

AFTER RECORDING RETURN TO:

Attn: Legal Department
3425 Boone Road SE
Salem, OR 97317

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
AFFINITY ESTATES
CITY OF SALEM
MARION COUNTY, OREGON**

This Declaration of Covenants, Conditions, and Restrictions for Affinity Estates ("Declaration") is made by Devon Property LLC, an Oregon limited liability company, (hereafter the "Declarant") effective upon the date of recordation of this instrument.

RECITALS

- A. Declarant is the owner of all the real property described as Affinity Estates, City of Salem, Marion County, Oregon for use as detached single family homes which is further described and depicted on the Plat for Affinity Estates as recorded on in the Marion County Book of Town Plats, Volume _____, Page _____ and depicted in **Exhibit A** (the "Property" or "Subdivision").
- B. In order to provide for the consistent development and construction within the Subdivision, the Declarant adopts this Declaration to apply to all development and construction upon the Property.

NOW, THEREFORE, Declarant declares that the Property shall be held, sold, and conveyed subject to the following Covenants, Conditions, and Restrictions, which shall run with such Property and shall be binding upon all parties having or acquiring any right, title, or interest in such properties or any part thereof, and shall inure to the benefit of each owner thereof.

COVENANTS, CONDITIONS, AND RESTRICTIONS

1. ARCHITECTURAL CONTROL BOARD

A. Creation of Architectural Control Board. For the purpose of ensuring the observation of and compliance with the standards of development of the Subdivision and enforcement of this Declaration, there is hereby created an Architectural Control Board (hereinafter "ACB") to perform the functions and duties described in this declaration. The ACB shall consist of three (3) members, elected and/or appointed as provided below.

B. Membership of ACB.

i. Election of Members. For so long as the Declarant of the property, or Declarant's successor in interest, owns any Lot or Lots within the Subdivision, three representatives of the Declarant shall be members of the ACB and be appointed by the Declarant. As used herein, "Lot" means all the lots within the Subdivision as shown on Exhibit A. Upon the sale or other transfer by the Declarant or the Declarant's successor in interest of the last Lot within the Subdivision (hereinafter the "Transfer Date"), the Declarant or Declarant's successor in interest shall appoint three persons from among the owners of Lots in the Subdivision to succeed the representatives of the Declarant or its successor in interest as members of the ACB, and the persons so appointed shall serve on the ACB until their successors are duly elected. ACB members shall serve terms of three years each and may be re-elected without limitation. The initial ACB members shall be appointed by the Declarant as follows: the first for a 1-year term, the second for a 2-year term, and the third for a 3-year term. Thereafter, successor ACB members shall be elected by majority vote to serve for a 3-year term. Elections shall be by the owners of the Lots within the Subdivision, (hereinafter the "Owners"), in accordance with Section 2, below.

ii. Resignation. Any ACB member may resign at any time by giving written notice to the other ACB members. Said resignation shall take effect at the date of receipt of the notice or at any later time specified in the notice. Following the resignation of an ACB member, the remaining majority of members shall appoint a replacement member at the next meeting of the ACB. The replacement member shall serve the remaining term of the resigning member.

iii. Removal. A two-thirds majority of Owners shall have the right to remove any elected ACB member at any time, with or without cause. Any vacancy created by the removal or resignation of an ACB member may be filled by a majority of the remaining members at the next meeting of the ACB. Any members so appointed shall serve out the remaining term of the vacating member.

C. Meetings of ACB.

i. Initial Meeting. The Declarant shall determine the date and time for the first meeting of the ACB. Thereafter, the ACB shall meet from time to time upon the call of the majority of the members of the ACB, but shall meet no fewer than once every 6 months.

ii. Notice of Meetings. Written or oral notice of each meeting of the ACB shall be given to each member not less than one (1) and no more than thirty (30) days before the meeting. The requirement for such notice may be waived by a majority vote of the ACB members present and voting at any meeting attended by not less than 100% of the entire ACB.

iii. Voting. In all meetings of the ACB, a quorum for the transaction of business shall require 3 members. Except as otherwise provided in this Declaration, all matters that come before the ACB shall be decided by a majority vote.

iv. Action Without a Meeting. Any action taken by the ACB may be taken by written consent of the members without a meeting.

D. Powers of the ACB.

i. Power. The ACB has the power to:

(1) review, approve or deny any request or application for approval submitted to it pursuant to any section or provision of this Declaration, and as the same may hereafter be amended or supplemented;

(2) give notice of any violation of the covenants, conditions, and restrictions contained in this Declaration, as the same may be amended or supplemented and issue warning letters requiring compliance;

(3) advise any Lot owner or occupant or any person in possession of any Lot regarding the requirements imposed by this Declaration;

(4) enter upon any Owner's property to summarily abate or remove the offending structure, vehicle, truck, trailer, vegetation or other personal property and to charge the offending Lot owner for the cost thereof;

(5) impose fines, penalties and late payment fees for noncompliance with this Declaration;

(6) file liens to collect these charges and foreclose the lien if not paid;
and

(7) initiate and prosecute any action or other proceeding at law or in equity to enforce any covenants or restrictions set forth in this Declaration, as the same may be amended or supplemented.

ii. Limited Liability of ACB. Neither the Declarant nor the ACB, nor any member thereof, shall be liable to any Owner or occupant of any Lot for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Declarant or the ACB, provided only that the Declarant or ACB, in accordance with actual knowledge possessed by it, has not acted willfully beyond the authority granted in, or in violation of, this Declaration. The Declarant shall have no further liability for any matter related to the Subdivision from and after transfer of all powers to the ACB.

iii. Approved Builders. Any homes constructed on a Lot within the Subdivision shall be built by a builder approved by the ACB. The ACB shall develop and adopt procedures for processing applications for approval of home builders and criteria for approval of home builders. Until such procedures and criteria are adopted, the approved builders shall be Pacific National Development, Inc., Wind River Homes LLC and Banner Homes LLC.

2. MEETINGS OF OWNERS:

A. Annual Meetings. Annual meetings of Owners shall be held on January 5 of each year following the Transfer Date. Provided, however, that if the annual meeting is not held on such date, it may be called by a majority of the ACB or by not less than 25% of Owners. At the annual meetings, the Owners shall elect members of the ACB by majority vote, in person or by proxy. The Owner shall be entitled to one vote for each Lot owned. When more than one person owns an interest in a Lot, all such persons shall exercise their vote for said Lot as they determine; provided, however, that in no event shall more than one vote be cast with respect to any one Lot.

B. Special Meetings; Notice. A special meeting may be called by a majority of the Owners or by the ACB. Notice of a special meeting of the Owners shall be given in writing to each Owner, at the address shown for each Lot or the last known address of the Owner, not less than 10 days, no more than 30 days prior to the meeting. Such notice shall specify the place, time and hour and purpose for the meeting.

3. APPROVAL OF PLANS: No Owner of any land within the Subdivision shall erect, place or alter any building or other structure in the Subdivision until the building plans, specifications, exterior design, color, landscaping plans, and plot plan have been approved in writing by the ACB. The ACB review shall include, but not be limited to, review of the size, conformity, value, location, and harmony of the external design with the existing structures in the Subdivision, and as to the location of the buildings with respect to the topography and finished ground elevation. Refusal or approval of plans and specifications may be based upon any reason including aesthetic grounds, which in the sole discretion of the ACB shall deem proper. The ACB shall have the right to require all applications for approval be submitted on forms to be provided by the ACB or in a format which facilitates ACB review of the proposal. All plans and specifications submitted to the ACB shall be deemed approved if the ACB does not advise the applicant of objections within 30 days following submission. Prior ACB approval shall not be used as a precedent for subsequent ACB action.

4. SIZE OF STRUCTURES: The ground floor area of the main structure, exclusive of open porches and garages shall not be less than 1500 square feet, plus a two-car garage. If a home is constructed with a basement, the basement shall be no smaller than 1,000 square feet.

5. SETBACKS: All homes shall be constructed to comply with City of Salem setback requirements. No dwelling house shall be constructed, erected or completed of which any portion other than normal eaves and overhangs is nearer to the street or sideline on which it most closely abuts unless it is in compliance with all applicable governmental codes, rules, and regulations.

6. EASEMENTS: Easements for the installation and maintenance of utilities, drainage facilities, recreation facilities, and other facilities are reserved as shown on the plat of the Subdivision. Within these easements no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the purpose or use of the easement, or which obstructs the flow of water in any drainage channel, stream,

creek or pipeline. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority may be responsible. If the public authority is legally responsible, but fails to maintain the easement area, the Lot owner shall provide the needed maintenance. Such maintenance includes, but is not limited to, removal of noxious weeds, mowing grass, landscaping and properly maintaining the area.

7. BUILDING MATERIALS: All building materials to be incorporated into and visible as a part of the external structure of any residence, building or other structure in the Subdivision is regulated and subject to the approval of the ACB.

In particular, all roofing material for any building or structure shall be of wood (shake or shingle), metal, tile, or a 30 year or better architectural composition (black or charcoal) with ridge caps (Ridge Glass or comparable quality), unless otherwise approved in writing by the ACB.

The front elevation shall consist of at least 15% of one of the following: stone, cultured stone, brick or stucco.

All siding materials shall be natural wood, hardiplank, cement fiber board, brick, stone, cultured stone, or stucco. If other man-made lap siding materials are used, the following design requirements are to apply unless otherwise approved in writing by the ACB.

- A. The material must be approved;
- B. The material must be nailed on 16 inch centers if applicable;
- C. No T1-11 or other vertical plywood type siding shall be used.

All exterior color finishes shall be approved in advance by the ACB. The ACB shall have fifteen (15) days following receipt of color sample(s) of any exterior finishes to render its decision.

The ACB may, from time to time, provide written guidance to Owners concerning approved building materials. Such written guidance may include a list of pre-approved substitute materials for roofing and siding.

8. LANDSCAPE, HEDGES, FENCES & LIGHTING: All front and side yards must be completely landscaped at the time the certificate of occupancy is issued or the dwelling is initially occupied, whichever first occurs. Rear yard landscaping must be completed within six months of occupancy. No weeds, noxious plants, or unsightly vegetation shall be planted or allowed to grow. No trees over ten inches (10") in diameter at the base shall be removed without prior approval of the ACB.

No fence or hedge shall be erected, placed, or permitted to remain on any Lot unless approved by the ACB. Fences shall not exceed six (6) feet in height. Fences shall be well

constructed of cedar wood or other materials approved by the ACB and shall not detract from the appearance of the adjacent structures and buildings.

No high output exterior lighting, including but not limited to mercury vapor and halide lights, shall be installed without prior approval of the ACB.

9. DRIVEWAYS AND SIDEWALKS: All driveways and front walkways shall be of concrete slab construction with either exposed aggregate, stained broomed finish or artistically stamped. Any concrete porches or patios shall also be of either exposed aggregate, stained broomed finish or artistically stamped. The sidewalks adjacent to the street are not subject to these esthetic requirements.

The sidewalks adjacent to the street shall be of concrete slab construction. The sidewalks shall run continuous connecting each adjacent Lot throughout the Subdivision. All sidewalks shall be constructed in accordance with the development standards of applicable building codes. The Owner(s) of each respective Lot in the Subdivision shall be responsible for the maintenance of the sidewalk for their Lot.

10. ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Subdivision Lot except that dogs, cats or other household pets can be kept in compliance with local controls provided they are not raised, bred or kept for any commercial purpose. Owner's dogs that are not kept in the home or in the enclosed yards must be leashed or carried. Dogs shall not be allowed to run at large. If an owner's dog runs at large, the animal control agency will be called and the pet owner will be obligated to pay all charges imposed by said agency and/or related to the violation of this rule. Pet owners must pick up and remove all solid animal waste whenever and wherever dropped. The owners must not allow their pets to interfere with the quiet enjoyment of the neighbors by permitting objectionable barking, whining, or howling to occur.

11. TRUCKS, VEHICLES, TRAILERS AND BOATS: Boats, motor homes, recreational vehicles, campers, trailers, or commercial trailers (hereafter called "extra-vehicle(s)") shall be parked in a garage, carport or RV pad and be screened from public view. The extra-vehicle must not extend beyond the front of the garage or residence. Temporary parking of extra-vehicles is limited to loading, unloading, and service calls. If extra-vehicles are parked temporarily, they must be parked on a paved area such as a driveway. No extra-vehicles of any kind shall be parked on any portion of a Subdivision Lot or street while said extra-vehicle is in a state of disrepair, or when being repaired or when it is not properly licensed with current "tags." In the event any extra-vehicle is to remain on the Property for more than 24 hours, then the extra-vehicle must be stored in a garage, carport or area which is screened from public view. Any extra-vehicle, in violation of this rule may be removed from the Lot and owner will be responsible for all towing, storage, or other related charges.

12. NO COMMERCIAL USE: No Property in the Subdivision shall be used for business or commercial purposes. No occupant of the Property within the Subdivision shall park, nor permit to be parked, any commercial vehicle such as food trucks, log trucks, dump trucks, tractor trailer rigs, or any other vehicles except passenger automobiles (including pickups) upon the Property, including streets, in the Subdivision.

13. SIGNS: No signs shall be erected, displayed or allowed to remain on any Lot, residence or street right-of-way without the prior written permission of the ACB; except such permission is not required for:

A. One sign, if not larger than six inches by twenty-four inches displaying the name and/or address of the occupant; or

B. One temporary sign no larger than five square feet advertising the Lot or living unit for sale or rent, which sign shall be promptly removed upon the sale or rental of the Lot or living unit.

14. SCREENING & TRASH CONTROL: Trash, garbage, and other waste shall not be kept except in sanitary containers, screened from public view. No Lot shall be used as a dumping ground for trash, garbage, waste or debris.

The location of all heat pumps and condenser units (or other utilities and devices commonly placed out of doors) shall be approved by the ACB before installation and be properly screened for visual and noise attenuation.

15. INTERFERENCE WITH ENJOYMENT: Owners or occupants of Lots within the Subdivision shall not engage in nor continue uses which unreasonably interfere with the use or enjoyment of other property within the Subdivision. The following activities shall conclusively be deemed to unreasonably interfere with the use or enjoyment of other property in the Subdivision:

i. Construction of passive solar systems that reflect the sun or other lights onto other property within the Subdivision. Passive solar heating systems may be allowed by the ACB if the panels or collectors are integrated into the structure with regard to the overall appearance and design, and no rights of other occupants or Owners in the Subdivision are jeopardized;

ii. Construction and maintenance of radio transmission and reception towers and antennae;

iii. Construction and maintenance of exterior radio and television antennae and other receptors (excluding satellite dish 18" or under type antennae) except as approved by the ACB in writing;

iv. Business operations based upon the repair of vehicles or machinery or the storage of unlicensed vehicles, used cars or machinery within the Subdivision, including all roads and rights of way;

v. Maintenance or use of a clothesline or wire for the hanging of laundry out-of-doors;

vi. Use of any Lot or part thereof for the dumping of trash, garbage, debris or other refuses; and

vii. Allowing bothersome odors, smoke, noise, vibration or light to escape a Lot.

16. COMPLETION OF IMPROVEMENTS: All structures (including flat work) constructed within the Subdivision shall be erected and completed within one year after the commencement of construction. All remodeling, reconstruction, or enhancement of structures shall be completed within one year of the commencement of construction. Commencement of construction shall be deemed to be the date on which a building permit was first issued for the construction, or, if no building permit was obtained, the date on which Lot clearing, demolition or remodeling commenced.

17. RIGHT OF ENTRY: The Declarant or any member of the ACB may at any reasonable time during the construction phase enter upon any Lot within the Subdivision for the purpose of determining whether or not the use of such Lot or improvement thereon is then in compliance with the Declaration. This right of entry shall cease upon issuance of occupancy permits.

18. STORAGE OR ACCESSORY BUILDINGS: Any installation of accessory buildings or sheds (such as dog houses, tool sheds, firewood storage, or other types of outbuildings or enclosures) must be approved by the ACB even if a building permit is not required. Any accessory buildings or sheds should have an exterior finish consistent with the single-family residence on the Lot.

19. VEHICLE PARKING: All vehicles owned by or relating to a household in the Subdivision must be parked within their garage, driveway or on the street directly adjacent to such Owner's Lot.

20. MISCELLANEOUS PROVISIONS:

A. Amendment and Repeal. This Declaration may at any time be amended or repealed, or provisions may be added by each of the following methods:

1. Owners representing 75% of the Lots may consent in writing to the amendment or repeal of a provision or to the addition of a new provision; provided, however, the written consent of the Declarant shall also be required for as long as Declarant has an ownership in one or more Lots within the Subdivision.

2. The Declarant, provided Declarant has any ownership in Lots within the Subdivision, may amend or repeal the Declaration.

3. The Declarant may amend the Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, Board, commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee or provide financing in connection with

Subdivision of the property and sale of Lots. No such amendment shall require notice to or approval by any Owner.

Any amendment or repeal of a provision of the Declaration shall become effective upon its recordation in the Deed Records for Marion County, Oregon. This document shall be signed by the Declarant or the ACB setting forth in full the amendments.

B. Joint owners. The Declaration shall be joint and several as to each Lot under joint ownership and each Lot shall have only one vote. The act or consent of any one or more of such Lot owners shall constitute the act or consent of the entire Lot ownership interest, provided however, in the event that the joint Lot owners disagree among themselves as to the manner in which the vote shall be cast, then the vote shall be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

C. Remedies. Election by the Declarant or the ACB to pursue any remedy provided for in any provision of the Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder or which law permits. The remedies provided in the Declaration are not intended to be exclusive but shall be in addition to other remedies, including actions for damages or suits for injunctions or for specific performance available under Oregon law.

D. Construction; Severability; Number; Captions. The Declaration shall be construed as an entire document to accomplish the purposes stated herein. Nevertheless, each provision of the Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any portion shall not affect the validity or enforceability of the remaining provisions contained herein.

E. Notices. Any notice permitted or as required by the Declaration may be delivered either personally or by mail. Delivery by mail shall be deemed to have been accomplished 24 hours after the notice has been deposited as certified or registered mail in the United States mail, with postage prepaid, addressed as follows:

1. If to the initial ACB or the Declarant:

3425 Boone Road SE
Salem, OR 97317

2. If to a Lot owner, at the address given by such owner at the time of his or her purchase of a Lot or at the address of such owner's Lot within the Property, at the option of the person giving the notice.

The address of any person or party may be changed by them at any time by notice in writing delivered as provided herein.

F. Term. This Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

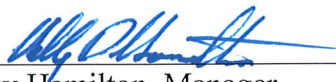
G. **Captions & Context.** As used herein the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience or reference and shall in no way limit any of the provisions of this Declaration.

H. **Governing Law.** Affinity Estates is a Class III “planned community” under Oregon Law and, therefore, is not subject to the Oregon Planned Community Act. No homeowners association is created by this Declaration.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Declarant has signed this instrument and will arranged for its recordation in the real property records of Marion County, Oregon.

Devon Property LLC

By: 
Kelley Hamilton, Manager

State of Oregon)
) ss.
County of Marion)

On this 28 day of November 2022, personally appeared before me the above-named Kelley Hamilton as Manager of Devon Property LLC and acknowledged the foregoing instrument to be its voluntary act and deed.





Notary Public for Oregon
My Commission Expires: 2-2-26

EXHIBIT A
(Plat)