



**FIRST AMENDMENT TO THE AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
EDGEMONT HIGHLANDS**

THIS FIRST AMENDMENT is made by Declarant as of the date set forth below.

RECITALS AND DEFINITIONS

A. The Declarant. Highlands Development II, LLC is the Declarant pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions For Edgemont Highlands recorded as Reception No. 884350 (the "Original Declaration") and under the Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands for Phase 2B recorded as Reception No. 906547 (the "2B Supplemental Declaration"). The 2B Supplemental Declaration exists under the authority and as a part of the Declaration pursuant to the Act and said instruments are referred to collectively herein as the "Declaration" except as otherwise required by the context. Declarant has the right to expand the Community under Section 9 of the Original Declaration and the Class B Control Period has not terminated.

B. Purpose of Amendment. The purpose of this amendment to the Original Declaration is to:

1. Clarify the incorporation of the Landscaping Guidelines within the Architectural Guidelines and to amend the Architectural Guidelines and the 2B Supplemental Declaration as such pertain to fences and invisible dog containment fences;
2. Amend the Architectural Guidelines relative to:
 - a. The clarification of the use of stucco as an exterior material.
 - b. The clarification of the roof pitch requirements.
3. Amend the 2B Supplemental Declaration to provide an Effective Date.

C. Procedure and Authority for Amendments.

1. Section 4.4.1 of the Declaration provides that:

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of or has a right to expand Edgemont Highlands pursuant to Section 9.1,...

Section 16.1 of the Declaration provides that:

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration and any Recorded plat for any purpose to the extent not limited by applicable law, ...

*RT Edgemont Highlands
291 ROCK POINT DR #107
17 81201*

D. Definitions. Except to the extent expressly defined otherwise herein, the terms used in this instrument shall have the same meaning as set forth in Declaration.

NOW, THEREFORE, the undersigned does hereby publish and declare that the following terms and covenants shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators, devisees or assigns and are in amendment to the Declaration:

1. **Architectural Guidelines and Landscaping Guidelines.**

a. Landscaping Guidelines were established by incorporation into the Original Declaration as Exhibit E thereto. Landscaping Guidelines are a part of the Architectural Guidelines for the Community and shall be promulgated, amended, applied, enforced and otherwise administered as part of the Architectural Guidelines.

b. Section 5 of the Landscaping Guidelines is hereby amended by adding the following:

A limited area containing a short, temporary fence to enclose a play area for young children may be allowed. All requests for a fenced play area must be submitted to the ARC for review and approval prior to installation. The submittal must include a design and sample of the fencing material as well as an anticipated dismantling date. The submittal must also show the lot and house footprint and the proposed fenced play area. ARC may request additional information regarding topography, foliage, etc., as it deems necessary. The enclosed play area is not a substitute for, and is not to be used for, dog containment (see below). Approval is at the discretion of the ARC.

c. The last line of Section 6 of the Landscaping Guidelines and Exhibit C to the 2B Declaration currently reads: "Invisible dog containment fences are not allowed". Said provision is hereby struck and replaced with the following:

◆ Invisible dog containment fences are allowed on a limited basis according to the following rules and restrictions:

1. All requests for use of invisible fencing must be submitted to the ARC for review and approval prior to installation. The submittal must show the lot and house footprint and the proposed invisible fence area. ARC may request additional information regarding topography, foliage, etc., as it deems necessary, on an individual basis. Approval is at the discretion of the ARC.

2. Generally the area of the invisible fence should not be wider than the back of the house and should extend toward the rear property line, but not extend past the rear setback.

3. Under no circumstances can the invisible fence area be anywhere on the front of the house, other than to contain the dog(s) in the garage, or be any closer to the property line than the minimum setback.

4. Houses that abut trails, open space or other more widely used common areas will

be required to have a greater setback of the invisible fence from those areas.

5. Generally the area of the invisible fence will be smaller on smaller lots and potentially larger on larger lots. Although submittals will be reviewed on an individual basis, different lot configurations will require specific review and the rule of thumb would be that the invisible fence area should not exceed three times the allowed size of a dog run area for that lot.

6. Invisible fence areas can only be used when the owner is home and able to oversee the dog(s). Invisible fences are not to be used while owners are sleeping (day or night).

7. Approval of any invisible dog containment fence may be revoked by the ARC if dog(s) breach the boundary, intimidate passers-by or wildlife, or cause a nuisance from barking.

d. Section 8a of the Architectural Guidelines is hereby amended by striking "(with the stucco below)" from line 2.

e. Section 9a(ii) of the Architectural Guidelines is hereby struck and replaced with the following:

The main roof pitch area shall have a pitch from 8/12 to 12/12. Porches, dormers and other small areas can be as shallow as 2/12.

2. **Amendment of 2B Supplemental Declaration.** The 2B Supplemental Declaration is hereby amended to add the following language:

Effective Date. Pursuant to Section 9.4 of the Amended and Restated Declaration, Declarant hereby declares the Effective Date of this Supplement Declaration with respect to assignment of voting rights and assessment liability shall be delayed until a date certain stated by Declarant in a supplemental instrument recorded in the real estate records of La Plata County, Colorado, which makes reference to this instrument.

3. **Incorporation of Consistent Terms of Declaration.** To the extent not inconsistent herewith, all other terms and conditions of the Declaration shall remain the same.

4. **General Provisions.**

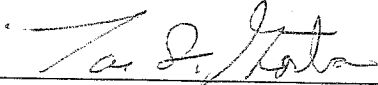
a. If any of the provisions of this First Amendment or any paragraph, sentence, clause, phrase or word, or the application therein in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this First Amendment, and the application of any such provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

b. Except to the extent expressly defined otherwise herein, the terms used in this instrument shall have the same meaning as set forth in Declaration. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal on the dates set forth opposite its signature.

HIGHLANDS DEVELOPMENT II, LLC, a Colorado Limited Liability Company

By: **Tom D. Gorton, Inc.**, a Colorado corporation, Manager

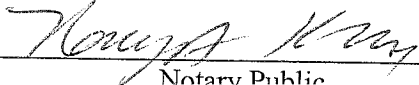
By 
Tom D. Gorton, President

STATE OF COLORADO)
) ss.
County of La Plata)

The foregoing instrument was acknowledged before me this 10th day of January, 2006, by Tom D. Gorton as President of Tom D. Gorton, Inc., a Colorado corporation, as Manager of HIGHLANDS DEVELOPMENT II, LLC, a Colorado Limited Liability Company.

My commission expires: 8-16-07

Witness my hand and official seal.


Notary Public

