

WARREN COUNTY, IOWA
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POLLY J. GLASCOCK, RECORDER

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Prepared by, and when recorded, return to: Jennifer L. Drake, Hubbell Realty Company,
6900 Westown Parkway, West Des Moines, Iowa 50266-2520 (515) 280-2057

SPACE ABOVE THIS LINE FOR RECORDER

**FIFTH MODIFICATION OF
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
APPLICABLE TO
THE LEGACY
NORWALK, WARREN COUNTY, IOWA**

THIS FIFTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 20th day of February, 2007, by H-CM, L. L. C., an Iowa limited liability company, ("Declarant").

WHEREAS, Declarant, as the Owner of The Legacy, as defined in Section 10.2(n) thereof, subjected The Legacy to that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated September 17, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on September 18, 2001 in Book 2001 at Page 9480, as modified by that certain First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated November 13, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on November 29, 2001 in Book 2001 at Page 12532, as amended by that Second Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated July 25, 2002 and filed for record in the Office of the Recorder for Warren County, Iowa on July 31, 2002, in Book 2002 at Page 8785 as modified by that Third Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, dated April 25, 2003 and filed for record in the Office of the Recorder for Warren County, Iowa on April 28, 2003 in Book 2003 at Page 5801, as modified by that Fourth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, dated August 30, 2005 and filed for record in the

Office of the Recorder for Warren County, Iowa on October 17, 2005 in Book 2005 at Page 11853 (collectively the "Declaration"); and

WHEREAS, Subsection 6.12 of the Legacy Declaration provided that Declarant could amend the Legacy Declaration by a written amendment so long as it owns any Lot in The Legacy, as defined in Subsection 1.02(n) of the Legacy Declaration; and

WHEREAS, Subsection 2.05 of the Declaration provides that Declarant can adopt a uniform style and appearance of mailboxes and mailbox poles and as such Declarant desires to do so; and

WHEREAS, Declarant owns (a) Lots 1 through 28, The Legacy Plat 9, an Official Plat, and (b) Lots 1, 2 through 28, The Legacy Plat 10, an Official Plat; and

WHEREAS, Declarant desires to amend the Declaration, in accordance with Section 6.12, with regard to Section 2.02(f) of the Declaration; and

WHEREAS, Declarant wishes to further modify Section 2.05 of the Declaration, in accordance with Section 6.12; and

WHEREAS, Declarant desires to amend the Declaration, in accordance with Section 6.12, with regard to Section 2.08 of the Declaration; and

NOW, THEREFORE, Declarant hereby amends the Declaration to adopt a uniform style and appearance of mailboxes and mailbox poles to be used for the Units in The Legacy:

1. Declarant hereby adopts a uniform style and appearance of mailbox post for all Units in The Legacy, which decorative mailbox posts shall be designer, in-ground, mounted black posts with dimensions of 4"W x 81"H x 4"D, as more particularly shown on the attached Exhibit A.
2. Declarant hereby adopts a uniform style and appearance of mailboxes for all Units in The Legacy, which mailboxes shall be black, metal mailboxes.
3. All existing mailboxes and mailbox poles may continue to be used as long as they are maintained in good condition and repair, but any replacements of such mailboxes or mailbox poles shall conform to the revised criteria for mailboxes and mailbox poles.
4. Declarant shall install "cluster-style" mailboxes to serve groups of the Single Family Lots in The Legacy Plat 9, The Legacy Plat 10, and all future plats, which mailbox, upon installation, shall become the property of The Legacy Owners Association without any further deed or transaction. Thereafter, The Legacy Owners Association shall maintain, repair and replace said mailbox. If The Legacy Owners Association fails to maintain, repair or replace said mailbox, then

the Owners of each Lot may erect individual mailboxes in the public right-of-way adjacent to their property (or across the street from the Lot on the side of the street on which mail delivery is made) such that the front of the mailbox is at least six inches (6") back of the curb and the mailbox is installed in such a manner so as not to lean or tilt. All such mailboxes and mailbox poles serving the Units shall be of a uniform style and appearance as set out in paragraphs 1 and 2 above, or another equivalent mailbox or mailbox pole approved in writing by Declarant, or once the Declarant has relinquished control of the appointment of the Board, adopted or approved by the Board, which list of approved mailboxes and approved mailbox poles shall be kept on file with The Legacy Owners Association and shall be uniformly applied. In the event there is any change in the approved style and appearance of mailboxes or mailbox poles to be used in The Legacy, then all existing mailboxes and mailbox poles may continue to be used as long as they are maintained in good condition and repair, but any replacements of such mailboxes or mailbox poles shall conform to the revised criteria for mailboxes and mailbox poles.

5. Nothing in this amendment repeals or modifies the other provisions of Section 2.05 of the Declaration; and

THEREFORE, Declarant hereby further amends the Declaration as follows:

1. Section 2.02 (f) of the Declaration shall be amended to read as follows:

"Minimum Single-Family House Sizes. The Legacy Plat 9 and The Legacy Plat 10, single family homes shall contain a minimum square footage of living space exclusive of attached garages, breezeways, porches, and finished basement areas as follows:

- (i) One-story dwellings must have a minimum of 1,500 square feet of finished area directly under the roof.
- (ii) One and one-half story dwellings must have a finished floor area of at least 1,600 square feet.
- (iii) Two-story dwellings must have a finished floor area of at least 1,800 square feet.
- (iv) All split-level, raised ranch, or split foyer dwellings must have a minimum of 1,600 square feet of finished area directly under the roof."

"Minimum Town Home Sizes. All town homes shall contain a minimum square feet of living space exclusive of attached garages, breezeways, porches, and finished basement areas, as follows:

- (i) One story town homes must have a minimum of 1,200 square feet of finished area directly under the roof.
- (ii) All 1½-story town homes must have a minimum total finished floor area of 1,400 square feet.

All 2-story town homes must have a minimum total finished floor area of 1,600 square feet.”; and

THEREFORE, Declarant further amends Section 2.08 of the Declaration as follows:

1. “Sidewalks. Four-foot (4.0’) wide public sidewalks will be allowed within the public right-of-way along all public streets abutting lots in The Legacy Plat 10.
2. Nothing in this amendment repeals or modifies the other provisions of Section 2.08 of the Declaration.

Except as expressly modified by this Fifth Modification of the Declaration, all of the terms, conditions, easements, restrictions and provisions of the Declaration continue and remain in full force and effect.

Dated this 20th day of February, 2007.

H-CM, L.L.C.

BY: Hubbell Realty Company, Manager

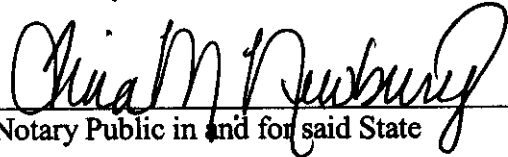
By: 
Dan D. Dutcher, Vice President

By: 
Jennifer L. Drake, Assistant Secretary

STATE OF IOWA)
) SS.
 COUNTY OF DALLAS)

On this 20th day of February, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Dan D. Dutcher and Jennifer L. Drake, to me personally known, who, being by me duly sworn, did say that they are the Vice President and Assistant Secretary, respectively, of **Hubbell Realty Company**, the managing member

of H-CM, L.L.C., an Iowa limited liability company; that no seal has been procured by said corporation or said limited liability company; that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors and on behalf of said limited liability company by authority of its Operating Agreement and members; and that the said Dan D. Dutcher and Jennifer L. Drake, as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation and said limited liability company, by each entity and by them voluntarily executed.


Notary Public in and for said State

