhood	20.85	3	2500 W. Cactus Rd.
Cave Creek Park- Sweetwater	Neighborhood	54.02	3	Greenway, South to ACDC

ATTACHMENT A (continued)

Service Eligible Parks

LOCATION	PARK TYPE	ACRES	COUNCIL	ADDRESS
Cave Creek Park- Thunderbird	Neighborhood	23.81	3	13670 N. 23rd Avenue
Cholla Cove Park	Neighborhood	7.14	3	4121 E. Lupine Ave
Christy Cove Park	Neighborhood	8.32	3	2352 E Christy Cove
Moon Valley Park	Neighborhood	27.85	3	502 W. Coral Gables Dr
Norton Park	Neighborhood	7.73	3	1224 E Hatcher Rd
Palma Park	Neighborhood	7.79	3	1135 E. Dunlap Ave
Royal Palm Park	Neighborhood	27.3	3	8405 N 15th Ave
Sunnyslope Park	Neighborhood	4.07	3	802 E Vogel Ave
Werner's Field	Neighborhood	11.05	3	17831 N 7th Ave
Winifred Green Park	Neighborhood	3.38	3	1702 W Peoria Ave
Rose Mofford	Regional	90.56	3	9833 N 25th Ave
Cielito Park	Community	42.86	4	3402 W Campbell Ave
Falcon Park	Community	14.58	4	3420 W Roosevelt St
Madison Park	Community	19.67	4	1440 E. Glenrosa Ave
Marivue Park	Community	33.54	4	5625 W Osborn Rd
Steele Indian School Park	Community	72.48	4	300 East Indian School Rd
Sueno Park	Community	38.06	4	4401 West Encanto Blvd
Coronado Park	Neighborhood	10.4	4	1717 N 12th St
Kids Street Park	Neighborhood	2.19	4	4535 N. 23rd Ave
Longview Park	Neighborhood	4.42	4	4040 N 14th St
Solano Park	Neighborhood	9.57	4	5625 North 17th Ave
Encanto Park	Regional	61.49	4	2605 North 15th Ave
El Oso Park	Community	32.39	5	3451 N. 75th Ave
La Pradera Park	Community	37.15	5	6830 N 39th Ave
Maryvale Park	Community	14.05	5	4420 N. 51st Ave
Washington Park	Community	54.11	5	6655 N 23rd Ave
Dust Devil Park	Neighborhood	13.72	5	10645 W Camelback Rd
Holiday Park	Neighborhood	4.5	5	4530 N 67th Ave
Little Canyon Park	Neighborhood	13.84	5	3201 W Missouri Ave
Mariposa Park	Neighborhood	18.39	5	3203 W Morten Ave
Starlight Park	Neighborhood	7.62	5	7810 W Osborn Rd
Desert Foothills Park	Community	45.59	6	1010 Marketplace Southwest
Granada Park	Community	49.84	6	6505 N 20th St
Los Olivos Park	Community	24.47	6	2802 E Devonshire Ave
Mountain Vista Park	Community	43.37	6	13647 S 50th St

ATTACHMENT A (continued)

Service Eligible Parks

LOCATION	PARK TYPE	ACRES	COUNCIL	ADDRESS
Sun Ray Park	Community	17.55	6	4059 E Ray Rd
Vista Canyon Park	Community	25.17	6	16020 S. 30th St
Arcadia Park	Neighborhood	8.71	6	3402 N. 56th Street
G.R. Herberger Park	Neighborhood	7	6	5802 E Indian School Road
Western Star Park	Neighborhood	9.09	6	4425 E. Western Star Blvd
Papago Dist Park	Regional	125.83	6	625 N. Galvin Parkway
Pecos Park	Regional	67.27	6	17010 South 48th St
El Reposo Park	Community	22.67	7	502 E Alta Vista Rd
Hayden Park	Community	16.45	7	322 W Tamarisk Ave
Santa Maria Park	Community	27.15	7	3425 S 71st Ave
Margaret T. Hance Park	Community	32.69	7	67 W Culver
Coffelt Lamoreaux Park	Neighborhood	2.23	7	1510 S 19th Dr
Kuban Community Park	Neighborhood	9.25	7	3275 W Sherman St
Laveen Heritage Park	Neighborhood	20.37	7	71st Avenue and Meadows Loop
Playa Margarita Park	Neighborhood	5.32	7	3615 W Roeser Rd
Trailside Point Park	Neighborhood	15.01	7	7215 W. Vineyard Rd
University Park	Neighborhood	8.28	7	1102 W. Van Buren St
Desert West Park	Regional	101.57	7	6501 W Encanto Blvd
Eastlake Park	Community	8.86	8	1549 E. Jefferson St
El Prado Park	Community	35.9	8	6428 S. 19th Ave
Hermoso Park	Community	25.64	8	2030 E Southern Ave
Highline Park (formerly known as Circle K)	Community	31.68	8	1346 E South Mountain Ave
Manzanita Park	Community	38.39	8	5500 S 31st Ave
Pierce Park	Community	18.78	8	2150 N 46th St
Barrios Unidos Park	Neighborhood	14.42	8	1817 South 14th Street
Francisco Highland Park	Neighborhood	9.94	8	2702 E South Mountain Ave
Harmon Park	Neighborhood	10.99	8	1425 S. 5th Ave
Laveen Village Park	Neighborhood	13.12	8	3146 W Vineyard Rd
Lindo Park	Neighborhood	21.34	8	2230 W Roeser Rd
Ma-Ha-Tuak Park	Neighborhood	10.92	8	9832 S 7th Ave
Nevitt Park	Neighborhood	8.57	8	6815 S 44th Way
Nueve Park	Neighborhood	9.84	8	4418 S 9th St
Perry Park	Neighborhood	8.37	8	2700 N. 32nd St
Verde Park	Neighborhood	3.93	8	916 E. Van Buren St
Cesar Chavez Park	Regional	181.55	8	7858 S 35th Ave
Esteban Park	Regional	60.74	8	3345 E Roeser Rd

ATTACHMENT B

Parks and Recreation Department Code of Conduct Policy

For the purposes of this policy, a facility is a City-owned building operated by the City or by an organization authorized to operate the building on the City's behalf. The following is not permitted in any Phoenix Parks and Recreation desert park, mountain preserve, park or facility (collectively "Park or Parks"):

- Abusing or vandalizing a Park or its amenities in any way
- Entering or using a Park or its amenities at any time other than during the posted hours of operation
- Using, possessing or selling illegal drugs or possessing drug paraphernalia
- Possessing or consuming alcohol without obtaining proper approval
- Possessing weapons inside any City facility, as posted
- Aggressive intimidation or harassment of patrons or City staff members including physical, sexual or verbal abuse
- Obstructing other park guests' use of Parks and Park amenities, or maintenance of the park and Park amenities by City staff members
- Using amenities, including picnic tables and playgrounds, outside of their intended or approved purpose
- Bathing, sleeping, storing personal belongings or doing laundry in restrooms or facilities
- Storing or leaving personal belongings unattended within any Park
- Use of shopping carts as posted, or other wheeled devices when they create obstructions, unnecessary clutter or damage to landscaping
- Charging for services, including exercise activities, guided hikes, sports and other special interest classes and activities, without obtaining proper approval
- Assembling groups of 50 people or more without obtaining proper approval
- Use of one or more ramadas in a Park for more than four hours per day, for two consecutive days, without obtaining proper approval
- Use of amplified sound without obtaining proper approval
- Use of tobacco products on all City park property
- Animals inside facilities, except for service animals, which are permitted
- Entering facilities without appropriate attire, as posted
- Unlawful conduct that violates the Arizona Revised Statutes, Phoenix City Code, or posted Park Rules or Code of Conduct
- Activities that may endanger self, others, wildlife or Park property

In addition to the rules listed above, the following is not permitted in any desert park or mountain preserve:

- Endangered children are vulnerable adults on difficult trails or in adverse weather conditions
- Endangering dogs on difficult trails or in adverse weather conditions, such as temperatures over 100 degrees
- Playing personal music via speakers; use of headphones is encouraged, as a courtesy to fellow hikers, on trails, at ramadas and in parking lots
- Disregarding trail hierarchy; hikers and bicyclists yield to horses, bicyclists yield to hikers
- Disregarding trail etiquette; downhill trail traffic flow yields to uphill trail traffic
- Smoking/vaping
- Defacing natural areas with chalk, marker, powder materials or other non-natural products
- Moving rocks or other native material along a trail or altering the tread in such a way as to facilitate or encourage illegal trail use or to cause personal harm
- Riding electric bicycles or other types of motorized vehicles on trails or off established park roads
- Operating a metal detector and removing any found items
- Placing of geocaches in a location within a park or preserve that does not fall within management guidelines for that area – all geocaches must be reviewed and approved by park management or they will be removed
- Unauthorized off-trail activity

Attachment 5



PROVIDENT LAW

16100 N. 71st Street, Suite 350
Scottsdale, Arizona 85254
480.388.3343

www.providentlawyers.com

Christopher J. Charles

Managing Partner

Direct: 480.388.3348

chris@providentlawyers.com



May 1, 2026

Via Fax and First-Class Mail:

Mr. Deryck R. Lavelle
City Attorney's Office
Phoenix City Hall
200 W. Washington St., 13th Floor
Phoenix, AZ 85003
602-732-2768

Dear Mr. Lavelle:

Please be advised that St. Herman's Table ("St. Herman's"), a religious ministry of Exaltation of the Holy Cross Orthodox Church, has retained Provident Law[®] and the Christian Legal Society's Center for Law & Religious Freedom ("the Center") to represent it in relation to the City of Phoenix's Medical Treatment and Food Distribution in Parks Ordinance (the "proposed ordinance"). It is our understanding that this proposed ordinance is to be voted upon by the Phoenix City Council on May 6, 2026. We are writing to raise our concerns with the constitutionality of the proposed ordinance and any application of it to St. Herman's and its volunteers. We hope that the ordinance can be brought into alignment with the First Amendment and Arizona's Free Exercise of Religion Act ("FERA") before adoption, so that a federal judge need not do so.

As the City of Phoenix ("the City") is aware, St. Herman's is a Christian religious ministry whose services include providing food, Bibles, and small hygiene products to unhoused residents at Cave Creek Park at Cactus in Phoenix.¹ St. Herman's ministers to the homeless every Thursday of the week, serving between 12 and 25 persons per visit.

¹ St. Herman's President, Lance Brace, spoke at the Sunnyslope Community Meeting on April 8, 2026, informing the City of St. Herman's ministry and outlining the substantial burden that the proposed ordinance places upon it and his ability to carry out his religious calling of

Under the City's proposed ordinance, it will become illegal for St. Herman's to distribute food to the homeless without a permit. Further, the proposed ordinance limits the City to issuing only two permits per month per eligible park. From our understanding, the permits are to be limited to a single day. Therefore, even in the unlikely scenario that St. Herman's would be granted the two monthly permits allowed under the ordinance for Cave Creek Park, it still would be prohibited from fulfilling its once-a-week ministry. Moreover, because St. Herman's will undoubtedly not be the only permit applicant per month, St. Herman's will be unable to even plan for its regular religious activity, which includes the coordination of volunteers and food that is part of its ministry. Prohibiting St. Herman's from engaging in its weekly ministry substantially burdens St. Herman's free exercise of religion, as it would impede St. Herman's ability to partake in its required almsgiving and to share the love of God with the homeless individuals with whom St. Herman's has formed relationships. In short, the proposed ordinance will make St. Herman's ministry impossible.

But St. Herman's is not without sound legal recourse. As explained herein, St. Herman's is shielded by Arizona's FERA² and the Free Exercise and Free Speech Clauses of the First Amendment.

I. Application of the proposed ordinance to St. Herman's would violate FERA

Arizona law directly protects the ministry of St. Herman's and its volunteers in their religious exercise of feeding and serving the homeless in the City's parks. This basis alone is sufficient to fully shield St. Herman's from enforcement of the proposed ordinance.

As the City is undoubtedly aware, the Arizona legislature passed FERA "to protect Arizona citizens' right to exercise their religious beliefs free from undue governmental interference." *State v. Hardesty*, 222 Ariz. 363, 365 (2009) (*en banc*). FERA prohibits the City from substantially burdening an exercise of religion unless the burden is "[i]n furtherance of a compelling governmental interest [and] [t]he least restrictive means of furthering that compelling governmental interest." A.R.S. § 41-1493.01(C). A substantial burden on religion exists when a government's action threatens to penalize or punish an individual's or institution's exercise of its religious beliefs. *See Holt v. Hobbs*, 574 U.S. 352, 362 (2015).

almsgiving. Thereafter, Mr. Brace electronically mailed a copy of his comments to Deputy City Manager Cythnia Aguilar at her request. A copy of his comments is included with this letter as Exhibit 1.

² A.R.S. §§ 41-1493 *et seq.*

Here, the City would substantially burden our client if the City passes the proposed ordinance as is and applies it to prevent St. Herman's from engaging in its ministry each week. Similarly, a substantial burden would exist if those ministering to the homeless through St. Herman's were criminally charged and/or prosecuted under the ordinance for engaging in religious exercise without a permit. To justify these substantial burdens, the City would have to demonstrate that denying St. Herman's the ability to serve the homeless is the least restrictive means of furthering a *compelling* government interest. A.R.S. § 41-1493.01(C) (emphasis added.).

According to the proposed ordinance, the City asserts that the ordinance is necessary so as not to "strain the parks and city resources" because meal and medical supply distribution "frequently create[es] large crowds, increased noise, obstruction of public spaces, litter, and the accumulation of trash, debris, and food waste." Reducing litter in parks is hardly a compelling interest in the context of religious exercise. *See e.g., Wisconsin v Yoder*, 406 U.S. 205 (1972) (state interest in compulsory education for teenagers is not sufficiently compelling as it is not "an interest of the highest order."). And even the City's asserted interest is undercut by the City's exemptions in the proposed ordinance for secular activity that create the same issues of crowds, noise, litter, and trash. That is, the proposed ordinance would exempt from criminalization private weddings, birthday parties, and other social gatherings that also result in noise and litter. The City cannot meet the compelling interest or least restrictive means test under FERA when it exempts secular activity but not religious exercise from the proposed ordinance's enforcement. *See, e.g., Fulton v. City of Philadelphia*, 593 U.S. 522, 542 (2021) (explaining "[t]he creation of a system of exceptions" to a government interest alone fails to meet strict scrutiny); *see also Tandon v. Newsom*, 593 U.S. 61, 62 (2021).

Further still, FERA specifically requires equal treatment for religious organizations in the land use context. Specifically, FERA provides that "[g]overnment shall not impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution, regardless of a compelling governmental interest." A.R.S. § 41-1493.03(B).

The City's proposed ordinance glaringly violates FERA under the statute's equal terms provision for the same reasons that it fails to meet the compelling interest/least restrictive means test. The City cannot treat secular activity—weddings, parties, and social gatherings—more favorably than St. Herman's religious exercise of ministering to the homeless, regardless of any compelling City interest. Pursuant to FERA, St. Herman's must be treated on equal terms as private entities and individuals under the proposed ordinance. Accordingly, St. Herman's is fully protected under Arizona law from enforcement of the proposed ordinance against it.

II. The proposed ordinance would unconstitutionally infringe upon the free exercise of religion both on its face and as applied to St. Herman's

Not only would St. Herman's rights under Arizona's FERA be violated by the proposed ordinance, but the proposed ordinance, if enacted, would also violate the U.S. Supreme Court's free exercise jurisprudence both on its face and if it were applied against St. Herman's.

The Free Exercise Clause of the First Amendment, applicable to the States under the Fourteenth Amendment, provides that "Congress shall make no law . . . prohibiting the free exercise" of religion. In *Fulton v. City of Philadelphia*, the Supreme Court explained that "laws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause so long as they are neutral and generally applicable." 593 U.S. at 533 (citation omitted). The Court further explained that a law is *not* generally applicable—and thus strict scrutiny applies—if the government has "in place a system of individual exemptions." In such a situation, it may not refuse to extend that system to cases of 'religious hardship[.]'" *Id.* at 534 (citations omitted). Since *Fulton*, the Supreme Court has further clarified when a law is not generally applicable or religiously neutral.

In *Tandon v. Newsom*, the Court rejected California's COVID-19 regulations that allowed for secular activities to bring together three or more households but prohibited religious in-home services of the same number. 593 U.S. 61, 63. The Court outlined two specific principles for determining when such a law is not neutral and generally applicable for purposes of determining a free exercise claim and thus when strict scrutiny applies. *Id.* at 62. First, "government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise." *Id.* (emphasis in original). Second, "whether two activities are comparable for purposes of the Free Exercise Clause must be judged against the asserted government interest that justifies the regulation at issue." *Id.*

Fulton and *Tandon* make clear that the City's ordinance as currently proposed would violate the Free Exercise Clause. It would allow for private entities and persons (potentially scores of littering party-goers) to gather for food and drink without a permit but would prohibit religious organizations from feeding 12 to 25 desperate human beings once a week. In fact, the proposed ordinance is strikingly similar to *Tandon*'s fact-pattern. Here, the City is allowing secular gatherings but prohibiting St. Herman's from gathering in free exercise of its religion. As the Court in *Tandon* made clear, where a regulatory scheme allows favorable treatment of secular activity, the scheme is subject to strict scrutiny. *Tandon*, 593 U.S. at 62. See *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520 (1993). And here, like in *Fulton*, the City's proposed ordinance fails such scrutiny. See, e.g., *Fulton*, 593 U.S. at 542.

III. The Free Speech Clause of the First Amendment likewise shields St. Herman's

Aside from the Free Exercise Clause, the proposed ordinance also violates St. Herman's right to free speech under the First Amendment. As explained herein, St. Herman's volunteers distribute Bibles to the homeless at Cave Creek Park in addition to food. These volunteers spread

the Gospel of Christ throughout their time in the park by speaking with the individuals they serve about Jesus and exemplifying Christ-like love by providing food and small hygiene products to the homeless. These expressive activities have a long history of constitutional protection in our country.

The Free Speech Clause's protection of "expressive religious activities," *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523 (2022), extends to various modes of communication: "leafletting, sign displays, and oral communications are protected by the First Amendment." *Hill v. Colorado*, 530 U.S. 703, 715 (2000). Public parks are a traditional public forum. *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009) (citations omitted). And as such, the government may impose reasonable restrictions on the time, place, or manner of protected speech. *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984) (citations omitted). But, to determine the level of scrutiny that applies to the constitutionality of an ordinance, a court must assess whether the restriction is content-based. "A regulation of speech is facially content based under the First Amendment if it 'target[s] speech based on its communicative content'—that is, if it 'applies to particular speech because of the topic discussed or the idea or message expressed.'" *City of Austin v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61, 69 (2022) (citation omitted). Some laws clearly regulate speech "by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both . . . are subject to strict scrutiny." *Reed v. Town of Gilbert*, 576 U.S. 155, 163-64 (2015).

The proposed ordinance is the "subtle" type of law that would regulate speech by its function or purpose. *Id.* It would require no permit nor limit the number of events in which food, birthday cake and bags of party favors are handed out to a dozen children, but it would require a permit and ban weekly distribution of food, toiletries, and Bibles. It would leave unimpeded social conversation but impede religious encouragement and counsel. It would exempt from criminalization secular social gatherings but outlaw gatherings rooted in religious expression. Therefore, the proposed ordinance is subject to strict scrutiny under the Free Speech Clause. For all of the same reasons detailed above, the City's proposed ordinance does not survive such scrutiny. Prohibiting the religious expression of St. Herman's is a constitutionally impermissible restriction.

Further still, even if the proposed ordinance were subject to a lower level of scrutiny, it would still fail that inquiry. In *Santa Monica Food Not Bombs v. City of Santa Monica*, the Ninth Circuit considered a number of different ordinances enacted by the City of Santa Monica, including an events ordinance not unlike the one being proposed by the City of Phoenix. 450 F.3d 1022, 1037 (9th Cir. 2006). The Court ultimately concluded that the City of Santa Monica's ordinance, which required a permit for group activity that "may impede, obstruct, impair or interfere" with the free flow of traffic, was subject to intermediate scrutiny.³ Nonetheless, the Court still found

³ In making the determination that the City of Santa Monica's events ordinance is subject to intermediate scrutiny, the Court relied upon the standard outlined in *Thomas v. Chicago Park District*, 534 U.S. 316 (2002) that: (1) "[n]one of the grounds for denying a permit has anything to

that the ordinance violated that scrutiny because it was not narrowly tailored. *Id.* at 1038-40. The Court explained that:

Without a provision limiting the permitting requirements to larger groups, or some other provision tailoring the regulation to events that realistically present *serious* traffic, safety, and competing use concerns, significantly beyond those presented on a daily basis by ordinary use of the streets and sidewalks, a permitting ordinance is insufficiently narrowly tailored to withstand time, place, and manner scrutiny.

Id. at 1039. The Court declared: “a narrowly tailored permit requirement must maintain a close relationship between the size of the event and its likelihood of implicating government interests.” *Id.* at 1040.

The Ninth Circuit has clearly identified that for a permitting ordinance to pass intermediate scrutiny, it must demonstrate a “close” relationship between the regulated conduct and the asserted government interest. *Id.* Here, it is difficult to imagine how the proposed ordinance meets the Ninth Circuit’s rule because it excludes from enforcement secular social conduct. Rather, the proposed ordinance allows social groups to meet, eat, and drink together impeding the City’s interests of park orderliness, but prohibits St. Herman’s from engaging in its religious expression. The proposed ordinance is not narrowly tailored, even under an intermediate level of scrutiny.

IV. Less restrictive means are available

Underlying all of the legal infirmities detailed herein is the fact that the City has less restrictive means of achieving its goals. The City can cite park users for littering and can enforce any noise ordinance, but it cannot burden religious exercise or restrict content or viewpoint of speech. The proposed ordinance would serve relatively minor government interests by taking a sledgehammer to the First Amendment rights of residents whose religion requires them to demonstrate Christ’s kindness. The City should consider lauding St. Herman’s rather than shutting them down.

do with what a speaker might say”; (2) “the ordinance (unlike the classic censorship scheme) is not even directed to communicative activity as such, but rather to *all* activity conducted in a public park”; and (3) the object of the permitting scheme was “to coordinate multiple uses of limited space, to assure preservation of the park facilities, to prevent uses that are dangerous, unlawful, or impermissible under the Park District’s rules, and to assure financial accountability for damage caused by the event” rather than to exclude expression based on any particular content. *Santa Monica Food Not Bombs*, 450 F.3d at 1036 (citations omitted). Significantly, here, the City’s proposed ordinance does *not* treat all activity the same—as outlined herein—because it treats secular social gatherings more favorably.

V. Conclusion

For the reasons detailed herein, St. Herman's ministry is legally entitled to engage in its religious exercise and expression of serving the homeless in Phoenix's city parks under FERA and the First Amendment despite the proposed ordinance's threats of criminalization. Accordingly, St. Herman's respectfully requests a substantive response to this letter, confirming that the City of Phoenix will: (1) decline to adopt the proposed ordinance; (2) amend the ordinance to publicly exempt from enforcement of the ordinance all religious organizations;⁴ or (3) agree to exempt from enforcement of the proposed ordinance St. Herman's via a consent decree or permanent injunction.

Due to the impending vote upon the legally-flawed proposed ordinance, St. Herman's respectfully requests that the vote by the City Council be delayed to give the City Attorney time to reply to the undersigned by **May 15, 2026**. Otherwise, should the City decline to respond to this letter before the ordinance as currently worded is adopted, St. Herman's intends to file a lawsuit raising its FERA and First Amendment rights under 42 U.S.C. § 1983 seeking declaratory and injunctive relief and requesting reimbursement of attorneys' fees under 42 U.S.C. § 1988.

Should you have any questions or concerns, please don't hesitate to contact undersigned counsel. Thank you for your time and attention to this matter.

Sincerely,
PROVIDENT LAW



Christopher J. Charles
Managing Partner

⁴ We respectfully suggest that the City avoid violation of the Establishment Clause as well as the Free Exercise and Free Speech Clauses by exempting all religious organizations from the proposed ordinance. *See, e.g., Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*, 605 U.S. 238, 249 (2025) (holding that a regulatory scheme violates the Establishment Clause when it imposes a "denominational preference" by differentiating between religious organizations based on their theological practices).



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EXHIBIT 1

Hello. My name is Lance Brace. I am an Orthodox Christian, and I run an organization called St. Herman's Table.

In Orthodox Christianity, we have three primary spiritual disciplines: prayer, fasting, and almsgiving. Almsgiving is not optional. It is a required and essential practice of the Christian life, most often expressed by feeding the hungry.

As I read this proposal, I asked a simple question: what exactly does this ordinance prohibit St. Herman's Table from doing?

It does not prohibit being in the park.

It does not prohibit the homeless being in the park.

It does not prohibit speaking with the homeless.

It does not prohibit gathering.

It prohibits one thing: the act of handing a hungry person something to eat.

That act is called almsgiving. It is a religious practice.

This ordinance therefore imposes a direct burden on the free exercise of religion. It conditions the ability to practice that religion on obtaining government permission, subject to limited permits, discretionary approval, and requirements (such as insurance) that many small, volunteer ministries cannot meet.

I want to be clear: I am not here to argue against order, safety, or cleanliness in our parks. Those are legitimate concerns. But those concerns can be addressed without prohibiting or effectively prohibiting acts of charity. For example, the city can enforce existing littering laws, require groups to clean up all trash after distributing food, and ensure walkways and park access remain unobstructed, without limiting service to two permits per month or imposing requirements that make participation realistically impossible for small, volunteer groups.

For two thousand years, the Church has fed the hungry as a core part of its life and witness. That practice will continue.

No Christian can be required to seek Caesar's permission to fulfill a religious obligation such as feeding the hungry. The role of government is not to stand between a person and their duty to love their neighbor.

As a matter of conscience and faith, I cannot/will not refrain from almsgiving, and I cannot accept a system in which that obligation requires prior permission from the government.

If this ordinance passes, it will not end acts of charity. It will only place those acts in conflict with the law.

I urge you to reconsider this proposal.

Thank you.



PROVIDENT LAW

Exhibit 3

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION**

St. Herman's Table, an Arizona nonprofit corporation; and,
Lance Brace,

Plaintiffs,

v.

Case No. _____

City of Phoenix,

Defendant.

DECLARATION OF ANN-MARIE WHITE RENÉ

A. White René, hereby declares as follows:

1. My name is Ann-Marie White René. I am an attorney in good standing with the Virginia State Bar.
2. My Virginia Bar License Number is 91166.
3. I am employed by the Christian Legal Society, Center for Law & Religious Freedom.
4. I have been retained to represent the Plaintiffs, Lance Brace and St. Herman's Table, in this action.
5. I submit this declaration in support of the Plaintiffs' Application for a Temporary Restraining Order ("TRO") and Preliminary Injunction against the Defendant, the City of Phoenix.
6. The Plaintiffs' Application for a TRO and Motion for Preliminary Injunction is made with notice to the Defendant.
7. Prior to filing this suit and the Plaintiffs' Application for a TRO and Motion for Preliminary Injunction, I, along with my co-counsel, Chris Charles, sent a letter to the

Phoenix City Attorney demanding an exemption to the ordinance at issue in this case on behalf of the Plaintiffs. Co-counsel and I informed the City Attorney that the Plaintiffs intended to file suit should an exemption from the ordinance not be granted to our clients. We did not receive a response to our letter.

8. Further, on this day, June 1, 2026, I faxed to the Phoenix City Attorney's Office a copy of the Plaintiffs' Complaint, Emergency Application for a TRO and Motion for Preliminary Injunction, and the Plaintiffs' supporting evidence.
9. And, on this day, June 1, 2026, I have arranged for a copy of the Plaintiffs' Complaint, Emergency Application for a TRO and Motion for Preliminary Injunction, and supporting evidence, to be hand delivered the Phoenix City Attorney's Office.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6/1/2026.

Ann-Marie White René

Ann-Marie White René