

**RESOLUTION NO. 2024-21**

**A RESOLUTION OF THE SEDONA CITY COUNCIL APPROVING A BINDING WAIVER OF ENFORCEMENT FOR CERTAIN PROPERTIES WITHIN THE CORPORATE LIMITS OF THE CITY OF SEDONA**

**RECITALS:**

WHEREAS, on April 25, 2023, the Sedona City Council adopted Ordinance 2023-03, which, among other changes, removed "Lodging, Fewer than Seven Units" from Sedona Land Development Code Section 3.2.E Table of Allowed Uses for Commercial and Mixed-Use zoning districts; and

WHEREAS, the owner identified in Exhibit A, attached hereto, owned its respective parcels of land ("Properties") when Ordinance 2023-03 took effect; and

WHEREAS, 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; and

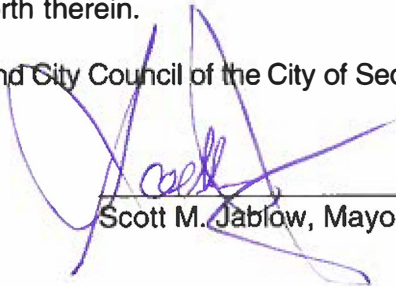
WHEREAS, the property owner identified in Exhibit A filed a claim for just compensation under Prop 207, asserting that the amendment to the Sedona Land Development Code removing "Lodging, Fewer than Seven Units" from Sedona Land Development Code Section 3.2.E Table of Allowed Uses for Commercial and Mixed-Use zoning districts reduced its rights to use the Properties and thereby reduced the fair market value of the Properties; and

WHEREAS, in response to a claim for just compensation under Prop 207, the City may issue to the property owner a binding waiver of enforcement of the land use law on the owner's specific parcels.

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA AS FOLLOWS:**

SECTION 1. That the Binding Waiver of Enforcement, which is attached hereto as Exhibit A, is hereby approved and the Mayor is authorized to execute the Binding Waiver of Enforcement, partially waiving enforcement of Ordinance 2023-03 as set forth therein.

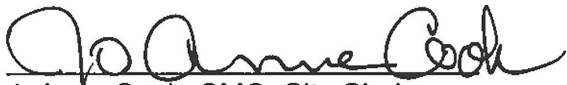
APPROVED AND ADOPTED by the Mayor and City Council of the City of Sedona, Arizona this 12<sup>th</sup> day of September, 2024.



---

Scott M. Jablow, Mayor

**ATTEST:**



---

JoAnne Cook, CMC, City Clerk

**APPROVED AS TO FORM:**



---

Kurt W. Christianson, City Attorney

**WHEN RECORDED, MAIL TO:**

Sedona City Clerk  
City of Sedona  
102 Roadrunner Drive  
Sedona, AZ 86336

**BINDING WAIVER OF ENFORCEMENT**

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

**RECITALS:**

- A. On April 25, 2023, the Sedona City Council adopted a land use law, Ordinance 2023-03, which made various amendments to the Sedona Land Development Code.
- B. The respective owners of the following parcels in Sedona (collectively the “ Properties”) owned the Properties on the date Ordinance 2023-03 took effect:

	<b>Coconino County APN</b>	<b>Property Owner</b>	<b>Address</b>
1.	The portion of 408-08-002A commercially zoned (west of the center of Oak Creek)	Axys Capital Total Return Fund, LLC	586 N SR 89A Sedona, AZ 86336
2.	The portion of 408-08-006A commercially zoned (west of the center of Oak Creek)	Axys Capital Total Return Fund, LLC	520 N SR 89A Sedona, AZ 86336
3.	The portion of 401-09-001A commercially zoned (west of the center of Oak Creek)	Axys Capital Total Return Fund, LLC	400 Art Barn Road Sedona, AZ 86336
4.	401-09-001B	Axys Capital Total Return Fund, LLC	181 Art Barn Road Sedona, AZ 86336
5.	The portion of 401-09-001C commercially zoned (west of the center of Oak Creek)	Axys Capital Total Return Fund, LLC	40 Art Barn Road Sedona, AZ 86336
6.	The portion of 401-13-059 commercially zoned (west of the center of Oak Creek)	Axys Capital Total Return Fund, LLC	40 Art Barn Road Sedona, AZ 86336
7.	401-14-015	Axys Capital Total Return Fund, LLC	129 Owenby Way Sedona, AZ 86336
8.	401-14-016	Axys Capital Total Return Fund, LLC	115 Owenby Way Sedona, AZ 86336
9.	401-14-017	Axys Capital Total Return Fund, LLC	100 Owenby Way Sedona, AZ 86336

- 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. On August 26, 2024, the owner 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 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 Sedona does hereby declare as follows:

- 1) Incorporation of Recitals. The recitals stated above are true and correct and are incorporated herein.
- 2) Properties Binding Waiver of Enforcement. That the amendment to the Sedona Land Development Code removing “Lodging, Fewer than Seven Units” from Sedona Land Development Code Section 3.2.E Table of Allowed Uses for Commercial and Mixed-Use zoning districts adopted by Ordinance 2023-03 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 Sedona City Council and shall be recorded in its entirety in the Official Records of Yavapai County, Arizona.
- 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 Sedona City Council through the adoption of Resolution 2024- 21.

City of Sedona



\_\_\_\_\_  
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney