

**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 HOH Properties”) owned the Properties on the date of enactment listed above:

	<b>APN</b>	<b>Property Owner</b>	<b>Address</b>
1.	101-20-006	Historic Icehouse LLC	201 East Birch Avenue
2.	101-20-008	Historic Icehouse LLC	201 East Birch Avenue
3.	100-39-019	Testan Properties LLC	210 West Phoenix Avenue
4.	100-39-018	Testan Properties LLC	11 South Mike’s Pike
5.	107-07-001F	Commonwealth Land Title Insurance Company	644 North Locust Street
6.	101-22-004A	Chan II, LLC	408 East Route 66
7.	101-22-002	Chan II, LLC	402 East Route 66
8.	101-20-001	Chan II, LLC	112 North Elden Street
9.	101-20-002A	Chan II, LLC	150 North Verde Street
10.	101-22-003A	Chan II, LLC	408 Route 66
11.	101-21-005A	Chan II, LLC	11 North Verde Street
12.	101-21-006	Chan II, LLC	11 North Verde Street
13.	101-21-002	Chan II, LLC	11 North Verde Street
14.	101-22-009	Chan II, LLC	11 North Verde Street
15.	101-21-001	Chan II, LLC	224 East Route 66
16.	101-22-008	Chan II, LLC	14 North Verde Street

- 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 and August 2023, the owners of the HOH 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) HOH Properties 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 HOH 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 2023-\_\_\_\_\_.

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 Becky Daggett, 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: \_\_\_\_\_