

**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:

	<b>APN</b>	<b>Property Owner</b>	<b>Address</b>
1.	111-16-018	Daniel J and Lynndel E Custodio	3325 North Crest Street
2.	117-20-025	Timothy J and Suzanne Y Trzaska Trust DTD	4354 East Rustic Knolls Lane
3.	100-39-015G	Timothy J and Suzanne Y Trzaska Trust DTD	208 West Benton
4.	112-15-003B	Ronald Cornish and Victoria Oehlbaum	3321 South Walkup Avenue
5.	114-09-134	Hurley Family Trust / Joyce and Patrick Hurley	1701 North Slippery Rock Road
6.	108-15-011	Jason Alan Hale and Karra Sue Hale	3751 North Patterson Boulevard
7.	107-21-010	Chris and Nancy Ross Revocable Trust	4342 East Coburn Drive
8.	111-14-034	Kathy F Oakley Living Trust	3100 West Tina Lane
9.	107-02-082	Kathy F Oakley Living Trust	2024 North Center Street
10.	113-09-008	Kathy F Oakley Living Trust	4580 East Allison Drive
11.	110-07-080	Robert D and Dawn Begley	1415 North Lomalai Lane
12.	110-07-083	Robert D and Dawn Begley	1420 North Beaver Street
13.	100-22-021	Robert D and Dawn Begley	411 West Santa Fe Avenue

14.	106-07-033B	Kyle L and Christy Maycumber	373 South Fourth Street
15.	101-06-011A	Tres Pedalers, LLC	719 North Humphreys Street
16.	101-06-012	Tres Pedalers, LLC	717 North Humphreys Street
17.	107-06-104	JenDell Company	1711 East Arrowhead Avenue
18.	107-06-107	JenDell Company	1711 1/4 East Arrowhead Avenue
19.	107-06-105	JenDell Company	1715 East Arrowhead Avenue
20.	107-06-115	JenDell Company	1713 East Arrowhead Avenue
21.	102-11-025	Wendell and Jennifer Johnson	775 West Beal Road
22.	112-61-060	Bruce G. and Diane J. Wickberg	5296 South Azurite Trail
23.	105-10-013	Perminder Sanghera	3241 S Clubhouse Circle
24.	113-29-003K	VP I-40 & Country Club, LLC	[Sixteenth: NE Quarter: SE Section 07 Township: 21N Range: 08E]
25.	113-29-001P	VP I-40 & Country Club, LLC	[980 N Country Club Drive]
26.	113-25-103	VP I-40 & Country Club, LLC	[Subdivision: COUNTRY CLUB MANOR Tract: B Sixteenth: SE Quarter: SW Section: 07 Township: 21N Range: 08E]
27.	100-04-001A	Dale Investors LLC	405 North Beaver Street
28.	100-04-003A	SMS Group I, LLC	150 West Dale Avenue
29.	100-04-004A	SMS Group I, LLC	150 West Dale Avenue

- 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 February through April 2022, 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 2022-\_\_.

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: \_\_\_\_\_