

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:

	APN	Property Owner	Address
1.	108-15-010	Bryan & Tiffany Antol	3731 N Patterson Boulevard
2.	101-20-004-A	Cutis, LLC	150 North Verde Street
3.	101-20-005-A	Cutis, LLC	149 North Elden 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 late 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 2024-_____.

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: _____