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14 **SUPERIOR COURT OF ARIZONA**

15 **YAVAPAI COUNTY**

16 CITY OF SEDONA, an Arizona municipal
17 corporation; THE MAYOR AND CITY
18 COUNCIL FOR THE CITY OF SEDONA;
19 and JOANNE COOK, City Clerk for the
20 City of Sedona,

21 Plaintiffs,

22 v.

23 AUBREY SONDEREGGER, in her
24 official capacity as Coconino County
25 Recorder; COCONINO COUNTY
26 BOARD OF SUPERVISORS, in their
27 official capacities; MICHELLE
28 BURCHILL, in her official capacity as
Yavapai County Recorder; YAVAPAI
COUNTY BOARD OF SUPERVISORS,
in their official capacities,

Defendants,

and

SAVE SEDONA COMMITTEE, a political
committee,

Real Party in Interest.

No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**(Challenge to the Validity of an
Initiative pursuant to A.R.S.
§ 19-122(C))**

1 Plaintiffs hereby bring this action under A.R.S. § 19-122(C) and allege as follows:

2 INTRODUCTION

3 1. This action challenges the constitutional and legal sufficiency of the City of
4 Sedona initiative petition bearing the serial number I2026-01 (the “Initiative Petition”).

5 2. The Initiative Petition seeks to place The Sedona Cultural Park Preservation
6 Act (the “Initiative”) on the ballot for voter approval. The Initiative would amend the
7 Sedona City Code to designate approximately 41 acres of certain City property currently
8 zoned for a private outdoor amphitheater as a “city parks and recreation facility” to be
9 known as the Sedona Cultural Park. Additionally, it would require the City to 1) “maintain
10 [the property] as a city parks and recreational facility, including the maintenance of its . . .
11 structural improvements.” 2) ensure that the property “remain open to the public” for
12 recreational and cultural activities and venues, and 3) prohibit “residential development of
13 any kind” or overnight camping or sleeping on the property. A copy of the Initiative’s text
14 and summary is attached as Exhibit A.

15 3. Sedona has enacted a zoning ordinance, the Land Development Code
16 (“LDC”), pursuant to the requirements and authority granted the City by the Arizona
17 Constitution, Article XIII, Section I and A.R.S. §§ 9-276, 9-461, 9-462, and 9-463. LDC
18 1.3.A.

19 4. The Initiative is an attempt to rezone land via the initiative process separate
20 from the LDC—something Arizona courts have long categorically prohibited. *See City of*
21 *Scottsdale v. Superior Court*, 103 Ariz. 204, 207 (1968) (the initiative process “is not
22 available as a mode for amending a comprehensive zoning plan”); *Transamerica Title Ins.*
23 *Co. v. City of Tucson*, 157 Ariz. 346, 350 (1988) (“[C]itizens may not create, amend or
24 expand city or county zoning ordinances by initiative.”).

25 5. The Initiative also conflicts with the City specific community plan for the
26 area, the Western Gateway Community Focus Area, which supports residential
27 development and was adopted in 2016 through the appropriate planning and zoning
28 processes

1 **PARTIES**

2 12. Plaintiff City of Sedona is an Arizona municipal corporation.

3 13. Plaintiffs Mayor and City Council for the City of Sedona form the legislative
4 body of the City of Sedona under Arizona law.

5 14. Plaintiff JoAnne Cook is the City Clerk for the City of Sedona.

6 15. Defendant Aubrey Sonderegger is the Coconino County Recorder and is
7 named in her official capacity only. She is expected to be a nominal party.

8 16. Defendant Coconino County Board of Supervisors is the governing body for
9 Coconino County. Its members are Patrice Horstman, Jeronimo Vasquez, Tammy
10 Ontiveros, Judy Begay, and Lena Fowler, each of whom is named in his or her official
11 capacity only and is expected to be a nominal party.

12 17. Defendant Michelle Burchill is the Yavapai County Recorder and is named
13 in her official capacity only. She is expected to be a nominal party.

14 18. Defendant Yavapai County Board of Supervisors is the governing body for
15 Yavapai County. Its members are Brooks Compton, Nikki Check, Dee Jenkins, Chris
16 Kuknyo, and Mary Mallory, each of whom is named in his or her official capacity only and
17 is expected to be a nominal party.

18 19. Real Party in Interest Save Sedona Committee (the “Committee”) is a Sedona
19 political committee that was organized to support the Initiative qualifying for and being
20 placed on the next allowable city election ballot.

21 **GENERAL ALLEGATIONS**

22 20. On May 22, 2025, the Committee filed an application for an initiative serial
23 number.

24 21. The City Clerk accepted the application and issued serial number I2026-01.

25 22. The Initiative concerns itself with multiple parcels of City-owned land
26 comprising approximately 41 acres that it calls the “Sedona Cultural Park.”
27
28

1 23. The land is currently zoned as Planned Development in accordance with a
2 rezoning in 1995 and amendments from 2002. These ordinances allow for the land to be
3 used only for an outdoor amphitheater.

4 24. The majority of the property is not generally open to the public or even
5 publicly accessible.

6 25. The Initiative would markedly change these restrictions. Specifically, it
7 proposes to require the City to “maintain the Sedona Cultural Park as a city parks and
8 recreational facility, including the maintenance of its flora, fauna, geological features and
9 its structural improvements.” Ex. A, § 3.

10 26. It further mandates that the City ensure the land “remains open to the public
11 for recreation activities” and “cultural activities and venues.” Ex. A, § 3. The property was
12 last used for a private outdoor amphitheater.

13 27. The Initiative would also treat *this* city park more restrictively than others:
14 currently, the city manager or his or her designee may permit overnight camping in city
15 parks. Sedona City Code § 12.30.050. The Initiative would categorically prohibit overnight
16 camping or sleeping, in addition to prohibiting residential development of any kind. Ex. A,
17 § 3.

18 28. The Initiative is a zoning measure because it “regulate[s] the use of the land
19 or structures” by: 1) eliminating certain existing use regulations (that the property be used
20 only for an amphitheater); 2) imposing new use regulations (categorically prohibiting
21 camping and residential development); 3) imposing regulations on the existing structures
22 (the only existing structures are associated with the outdoor amphitheater); and 4) imposing
23 regulations on future structures (“the Sedona Cultural Park to remain open to . . . venues
24 including film festivals and theaters, musical and theatrical performances, buildings or
25 structures to house such activities and restaurants...to serve them.”). A.R.S. § 9-462(A)(5).

26 29. The Initiative purports place these zoning structure and use regulations in the
27 Sedona City Code and not the LDC, which is the zoning code.

1 39. “[Z]oning enactments exist in derogation of property rights” and thus
2 implicate due process rights. *See Outdoor Sys., Inc. v. City of Mesa*, 169 Ariz. 301, 304
3 (1991).

4 40. Zoning by initiative, however, circumvents these notice and hearing
5 safeguards, circumvents the rezoning process required by the LDC, and otherwise fails to
6 provide sufficient due process, so the Legislature has not permitted cities to zone by
7 initiative. *See Winkle v. City of Tucson*, 190 Ariz. 413, 414–15 (1997) (“Zoning ordinances
8 cannot be passed by initiative without circumventing the constitutionally required notice
9 and hearing.”).

10 41. The Initiative proposes a “zoning ordinance” as broadly contemplated by
11 Arizona law because it imposes new restrictions on how land is used and what structures
12 may or may not be built on it. *See* A.R.S. § 9-462(A)(5) (“‘Zoning ordinance’ means a
13 municipal ordinance regulating the use of the land or structures, or both. . . .”).

14 42. The Initiative seeks to usurp the City’s delegated zoning authority as
15 prescribed by Arizona law. *See Transamerica*, 157 Ariz. at 349 (“[Z]oning law is exempted
16 from the initiative process[] in order to prevent private citizens from usurping the
17 governing body’s delegated power and from circumventing the notice and hearing
18 requirements of the zoning statute.” (internal quotation marks omitted)).

19 43. Moreover, the initiative process fails to provide the due process safeguards
20 embedded in the zoning statutes. *See City of Scottsdale*, 103 Ariz. at 207.

21 44. For decades, Arizona courts have rejected such attempts to zone by initiative
22 and have categorically prohibited such measures from appearing on the ballot. *See Id.*;
23 *Transamerica.*, 157 Ariz. at 350.

24 45. *City of Scottsdale* and *Transamerica* “all are faithful to art. 4, pt. 1, § 1(8) of
25 the Arizona Constitution” and “[r]educ[ed] to their simplest form,” they “stand for the
26 proposition that because cities do not have the power to legislate in the field of zoning . . .
27 except as allowed by state law, the electorate may not circumvent state law through the
28 initiative process.” *Roberston*, 189 Ariz. at 354.

1 46. Courts may “prohibit altogether the use of initiative to enact zoning laws” in
2 response to a preelection challenge. *Winkle*, 190 Ariz. at 417.

3 47. Relief from this Court is needed to declare that the Initiative attempts to
4 circumvent statutory procedures required when zoning, that it touches on matters and
5 processes that cities are not empowered to legislate via initiative, and that, accordingly, the
6 Initiative is invalid as a matter of law. Relief is further needed to enjoin Defendants from
7 placing an invalid initiative on the next city ballot for the voters to consider.

8 **DEMAND FOR RELIEF**

9 WHEREFORE, Plaintiffs demand relief as follows:

10 A. Declaratory relief declaring that the Initiative is invalid as a matter of
11 law under article IV, part 1, § 1(8) of the Arizona Constitution because it
12 attempts to zone property in a manner the Legislature has not authorized.

13 B. Injunctive relief prohibiting the Defendants from certifying or
14 printing any election ballot that includes the Initiative or from printing or issuing
15 any voter publicity pamphlet that includes the Initiative.

16 C. An award of reasonable attorney fees and costs pursuant to A.R.S.
17 § 12-341, the private attorney general doctrine, and any other applicable law.

18 D. Such other relief as the Court deems necessary, equitable, proper, or
19 just.

20
21 Dated: March 31, 2026

Respectfully submitted,

22 **HERRERA ARELLANO LLP**

23 By: /s/ Roy Herrera

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