

K-42509

## DECLARATION OF SHIELD CREST CONDOMINIUMS

Declarant, Shield Crest, Inc., an Oregon Corporation, owner of:

Lot 11, Block 4 of Tract 1257, Re-subdivision of a portion of First Addition to Shield Crest, according to the official plat thereof on file in the office of the Clerk of Klamath County, Oregon,

desiring to develop a variable condominium project, does hereby declare that from the Effective Date hereof, the above said property is submitted to the provisions of the Oregon Condominium Act and shall be held, improved, conveyed, hypothecated, encumbered, used, occupied and administered subject to the following covenants, conditions, reservations, restrictions, easements, liens and charges which shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof and shall inure to the benefit of each owner thereof.

1. Name: The name of the Condominium shall be Shield Crest Condominiums.
2. Location: The Condominiums shall be located in Klamath County, Oregon, and are not located in any incorporated city.
3. Legal Description: The legal description of the real property included in the Condominiums is the fee simple ownership of Lot 11, Block 4, Tract 1257, Re-subdivision of a portion of First Addition to Shield Crest, Klamath County, Oregon.
4. Number of Units: Initially there shall be (3) three units in the Condominiums. The Declarant reserves the right to add (30) thirty more units to the project for a maximum possible total of (33) thirty-three units.

Each Unit shall have an equal undivided interest in the Common Elements. Therefore, each unit currently has an undivided one-third (1/3) interest in the common elements. However, if all of the units are created, each unit will have an undivided one thirty-third interest in the common elements. Each time additional units are created, the allocation of undivided interest in the common elements shall be computed by a fraction in which the numerator is one and the denominator is the total number of units.

5. Common Elements: The land which is not Variable Property and all improvements thereto, saving and excepting the Units, shall be common elements. Said improvements shall include that portion of Saint Andrews Circle included in the nonwithdrawable property, the domestic water system, the septic system, and the buildings.

6. Rights Reserved by Declarant: The Declarant reserves unto itself, its successors and assigns, the following rights:

A. The right, to reclassify all or a portion of the property designated VARIABLE PROPERTY on the plat of Shield Crest Condominiums as filed in the office of the Clerk of Klamath County, Oregon, and as more particularly described on Exhibit A, attached hereto and incorporated herein by this reference, as one or more common elements, limited common elements, units or a combination of common elements and units;

B. The right to construct on the Variable Property a total of nine buildings, each containing not more than three single family residential units, and to own or to sell and convey said units to third parties;

C. The right to withdraw all or a portion of the Variable Property from the Condominiums;

D. The right to construct one additional building containing not more than three single family residential units on the NONWITHDRAWABLE PROPERTY designated on the said plat of Shield Crest Condominiums. Said Nonwithdrawable Property is more particularly described on Exhibit B attached hereto and incorporated herein by this reference. In the event said building is constructed, then Declarant shall reclassify the additional improvements as Units, limited common elements and common elements in the same manner as provided herein for Building No. 4.

The rights of the Declarant set forth in Subparagraphs A, B, C and D, hereinabove shall terminate on the date seven years after the date of the first conveyance of a unit to someone other than the Declarant. Except for said time limitation, the rights reserved herein to Declarant are without limitation and may be exercised without the consent of any unit owner.

E. The right to construct or complete construction of improvements in the Common Elements for which the Declarant

deems advisable and necessary for the Condominiums without approval of the unit owners or the Board of Directors of the Unit Owners' Association.

F. The right to appoint and remove officers and members of the board of directors of the Shield Crest Condominium Unit Owners' Association and to exercise powers and responsibilities otherwise assigned by this Declaration, the Association's Bylaws or Oregon Law to the Association, its officers or its board of directors until the time of turnover of administrative control provided in paragraph 17, below.

G. Declarant does hereby further reserve unto itself, its successors and assigns an easement over, on and under said real property for ingress and egress and to supply utilities to the Variable Property.

7. Provisions Affecting Variable Property: If the Variable Property or any portion thereof is reclassified as a common element, the only improvements thereon will be a building containing not more than three units and associated Limited Common Elements, landscaping and an irrigation system. Any such reclassification of Variable Property as a common element is not expected to substantially increase the proportionate amount of the common expenses payable by existing unit owners.

If additional Units are constructed on the Variable Property and reclassified as Units, the proportionate amount of common expense is expected to remain the same or decrease.

If Variable Property is withdrawn from the project, there should be no resulting change in the proportionate amount of common expenses payable by existing unit owners.

If additional units are constructed on the Variable Property and the Variable Property is reclassified, the reclassified Variable Property will include the limited common elements described in paragraph 20, below. The Declarant does not otherwise reserve the right to create Limited Common Elements within any Variable Property.

Until such time as Variable Property is reclassified or withdrawn, Declarant shall pay all of the expenses of the Variable Property including landscape maintenance; a proportionate share, based on the ratio between the square footage of remaining Variable Property and the sum of the square footage of the Common Elements, Limited Common Elements and Units, of the Shield Crest Drive Easement expense; property taxes and insurance.

If, by the termination date, all or a portion of the Variable Property has not been reclassified or withdrawn, such property shall automatically be withdrawn from the condominiums as of such date. If Variable Property is automatically withdrawn from the condominiums, the Shield Crest Condominium Unit Owners' Association shall have no interest or rights with respect to such withdrawn property.

All of the land designated as Variable Property may be withdrawn from the condominiums.

In the event that the Declarant constructs an additional building on the Nonwithdrawable Property, the only improvements thereon will be one more building containing not more than three units and associated Limited Common Elements, landscaping and an irrigation system. Any such reclassification of Nonwithdrawable Property as a common element is not expected to substantially increase the proportionate amount of the common expenses payable by existing unit owners.

If an additional Unit is constructed on the Nonwithdrawable Property and reclassified as Units, the proportionate amount of common expense is expected to remain the same or decrease.

If an additional unit is constructed on the Nonwithdrawable Property and it is reclassified, the reclassified property will include the limited common elements described in paragraph 20, below. The Declarant does not otherwise reserve the right to create Limited Common Elements within the Nonwithdrawable Property.

If by the termination date, the additional building has not been constructed on the Nonwithdrawable Property and the Property has not been reclassified, then the Nonwithdrawable Property shall automatically be classified as a common element of the condominium and any interest therein held for security purposes, other than security interests in Units, shall be automatically extinguished by such classification. None of the land designated as Nonwithdrawable Property may be withdrawn from the condominiums

Attached hereto as Exhibit C and incorporated herein by this reference, is the statement of the Klamath County Planning Department that the withdrawal of any Variable Property will not violate any applicable planning or zoning ordinance or regulation.

8. Management of Condominium: The Condominiums shall be operated and managed by the Shield Crest Condominium Unit Owners' Association, a nonprofit Oregon Corporation, formed pursuant to ORS Chapter 100. The initial Bylaws of the

Association have been provided by the Declarant. The Association shall be managed by a Board of Directors as provided in the Bylaws.

9. Allocation of Votes: Each unit, regardless of size, shall be allocated one vote from the time it can be legally conveyed. Each unit shall designate the authorized voter of that unit to the Board of Directors of the Association. Each unit is allocated an equal undivided interest in the common elements. In the event of the dissolution of the Condominium Unit Owners' Association and subject to any contrary provisions of Oregon law, each unit shall receive an undivided interest in the common elements equal to the fractional interest of which one (1) is the numerator and the sum of the number of units is the denominator. The Unit Owners' Association shall not be dissolved except in conjunction with the termination of the condominiums as provided by Oregon law.

10. Common Expenses and Profits: Each Unit shall be liable for an equal prorata share of the Common Expenses from the date it can be legally conveyed.

The profits of the property shall be distributed among the unit owners according to the allocation of undivided interest of each unit in the common elements.

11. Reserve Account: The reserve account assessments for replacement of common elements shall be assessed against the units equally regardless of ownership or the size of the unit.

12. Use of Units: All units shall be used as single family residential dwellings.

13. Restriction, Use and Maintenance of Units: The following is a Statement of Restrictions, Uses and Maintenance of units in the condominiums and the means of enforcing the terms of this Declaration:

A. Utility Connections: No above-ground utilities, pipes or wires shall be used to connect a telephone system, power system, and other improvements with supplying facilities. Exposed radio, telephone and television antennas and reception disks are prohibited.

B. Temporary Structures: No structures of a temporary character (trailer, tent, shack, garage, bars or other outbuildings) shall be used at any time as a residence, either

temporary or permanently. No mobile homes or trailers will be allowed for temporary or permanent use. However, a builder or his agents, may construct or move a small construction shed or trailer upon the property, but only for the duration of the construction period.

C. Nuisances: No noxious or offensive activity shall be carried on nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood. The shooting of BB guns, air rifles, firearms or dangerous type weapons is prohibited.

D. Domestic Animals: Each unit owner may keep not more than two domestic animals in their unit. No animals shall be allowed to roam outside the owner's premises unless controlled by the owner and on leash. No livestock or poultry of any kind shall be raised, bred or kept in a unit or on the common elements.

E. Maintenance: The common elements and all improvements shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard or visual nuisance.

F. Replacements: If a building is damaged or destroyed by fire or other hazard, the building shall be repaired or replaced to approval of the Board of Directors of the Association as soon as reasonably possible.

G. Refuse Disposal: Rubbish, trash, or garbage and other waste shall not be kept, except in sanitary containers, at any time. All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. No rubbish may be burned or buried on or near the Condominiums. Firewood must be stored in an orderly manner and not be covered with colored coverings, or coverings which will be obnoxious to the eye, nor shall any substance, thing or material be kept that will, or might, disturb the peace, comfort or serenity of occupants of surrounding property. The common elements must be maintained at all times to control and prevent grass and range fires upon the property.

All garbage containers, cuttings, refuse, fuel tanks, clothes lines and other service facilities must be screened from view of neighboring units.

H. Lighting: No offensive exterior lighting or noise making devices shall be installed or maintained without written approval of the Board of Directors.



I. Signs: No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than nine square feet for advertising the property for sale.

J. Design and Architectural Control: Each unit owner is responsible for the furnishing and upkeep of the unit. Provided, however, that window coverings and other interior improvements which are visible from the common elements shall be subject to review of the Board of Directors for compliance with the quality, workmanship, materials and harmony of design with other structures and improvements. The unit owner may plant trees, bushes, shrubs and flowers in the Limited Common Area within the patio fences. However, any damage caused by any such plantings will be assessed to the Unit Owners. The Board of Directors shall have the authority to require the removal of any tree, shrub or plant that is causing damage, or which is blocking the view or light of any other unit. No chinese elm, cottonwoods or poplars are permitted.

K. Parking: The streets shall not be used for parking vehicles except on a temporary basis. No parking or storage of trailers, trucks, campers, boats, boat trailers, snow mobiles, or other off-road vehicles shall be permitted unless they are garaged, screened or concealed from the view of any neighbor.

L. Peaceful Enjoyment: No unit shall be used in a manner which disturbs the peaceful enjoyment of other units.

M. Enforcement: These Declarations and Covenants may be enforced by the undersigned, any owners of any unit in the Condominiums, or the Board of Directors of the Shield Crest Condominium Unit Owners' Association. Should suit or action be instituted to enforce any of the foregoing covenants or restrictions, after written demand for the discontinuance of a violation thereof, and any failure to so do, then, whether said suit be reduced to decree or not, the Declarant, the Board or owner seeking to enforce or to restrain any such violations, shall be entitled to have and recover from such defendant or defendants, in addition to the costs and disbursements allowed by law, such sum as the Court may adjudge reasonable as attorney's fees in said suit or action, including attorney fees incurred on appeal.

14. Supplemental Declaration: The Declarant may execute and record Supplemental Declarations for the purpose of reclassifying property or withdrawing variable property. Such Supplemental Declarations shall be consistent with the provisions of this Declaration as may be hereafter amended.

15. Amendment of Declaration: This Declaration may be amended if such amendment is approved by not less than 75 percent of the Unit Owners and by the Oregon Real Estate Commissioner. Any Amended Declaration shall be effective when recorded in the office of the Clerk of Klamath County, Oregon. Except as provided in paragraph 14, above, the Declarant makes no other specific provisions for the Amendment of this Declaration.

16. Contemplated Improvements: The Declarant does not agree to build any specific improvement and does not choose to limit Declarant's right to add improvements not included in this Declaration.

17. Turnover of Administrative Control: The Declarant shall call a turnover meeting of the Unit owners as provided in the Unit Owners' Association Bylaws within 90 days after the date of the last conveyance to persons other than the Declarant of 25 units or within seven years and 90 days after the conveyance of the first unit to a person other than Declarant, whichever date shall first occur.

At the turnover meeting:

A. The Declarant shall relinquish control of the administration of the Association and the Unit owners shall assume the control.

B. The Unit owners shall elect a board of directors in accordance with the Bylaws of the Association.

C. The Declarant shall deliver to the Association all property of the Unit Owners and the Association held or controlled by the Declarant including, but not limited to:

(1) The original or a photocopy of the recorded declaration and bylaws of the condominiums and any supplements and amendments thereto.

(2) A copy of the articles of incorporation.

(3) The minute books, including all minutes, and other books and records of the association.

(4) Any rules and regulations which have been promulgated.

(5) Resignations of officers and members of the board of directors who are required to resign because of the expiration of declarant control.



(6) A report of the present financial condition of the association of unit owners. The report shall consist of a balance sheet and an income and expense statement for the preceding 12 month period or the period following the recording of the declaration, whichever period is less.

(7) Association funds or control thereof, including, but not limited to, any bank signature cards.

(8) All tangible personal property that is property of the Association and an inventory of such property.

(9) A copy of the following, if available:

a. The as-built architectural, structural, engineering, mechanical, electrical and plumbing plans.

b. The original specifications indicating thereon all material changes.

c. The plans for underground site service, site grading, drainage and landscaping together with cable television drawings.

d. Any other plans and information relevant to future repair or maintenance of the property.

(10) Insurance policies.

(11) Copies of any occupancy permits which have been issued for the condominiums.

(12) Any other permits issued by governmental bodies applicable to the condominiums in force or issued within one year prior to the date the unit owners assume control of the administration of the association of unit owners.

(13) A list of the general contractor and the subcontractors responsible for construction or installation of the major plumbing, electrical, mechanical and structural components of the common elements.

(14) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the records of the declarant.

(15) Leases of the common elements and any other leases to which the association is a party.

(16) Employment or service contracts in which the association is one of the contracting parties or service contracts in which the association or the unit owners have an

obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person performing the service.

(17) Any other contracts to which the association of unit owners is a party.

For a period of three months following the turnover meeting the Declarant or an informed representative shall be available to meet with the Board of Directors on at least three mutually acceptable dates to review the documents described above.

18. Description and Designation of Units: Until such time as the property is reclassified by Declarant, as provided above, there shall be one building of wood and masonry construction. The building shall contain three dwelling units. The Units will be designated as "Unit A, Unit B or Unit C, Building 4." The walls, floors and ceiling define the boundaries of each unit. Each unit includes:

- A. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof;
- B. All spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames and all other fixtures and improvements within the boundaries of the unit; and
- C. All outlets of utility service lines, including but not limited to power, light, gas, hot and cold water, heating, refrigeration, air conditioning and waste disposal within the boundaries of the unit.

Unit A is a single story unit with approximately 2,250 square feet. It includes two bedrooms, two bathrooms and a double car garage.

Unit B is a two story three bedroom unit with approximately 440 square feet on the second floor and 2,250 square feet on the first floor. It includes three bedrooms, three bathrooms and a double car garage.

Unit C is a single story unit with approximately 2,500 square feet. It includes three bedrooms, two bathrooms and a double car garage.

All other portions of the building improvements and land are common elements.

The unit owner is solely responsible for the maintenance of the unit and the Owners Association is solely responsible for the maintenance of the common elements and Limited Common Elements.

19. Unit Locations: Each Unit will be located as shown on the plat of the Shield Crest Condominiums on file in the office of the Clerk of Klamath County, Oregon.

20. Limited Common Elements: The courtyard and driveway attached to each unit are designated limited common elements. The use of the courtyard and driveway is limited to the owner and invitees of the owner of the unit to which the courtyard and driveway are attached.

21. Designated Agent: The agent designated to receive service of process is named in the Condominium Information Report which has been filed with the Secretary of State.

22. Powers of Association: The Unit Owners' Association has authority to grant leases, easements, rights of way, licenses and similar interests affecting common elements and to consent to the vacation of roadways within and adjacent to the condominiums.

SHIELD CREST, INC., an Oregon Corporation  
9682 Greenbriar Drive  
Klamath Falls, OR 97603

By Robert E. Cheyne - Robert E. Cheyne  
Its President

By Debra J. Cheyne - Debra J. Cheyne  
Its Secretary

The foregoing Declaration is approved pursuant to ORS 100.110 this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

STATE OF OREGON  
REAL ESTATE AGENCY

By \_\_\_\_\_

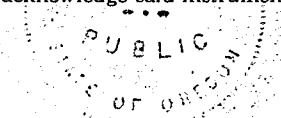
## STATE OF OREGON,

County of Klamath } ss. On this 24th day of January, 19 91,  
 before me appeared Robert E. Cheyne and  
Helen J. Cheyne both to me personally known, who being  
 duly sworn, did say that he, the said Robert E. Cheyne  
 is the President, and he, the said Helen J. Cheyne  
 is the Secretary of Shield Crest, Inc.  
 the within named Corporation, and that the seal affixed to said instrument is the corporate seal of said Corpora-  
 tion, and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board  
 of Directors, and Robert E. Cheyne and Helen J. Cheyne  
 acknowledge said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed  
 my official seal the day and year last above written.

Diana Ruth Ham  
 Notary Public for Oregon.

My Commission expires 12-19-92



## EXHIBIT A

TRACT 1271 - SHIELD CREST CONDOMINIUMS, BUILDING 4,  
LOT 11, BLOCK 4 OF TRACT 1257 - RESUBDIVISION OF A  
PORTION OF THE FIRST ADDITION TO SHIELD CREST

## VARIABLE PROPERTY

Two parcels of land in Lot 11, Block 4 of Tract 1257 - RESUBDIVISION OF A PORTION OF THE FIRST ADDITION TO SHIELD CREST situated in Section 8, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

## PARCEL A

Beginning at the Initial Point of Tract 1271 from which the Initial Point of tract 1257 bears North  $76^{\circ}12'07''$  East 2078.07 feet and running North  $17^{\circ}30'00''$  West 358.00 feet; thence North  $34^{\circ}33'34''$  East 79.23 feet; thence South  $73^{\circ}10'24''$  East 679.00 feet; thence South  $39^{\circ}01'24''$  East 331.00 feet; thence South  $86^{\circ}57'37''$  East 200.06 feet; thence 417.19 feet along a 795.60 foot radius curve left, the long chord of which bears South  $78^{\circ}01'04''$  West 412.43 feet; thence 23.41 feet along a 110.00 foot radius curve right, the long chord of which bears South  $69^{\circ}05'36''$  West 23.37 feet; thence South  $05^{\circ}31'46''$  West 185.15 feet; thence North  $84^{\circ}28'14''$  West 183.99 feet; thence North  $71^{\circ}43'49''$  West 209.35 feet; thence North  $34^{\circ}00'17''$  West 304.63 feet to the Point of Beginning.

## PARCEL B

Commencing at the initial point of Tract 1271 from which the Initial Point of Tract 1257 bears North  $76^{\circ}12'07''$  East 2078.07 feet and running South  $34^{\circ}00'17''$  East 304.63 feet; thence South  $71^{\circ}43'49''$  East 209.35 feet; thence South  $84^{\circ}28'14''$  East 370.59 feet to the Point of Beginning; thence North  $66^{\circ}56'22''$  East 121.62 feet; thence North  $83^{\circ}08'57''$  East 230.41 feet; thence South  $04^{\circ}58'48''$  East 463.63 feet; thence North  $87^{\circ}32'54''$  West 261.83 feet; thence North  $04^{\circ}18'11''$  West 367.71 feet; thence North  $84^{\circ}28'14''$  West 92.17 feet to the Point of Beginning.



TRACT 1271 - SHIELD CREST CONDOMINIUMS, BUILDING 4,  
LOT 11, BLOCK 4 OF TRACT 1257 - RESUBDIVISION OF A  
PORTION OF THE FIRST ADDITION TO SHIELD CREST

NONWITHDRAWABLE PROPERTY

A parcel of land in Lot 11, Block 4 of Tract 1257 - RESUBDIVISION OF A PORTION OF THE FIRST ADDITION TO SHIELD CREST situated in Section 8, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at the Initial Point of Tract 1271 from which the Initial Point of Tract 1257 bears North  $76^{\circ}12'07''$  East 2078.07 feet and running South  $34^{\circ}00'17''$  East 304.63 feet; thence South  $71^{\circ}43'49''$  East 209.35 feet; thence South  $84^{\circ}28'14''$  East 183.99 feet to the Point of Beginning; thence North  $05^{\circ}31'46''$  East 185.15 feet; thence 23.41 feet along a 110.00 foot radius curve left, the long chord of which bears North  $69^{\circ}05'36''$  East 23.37 feet; thence 417.19 feet along a 795.60 foot radius curve right, the long chord of which bears North  $78^{\circ}01'04''$  East 412.43 feet; thence South  $86^{\circ}57'37''$  East 64.42 feet; thence South  $04^{\circ}58'48''$  East 218.52 feet; thence South  $83^{\circ}08'57''$  West 230.41 feet; thence South  $66^{\circ}56'22''$  West 121.62 feet; thence North  $84^{\circ}28'14''$  West 186.60 feet to the Point of Beginning.



EXHIBIT C

1605

**Klamath County ~ Planning Department**  
503-883-4200 — COMMUNITY DEVELOPMENT SERVICES — 334 MAIN STREET KLAMATH FALLS, OREGON 97601

January 16, 1991

Mr. William M. Ganong  
292 Main Street  
Klamath Falls, Oreg 97601

RE: Shield Crest Condominiums

Dear Mr. Ganong:

In review of Tract 1271, Shield Crest Condominiums, the land described as Parcel A and Parcel B, both being variable properties, and review of Planning Departments Ordinances as they exist to date, appears that the withdrawal of the variable lands by Shield Crest, Inc. from Condominium ownership and vesting title to Shield Crest Inc., would not violate any of the existing applicable Planning or Zoning Ordinances. However, in review of your Tract 1271, and variable property, known as Parcel A, if withdrawal should happen, one may want to record an easement for Lot 11 of Blk 4 in order not to create access problem at a later date. If you have questions regarding the above, please call.

Sincerely

Carl Shuck  
Planning Director

Return:  
KCTC

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 25th day  
of Jan. A.D., 19 91 at 9:35 o'clock AM., and duly recorded in Vol. M91  
of Deeds on Page 1591

FEE \$78.00

Evelyn Biehn County Clerk

By