

WHEN RECORDED, MAIL TO:

Flagstaff City Clerk
Stacy Saltzburg
211 W. Aspen Avenue
Flagstaff, AZ 86001

BINDING WAIVER OF ENFORCEMENT

THIS BINDING WAIVER OF ENFORCEMENT (this “Waiver”) is granted by the City of Flagstaff, an Arizona municipal corporation (the “City”).

RECITALS:

- A. On November 17, 2020, the Flagstaff City Council adopted a land use law, Ordinance 2020-28, which made various amendments to the Flagstaff Zoning Code.
- B. The respective owners of the following parcels in Flagstaff, (collectively “the Properties”) owned the Properties on the date of enactment listed above:

	APN	Property Owner	Address
1.	114-09-005	Caro Mark & Valerie Revocable Trust DTD 03-26-14	1500 North Wakonda Street
2.	108-03-088	Caro Mark & Valerie Revocable Trust DTD 03-26-14, Caro Anita L	3411 North Schevene Blvd
3.	109-10-006C	Caro Mark & Valerie Revocable Trust DTD 03-26-14, Caro Anita L	1555 East Cedar Avenue
4.	104-16-008C	Caro Mark & Valerie Revocable Trust DTD 03-26-14, Caro Anita L, Joyce James and Joan	323 South River Run Road
5.	104-02-053	Elm Tree Apartments	608 South Fountaine Street
6.	103-16-005A	Flag Holdings LLC	520 South Leroux Street
7.	103-15-019	Flag Holdings LLC	404 South Leroux Street
8.	103-15-021	Flag Holdings LLC	418 South Leroux Street
9.	107-06-002J	FLG DEN Partners LLC	1965 East Mountain View Avenue
10.	104-02-028	Lumberjack Lodging LLC	404 South Verde Street

11.	103-17-015A	510 San Francisco LLC	504 South San Francisco Street
12.	112-52-051	Stephen M and Debra L Dorsett	1823 West Heavenly Court
13.	103-12-025	Moonbeam Investments, LLC	311 South Leroux
14.	103-09-014	Chateau Guay LLC	212 South Beaver Street
15.	103-09-015	Chateau Guay LLC	216 South Beaver Street
16.	103-09-016A	Chateau Guay LLC	220 South Beaver Street
17.	100-09-004	Cherry Flagstaff, LLC	200 West Cherry Avenue
18.	104-10-046A	Vantage Retirement Plans LLC	1230 South Lone Tree Road
19.	110-06-081	Shawn Mahoney	311 West Oak Avenue
20.	103-11-010	Shawn T Mahoney	405 South Leroux Street
21.	100-35-011	Shawn T Mahoney	701 West Tombstone Avenue
22.	111-15-005	Shawn T Mahoney	3066 West Ridgeview Drive
23.	112-57-014	Shawn T Mahoney	603 West Benjamins Way
24.	110-06-082	Vantage Retirement Plans LLC FBO Shawn Mahoney IRA	315 West Oak Avenue
25.	104-10-047A	Vantage Retirement Plans LLC FBO Shawn Mahoney	1220 South Lone Tree Road
26.	104-02-114	Forrest M May	531 South O'Leary Street
27.	104-02-115	Forrest M May	533 South O'Leary Street
28.	104-02-116	Forrest M May	537 South O'Leary Street
29.	100-36-003	Forrest M May	506 Tombstone Avenue
30.	101-09-010	David F Menne & Martha E Menne	500 North Beaver Street
31.	112-55-018	David F Menne & Martha E Menne	2425 South Cliffview Street
32.	104-02-027	Manuel Robert Nordel & Michelle Marie Nordel	408 South Verde Street
33.	107-13-009	66TH & FOURTH LLC	2511 East Route 66
34.	101-03-016B	204 West Sullivan LLC	204 West Sullivan Avenue
35.	101-04-021A	824 N Beaver LLC	824 North Beaver Street
36.	100-32-006	Chandramauli Patel	924 West Coconino Avenue
37.	106-03-005M	Kenzona Investment LLC	2200 East Butler Avenue
38.	101-23-062B	Kunal Patel	519 East David Drive

39.	101-24-039	Karan Patel	530 North Charles Road
40.	106-01-002	PCM LLC	1560 East Route 66
41.	104-05-005	WW 66 LLC	922 East Route 66
42.	103-17-025	Dark Skies LLC	515 South WC Riles Drive
43.	100-11-017	North Park Properties LLC	210 North Park Street
44.	100-11-016A	North Park Properties LLC	210 North Park Street
45.	103-17-026	Ray Morrissey and Michelle Beckham	509 South WC Riles Drive
46.	101-13-005	Robert Trathnigg Trust DTD 05/24/2019	314 North Beaver Street
47.	100-40-009	Robert Trathnigg Trust DTD 05/24/2019	12 South Mikes Pike
48.	113-17-012	Allen Jonathan T & Josie	6400 North Highway 89
49.	104-01-001A	301 Oleary LLC	301 South O'Leary Street
50.	101-29-066	RockJuniper Holdings LLC	775 East Ponderosa Parkway
51.	101-29-039	Rohr Jason & Mariah	783 Forest View Drive
52.	107-06-031	Rohr Jason T & Mariah A	1601 East Mountain View Avenue
53.	104-10-081	Rohr Jason T & Mariah A	38 South Pine Circle
54.	103-06-004	Angelina Investment Inc.	501 South Milton Road
55.	101-21-016B	Flag Retail Center LLC	22 North San Francisco Street
56.	100-19-008A	Leroux Retail LLC	111 North Leroux
57.	101-06-018	Prema Medical Plaza LLC	750 North Kendrick Street
58.	103-04-016B	Primo Investment LLC	915 South Milton Road
59.	103-03-018B	Ricsat Investment LLC	1111 South Plaza Way
60.	103-02-008	Shakti Investment Inc	602 West Route 66
61.	101-16-001	Kevin Peterson	418 East Birch Avenue
62.	112-55-019	Newman Jeffrey & Melinda Trust DTD 01-14-11	2492 South Rocking Horse Lane
63.	105-02-080A	Ridgecrest Rental of Flagstaff LLC	3291 South Gila Drive
64.	105-02-081A	Ridgecrest Rental of Flagstaff LLC	3454 South Walapai Drive
65.	100-39-013B	Long Cold Winter Investments, LLC	210 W Benton Avenue
66.	100-39-013C	Long Cold Winter Investments, LLC	210 W Benton Avenue

67.	100-39-015C	Long Cold Winter Investments, LLC	210 W Benton Avenue
68.	105-10-146	Reitz Restoration & Home Construction, LLC	1886 E Marengo Court
69.	104-01-099B	Railway Yard, LLC	306 E Cottage Avenue
70.	107-14-004A	Intercontinental Investments, LLC	2650 E Route 66

- C. Arizona Revised Statutes §12-1134 (“Prop 207”) allows a property owner to seek just compensation when a city adopts a land use law that reduces the property owner’s existing rights to use, divide, sell, or possess private real property and such action reduces the fair market value of the property.
- D. In July, September, and October 2021, the owners of the Properties filed with the City a request for just compensation pursuant to Prop 207.
- E. In response to a claim for just compensation under Prop 207, a city may reach an agreement to issue to the property owner a binding waiver of enforcement of the land use law on the owner’s specific parcels.

NOW, THEREFORE, the City of Flagstaff does hereby declare as follows:

- 1) Incorporation of Recitals. The recitals stated above are true and correct and are incorporated herein.
- 2) Binding Waiver of Enforcement. That the amendments to the Flagstaff Zoning Code adopted by Ordinance 2020-28 shall not be enforced nor applicable to the entirety, or any portion of the Properties.
- 3) Recordation. This Binding Waiver of Enforcement shall be adopted by Resolution of the Flagstaff City Council and recorded in its entirety in the Official Records of Coconino County, Arizona, not later than ten (10) days after this Waiver takes effect.
- 4) Covenants Running with Land; Inurement. The covenants, conditions, terms, and provisions of this Waiver relating to use of the Properties shall run with the Properties.
- 5) Governing Law. This Waiver, and all rights and obligations created hereby, shall be determined and governed by the laws of the State of Arizona.

IN WITNESS WHEREOF, this Waiver is approved by the Flagstaff City Council through the adoption of Resolution 2021-__.

City of Flagstaff

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

STATE OF ARIZONA)
COUNTY OF COCONINO)

ACKNOWLEDGMENT

On this _____ day of _____, 202__, before me, a Notary Public, personally appeared Paul Deasy, Mayor of the City Flagstaff, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

Notary Public

My Commission Expires: _____