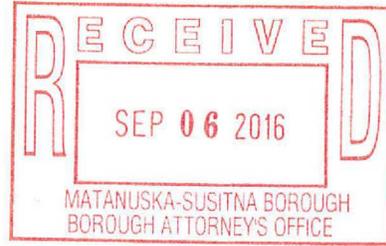


1 EMERGENCY

2 Thomas Hannam
3 435 S. Knik Street
4 Wasilla, AK 99654
5 (907) 775-1880

6 Ronda Marcy
7 P.O. Box 3771
8 Palmer, Alaska 99645
9 (907) 376-2232 – Phone
10 (907) 376-0530 - Fax



11 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
12 THIRD JUDICIAL DISTRICT AT PALMER

13 Thomas Hannam and Ronda Marcy,)
14)
15 Plaintiffs,)

16 v.)

Case No. 3PA-16-1952C

17 Matanuska-Susitna Borough; Barry Orzalli; Ted)
18 Franke; Christopher R. Miller; Robert Hanner;)
19 Stephen D. Guisinger; Paul Riley; Paul Steiner;)
20 Dennis Hotchkiss; Bob Lee; Philip Markwardt;)
21 Rudy Poglitsch; Timothy R. Sergie; Daniel Hamm)
22 Sally Pollen; and Larry DeVilbiss.)

23 Defendants.)
24)

25 EMERGENCY MOTION FOR EXPEDITED CONSIDERATION

26 COMES NOW Thomas Hannam, and Ronda Marcy, Plaintiffs in the above
27 styled and numbered cause, proceeding without the assistance of counsel,¹ and brings
28 this Emergency Motion for Expedited Consideration of the Expedited Complaint for
29 Declaratory Judgment and for Injunctive Relief, in the above styled and numbered

30 ¹ Under their constitutional and statutory right to self-representation, AS 22.20.040(a), Appearance. (a) An action or proceeding may be prosecuted or defended by a party in person or by attorney.

1 cause, and hereby files this emergency motion for expedited consideration of his
2 Emergency-Expedited Complaint for Declaratory Judgment and for Injunctive Relief.

3 This emergency motion for expedited consideration is supported by affidavits
4 of Plaintiff Thomas Hannam, and Plaintiff Ronda Marcy, filed separately herewith.

5 REASONS FOR REQUESTING EXPEDITED CONSIDERATION

6 Plaintiffs request Expedited Consideration, of the Emergency Expedited
7 Complaint for Declaratory Judgment and Injunctive Relief, because the Proposed
8 Zoning Initiative, “Ordinance Serial No. 15-088, Matanuska-Susitna Borough”,
9 Proposition No. B-1 on the Ballot, is scheduled to be voted on October 4, 2016.

10 As explained by the Plaintiffs in the Complaint the Proposed Zoning Initiative
11 bypasses the mandatory Alaska Statutes; usurping undelegated municipality powers;
12 deprives the Matanuska-Susitna Borough ‘a municipality’ of a power which state law
13 specifically allows (and mandates) that it perform; it exceeds the Matanuska-Susitna
14 Borough’s own legislative zoning powers; that it is unconstitutional, and that it would
15 be unenforceable as a matter of law. The proposed initiative in this case was pursuant
16 to AS 29.26.100 rather than under Article XI of the Alaska Constitution, but the
17 Supreme Court has held proposed zoning initiatives are invalid, where they have
18 bypass mandatory planning commission review of land use ordinances and would
19 thwart the state legislature's delegation of land use authority to municipal assembly.²
20
21
22

23 ² Carmony v. McKechnie, 217 P.3d 818, 820 (Alaska 2009); Griswold v. City of Homer, 186 P.3d 558, 563 (Alaska
24 2008); See Municipality of Anchorage v. Frohne, 568 P.2d 3, 8 (Alaska 1977) (“[T]he subject of the initiative must
constitute such legislation as the legislative body to which it is directed has the power to enact.”).

1 Because Plaintiffs' Emergency Expedited Complaint seeks the Declaratory
2 Judgment that the proposed zoning initiative is invalid, and seeking an injunction to
3 prevent the zoning initiative³ from being placed before the voters, to have the zoning
4 initiative removed from the Ballot, and to prevent any votes from being counted on
5 the zoning initiative, until after this matter is resolved, and it is scheduled for a vote
6 on October 4, 2016, the time would expire before this Court could provide the normal
7 time for motions practice between the Plaintiffs and the Defendants, and still have the
8 time to review, and make a decision, before the scheduled vote on November 4, 2016.

10 The proposed zoning initiative is invalid, where it bypasses mandatory
11 planning commission review of land use ordinances, and would thwart the state
12 legislature's delegation of land use authority to the municipal assembly.⁴

13 In the event that the time expires and the voters pass the invalid proposed
14 zoning initiate, and it becomes law, then the floodgates of unnecessary litigation
15 would be loosed to repeal the invalid zoning Ordinance, and the potential for many
16 additional takings actions, because of the invalid proposed zoning ordinance.

18 Because of the Supreme Court teachings, in *Griswold v. City of Homer*,⁵
19 *Carmony v. McKechnie*,⁶ and *Municipality of Anchorage v. Frohne*,⁷ that zoning by
20 initiative is invalid, expedited consideration should be granted in this case.

22 ³ Initiative Ordinance Serial No. 15-088, the Matanuska-Susitna Borough Proposition No. B-1 "Prohibiting
Marijuana Establishments Except Those Involving Industrial Hemp in the Area Outside of the Cities".

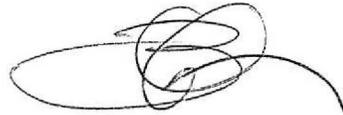
23 ⁴ See, e.g., *Kaiser Hawaii Kai Dev. Co. v. City & County of Honolulu*, 70 Haw. 480, 777 P.2d 244, 247 (1989)
(holding that "[z]oning by initiative is inconsistent with the goal of long range comprehensive planning" and was not
24 intended by legislature); *Carmony v. McKechnie*, 217 P.3d 818, 821 (Alaska 2009) (quoting *Griswold v. City of
Homer*, 186 P.3d 558, 563 (Alaska 2008)) (internal quotation marks omitted).

1 There would be minimal, if any, prejudice to the Defendants, other than what
2 minimal inconvenience they would normally experience in regular motions practice,
3 and the benefit to the voters, not to be subjected to a vote on an invalid Proposed
4 zoning initiative, that could not be enforced as a clear matter of law, weighs heavily in
5 favor of expedited consideration being granted in this case.

6
7 This matter must be heard on an expedited basis because the time would expire
8 before it could be heard in regular time.

9 WHEREFORE, for the above and foregoing reason, the Plaintiffs respectfully
10 request the Court grant this emergency motion for expedited consideration in the
11 interest of justice.

12 Respectfully submitted this 1st day of September 2016.

13
14
15 

16 Thomas Hannam, Plaintiff, *pro se*

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18 
19
20
21

22 Ronda Marcy, Plaintiff, *pro se*

23 ⁵ 186 P.3d 558 (Alaska 2008).

24 ⁶ Carmony v. McKechnie, 217 P.3d 818, (Alaska 2009); and See also Griswold v. City of Homer, 186 P.3d 558, 563 (Alaska 2008))

⁷ See Municipality of Anchorage v. Frohne, 568 P.2d 3, 8 (Alaska 1977) (“[T]he subject of the initiative must constitute such legislation as the legislative body to which it is directed has the power to enact.”).

1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that on the 2nd day of September 2016, a true
3 and complete copy of the above and foregoing document was served on the appropriate
4 parties by placing it in the United States Mail with first class postage prepaid and
addressed as follows: All served by Process Service.

5 Matanuska-Susitna Borough
6 350 E. Dahlia Ave
Palmer, AK 99645
Phone: (907) 861-7801

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7 Daniel Hamm
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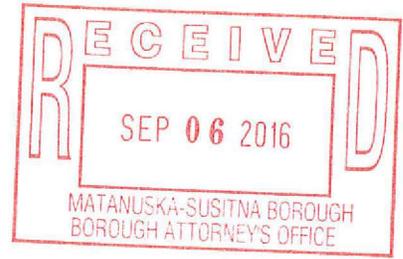
Bob Lee
1500 E. Robin Lane
Palmer, Alaska 99645

21 Dated this 2nd Day of September, 2016,

22
23 Signed, Linda Marcy

1 Thomas Hannam
2 435 S. Knik Street
3 Wasilla, AK 99654
4 (907) 775-1880

5 Ronda Marcy
6 P.O. Box 3771
7 Palmer, Alaska 99645
8 (907) 376-2232 – Phone
9 (907) 376-0530 - Fax



10 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
11 THIRD JUDICIAL DISTRICT AT PALMER

12 Thomas Hannam and Ronda Marcy,)
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14 Plaintiffs,)
15)
16 v.)
17)
18 Matanuska-Susitna Borough; Barry Orzalli; Ted)
19 Franke; Christopher R. Miller; Robert Hanner;)
20 Stephen D. Guisinger; Paul Riley; Paul Steiner;)
21 Dennis Hotchkiss; Bob Lee; Philip Markwardt;)
22 Rudy Poglitsch; Timothy R. Sergie; Daniel Hamm)
23 Sally Pollen; and Larry DeVilbiss.)
24 Defendants.)

Case No. 3PA-16-1952C

25 AFFIDAVIT OF THOMAS HANNAM IN SUPPORT OF THE
26 EMERGENCY MOTION FOR EXPEDITED CONSIDERATION

27 STATE OF ALASKA)
28) ss.
29 THIRD JUDICIAL DISTRICT)

30 I, Thomas Hannam, being first duly sworn, deposes and states:

31 1. That I am an adult resident of the State of Alaska, and that I am the named
32 Plaintiff in the above styled and numbered cause.

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Bob Lee
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21 Dated this 2nd Day of September, 2016,

22
23 Signed, Ronda Marcy
24

1 Thomas Hannam
435 S. Knik Street
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(907) 775-1880

3 Ronda Marcy
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6
7 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
8 THIRD JUDICIAL DISTRICT AT PALMER

9 Thomas Hannam and Ronda Marcy,)
10 Plaintiffs,)
11 v.)
12 Matanuska-Susitna Borough; Barry Orzalli; Ted)
13 Franke; Christopher R. Miller; Robert Hanner;)
14 Stephen D. Guisinger; Paul Riley; Paul Steiner;)
15 Dennis Hotchkiss; Bob Lee; Philip Markwardt;)
16 Rudy Poglitsch; Timothy R. Sergie; Daniel Hamm)
17 Sally Pollen; and Larry DeVilbiss.)
18 Defendants.)

Case No. 3PA-16-1952 Ci

17 AFFIDAVIT OF RONDA MARCY IN SUPPORT OF THE
18 EMERGENCY MOTION FOR EXPEDITED CONSIDERATION

19 STATE OF ALASKA)
20) ss.
21 THIRD JUDICIAL DISTRICT)

22 I, Ronda Marcy, being first duly sworn, deposes and states:

23 1. That I am an adult resident of the State of Alaska, and that I am the named
24 Plaintiff in the above styled and numbered cause.

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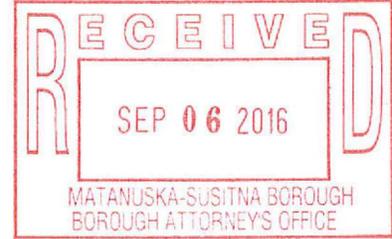
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21 Dated this 2nd Day of September, 2016,

22
23 Signed, Ronda Marcy
24

1 Thomas Hannam
435 S. Knik Street
2 Wasilla, AK 99654
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3 Ronda Marcy
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8 THIRD JUDICIAL DISTRICT AT PALMER

9 Thomas Hannam and Ronda Marcy,)
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13 Franke; Christopher R. Miller; Robert Hanner;)
Stephen D. Guisinger; Paul Riley; Paul Steiner;)
14 Dennis Hotchkiss; Bob Lee; Philip Markwardt;)
Rudy Poglitsch; Timothy R. Sergie; Daniel Hamm)
15 Sally Pollen; and Larry DeVilbiss.)
Defendants.)
16)

Case No. 3PA-16-1952 Ci.

ORDER

17 This matter came before the court on Plaintiffs' Emergency Motion for Expedited
18 Consideration, of Plaintiffs' underlying Emergency-Expedited Complaint for Declaratory
19 Judgment and for Injunctive Relief, and it appearing good cause has been shown,

20 It is Hereby ORDERED, that the Plaintiffs' Emergency Motion for Expedited
21 Consideration, is Hereby GRANTED. The motion will be heard on an expedited basis.

22 DATED this _____ day of _____, 2016.

23 _____
24 Hon. _____,
Superior Court Judge

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Dated this 2nd Day of September, 2016,

Signed, Ronda Marcy