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**ARTICLES OF INCORPORATION
OF
THE LEGACY OWNERS ASSOCIATION**

In compliance with the requirements of Chapter 504A of the Code of Iowa (the Iowa Nonprofit Corporation Act), the undersigned, acting as incorporator of a nonprofit corporation, adopts the following Articles of Incorporation for such Corporation.

**ARTICLE I
NAME**

The name of the corporation is The Legacy Owners Association (the "Association").

**ARTICLE II
CORPORATE EXISTENCE**

The period of duration for the corporation is perpetual. The Association's existence shall commence upon the filing of these Articles of Incorporation with the Secretary of State of the State of Iowa.

**ARTICLE III
REGISTERED AGENT AND OFFICE**

R. Michael Hayes is hereby appointed the initial registered agent of this Association. The initial registered office of the Association shall be at 904 Walnut Street, Suite 900, Des Moines, Iowa 50309-3574.

**ARTICLE IV
PURPOSE AND POWERS OF THE ASSOCIATION**

The Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for the construction, management, maintenance, care and preservation of certain common facilities within the real estate which is subject to the Declaration, as hereinafter defined, as amended from time to time ("The Legacy") and to provide for the construction, management, maintenance, care and preservation of certain sidewalks, bike trails, greenbelt areas, project signage, entrance features, and landscaping within private easements or the public rights-of-way within and abutting The Legacy and to otherwise exercise and perform the rights, privileges and obligations assigned to the Association in the Declaration, to enforce the Declaration, to promote the health, safety and welfare of the Owners and users of The Legacy and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and to protect the value of the property within The Legacy. To achieve these purposes, the Association through its Board of Directors, shall have the right, power and authority to:

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- A. Exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated September 17, 2001, and recorded on September 18, 2001, in Book 2001 at Page 9480 in the Office of the Warren County Recorder, as the same may be amended from time to time as therein provided, (the "Declaration"), said Declaration being incorporated herein as if set forth at length;
- B. Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; and pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- C. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- D. Borrow money, and mortgage, pledge, enter into deeds of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- E. Dedicate, sell or transfer all or any part of the common facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members;
- F. Have and exercise any and all powers, rights and privileges that a corporation organized under the Iowa Nonprofit Corporation Act by law may now or hereafter have or exercise.

The purposes of the Association are exclusively not for private profit or gain. No part of the net earnings of the Association shall inure to the benefit of any director or officer of the Association or any private individual (except that reasonable compensation may be paid for services rendered to or for the Association affecting one or more of its purposes). No substantial part of the activities of the Association shall be the carrying on of propaganda or otherwise attempting to influence legislation, except as otherwise may be permitted in section 501(h) of the Internal Revenue Code of 1986 as amended. The Association shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. Notwithstanding any other provision of these Articles to the contrary, this Association shall not carry on any activities which are not permitted to be carried on by a corporation.

**ARTICLE V
MEMBERS**

Every person or entity who is an Owner (as defined in the Declaration) of any Unit (as defined in the Declaration), shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit in The Legacy.

**ARTICLE VI
MEMBER VOTING RIGHTS**

Owners of Units in The Legacy shall be entitled to one vote for each Unit of record owned and/or fraction of a Unit of record owned in excess of one-half of such Unit of record. If more than one person or entity hold an interest in any Unit or portion of a Unit all such persons shall be Members; however, the vote for such Unit or portion of a Unit shall be exercised as they determine, but in no event shall more than one vote be cast on any matter with respect to one Unit.

Notwithstanding the above or any provision of these Articles of Incorporation, the Bylaws or the Declaration to the contrary, H-CM, L.L.C. and its successors and assigns shall be the sole voting Member of the Association until such time as H-CM, L.L.C. and/or its successors and assigns no longer own any portion of The Legacy, or until H-CM, L.L.C. waives this right to be the sole voting Member, whichever first occurs.

**ARTICLE VII
BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board of three (3) and not more than five (5) directors. The number of directors may be changed by resolution of the Members as set forth in the Bylaws of the Association. The name and address of the persons who are to act in the capacity of the initial directors until the election of their successors are:

Mark R. Darwin	Hubbell Realty Company 904 Walnut Street, Suite 900 Des Moines, Iowa 50309-3574
Rick J. Tollakson	Hubbell Realty Company 904 Walnut Street, Suite 900 Des Moines, Iowa 50309-3574
Steven L. Niebuhr	Hubbell Realty Company 904 Walnut Street, Suite 900 Des Moines, Iowa 50309-3574

David Bridgewater

Hubbell Realty Company
904 Walnut Street, Suite 900
Des Moines, Iowa 50309-3574

R. Michael Hayes

Hubbell Realty Company
904 Walnut Street, Suite 900
Des Moines, Iowa 50309-3574

The initial terms for the initial five (5) members of the Board of Directors set forth above shall expire on December 31, 2002 following the first annual meeting of the Members. At the first annual meeting of the Members after these Articles of Incorporation shall become effective, the Directors shall be divided into two classes as determined by the Members, each class to be as nearly equal in number as possible, with the term of office of the first class to expire at midnight on December 31, 2003, and the term of the second class to expire at midnight on December 31, 2004. At any meeting of the Members thereafter that changes the number of Directors, the addition or deletion of Directors shall be allocated among the two classes, so that each class remains as nearly equal in number as possible. At each annual meeting after such classification, the number of Directors equal to the number of the class whose term expires on the upcoming December 31st shall be elected to hold office for a two (2) year term beginning on the January 1st after expiration of such current term and ending on the second December 31st thereafter.

ARTICLE VIII DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than three-fourths (3/4) of the Members with voting rights. Upon the dissolution of the Association, other than incident of a merger or consolidation, the assets of the Association shall be dedicated to an appropriate governmental body to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes, or if none exists shall be owned as tenants in common by the owners of all Units in The Legacy, the owner or owners of each Unit collectively having an undivided fractional interest, equal to the fractional amount which such Unit can be assessed of the total expenses pursuant to the Declaration.

ARTICLE IX EXEMPTION OF PRIVATE PROPERTY

The private property of the Members, directors and officers of the Association shall be exempt from all debts and liabilities of the Association of any kind whatsoever. Consistent with Section 504A.101 of the Code of Iowa, a Member, director, officer, employee or other volunteer of this Association shall not be personally liable in that capacity, for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for a breach of the duty of loyalty to the corporation, for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or for a transaction from which the

person derives an improper personal benefit. If Iowa law is hereafter changed to mandate or permit further elimination or limitation of the liability of the Association's Members, directors, officers, employees and volunteers, then the liability of the Association's Members, directors, officers, employees and volunteers shall be eliminated or limited to the full extent then permitted.

**ARTICLE X
AMENDMENTS**

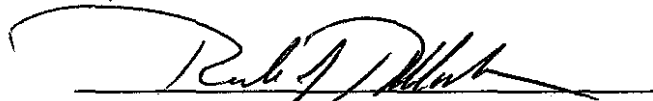
These Articles of Incorporation may be amended at any time and from time to time as provided by the Iowa Nonprofit Corporation Act. No proposed amendment shall be effective unless it is approved by the affirmative vote of three-fourths (3/4) of the Members with voting rights. Provided, however, that any purported amendment to these Articles of Incorporation in conflict with or contrary to any provision of the Declaration, including supplements or amendments thereto, shall be void and of no force and effect.

**ARTICLE XI
INCORPORATOR**

The name and address of the incorporator is:

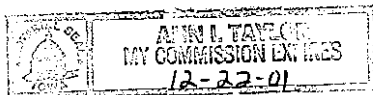
Rick J. Tollakson
Hubbell Realty Company
904 Walnut, Suite 900
Des Moines, Iowa 50309-3574

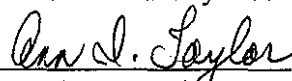
IN WITNESS WHEREOF, for the purpose of forming this Corporation under the laws of the State of Iowa, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 27 day of September, 2001.


Rick J. Tollakson, Incorporator

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 27 day of September, 2001, before me, a Notary Public in and for the State of Iowa, personally appeared Rick J. Tollakson, to me known to be the person named in and executing the foregoing instrument, and acknowledged that he executed the same as his voluntary act and ^{deed}




Notary Public in and for Said S

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**BYLAWS OF THE
THE LEGACY OWNERS ASSOCIATION**

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is The Legacy Owners Association, hereinafter referred to as the "Association". The principal office of the Association shall be located in Warren County, Iowa, but meetings of members and directors may be held at such places within the State of Iowa, as may be designated by the Board of Directors.

**ARTICLE II
DEFINITIONS**

Section 1: "Association" shall mean and refer to The Legacy Owners Association, its successors and assigns.

Section 2: "Association Lot" shall mean a Lot which is owned by (i) a town home association for the use and benefit of the members of such town home association and on which, either by recorded restrictions, recorded plats or zoning, no single-family home or town home may be constructed or (ii) which is owned by the Association for the use and benefit of members of the Association and on which, either by recorded restrictions, recorded plats or zoning, no single-family or town home may be constructed.

Section 3: "Board of Directors" shall mean the board of directors of the Association.

Section 4: "City" shall mean the City of Norwalk, Warren County, Iowa.

Section 5: "The Legacy" shall mean and refer to the real estate which is subject to the Declaration, as hereinafter defined, as amended from time to time ("The Legacy").

Section 6: "Common Facilities" shall mean the real property owned by or managed by the Association for the common use and enjoyment of the Owners pursuant to the Declaration or for which the Association is responsible to maintain pursuant to the Declaration.

Section 7: "Lot" shall mean and refer to any platted lot, tract, or portion thereof, or two or more contiguous lots, tracts, or portions thereof in The Legacy, including real estate subject to recorded easements, but shall not include any land deeded to the City.

Section 8: "Owner" shall mean and refer to the person or persons who, from time to time, collectively hold the entire fee title to any Lot, as applicable, in The Legacy, including sellers under executory contracts of sale (but shall not include any persons who hold fee title merely as

security for a loan, unless and until such person has succeeded to ownership by enforcement of its remedies under such loan documents) and use of the singular shall include the plural.

Section 9: "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated September 17, 2001, and recorded on September 18, 2001, in Book 2001 at Page 9480 in the Office of the Warren County Recorder, as the same may be amended from time to time as therein provided.

Section 10: "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Articles of Incorporation for the Association.

Section 11: "Unit" shall mean and refer to a Single-Family Lot or a Town Home Lot.

Section 12: "Single-Family Lot" shall mean a Lot (other than an Association Lot) which is platted for the development, use and occupancy as a single-family home.

Section 13: "Town Home Lot" shall mean a Lot (other than an Association Lot) which is platted for town homes and on which a single town home has been or may be constructed.

ARTICLE III MEETINGS OF MEMBERS

Section 1: Annual Meetings. Annual meetings of the Members shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting. The first annual meeting of the Members shall be held before December 31, 2002, and each subsequent annual meeting of the Members shall be held each year thereafter, at a date and time set by the Board of Directors.

Section 2: Special Meeting. Special meetings of the Members may be called at any time by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all the votes.

Section 3: Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the persons authorized to call the meeting, by mailing a copy of such notice, postage prepaid, no less than five (5) nor more than fifty (50) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied to the Member's address last appearing on the books of the Association, or supplied by such Member of the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4: Quorum. The presence at the meeting of the Members entitled to cast, or proxies entitled to cast, fifty-one percent (51%) of all the votes of the Members shall constitute a quorum

for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or presented at any meeting, another meeting may be called subject to the same notice requirement. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting at which the fifty-one percent (51%) quorum was not achieved.

Section 5: Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of such Member's Unit.

Section 6: Suspension of Voting Rights. A Member's voting rights shall be suspended for any period during which any assessment against the Member's Unit remains unpaid. The Board of Directors may suspend, for a period not to exceed sixty (60) days, a Member's voting rights for any infraction of the Association's rules and regulations.

Section 7: H-CM, L.L.C. Voting Rights. Notwithstanding the foregoing or any other provision in the Declaration or these Bylaws to the contrary, H-CM, L.L.C. shall be the sole voting Member of the Association until such time as H-CM, L.L.C. and/or its successors and assigns no longer own any portion of The Legacy, or until H-CM, L.L.C. waives this right to be the sole voting member, whichever first occurs.

ARTICLE IV BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

Section 1: Number. The affairs of this Association shall be managed by a Board of not less than three (3) or more than five (5) directors elected by the Members with the number of directors within such range being established by the Members. To qualify as a member of the Board of Directors, a person must be an Owner or member or officer of an Owner or the duly-appointed representative of an Owner of a Unit in The Legacy, except if the Board consists of five members, one member of the Board of Directors may be someone not a Member and not an officer or representative of a Member.

Section 2: Election and Term of Office. Members of the Board of Directors shall be elected by the Members pursuant to Article V of these Bylaws. The initial terms for the initial five members of the Board of Directors shall expire on December 31, 2002 following the first annual meeting of the Members. At the first annual meeting of the Members after the these Articles of Incorporation shall become effective, the directors shall be divided into two classes, each class to be as nearly equal in number as possible, with the term of office of the first class to expire at midnight on December 31, 2003, and the term of the second class to expire at midnight on December 31, 2004. At any meeting of the Members thereafter that changes the number of directors, the addition or deletion of directors shall be allocated among the two classes, so that each class remains as nearly equal in number as possible. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires on the

upcoming December 31st shall be elected to hold office for a two (2) year term beginning on the January 1st after expiration of such current term and ending on the second December 31st thereafter. Whenever any one or more of the said directors or their successors appointed or elected as herein provided shall die, be removed, be unable to act or resign, or ceases to be an Owner of a Unit, then the unexpired term shall be filled for the balance of such unexpired term by appointment of a successor director by majority vote of the then remaining directors, subject to the provisions of Article IV, Section 1 of these Bylaws.

Section 3: Removal. Any director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association with applicable voting rights.

Section 4: Compensation. No director shall receive compensation for any service he/she may render to the Association in his/her capacity as director. However, any director may be reimbursed for his actual expenses incurred in the performance of his/her duties.

Section 5: Actions Taken without a Meeting. The directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1: Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting of Members. The nominating committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nominations shall be made from among those eligible persons defined in Article IV, Section 1 of these Bylaws.

Section 2: Election. At all elections for directors, Owners of Units shall have the right to vote in person or by proxy, one vote for each Unit of record owned and/or fraction of a Unit of record owned in excess of one-half of such Unit for each director position as there are directors to be elected. If more than one person or entity hold an interest in any Unit or portion of a Unit all such persons shall be Members; however, the vote for such Unit or portion of a Unit shall be exercised as they determine, but in no event shall more than one vote be cast on any matter with respect to one Unit. Such vote shall be cumulative, that is, each Member may give one candidate as many votes as the number of votes held by the Member, multiplied by the number of directors

to be elected, or such cumulative total number of votes may be distributed on the same principle among as many candidates as owner shall see fit.

ARTICLE VI MEETINGS OF DIRECTORS

Section 1: Regular Meetings. Regular meetings of the Board of Directors may be held without notice, at such place and hour as may be fixed from time to time by resolution of the Board of Directors, and shall be held at least annually.

Section 2: Special Meetings. Special meetings of the Board of Directors shall be held when called by any two directors, upon twenty-four (24) hours' notice to each director.

Section 3: Quorum. Three (3) members of the Board of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1: Powers. The Board of Directors shall have the power to:

- A. Adopt and publish rules and regulations governing the use of the Common Facilities;
- B. Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations;
- C. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;
- D. Declare the office of a member of the Board of Directors to be vacant in the event such director shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- E. Employ a manager, an independent contractor, or such other employees as they deem necessary and to prescribe their duties.

Section 2: Duties. It shall be the duty of the Board of Directors to:

- A. Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- B. Supervise all agents and employees of this Association, and to see that their duties are properly performed;
- C. As more fully provided in the Declaration, to:
 - 1. fix the amount of the assessment against each Unit for each assessment period;
 - 2. send written notice of each assessment to every Owner subject thereto at least thirty (30) days prior to its due date and, if the Board of Directors determines desirable, cause notice of such assessment to be recorded; and
 - 3. foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- D. Issue upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- E. Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- F. Cause all employees or agents having fiscal responsibilities to be bonded, as it may deem appropriate; and
- G. Cause the Common Facilities to be maintained.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1: Enumeration of Offices. The officers of this Association shall be a President and Vice President, who shall, at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may, from time to time, by resolution create.

Section 2: Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3: Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise be disqualified to serve. Each officer's term shall commence on the 1st day of January following the election of officers, and shall expire at midnight on the 31st day of December in such year.

Section 4: Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require each of whom shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

Section 5: Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6: Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7: Multiple Offices. The offices of Secretary and Treasurer may be held by the same person, no person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8: Duties. The duties of the officers are as follows:

President

- A. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolution of the Board of Directors are carried out; shall sign, on behalf of the Association all promissory notes; and shall perform such other duties as provided in these Bylaws or by the Board of Directors.

Vice President

- B. The Vice President shall act in the place and stead of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board of Directors.

Secretary

- C. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; serve notice of meetings of the Board of Directors and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

Treasurer

- D. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign, on behalf of the Association, all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX

WRITTEN INSTRUMENTS, LOANS, CHECKS AND DEPOSITS, MERGERS

Section 1: Written Instruments - Real Property. All transfers, conveyances, leases, encumbrances or assignments of any real or personal property or of an interest thereon shall be executed by the President or Vice President and attested by the Secretary or Treasurer.

Section 2: Loans. No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by resolution of the Board of Directors. Such authority may be general or confined to specific instances. The Association may mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 3: Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Association shall be signed by two Directors or such agents of the Association as shall be determined and authorized by resolution of the Board of Directors.

Section 4: Drafts. All corporate funds not otherwise employed shall be deposited to the credit of the Association at such banks, savings and loans, credit unions, trust companies or other depositories as the Board of Directors may select.

**ARTICLE X
BOOKS AND RECORDS**

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE XI
ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments that are secured by a continuing lien upon the property against which the assessment is made. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Facilities or abandonment of his/her Unit.

**ARTICLE XII
CORPORATE SEAL**

The Association shall not have a corporate seal.

**ARTICLE XIII
INDEMNIFICATION**

Section 1: Indemnification: Third Party Actions. Except for any prohibition against indemnification specifically set forth in these Bylaws on in Chapter 504A, Code of Iowa, at the time indemnification is sought by any Member, director, employee, volunteer or agent of the Association, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a Member, director, employee, volunteer or agent of the Association, or is or was serving at the request of the Association as a Member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (such serving as a director, employee or agent of the Association or at the request of the Association referred to herein as "serving on behalf of or at the Association's request"), against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of

nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Section 2: Indemnification; Further Provisions. If a Member, director, employee, volunteer or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him or her in connection therewith. Any other indemnification (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that the indemnification of such person is proper because he or she has met the applicable standard of conduct set forth in Section 1; such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors not parties to such action, suit or proceedings, or (2) in a written opinion by special independent counsel selected by the Board of Directors by a majority vote of a quorum consisting of directors not parties to such action, suit or proceedings, or (3) if the requisite quorum of the full Board of Directors cannot be obtained through disinterested directors, in a written opinion by special independent legal counsel selected by a majority vote of the full Board of Directors in which directors who are parties may participate. Expenses incurred by defending a civil or criminal action, suit, or proceedings may be paid by the Association in advance of the final disposition of such action, suit or proceedings as authorized in the manner provided in this Section 2 upon receipt of an undertaking by or on behalf of such person that such person believes in good faith that he or she has met the applicable standard of conduct set forth in Section 1 and that such person will repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified as authorized herein. The indemnification and advancement of expenses provided herein shall not be exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any provision in the Articles of Incorporation, the Bylaws, any agreement, any vote of members or disinterested directors, or otherwise, both as to actions in the person's official capacity entitling the person to indemnification and advancement of expenses under these provisions and as to actions in other capacities concurrently held by those seeking indemnification or advancement of expenses. However, no person shall be provided indemnification by any provision of the Articles of Incorporation or Bylaws, by any agreement, or otherwise, for any breach of a duty of loyalty to the Association or its Members, for any act or omission not in good faith or which involves intentional misconduct or knowing violation of the law, or for any transaction from which the person derives an improper personal benefit. The indemnification provided herein shall continue as to a person who has ceased to be a Member, director, officer, employee, volunteer or agent and shall inure to the benefit of the heirs, executors, personal representatives and administrators of such a person. The Board of Directors shall have power to purchase and maintain insurance on behalf of any person who is or was serving on behalf of or at the Association's request against any liability asserted against him and incurred by him in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions hereof.

**ARTICLE XIV
AMENDMENTS**

Section 1: Method. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members with voting rights present in person or by proxy.

Section 2: Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

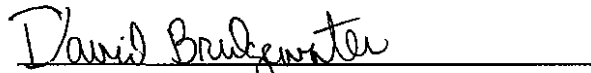
**ARTICLE XV
MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the initial directors of the The Legacy Owners Association have hereunto set their hands this 27 day of September 2001.



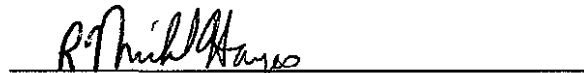
Rick J. Tollakson, Director



David Bridgewater, Director



Steven L. Niebuhr, Director



R. Michael Hayes, Director



Mark R. Darwin, Director



WARREN COUNTY, IOWA
FILED FOR RECORD

WHEN RECORDED RETURN TO:
R. Michael Hayes
Hubbell Realty Company
904 Walnut Street, Suite 900
Des Moines, Iowa 50309-3574

01 SEP 18 AM 9:33
BOOK 2001 PAGE 9480
JUDITH K. LATROP, RECORDER

This document was prepared by Gregory B. Wilcox, Nyemaster Law Firm, 700 Walnut Street, Suite 1600,
Des Moines, Iowa 50309-3899, (515) 283-3128

DEPUTY
Iowa Title 166 ⁰⁰ *ch*

SPACE ABOVE THIS LINE FOR RECORDER

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

This Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, (the "Declaration"), is made this 17th day of September 2001, by H-CM, L.L.C., an Iowa limited liability company.

WITNESSETH:

WHEREAS, Declarant is the owner of The Legacy (as defined in Section 1.02(n)).

WHEREAS, Declarant desires to develop The Legacy as a planned community; and

WHEREAS, Declarant desires to establish the covenants, conditions, easements and restrictions governing The Legacy for the benefit of the Owners (as defined in Section 1.02(k)) of Lots (as defined in Section 1.02(j)) and of Units (as defined in Section 1.02(q)) in The Legacy and to provide for the Association (as defined in Section 1.02(a)) to operate and maintain common elements of The Legacy.

NOW, THEREFORE, Declarant hereby publishes and declares that The Legacy shall be held, sold and conveyed subject to the following covenants, conditions, easements, restrictions, limitations and obligations, all of which are for the purpose of protecting the value and desirability of The Legacy, and all of which shall run with the land and shall be a burden upon and a benefit to, any and all parties acquiring or owning any right, title or interest in any part of The Legacy, and their heirs, successors, assigns, grantees, executors, administrators, and devisees.

ARTICLE I

INTENT; DEFINITIONS

1.01 Intent. It is the intent of this Declaration to provide conditions, covenants, easements, restrictions, and reservations to ensure the proper use and appropriate development of improvements to each Lot in The Legacy so that The Legacy is developed as a harmonious and

integrated development, and to protect the value and desirability of property within The Legacy. It is further the intent to provide for the Association to perform the operation, maintenance, repair, replacement, alterations, improvement or modification of the Declarant Improvements (as defined in Section 1.02(f)) and to perform the installation, operation, maintenance, repair, replacement, alteration, improvement or modification within The Legacy, of (a) project signage and entrance features, (b) landscaping on the corners of the intersections, and in the islands in the boulevard entrances, if any, and in the circles, if any, of any future cul-de-sac streets within The Legacy, (c) the storm water detention ponds, if any, (d) greenbelt areas, if any, in the plats and any bicycle and pedestrian trail, to the extent not done by the City, and (e) such other common features for the benefit of The Legacy as said Association shall undertake or as it agrees to perform on behalf of its members, and to enforce this Declaration.

1.02 Definitions.

- (a) **“Association”** shall mean The Legacy Owners Association, a non-profit corporation organized pursuant to Chapter 504A of the Code of Iowa, and its successors and assigns.
- (b) **“Association Lot”** shall mean a Lot which is owned by (i) a town home association for the use and benefit of the members of such town home association and on which, either by recorded restrictions, recorded plats or zoning, no single-family home or town home may be constructed or (ii) which is owned by the Association for the use and benefit of members of the Association and on which, either by recorded restrictions, recorded plats or zoning, no single-family or town home may be constructed.
- (c) **“Board”** shall mean the Board of Directors of the Association duly elected in accordance with the Articles of Incorporation and Bylaws of the Association.
- (d) **“City”** shall mean the City of Norwalk, Warren County, Iowa.
- (e) **“Declarant”** shall mean H-CM, L.L.C., an Iowa limited liability company, and its successors and assigns as to the entirety of the undeveloped portion of The Legacy that has not theretofore been conveyed to home builders or home owners unless the context indicates otherwise.
- (f) **“Declarant Improvements”** shall mean those public streets and improvements Declarant is to construct as part of the platting of any plats within The Legacy, as shown on the Site Construction Plans, those improvements that Declarant is to construct pursuant to this Declaration, and any additional improvements, whether similar or dissimilar to any of the foregoing that Declarant chooses to construct and deliver to the Association for continued operation, maintenance, repair, replacement, alteration, improvement or modification.
- (g) **“Golf Course Property”** shall mean Lots One (1), Two (2) and Three (3) in The Legacy Plat 1, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County Iowa.
- (h) **“Hereof” and “Herein”** shall refer to the entirety of this Declaration and not only to any particular part of this Declaration, unless the context clearly provides otherwise.

- (i) **“Improvements”** shall mean and include a building, outbuildings, driveways, parking areas, sidewalks, swimming pools, tennis courts, fences, walls, hedges, signs, lawns, landscaping, flag poles and any structure of any type or kind, and all additions to any of the foregoing.
- (j) **“Lot”** shall mean any platted lot, tract, or portion thereof, or two or more contiguous lots, tracts, or portions thereof in The Legacy, including real estate subject to recorded easements, but shall not include any land deeded to the City.
- (k) **“Owner”** shall mean the person or persons who from time to time collectively hold the entire fee title to any Lot, as applicable, in The Legacy, including sellers under executory contracts of sale, (but shall not include any person who holds such fee title merely as security for a loan, unless and until such person has succeeded to ownership by enforcement of its remedies under such loan documents), and the use of the singular shall include the plural.
- (l) **“Occupant”** shall mean an Owner and any person from time to time entitled to use and occupy any building, or any part of any building on a Lot, under any lease, deed, license or other instrument or arrangement by which such person has acquired rights with respect to the use and occupancy of any building or part of a building on a Lot in The Legacy.
- (m) **“Single-Family Lot”** shall mean a Lot (other than an Association Lot) which is platted for the development, use and occupancy as a single-family home.
- (n) **“The Legacy”** shall mean the real estate described in paragraphs 1, 2, 3 and 4 in Exhibit “A” attached hereto together with all additional real estate which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, including all lots and outlots, except streets, parks and other lots, if any, conveyed to the City (as defined in Section 1.02(d)), developed in any plats of any part of the property described in paragraphs 1, 2, 3 and 4 in Exhibit “A” or in any plats of any part of any additional property which is hereafter made subject to this Declaration pursuant to one or more amendments to this Declaration, and any replats of any portions of any of said plats or parcels together with all easements and servient estates appurtenant thereto, and subject to (1) zoning and other applicable building ordinances, (2) easements, covenants and restrictions of record.
- (o) **“Site Construction Plans”** shall mean any construction plans for the streets, sanitary sewers, water lines, storm sewers, surface water detention facilities, trails, and grading plans for any future plat in The Legacy, as the same are approved by the City and placed on file with the Association, and the final plats for any plats in The Legacy, as hereafter filed of record in the Office of the Recorder for Warren County, Iowa.
- (p) **“Town Home Lot”** shall mean a Lot (other than an Association Lot) which is platted for town homes and on which a single town home has been or may be constructed.
- (q) **“Unit”** shall mean a Single-Family Lot or a Town Home Lot.

(r) “Zoning Ordinance” shall mean the zoning ordinances of the City of Norwalk, Iowa, including, but not limited to The Legacy PUD, as the same may be amended from time to time.

(s) Words and phrases in this Declaration, including the acknowledgment, shall be construed as in the singular or plural number, unless the context permits only one such number.

(t) Words defined elsewhere in this Declaration shall have that meaning throughout the Declaration and not just in the Section in which such word is defined, unless the definition expressly states otherwise.

ARTICLE II

GENERAL USE RESTRICTIONS AND BUILDING SPECIFICATIONS

The Lots in The Legacy shall be held, occupied, sold and conveyed subject to the following use restrictions and building specifications, as well as those restrictions set forth elsewhere in this Declaration:

2.01 Uses.

(a) Single-Family Residences. The use of Single-Family Lots in The Legacy shall be limited to single-family residential dwellings and shall be developed with not more than one single-family dwelling on each Single-Family Lot in the final applicable plat or replat and may be developed only with such other uses of land or structures customarily incidental and subordinate to the single-family residential use as permitted by the City’s zoning ordinance, unless such uses or structures are otherwise regulated or prohibited by this Declaration. All Single-Family Lots must be built within twelve (12) months of purchase and closing from Declarant. In the event construction does not commence within said twelve (12) month period, Declarant may, at its option, repurchase the applicable Single-Family Lot at 90% of the previous sales price.

(b) Town Homes. Town Home Lots in The Legacy are designated for town home use. Uses of land or structures customarily incidental and subordinate to town home use as permitted by the City’s Zoning Ordinance unless such uses or structures are otherwise regulated or prohibited by this Declaration. In addition to the covenants, conditions, restrictions and easements set forth in this Declaration, the development of Town Home Lots in The Legacy shall be subject to additional declarations of covenants, conditions, restrictions and easements governing such town home developments, including, but not limited to, architectural standards, easements, common areas, assessments and other matters necessary and proper for the development of Town Home Lots (the “Town Home Declarations”). The initial Town Home Declaration and any amendments thereto made prior to the sale of ninety percent (90%) of the town homes developed within a particular town home development on Town Home Lots shall be subject to the approval of Declarant, which approval shall not be unreasonably withheld. Furthermore, in addition to such Town Home Lots being subject to the provisions of this Declaration, including, but not limited to, assessments made pursuant to this Declaration, the Town Home Lots in each cluster town home development shall be governed by an association created to operate and maintain the common elements within such cluster town home development and shall be subject to an additional assessment to support the activities of the

association for such cluster town home development. Such Town Home Lots shall also be subject to the Association and shall be subject to assessments made by the Association. In no event shall anything in a Town Home Declaration or any amendments made to a Town Home Declaration be deemed to amend this Declaration; and in the event of any conflict between a Town Home Declaration and this Declaration, the covenants, conditions, provisions and easements of this Declaration shall control. All Town Home Lots must be built on within twelve (12) months of purchase and closing from Declarant. In the event construction does not commence within said twelve (12) month period, Declarant may, at its option, repurchase the applicable Town Home Lots at 90% of the previous sales price.

(c) If an Owner does not commence construction within six (6) months after the purchase of a Lot from Declarant, the Owner shall seed the Lot with grass and maintain it in accordance with Section 2.20.

(d) Business Activity. No full-time or part-time business activity may be conducted on any Lot or in any building or structure constructed or maintained on any Lot, except to the extent of a home occupation permitted by the City's Zoning Ordinance and except that home builders may maintain model homes during construction and Declarant may maintain a sales office during its development and sales of the Lots in The Legacy.

2.02 Architectural Standards. The following architectural standards shall apply to the development of all Lots in The Legacy:

(a) Character. No building or structure shall be constructed, altered or maintained upon any Single-Family Lot other than a detached single-family dwelling with an attached private garage and may have such other accessory structures permitted by this Declaration. No building or structure shall be constructed, altered or maintained upon any Town Home Lot other than town homes each with an attached private garage and may have such other accessory structures permitted by this Declaration. In order to preserve the general design for development of the Lots in The Legacy as a fine residential subdivision of the City, no single-family dwelling or town home of any kind, or addition thereto, shall be erected upon any Lot unless the plan, design, building materials, exterior colors and location thereof shall have been first approved by Declarant, or if the Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, by the Board, or such person or persons or entity designated by it for this purpose, which approval shall not be unreasonably withheld or delayed.

(b) Exterior Foundations. Exposed foundations must be painted to blend with exterior wall finishes. Exposed foundations greater than 8" must be covered by an approved exterior wall finish matching the rest of the house or town house, as applicable.

(c) Siding. Siding material variations on the elevation for accent purposes are encouraged, but the overall character and predominant siding must be consistent on all four elevations of the structure. Siding shall not have a reveal of greater than 8". Exterior colors shall be earth tones, white, or soft, muted tones. Exterior materials may be pre-finished. One of the following items must be added as a material accent element on the front elevation of each house and town house: stone, brick, exterior finish insulation system (EIFS) or any other material approved in writing by Declarant, or if

Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, approved by the Board.

(d) Roof Materials. Roof material shall be slate, tile, cedar shakes, or composition shingles. Composition shingles shall be architectural grade, minimum twenty-five (25) year warranty. Shingle colors shall be muted earth tones and be compatible with and complimentary to the exterior materials and colors. White, white blend, and solid black roof shingles are not acceptable. All flashing and vents shall closely match or blend with the surrounding roof area. All vents and other roof penetrations should be located on the rear elevation wherever possible. Gutters should be part of the fascia detailing. Gutters and downspouts shall closely match the colors of the surfaces to which they are attached.

(e) Garages. All houses and town homes shall have, as a minimum, a two-car attached or built-in basement garage. Each house and town home shall provide off-street parking for two cars on paved surface.

(f) Minimum Single-Family House Sizes. All 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) All one-story dwellings must have a minimum of 1,600 square feet of finished area directly under the roof.
- (ii) All one and one-half story dwellings must have a minimum total finished floor area of 1,800 square feet.
- (iii) All two-story dwellings must have a minimum total finished floor area of 2,000 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.

(g) 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 1,350 square feet of finished area directly under the roof.
- (ii) All 1½-story town homes must have a minimum total finished floor area of 1,500 square feet.
- (iii) All 2-story town homes must have a minimum total finished floor area of 1,700 square feet.

(h) Minimum Finished Basement Floor Levels. If a minimum basement elevation requirement is shown on the final plat of the applicable Lot the single-family home or, if applicable, town homes constructed on such Lot shall have a finished basement floor elevation as shown on the applicable final plat.

(i) Decks and Porches. Decks attached to a single-family dwelling or a town home must be built from cedar, redwood, treated lumber or other products approved by Declarant, or once the Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, approved by the Board. Unpainted natural wood decks, though appropriate for rear yard spaces, are not acceptable as front entry porches. Front entry porches should be designed as integral, yet dominant features that invite entrance to the dwelling. Columns supporting porch roofs should be massive in scale (minimum 6" x 6"). Built up box columns or tapered round columns are encouraged. Handrails shall match the architectural style of the home. All wood steps to front entry porches shall have enclosed risers.

(j) Building Elevation and Drainage Standards. The finished grades for single-family homes and town homes constructed on each Lot shall be established to permit positive drainage away from such single-family homes and town homes.

2.03 Landscaping.

(a) Single-Family Lots. On each Single-Family Lot, the Owner at the time the dwelling is first occupied is required to plant, within ninety (90) days following the date of commencement of occupancy, one tree on such lot from any of the following species of trees: Red Maple (*Acer rubrum*), Norway Maple (*Acer platanoides*), Marshall's Seedless Ash (*Fraxinus p. 'Marshall's Seedless'*), Northern Red Oak (*Quercus borealis*), Burr Oak (*Quercus macrocarpa*), or Little Leaf Linden (*Tilia cordata*), or any other species approved by Declarant, in writing, or once the Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, approved by the Board, a copy of which additional approved trees shall be kept on file with the Association, (hereinafter such species of trees shall be referred to as "Street Trees"). Street Trees shall be a minimum of 2" caliper in diameter, 10' - 12' in height, and have a minimum spread of 4'. Street Trees shall be planted in the front yard of the Single Family Lot, outside the public right-of-way, but within any street tree easement, if any, upon such Single-Family Lot, or if there is no street tree easement, as near to the right-of-way as possible and not within an easement area without the consent of the easement holder.

In addition to the Street Tree required above, the following minimum quantities of landscape plants shall be planted on the applicable Single-Family Lot by the Owner at the time the dwelling is first occupied, within ninety (90) days following the date of commencement of occupancy:

- (i) 2 trees on all Single-Family Lots (trees other than Street Trees may be either deciduous trees whose trunks are at least 2" in caliper in diameter or evergreens that are at least 6' in height); and
- (ii) 10 deciduous and/or evergreen Shrubs.

This required landscape treatment should be concentrated around the front and entrance of the house. Approximately 75% of all required plant materials should be planted in the front and side yards within view from the street.

Within ninety (90) days after completion of the single-family home upon a Single Family Lot, the front yard, side yards and the twenty-five feet (25') of the rear yard measured from the rear of the dwelling foundation shall be fully sodded, and the remainder of the rear yard to the rear lot line shall be seeded or sodded.

If weather conditions make the time elements of the requirements of this Section 2.03(a) impossible to fulfill, Declarant, or once Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, shall establish a reasonable period of time for compliance.

(b) Town Homes Lots. An overall landscape plan for all Town Home Lots shall be submitted to Declarant, or once Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, to the Board, for approval prior to the installation of any landscape. The following minimum quantities of landscape plants shall be planted by the builder for each Town Home Lot, within ninety (90) days following the completion of the applicable Town Home Lot:

- (i) 2 street trees.
- (ii) 10 deciduous and/or evergreen shrubs.

If weather conditions make the time elements of the requirements of this Section 2.03(b) impossible to fulfill, Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, shall establish a reasonable period of time for compliance.

(c) Front yard Requirements; Sodding. A minimum of seventy-five percent (75%) of the front yard of each Lot (excluding driveways and sidewalk areas) must be maintained as a groomed yard. With the exception of permitted landscaping features the front, sides and back yards of each lot shall be completely sodded following the completion of the single-family home and town home. If weather conditions make it impossible to comply with the foregoing requirement, Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, shall establish a reasonable time within which to complete the sodding.

2.04 Fences And Hedges. No fences, walls, hedges or barriers shall be permitted upon Lots or adjoining property lines except as follows:

- (a) All fences must be approved by Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, in writing. No fence shall exceed six (6) feet in height.
- (b) Fences which are on Lots which abuts the Golf Course Property or which abuts a landscaping easement must be decorative wrought iron.
- (c) Fences on Lots which do not abut the Golf Course Property or a landscaping easement must be wood or decorative wrought iron.

- (d) All fences around dog runs must be black vinyl clad chain link or as approved by Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, approved by the Board, in writing. Animal runs, animal houses and animal shelters shall not be permitted unless they are located at the rear of the house or garage. All animal houses, animal runs and animal shelters shall be screened with landscaping so that they are not visible (i) to neighbors, (ii) from the street or (iii) from the Golf Course Property. Any animal house or animal shelter shall have the same external appearance, color and roof material as the single-family home or town home situated on the Lot. No animal house, animal shelter or animal run shall exceed twenty (20) square feet in area and no animal run, animal shelter or animal house shall be located within twenty (20) feet of any side lot line of any Lot or within forty (40) feet of the rear lot line of any Lot.
- (e) No hedges shall be permitted on any Lot within twenty (20) feet of any lot line abutting either the Golf Course Property or a landscaping easement. No hedges shall exceed six (6) feet in height.
- (f) No walls shall be permitted.
- (g) All fences shall be kept in good repair and attractive appearance. All wood fences shall be natural in color, stained, or painted in soft, earth tone colors so as to blend in with the terrain.
- (h) No fences shall be permitted in any landscape easements.
- (i) No fences shall be built forward of the centerline of any house or town house on a Lot.
- (j) Notwithstanding anything in this Declaration to the contrary, no Owner shall have the right to erect a fence within or across any easement area shown upon the final plat of any plats within The Legacy without the prior consent of the City or utility company or other person or entity companies for whose benefit such easement runs, as applicable. Any fence erected within or across an easement area without such consent may be taken down by the person for whose benefit such easement runs in the exercise of any rights granted by such easement without any obligation to such Owner to restore or repair such fence.

2.05 Mailboxes. All mailboxes and mailbox poles serving the Units shall be of a uniform style and appearance adopted in writing by Declarant, 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 Association and shall be uniformly applied. In the event there is any change in the approved style and appearance of a 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.

2.06 Playhouses, Utility Buildings and Other Accessory Structures. Playhouses, utility buildings, storage sheds or other similar structures shall be permitted; provided that the exterior and the roof of any such structure shall be constructed of the same material, have the same color and appearance as the residential dwelling on the same Lot and are located only in rear yards. Tennis courts shall be located in the rear yards only. No such improvements shall be located closer than twenty feet (20') from any lot line. No flagpole is permitted on any Lot other than a model or a sales and display office.

2.07 Driveways. No town home or single-family home shall be constructed, altered, or maintained on any Lot unless it has a driveway from a street running to the town home or single-family dwelling. All parking and driveway areas shall be hard surfaced, using a suitable thickness of Portland cement, or clay or concrete interlocking pavers installed in a manner suitable for vehicular traffic.

2.08 Sidewalks. Except as hereinafter expressly provided to the contrary, six-foot (6.0') wide public sidewalks are required within the public right-of-way along all public streets abutting Lots; provided, however, wider sidewalks may be required by amendments to this Declaration. Notwithstanding the foregoing, (i) four-foot (4.0') wide public sidewalks are required within the public right-of-way along all public streets abutting Lots 1, 2, 3 and 4 in Colonial Meadows Plat 3, an official plat, now included in and forming a part of the City of Norwalk, Iowa and all lots abutting the east side of Lexington Drive and (iii) eight-foot (8.0') wide public sidewalks or, if applicable, bike trail and sidewalk easements granted to the City are required within the public right-of-way on all Lots abutting the west side of Lexington Drive. At the time a building is built upon a Lot, the Owner of the Lot shall be responsible for construction of the public sidewalk along the portion of public street frontage(s) abutting said Lot and within any sidewalk easement areas on such Lot according to City specifications. Declarant shall have no obligation to a purchaser of a Lot to install sidewalks.

2.09 Garbage Cans and Equipment; Outside Storage; Holiday Displays. No trash receptacles, garbage cans or recycling bins shall be permitted to be located upon a Lot unless hidden by an attractive screen of suitable height or unless sunken to ground level in a hole lined with permanent cribbing, except that garbage cans, trash sacks, recycling bins, yard refuse bags and other materials for collection by an authorized refuse collector may be placed at the pickup area designated by the City or its authorized refuse collection company on the day before collection and may remain until the evening of the day of the scheduled collection of the same. Items such as compost containers, lawn or garden equipment, building materials, and other similar items shall be placed out of public view. Firewood shall not be stored on the front or side of a house. Stacked firewood in excess of 4' long by 3' high shall be adequately screened from view and must be stacked in the rear yard and be at least twenty feet (20.0') from any rear or side yard lot line. No material of any kind whatsoever may be stored in the front yard or side yard of a house (except that garden hoses may be stored in a side yard adjacent to an outside faucet if neatly coiled or contained on a hose reel), and no material of any kind shall be stored in a rear yard unless appropriately covered or screened from view by neighbors. No clothes lines shall be permitted. No clothing, rugs or other items shall be hung on or from any railing, landscaping or window. All repair of motorcycles, automobiles or other vehicles shall be done out of public view. No exterior holiday decorations shall be erected more than six (6) weeks prior to the holiday and all exterior holiday decorations shall be removed within three (3) weeks following the holiday. If the Owner of a Lot has not removed such holiday display within the foregoing time periods, and if the Owner of such Lot fails to remove such holiday display within fifteen

(15) days after such Owner receives written notice given by certified mail, return receipt requested, or delivered in person, from the Association or from any Owner within five hundred (500) feet of such Lot, the Association or Owner of the applicable Lot within five hundred (500) feet of the offending Lot shall have the right and easement to enter upon the premises and remove and dispose of the holiday display at the expense of the Owner of the applicable Lot where such holiday display is located, and shall have the right of action against the Owner of the applicable Lot for collection of the cost thereof, plus the reasonable costs, including attorney's fees, of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa, until such amount, plus the reasonable costs, including attorney's fees of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid.

2.10 Tents and Trailers. No trailer, boat, camper, motor home, or truck rated larger than $\frac{3}{4}$ ton or other movable or temporary structure or enclosure shall be maintained or parked on any Lot or street within public view and no tent shall be erected or maintained on any Lot for more than a cumulative of thirty (30) days in any calendar year.

2.11 Temporary Structures; Mobile Homes. With the exception of temporary sales offices placed by Declarant or its agents, there shall be no occupancy of temporary structures or partially completed structures, no home or other building shall be moved onto any Lot from outside The Legacy, and no mobile homes shall be permitted at any time.

2.12 Swimming Pools. Hot tubs and below-ground swimming pools are allowed provided that any hot tubs which are not below ground are skirted in wood or other materials approved, in writing, by Declarant, or once Declarant has relinquished control of the appointment of the Board, adopted or approved by the Board, which list of approved materials shall be kept on file with the Association and shall be uniformly applied. In the event there is a change in the approved materials for hot tubs, then all existing hot tubs which had previously approved material may continue so long as such materials are maintained in good condition and repair and all replacements of such material shall conform to the new criteria. All swimming pools and hot tubs shall be located only in rear yards and shall be screened by a privacy fence or hedge. Any outdoor hot tub must be located within ten (10) feet of the dwelling. No above-ground swimming pools are allowed. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or any other purpose.

2.13 Satellite Dishes. Satellite dishes or parabolic devices in excess of 22" in diameter used to receive television or other signals from satellites shall not be permitted. Declarant, or once Declarant has relinquished control of the appointment of the Board of Directors of the Association or delegated this responsibility to the Association, the Board of Directors of the Association, may increase or decrease the permitted size of satellite dishes or parabolic devices by a written notice of Declarant or resolution of the Board of Directors of the Association which shall be kept on file with the Association and shall be uniformly applied, except that any previously lawfully existing satellite dish or parabolic device that is in excess of the newly established maximum diameter for such devices may be maintained and repaired, but not replaced. The satellite dishes or parabolic devices shall be mounted on the rear elevation or the rear half of the side elevation only. In no event shall a satellite dish or parabolic device be mounted on the front elevation or the front half of a side elevation.

2.14 Towers and Antennas. No extension tower, projection tower, receiver or antennas of any kind shall be constructed or maintained on any Lot or on the exterior of any building on a Lot.

2.15 Livestock and Poultry Prohibited; Exterior Animal Houses. No animal, livestock, pigs or poultry of any kind shall be raised, bred or kept on a Lot except that dogs, cats and other small commonly accepted domestic pets may be kept so long as they are not kept, bred or maintained for commercial purposes or sale to the public. In no event, however, shall more than two dogs or cats, collectively, be maintained on any one Single-Family Lot or on any one Town Home Lot at any one time. All animals shall be tied, kept on a leash, fenced, confined within an underground electrical fence area which outside perimeters are at least ten (10) feet from all property lines, or kept in an animal run at all times. Animal runs, animal houses and animal shelters shall not be permitted unless they are located at the rear of the house or garage. All animal houses, animal runs and animal shelters shall be screened with landscaping so that they are not visible (i) to neighbors, (ii) from the street or (iii) from the Golf Course Property. Animal runs must be approved by the Declarant, or once Declarant has relinquished control of the appointment of the Board, approved by the Board, in writing, including, but not limited to, the size, location and fencing. Any animal house or animal shelter shall have the same external appearance, color and roof material as the single-family home or town home situated on the Lot. No animal house, animal shelter or animal run shall exceed twenty (20) square feet in area and no animal run, animal shelter or animal house shall be located within twenty (20) feet of any side lot line of any Lot or within forty (40) feet of the rear lot line of any Lot.

2.16 Sales Office. Declarant reserves the right to maintain one or more Units as a model or a sales and display office for itself, for its marketing firm, and/or for builders of homes within its plats; display or post signs of any type or size which are a part of the development and marketing of The Legacy and which may include references to the golf course and residential community; and to have agents and employees equipment and material on any Unit used as a model or sales office.

2.17 Utilities and Utility Meters. All utilities, including trunk and service lines for telephone, electricity and cable television, shall be constructed and located underground. Utility meters shall be hidden architecturally or through the use of remote reading devices. No private wells or septic systems shall be permitted on any Lot. No window mounted heating or air-conditioning units are permitted.

2.18 Security Lighting. Security lighting for driveways, parking and other external areas shall be designed, located and directed in a fashion which will avoid direct lighting onto adjoining Units or Lots. Other than security lighting, no light poles are permitted on any Unit or Lot, except for decorative lights in the back yards for pool lighting and except for any Association Lot on which an Association or town home association clubhouse is located.

2.19 Noxious Activities. No noxious or offensive activity, noise or odors shall be permitted on or to escape from any Lot, nor shall anything be maintained or done thereon which is or may become an annoyance or nuisance, either temporarily or permanently.

2.20 Maintenance of Lot. The Owner of any Lot, whether vacant or improved, shall keep the Lot free of debris and shall keep the Lot mowed so that the grass or weeds do not

exceed six (6) inches in height. Each Owner of a Lot shall cut such grass or weeds and/or remove such debris within fifteen (15) days after such Owner receives written notice given by certified mail, return receipt requested, or delivered in person, from the Association or from any Owner within five hundred (500) feet of such Lot. If the grass or weeds are not mowed within fifteen (15) days of receiving notice, the Association or Owner within five hundred (500) feet of the offending Lot shall have the right and easement to enter upon the premises and mow or cut the weeds or grass or remove the offending debris at the expense of the Owner of the Lot where such grass or weeds are not so mowed or such debris is located, and shall have a right of action against the Owner of such Lot for collection of the cost thereof, plus the reasonable costs, including attorney's fees, of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa until such amount, plus the reasonable costs, including attorney's fees of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid.

2.21 Construction Clean Up and Maintenance. Each Owner shall confine all of its construction activities solely to its Lot, shall keep its construction site clean, shall prevent any damage to any of the Declarant Improvements constructed or to be constructed by Declarant or by anyone else, and shall prevent any dirt, construction debris or other material from its Lot from being washed, blown, thrown, dumped, deposited or otherwise getting into the storm sewers, any storm water detention ponds, any overland flowage ways, the public streets, the public sidewalks or trails or onto any other Lot in The Legacy. Weekly clean up of trash and debris is required. During construction, the Owner shall install and maintain silt fences or equivalent erosion control on the downhill property line(s) from construction on its Lot. Owners are responsible for their contractors or subcontractors. Such Owner shall promptly repair any such damage and restore all such facilities, other Lots and public streets to their condition immediately prior to such damage, destruction or deposit of dirt, construction debris or other material. If an Owner fails to adequately keep its construction site or the street clean or fails to repair any such damage and restore such facilities, other Lots or public streets, and such failure continues for more than three (3) days after written notice from the Declarant in whose plat such Lot is located or the Association, then such Declarant or the Association shall have the right and easement to enter upon the premises and perform such clean up, repair or restoration at the expense of the Owner of the Lot where such construction site is not adequately maintained or whose construction activity caused dirt and debris to be deposited upon the Lots of others or the public streets, and shall have a right of action against the Owner of such Lot for collection of the cost thereof, plus the reasonable costs, including attorney's fees, of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum, or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa until such amount, plus the reasonable costs, including attorney's fees, of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid.

2.22 Requirement and Limitations with Respect to Public Easements Located upon an Owner's Lot. Easements for the installation and maintenance of sanitary sewers, public utilities, storm sewers, surface water flowage areas and drainage ponds and related facilities, water mains, public trails, golf course walkways and cart paths and pipe lines are reserved as shown on the recorded plats of The Legacy Plat 1, any future plat, or any replat of any portion thereof. The

Owner of any Lot in The Legacy shall, at such Owner's expense, keep and preserve that portion of such easements within such Owner's property (except golf course walkways and cart paths), at all times, in good condition, and shall neither erect nor permit erection of any building or structure of any kind nor permit any growth of any kind within such easement area nor change the grade of any such easement area in any manner that might interfere in any way with the use, maintenance, repair, restoration or replacement of any of the utility services, drainage, or sidewalks, golf course walkways and cart paths located in said easement area, without the prior consent of the City, golf course owner or utility company or person or entity for whose benefit such easement runs. Any such building or structure erected, growth permitted, or change in grade made within an easement area without such consent may be removed or regraded by the person for whose benefit such easement runs in the exercise of any rights granted by such easement without any obligation to such Owner to restore, repair or replace such building, structure, growth or change in grade.

2.23 Signage. Signage within The Legacy impacts the aesthetics of the neighborhood and property values. All signage shall meet the following requirements and restrictions:

- (a) Declarant or the Association shall erect The Legacy project identification signage within the signage easements at the entrances into the development.
- (b) In connection with the development of any plat within The Legacy, Declarant, or any other developer of a particular plat or town home development, may erect project signage, real estate signage, financing signage, contractor, supplier or subcontractor signage related to construction and financing of such plat development and sale of the developed within such plat; provided, however, all such signage, including, but not limited to, the size, location and materials, shall be subject to the written approval of Declarant or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, the approval of the Board. The developer of a townhouse development shall be permitted to place on the town home development property a project identification monument sign; provided, however, such signage, including, but not limited to, the size, location and materials shall be subject to the written approval of Declarant.
- (c) In connection with the construction of any residence or building upon any Lot in The Legacy the Owner or person constructing such residence or building may erect project signage, financing signage, contractor, supplier or subcontractor signage, or real estate signage related to the construction and financing of such residence or building and the sale of such residence or sale or lease of such building; provided, however, none of the foregoing signs shall be larger than 30" wide by 24" high without the written approval of Declarant or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, the written approval of the Board.
- (d) Once a Unit is sold and occupied as a residential dwelling unit, signage on that Unit shall be limited to (i) address signage, (ii) owner identification signs, (iii) signs advertising real estate for sale ("For Sale Signs"), (iv) sign for garage sales ("Garage Sale Signs"), (v) signs for special event signs (such as birthdays, graduations, or anniversaries, hereafter "Event" Signs), (vi) signs for political campaigns and public voting matters ("Political Signs"), and (vii) other signs approved in writing by Declarant or, after

Declarant delegates such function to the Association or no longer owns a Lot in The Legacy, approved by the Board. For Sale Signs shall only be displayed while the applicable single-family residence or town home is for sale and must be removed the day following the closing of the sale. Garage Sale Signs and Event Signs shall only be displayed one day before the sale or event, during the sale or event and must be removed by the day following the sale or event. Political Signs shall only be displayed up to two weeks prior to date of the vote or election, the day of the vote or election, and must be removed by the day following the vote or election. Political Signs not related to an election shall only be displayed for a maximum of two weeks. Other signs permitted by Declarant or the Board shall only be displayed for such time as authorized by Declarant or the Board, as applicable. All of the foregoing described signs shall be limited to no more than a 30" wide by 24" high yard sign and shall be professionally constructed. No hand painted signs will be allowed. Except for address and owner identification signs, no signs shall be erected on any building elevation, erected so that it is visible through window or glass openings or, except for vehicles with professionally made business signage on the vehicle, attached to vehicles parked within the neighborhood.

ARTICLE III

PRIVATE EASEMENTS

3.01 Golf Course Related Easements and Restrictions.

(a) Golf Course Play Easement. There has been granted to the owner of the Golf Course Property, along with its servants, independent contractors, agents, members, guests, and invitees (collectively, the "Golf Course Users"), a nonexclusive easement over and across all Lots in The Legacy for the following purposes:

(i) Retrieval of golf balls, including the right to enter on any Lot for that purpose, provided the right to retrieve golf balls shall only extend to non-enclosed portions of the Lots, and the person retrieving the golf balls shall do so in a reasonable manner and the owner of the Golf Course Property will repair any damage caused by entry onto the Lot to retrieve the golf ball; provided that no play of such golf balls shall be allowed from outside of the Golf Course Property boundary;

(ii) Flight of golf balls over, across, and upon each Lot, provided, that no play of such golf balls shall be allowed from outside of the Golf Course Property boundary;

(iii) Doing of every act necessary and incident to the playing of golf and other recreational activities on the Golf Course Property, including, but not limited to, the operation of lighting facilities for operation of driving range, and golf practice facilities during hours of darkness (but in no circumstances later than 10:00 p.m.), and the creation of usual and common noise levels associated with such recreational activities. All exterior lighting for the driving range shall be directed downwards and away from adjacent residential housing so as to minimize the impact on such residential housing and shall be in compliance with all applicable governmental requirements and all requirements established by Declarant so long as Declarant

owns a Lot and after Declarant no longer owns a Lot then as established by the Association;

(iv) Creation of noise related to the normal maintenance and operation of the golf course on the Golf Course Property, including, but not limited to, the operation of mowing and spraying equipment. Such noises may occur between the hours of 5:00 a.m. and 10:00 p.m.; and

(v) An easement for the occasional overspray of herbicides, fungicides, pesticides, fertilizers, and water of lots located adjacent to the Golf Course Property. Such easement shall extend for twenty feet (20') onto each Lot along the mutual property line between the Lot and the Golf Course Property.

(b) Damage by Errant Golf Balls. The Owners acknowledge and agree that the existence of a golf course on the Golf Course Property is beneficial and highly desirable; however, each such Owner acknowledges and agrees that Lots located adjacent to the Golf Course Property shall be subject to the risk of damage or injury due to errant golf balls. The Owner, their successors and assigns, hereby assumes the risk of damage and injury to persons and property and hereby releases Declarant and the owner of the Golf Course Property and their successors and assigns, from any and all liability for damage or injury caused to persons or property by errant golf balls, in, or on The Legacy, arising from, directly or indirectly, golf balls flying, landing, hitting, or resting in or around The Legacy. The above releases shall not be construed to extend to the release of the golfer who actually hits the errant golf ball.

(c) Fencing and Building Restrictions. No owner of land within The Legacy shall construct a fence or enclosure located along or next to the boundary lines between the Golf Course Property and The Legacy, except in compliance with the fence criterion set forth in this Declaration.

(d) No Rights in the Golf Course Property. No Owner of a Lot within The Legacy shall have any rights in or to the Golf Course Property or any other amenities located on the Golf Course Property, or any recreational activities occurring thereon, including, but not limited to, rights of membership in or to the golf course on the Golf Course Property, or right of access to or across the Golf Course Property, unless such right or rights have been granted or conveyed in writing by the owner of the Golf Course Property or its successors and assigns. Rights to use the recreational facilities located on the Golf Course Property shall be on such terms and conditions as may be promulgated from time to time by the owner of the Golf Course Property. Additionally, the owner of the Golf Course Property, its successors and assigns, have the right, without notice or warning, to plant, remove or trim trees or bushes on the Golf Course Property as it deems advisable, in its sole and absolute discretion.

3.02 Signage, Entrance Landscaping Features and Irrigation Easements.

(a) Declarant hereby grants to the Association, for and on behalf of the Owners of all Lots within The Legacy, an easement for the purpose of installing, maintaining, operating, repairing, replacing and removing signage, flags, other entrance features and landscaping

in, on, over, and under such easement areas as are dedicated for such purposes and described in an amendment to this Declaration:

(b) These easements are subject to the following conditions:

(i) The signs shall be The Legacy identification signs. All such signs shall conform to the ordinances, rules, and regulations of the City. Any electrical service for such signs shall be separately metered or otherwise separately billed by the public utility furnishing such electrical service and charged to the Association. Neither Declarant nor the Association is required to install or maintain signs in any or all of these sign easement areas.

(ii) Declarant shall install initial entrance features, if any, and landscaping and the Association may install any additional entrance features, signs and landscaping it desires and the Association shall maintain, operate and replace all signs, entrance features, landscaping within such signage and landscaping easement areas, including, but not limited to, paying for any electrical or water service for such operation and maintenance.

(iii) Neither Declarant nor the Association shall locate any such signage, entrance features, or landscaping in a manner to obstruct any vision triangles that overlap a portion of any such easement area, if any.

(iv) The Owner of the Lot upon which any such easement is located shall not make any modifications or improvements to any such easement area without the consent of the Association, which consent shall be in the Association's sole discretion.

(v) Any of the easement areas granted in this Section shall terminate (a) by written election of the Declarant, in recordable form, filed in the Office of the Recorder for Warren County, Iowa, provided that Declarant is then the Owner of the Lot on which such easement area lies, but if any sign is then located in such easement area, it shall be removed at the expense of Declarant, or (b) by the vote of the Board of the Association any time on or after January 1, 2016, and the filing of a written memorandum thereof in recordable form in the Office of the Recorder for Warren County, Iowa.

3.03 Street Tree Easements. Declarant and the Association shall each have the right, but not the obligation to plant Street Trees within any street tree easement established in any plat within The Legacy. Each plat within The Legacy shall provide for a street tree easement parallel to each street and each such street tree easement shall be located in the area that is between ten feet (10.0') and twenty feet (20.0') from the adjacent street right-of-way line. No landscaping other than Street Trees may be planted within any street tree easement without the written approval of Declarant, or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, the written approval of the Board. The Owner of each Lot shall be obligated for the maintenance of all trees located within the street tree easement area on such Owner's Lot and in the event any such trees die or otherwise are in a condition which would necessitate any of such trees being replaced such Owner shall replace any such tree at its sole cost. If an Owner fails to maintain or, if applicable, replace any such trees as provided above, the

Declarant or the Association shall have the right to enter upon such Lot to maintain or, if applicable, replace any such trees at the applicable Owner's expense and shall have a right of action against the Owner of such Lot for the costs thereof, plus reasonable costs, including attorneys' fees of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien on such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof as filed in the Office of the Recorder of Warren County, Iowa until such amount, plus reasonable costs, including attorneys' fees, of collecting such amount and the costs of filing of such lien, incurred by the lien holder is paid.

3.04 Landscaping Easements.

(a) Declarant hereby grants to the Association, for and on behalf of all Owners of Lots within The Legacy an easement for the purpose of planting landscaping and installing landscaping features and replacing, repairing and maintaining such landscaping and landscaping features in, on, over and under

(i) The following described real estate:

Beginning at the Southeastern corner of Lot 8 in The Legacy Plat 2, an Official Plat, all now included in and forming a part of the City of Norwalk, Warren County, Iowa; thence S 89° 26' 01" W 145.95 feet to the Southwestern corner of Lot 8; thence N 52° 13' 58" E 124.61 feet to the West right-of-way line of Lexington Drive; thence Southerly 88.77 feet along a 470.00 foot radius curve concave Southwesterly having a delta angle of 10° 49' 19" and a chord bearing S 32° 21' 23" E 88.64 feet to the Point of Beginning; and

(ii) Such other easement areas as are dedicated for such purposes and described in an amendment to this Declaration.

(b) These easement areas shall be subject to the following conditions:

(i) Declarant and the Association shall each have the right, but not the obligation, to plant landscaping and installing landscaping features in such easement areas.

(ii) The Owner of the Lot upon which any such easement is located shall not make any modifications or improvements to any such easement area without the consent of the Association, which consent shall be in the Association's sole discretion.

(iii) All easement areas established pursuant to this Section shall be maintained by the Association at the Association's cost and expense.

3.05 Pond Easements; Pond Lots.

(a) Declarant hereby grants to the Association a perpetual exclusive easement for the purpose of construction, reconstruction, operation, flow, passage, use, maintenance, repair and restoration of storm water detention areas that are expected to have normal water levels in such areas and with such normal water levels as are dedicated for such purposes and described in an amendment to this Declaration ("Pond Easements"). Additionally, Declarant may establish ponds on one or more Lots and convey such Lots to the Association (the "Pond Lots").

(b) The Pond Easements and the Pond Lots shall be subject to the following conditions:

(i) As part of the construction of any pond on a Pond Easement or Pond Lot ("Pond"), Declarant shall install and establish grass seed for at least five feet (5.0') in width around the Pond. The Owner of each Pond Easement or Pond Lot shall maintain such seeded area in good condition and shall not change the grade of or make any modification to any portion of any Pond Lot or Pond Easement within twenty feet (20.0') of the Pond or erect any improvements within twenty feet (20.0') of any Pond without the written approval of Declarant, or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, the written approval of the Board. Declarant or, if applicable, the Board may require, as a condition to granting such consent, that the Owner of the Pond Lot or, if applicable, Pond Easement, at the Owner's expense, furnish an opinion from a civil engineer acceptable to Declarant or, if applicable, the Board, licensed in the State of Iowa, that such modifications will not adversely affect the capacity of the Pond or increase any siltation of or erosion into the Pond. Except as otherwise expressly provided above with respect to the maintenance of the seeded areas, the Association shall be responsible for the maintenance of the Ponds and all improvements on the Pond Easements and Pond Lots.

(ii) The Owner of each Pond Lot or Pond Easement and the Owner of each Lot abutting a Pond Lot or Pond Easement shall erect and maintain silt control fences or other similar devices at all times to prevent erosion from such Owner's Lot into the Pond until such time as such Lot has been sodded or otherwise landscaped so as to prevent erosion into the Pond. If an Owner of a Pond Lot or Pond Easement or of a Lot abutting a Pond Lot or Pond Easement fails to adequately erect or maintain any such silt fences or other erosion control systems to prevent dirt and other materials from eroding from such Lot into the Pond and such failure continues for more than three (3) days after written notice from Declarant, or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, after written approval of the Board, the Owner of such Lot on which the default is occurring, the Declarant, the Owner of the applicable Pond Lot or Pond Easement, or the Association shall have the right and easement to enter upon such Lot and erect such fences or erosion control devices, clean up or remove dirt and debris at the expense of the Owner of the Lot which is in violation of the foregoing provisions and shall have the right against the Owner of such Lot for collection of the cost thereof, plus reasonable costs, including attorneys' fees, of collecting such amount plus

interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate permitted by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa and until such amount, plus the reasonable costs, including attorneys' fees, of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid.

(iii) No private docks may be constructed on or abutting any Pond.

3.06 Pond Access Easements.

(a) Declarant hereby grants to the members of the Association, their families, guests and invitees, the right to use the Ponds for fishing from the shore of the Pond and to otherwise use the Pond Lots and Pond Easements and the improvements located thereon in accordance with such terms and conditions from time to time prescribed by the Board and kept on file with the Association.

(b) No one shall have the right (i) to use boats upon the Ponds, (ii) swim in the Ponds, (iii) to ice skate, play hockey, ice fish or otherwise play or be on the ice on the Ponds at any time, or (iv) to otherwise use the Ponds for any purpose other than as a storm water detention facility for normal surface drainage and public storm sewers and for fishing (as described above), unless such use is permitted by the Board and then such permitted use shall only be allowed at the times, and to the extent and upon the terms and conditions established by the Board.

(c) Declarant and the Association shall each have the right, but not the obligation, to install gazebos, flag poles, landscaping and other improvements and the Association shall be obligated, at its expense, to operate, maintain, repair and replace any such improvements.

3.07 Surface Water Flowage Easements. The topography of The Legacy is such that surface water may flow from certain Lots onto other Lots. In regard to all matters concerning surface water, each Lot shall be subject to such easements as may exist for the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time, and all Owners shall have such rights and obligations with respect thereto as may be provided by such law.

3.08 Storm Water Detention Facility Maintenance Easements. Declarant hereby reserves to Declarant, and to the Association, a non-exclusive easement over, through and across any Lot within The Legacy on which there is a storm water drainage ways or detention facilities to the extent reasonable or necessary for the operation, maintenance, repair or restoration of any such storm water drainage ways or detention facilities and any related improvements, which may include stocking any permanent wet detention basins with fish or other wildlife (but not ducks or geese) and controlling any algae or other pests or nuisances associated therewith. The Association shall have the primary responsibility, at its cost, to maintain and keep the storm water detention ponds to be located in The Legacy in good condition and repair. The Association may, but is not required to, enhance such storm water drainage ways or detention facilities, for example by stocking fish in any permanent wet detention basins.

3.09 Pedestrian and Bike Trail Maintenance Easements. In the event Declarant establishes any pedestrian and bike trail easements within The Legacy and in the event the City

does not undertake the obligation to maintain, repair and restore such pedestrian and bike trails or in the event the City agrees to maintain such pedestrian and bike trails but fails to do so, the Association shall maintain, repair or restore them or cause them to be so maintained, repaired or replaced. In the event the bike and pedestrian trail easement is granted to the City and if the City will permit the Association to enhance such paved pedestrian and bike trails or any portion of such easement granted to the City within The Legacy, for example by erecting benches or landscaping adjacent to the trail, the Association, may, but is not required to, undertake such actions.

3.10 All of These Easements Are Subject to Concurrent Public Utility Easements.

All of the easements granted in this Article III are subject to the following concurrent easements granted in part or all of these respective easement areas: (a) any sanitary sewer easements, storm sewer and/or surface water flowage easements, or trail easements granted to the City, and (b) any public utility easements granted to the electric company or companies providing electrical service within the City, to the natural gas company or companies providing natural gas services within the City, to the telephone company or companies providing telephone service within the City, to the cable television company or companies providing cable television service within the City, and to the data transmission company or companies providing data transmission services within the City.

3.11 Construction of Certain Improvements and Amenities to The Legacy by Declarant. The Declarant shall promptly commence and diligently pursue to completion, at their expense, within the plats developed by Declarant, the construction, if applicable, of private storm water detention and flowage facilities and related facilities, the installation of signs, other entrance features and landscaping in the sign easement areas, and the installation of landscaping in the island boulevard medians, if any, and in any future island boulevard medians when constructed, and in the island medians in the cul-de-sac circles and in any future cul-de-sac circles, if any, constructed in any future plat or any replat of any portion of The Legacy and in greenbelt areas, if any, included in any plat, and associated irrigation lines and electrical and water services as may be required or appropriate, all substantially as shown on the Site Construction Plans, and such other additional improvements, if any, in such areas as Declarant desires. Upon completion of such work, Declarant shall install any other silt structures or other erosion control facilities required by law by reason of Declarant's work. Declarant may elect, within its discretion, to construct a clubhouse and/or recreational facilities, including, but not limited to, a pool and a sports court for use by the members of the Association and their families, guests and invitees; provided, however, Declarant shall have no obligation to construct a clubhouse or other recreational facilities. Collectively such work performed or to be performed by Declarant is referred to herein as the "Declarant's Improvements". Declarant shall perform all such construction of Declarant's Improvements in a good and workmanlike manner, with first class materials, and in accordance with all applicable laws, rules, ordinances, codes and regulations.

In the event any mechanic's or materialman's lien is filed against any Lot not then owned by Declarant as a result of the construction of Declarant Improvements by Declarant, Declarant shall, within thirty (30) days after such lien is filed, either pay the same and have it discharged of record or post such bond or other security as shall be required by law to obtain the release and discharge of such lien as against such Lot.

Upon completion of the Declarant Improvements, the Association shall operate, maintain, repair, restore and replace all such Declarant Improvements. Declarant shall execute such documents, including, but not limited to, bills of sale to convey title to any of the Declarant Improvements, but not the land upon which they lie, to the Association as may be necessary or

desirable to enable the Association to fulfill the duties and obligations delegated to the Association by this Declaration.

3.12 Conveyance of Lots Prior to Completion of Declarant's Work and Coordination of Construction of Improvements to Such Lots. Declarant may convey any Lot in its plats in The Legacy prior to completion of the Declarant Improvements to be made to The Legacy pursuant to Section 3.11 of this Declaration. In such event, Declarant shall have an easement to go on such Lot to the extent necessary to complete construction of the Declarant Improvements.

Declarant and the Owner of any such Lot conveyed prior to substantial completion of such Declarant Improvements to The Legacy shall use all reasonable efforts to cooperate and coordinate their respective construction work to the extent reasonably practicable so that each may undertake construction at the same time; provided, however, the Owner of such Lot may not undertake any construction work that materially interferes with the ability of Declarant to complete the Declarant Improvements, that materially delays Declarant in the completion of the Declarant Improvements, or that increases the cost to Declarant of constructing the Declarant's Improvements.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

4.01 Membership.

(a) Every Owner of a Unit in The Legacy shall be a member of the Association. A person who is not an Owner of a Unit in The Legacy may not become a member in the Association and will not be allowed access or use of any Declarant Improvements, other than as a guest or invitee of a member (which shall be subject to the Articles of Incorporation, Bylaws of the Association, and rules and regulations established by the Association from time to time), unless and until such person becomes the Owner of a Unit in The Legacy and becomes a member of the Association.

(b) An owner of any of the real estate described in paragraph 5 of Exhibit "A" may become a member of the Association by voluntarily electing to become a member of the Association but only after complying with the requirements set forth in this Section 4.01(b). The owner of any real estate which is not described in paragraphs 1, 2, 3, 4 or 5 of Exhibit "A" may become a member of the Association and said person's real estate may only become a part of The Legacy and subject to this Declaration with the sole consent of the Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, in writing, which consent shall be in the sole discretion of the Declarant or the Board, as the case may be, and only after complying with the requirements set forth in this Section 4.01(b). Membership in the Association of a person who is to become a member pursuant to this Section 4.01(b) shall be effective on the date that a written document, in a form acceptable to Declarant, or if Declarant no longer owns any Lots in The Legacy or otherwise delegates this responsibility to the Association, acceptable to the Board, in the Office of the Recorder of Warren County, Iowa signed by the owners of the applicable real estate and such election shall be irrevocable and shall run with the land and be binding upon the successors in interest to such real estate and, on the date such person becomes a member of the Association, such person shall be an "Owner", as defined herein, and such person's real estate shall become a "Lot" or "Lots", as applicable, as

defined herein, and such Owner and such Owners Lot(s) shall be subject in all respects to the terms and conditions of this Declaration, as amended from time to time, and shall be subject to the terms and conditions of the Articles of Incorporation and Bylaws of the Association, as amended from time to time. Membership shall be appurtenant to and may not be separated from ownership of any such Lot. Ownership of a Unit shall be the sole qualification for membership.

4.02 Voting Rights. The voting rights of members and the reserved rights of the Declarant are specified in the Articles of Incorporation and Bylaws of the Association.

4.03 Authority and Obligations. The Association through its Board of Directors, shall have the right, power and authority to:

- (a) provide for the enforcement of this Declaration;
- (b) borrow money and own, mortgage, pledge and convey real property and personal property;
- (c) provide for any operation, maintenance, repair, reconstruction, restoration, replacement, or improvement of the Declarant Improvements to The Legacy or any improvements hereafter made by the Association;
- (d) provide for the installation, operation and maintenance of project signage and entrance features;
- (e) provide for the installation, maintenance and care of landscaping on the corners of the intersections, in the islands, in the boulevard entrances, and in any circles of any future cul-de-sac streets within The Legacy;
- (f) provide for the planting of Street Trees in street tree easements;
- (g) provide for the installation, operation and maintenance of landscaping, landscaping features and other improvements within landscaping easements;
- (h) provide for the installation, maintenance and care of signage;
- (i) provide for the installation, operation, maintenance and repair of the storm water detention ponds of The Legacy;
- (j) provide for the maintenance, repair, restoration and reconstruction of any clubhouse and/or recreational facilities constructed by the Declarant for the use of the members of the Association and their guests and invitees.
- (k) provide for the installation, maintenance and repair of any barrier wall fences;
- (l) provide for the installation, maintenance and repair of all greenbelt areas in The Legacy and of bike and pedestrian trails within and abutting The Legacy, to the extent not done by the City of Norwalk, Iowa as provided in Section 3.09, including, if any, but not limited to snow removal from the bike and pedestrian trails;

- (m) make additional common improvements for the benefit of The Legacy;
- (n) in its discretion, perform services on behalf of the Owners of one or more of the Lots within The Legacy;
- (o) hire accountants, architects, contractors, lawyers, managers, employees, and such other persons as necessary or desirable to carry out its duties;
- (p) purchase such insurance as may be reasonable, including, but not limited to, general liability insurance, property and casualty insurance and officers and directors coverages;
- (q) levy, collect, and have jurisdiction, control and possession of assessments as hereinafter provided; to enter into contracts as may be necessary or desirable to carry out the provisions of this Declaration;
- (r) Establish rules and regulations for the use of Association property and easement areas which are established for the benefit of the members of the Association by members of the Association and their guests and invitees which may include remedies and the imposition of reasonable fines for the violation of such rules and regulations.
- (s) otherwise establish such procedures and policies as may be necessary or deemed desirable to provide for the general welfare of the Owners and Occupants of The Legacy, in accordance with the spirit and letter of this Declaration, including the power to make variances in this Declaration, but only in accord with the intent and purpose of Section 1.01 above; and
- (t) do such other things as are reasonable or necessary to carry out its obligations hereunder or under any agreement with any Owner of any Unit.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

5.01 Creation of Lien and Personal Obligation. Declarant hereby covenants, and each Owner of a Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association assessments as provided in this Declaration. The assessments levied by the Association and any other charges against the Owner of a Unit set forth elsewhere in this Declaration, together with interest, costs and reasonable attorney's fees shall be a charge on the Unit of such Owner and shall be a continuing lien upon such Unit against which each such assessment or charge is made senior to all liens except the first mortgage of record, any ad valorem taxes, and any special assessments levied by the City. Such assessment or charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Unit at the time when the assessment or charge fell due. The personal obligation for delinquent assessment or charge shall not pass to said Owner's successor in title unless expressly assumed by them.

5.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of carrying out the general duties and powers of the Association, including, but not limited to operation, maintenance, repair, reconstruction, restoration, replacement, or alteration of the Declarant Improvements to The Legacy or the

improvements hereafter constructed by the Association as provided in this Declaration, insurance coverage of the Association and its property, any legal or other costs of enforcement of this Declaration, and for such reasonable reserves as the Board deems necessary. In making such assessments, the amount to be levied shall be equal and limited to the actual cost to the Association of providing those functions and services set forth in this Declaration.

5.03 Rate of Assessment. The assessments levied upon and against Units within The Legacy and the Owners thereof, shall be a share of the total amount of each assessment prorated equally among such Units within The Legacy and the Owners thereof as of the beginning of the period for which such assessment applies.

5.04 Procedures. All assessments shall be made in the manner and subject to the following procedure, to wit:

- (a) Notice of all assessments may be given by mail addressed to the last known or usual post office address of the holder of legal title of the assessable property and deposited in the United States mail with postage prepaid, or may be given by posting a brief notice of the assessment upon the assessable property itself.
- (b) Every assessment shall become due and payable within thirty (30) days after notice is given as hereinabove provided, unless the assessment by its own terms provides for payment in monthly, quarterly or semi-annual installments, in which case each such payment shall be due as stated in such notice. From and after the date when said payment is due, it shall bear interest at lesser of (i) the rate of twelve percent (12%) per annum, or (ii) the maximum rate allowed by law, until paid and such payment and interest shall constitute a lien upon the assessable property and said lien shall continue in full force and effect until the assessment is fully paid. The Board may also impose a late charge in such amount as it shall establish from time to time and set forth in any notice of assessment to defray the Association's administrative costs associated with and collecting delinquent assessment payments. At any time after the passage of the resolution levying an assessment and its entry in its minutes, the Board may, in addition, execute and acknowledge with respect to any assessable property and cause same to be recorded in the Recorder's Office for Warren County, Iowa, and the Board may, upon payment, cancel or release any assessable property from the liability of assessment (as shown by recorded instrument) by executing, acknowledging and recording (at expense of the Owner of the property affected) a release of such assessment with respect to any assessable property affected, and the Board shall cause to be noted from time to time in the minutes of their proceedings, the payment made on account of assessments. Notwithstanding any other provision herein, the Association may bring an action at law against the Owner personally obligated to pay such assessment, or foreclose the lien against the assessable property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of such assessment, the cost of preparation, and filing the petition in such action including reasonable attorney's fees. No Owner of assessable property may waive or otherwise be relieved of liability for the assessments provided for herein by non-use of the common areas or facilities or abandonment of its assessable property.

- (c) The term "assessable property" shall mean all Units within The Legacy whether or not such Units have a single-family home or town home constructed on it and whether or not such Unit is vacant or occupied.

ARTICLE VI

GENERAL PROVISIONS; DURATION OF DECLARATION

6.01 Specific Enforcement of Restrictions. Declarant and each Owner of a Lot in The Legacy which is subject to the terms and conditions of this Declaration shall have the right to enforce this Declaration and each and every covenant, condition, easement, provision, restriction and term of this Declaration and in the event of the breach of any such covenant, condition, easement, provisions, restriction or term contained in this Declaration, Declarant and each such Owner shall have the right to exercise all rights and remedies available at law or in equity. All Owners of Units within the The Legacy covenant and agree, by acceptance of a deed to such Unit, whether or not it shall be so expressed in such deed, that monetary damages may not provide adequate compensation for the breach of the restrictions and covenants contained in this Declaration and that this Declaration may be specifically enforced by Declarant or the Board. All remedies provided for in this Declaration or which are otherwise available at law or in equity shall be cumulative. Neither Declarant nor any Owner of a Lot which is subject to the terms of this Declaration shall have any liability to any person or entity for any failure to enforce any provision of this Declaration.

6.02 Breaches Deemed to be a Nuisance. Every act or omission that violates, in whole or in part, any of the covenants, conditions, easements, provisions, restrictions and terms contained in this Declaration is hereby declared to be a nuisance, and every remedy allowed by law or equity therefore shall be applicable against the party who so violates this Declaration and may be exercised by Declarant or by any Owner of a Lot which is subject to this Declaration.

6.03 Attorneys Fees. In the event, in the reasonable opinion of the Board or Declarant, it shall be necessary to secure the services of an attorney to enforce the provisions of this Declaration, then the fee of such attorney, and all other costs in connection with the enforcement of this Declaration, including, but not limited to, the costs of obtaining and/or continuing an abstract of title to the Lot in question, the costs of any contemplated or actual legal proceedings, and the costs of preparation and presentation of any evidence in such connection shall be the obligation of the Owner of the Lot which is the subject of such enforcement action, unless such Owner is found not to have violated any provision of this Declaration, and provided such Owner shall not be obligated for any such attorneys fees and costs incurred by such Declarant or the Association after such Owner offers to settle such matter for an amount equal to or greater than that finally approved by a court of competent jurisdiction and/or by taking or forbearing from the requested action, as appropriate. If such costs and attorneys' fees are not paid within ten (10) days from the date of written notice thereof by the Board or such Declarant to the Owner of such Lot, said fee and costs shall thereupon constitute a lien against the property in question, the same as the lien for the general assessment pursuant to the provisions of Article V hereof, and all interest and remedies applicable to such lien shall apply thereto.

6.04 Inspection. Declarant or representatives of the Association who are authorized by the Board may, from time to time, at any reasonable hour or hours, enter and inspect any Lot or Unit subject to this Declaration to ascertain compliance therewith.

6.05 Failure to Enforce Not a Waiver of Rights. The failure of Declarant, the Association, or any Owner of a Lot which is subject to this Declaration to enforce any condition, covenant, easement, provision, restriction, reservation or term of this Declaration in any one instance shall not be deemed a waiver of the right to do so thereafter nor shall it be deemed to constitute a waiver of the right to enforce any other condition, covenant, easement, provision, restriction, reservation or term of this Declaration.

6.06 Rights of Third Parties. Nothing in this Declaration shall be construed so as to impose or create any duty or obligation on either Declarant, the Association or any Owner of any Lot which is subject to this Declaration to the benefit of the general public, third parties, or invitees, guests, employees, agents, principals or licensees of any Owner or Occupant of any Lot which is subject to this Declaration.

6.07 Liability. Neither the Declarant nor the Association, nor their respective members, shareholders, directors, managers, officers, employees, agents and representatives shall have any liability to or for damages of any sort to any Owner or Occupant or to any other person or entity for any exercise or failure to exercise any right or duty or obligation, if any, of Declarant or Association hereunder, or in any manner arising herefrom, or for the granting of approval or withholding of approval, required or permitted under the terms of this Declaration, except as in Declarant's or the Association's capacity as the Owner of any Lot that is subject to this Declaration. Provided, however, any Owner of a Lot which is subject to this Declaration may exercise any rights such Owner may have against the Declarant or Association or otherwise seek to enforce the conditions, covenants, easements, provisions, restrictions, reservations and terms of this Declaration against such Declarant or the Association, by an action in equity for specific performance or injunctive relief, to which Declarant shall be subject. These remedies of specific performance and injunctive relief, shall be the only remedies available against Declarant or the Association (except as in Declarant's or the Association's capacity as the Owner of any Lot that is subject to this Declaration) for any exercise or failure to exercise any right, duty or obligation, if any, of Declarant or Association hereunder, or in any manner arising herefrom, or for the granting of approval or withholding of approval required or permitted under the terms of this Declaration, all other remedies being expressly waived by acceptance of a deed to any Lot within The Legacy.

6.08 Condemnation. In the event of any partial taking by a governmental body or other entity that has the power of eminent domain that involves a taking of all or part of improvements to be constructed by Declarant, the Owners of each Lot agree, by acceptance of a deed to such Lot, whether or not it is so expressly stated in such deed, that the Association shall have and shall be deemed to have an interest in proceeds to be paid for such taking in the amount necessary to repair, restore or replace the portion of such improvements so taken as near as practicable to a functional whole to serve the same purpose after such taking as the facility so taken served prior to such taking. To the extent that the Association does not receive its own award or payment from the condemning authority or the award or payment received is inadequate to cover the cost of repair, restoration or replacement of such improvements, the Owners of each Lot receiving such award or payment shall pay to the Association pro rata from their awards or payments the amount necessary for the Association to complete such repair,

restoration or replacement of such improvements. In the event that the awards or payments received from such condemnation are inadequate to pay the entire cost to complete such repair, restoration or replacement of such improvements, then the remaining cost shall be assessed against all Owners of Units in The Legacy in proportion to their respective assessment shares. All amounts due to the Association from the Owners of any Unit shall constitute a lien against the property in question, the same as the lien for the general assessment pursuant to the provisions of Article V hereof, and all interest and remedies applicable to such lien shall apply thereto.

6.09 Estoppel Certificates. The Association shall issue to any Owner of a Unit or to any mortgagee of, or purchaser from, any Owner of a Unit, an Affidavit Explanatory of Title or Estoppel Certificate in such form as may reasonably be requested stating any or all of the following information:

- (a) whether the Association knows of any default under this Declaration by the Owner of such Unit, and if there are known defaults, specifying the nature thereof;
- (b) the nature of any amounts owed to the Association by any Owner about whose Unit the request is made, and the nature of any amounts owed by the Association to the Owner about whose Unit the request is made;
- (c) the applicable share of any assessments for which the Owner about whose Unit the request is made is liable;
- (d) the nature and amount of any budget or approved expenditures that have been adopted by the Association;
- (e) whether this Declaration has been amended, and if so, the nature of any such amendment;
- (f) whether the Association claims any offsets or defenses to any amounts owed by it under this Declaration to the Owner of such Unit, and if so, the nature of such offsets or defenses; and
- (g) whether this Declaration is in full force and effect, or if it is claimed it is not in full force and effect, specifying the portions of, or manner in which, this Declaration is not in full force and effect.

The Association shall be entitled to establish a reasonable fee for the provision of a certificate in accordance with the foregoing provisions and may condition the delivery of such certificate upon the payment of the applicable fee.

6.10 Covenants Binding and Running with the Land. Each of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration shall be binding upon and inure to the benefit of Declarant, the Association, and the Owners of each Lot in The Legacy, and their successors and assigns and all parties and persons claiming under any of them, and shall be deemed covenants that run with the land, and shall continue for the applicable periods specified in this Declaration.

It is the intent that, notwithstanding anything in the Code of Iowa to the contrary, all of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration shall be covenants running with the land for the full period specified in this Declaration without further action by either Declarant, the Association, or any Owner of any Lot in The Legacy. However, in the event that Section 614.24 of the Code of Iowa, as the same may be amended or replaced, may require that a verified claim be filed in the Office of the Recorder for Warren County, Iowa prior to the twenty-first anniversary of the date of this Declaration or the twenty-first anniversary of the last filing of such verified claim in order to continue all or some of the covenants of this Declaration, including, but not limited to, any covenant, term, provision or restriction that is or may be considered a use restriction, reversion or right of reverter, in effect throughout the applicable periods specified in this Declaration, then:

- (a) the Association, or the Owners of the Lots acting jointly or severally, shall file all verified claims necessary to keep all of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration throughout the applicable periods specified in this Declaration;
- (b) a verified claim filed by the Association or any Owner of a Lot in The Legacy shall be valid and binding upon the Association and all the then Owners of Units in The Legacy, (the "Interested Parties"), and their successors and assigns, with the same effect as if executed by all such persons, and in order to facilitate filing of any verified claim required to so continue all or any of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration throughout the applicable periods specified in this Declaration in full force and effect, the Association and each Owner of a Lot is hereby irrevocably appointed the attorney-in-fact for all of the other Interested Parties for the purpose of filing any such verified claim;
- (c) that in the event of any defect in the verified claim or its filing and recording in the Office of the Recorder for Warren County, Iowa, no interested person or anyone claiming, by, through or under an interested person shall be entitled to assert such defect as a basis to avoid its duties and obligations under this Declaration unless, if such defect is in a claim prepared by any interested party, such defect is not corrected within thirty (30) days after notice of such defect to all interested parties;
- (d) that in the event an interested party fails or refuses to cooperate to file any verified claim required to continue all or any of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration throughout the applicable periods specified in this Declaration in full force and effect, such interested party hereby waives and shall be deemed to have waived the right to, and be estopped to, assert any failure to file such verified claim as a defense to its duties and obligations under this Declaration; and
- (e) that each interested party by acquisition of its interest in The Legacy or under this Declaration, whether or not expressly provided in any instrument creating such interest, hereby waives its right to assert the failure to file any verified claim required by the Code of Iowa as a legal basis to avoid any duty or obligation upon it and its respective portion of The Legacy throughout the applicable period specified in this Declaration.

6.11 Duration. The easements granted in or pursuant to Article III of this Declaration or granted in any other Section of this Declaration, any other provisions of this Declaration expressly incorporated in Article III or such other Section of this Declaration to the extent applicable to such easements, and any other covenants, indentures, restrictions and reservations of this Declaration that are reasonably or necessarily incidental to the benefit or burden of such easement rights, including any rights of assessment or for liens for the payment of costs associated therewith, shall continue in perpetuity, unless sooner modified or terminated as provided in Section 6.12 of this Declaration.

Except as provided in the preceding paragraph of this Section, the covenants, indentures, restrictions and reservations in this Declaration shall be for an initial term of twenty (20) years, and shall automatically renew for successive terms of ten (10) years each, unless sooner modified or terminated as provided in Section 6.12 of this Declaration.

6.12 Amendment of This Declaration. This Declaration may not be altered, amended, modified, supplemented or terminated, in whole or in part, except in writing and as provided in this Section. Declarant, for so long as such Declarant retains ownership of any Lot within The Legacy which has no building located thereon, and after Declarant has no interest in The Legacy (other than as an Owner of a developed lot), the Owners possessing sixty percent (60%) or more of the Association voting rights (on issues other than the election and removal of directors) may, by written declaration signed and acknowledged by them and recorded in the Office of the Recorder for Warren County, Iowa, alter, amend, supplement, add to, or terminate such conditions, covenants, indentures, restrictions and reservations of this Declaration, provided, however, that such alteration, supplement, addition, amendment or termination shall insure provisions for the continued operation, maintenance, repair, restoration and replacement of improvements to The Legacy constructed by Declarant, and except that no such alteration, amendment, supplement, addition, or termination may change the manner of assessment of any Owner except in a manner applied uniformly to all Owners. No such alteration, amendment, modification, or change shall reduce or modify the rights or obligations granted to, or imposed upon, the Association with respect to the continued operation, maintenance, repair, restoration and replacement of the Declarant Improvements to The Legacy and the power to levy assessments therefor or to eliminate the requirement that there be an Association unless some other person or entity be substituted for the Association and succeed to all of its rights and duties under this Declaration. It is expressly understood that no such alteration, amendment, supplement, addition, or termination shall require the consent of any Occupant (other than an Owner, and then for such Owner-Occupant only to the extent provided elsewhere in this Section) or any mortgagee of any Lot, or from the City.

6.13 No Public Dedication. Nothing contained in the Declaration shall be deemed to be a gift or dedication of any portion of The Legacy to general public, or for the general public, or for any public purpose whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the benefit of the Owners of the Lots in The Legacy and the purposes herein expressed.

6.14 Release Upon Sale. Subject to the provisions of this Section, if an Owner of a Lot in The Legacy sells, transfers, or assigns its Lot (other than as security for a loan), then it shall be released from its future obligations under this Declaration. It shall be a condition precedent to such release and discharge that any and all amounts that shall then be due and payable by such Owner shall have been paid, and that such Owner shall give written notice to the

Association of any such sale, transfer, conveyance, or assignment concurrently with the filing for record of the instrument effecting the same.

Notwithstanding anything in this Declaration to the contrary, it is expressly understood and agreed that any first mortgagee who shall have acquired title to any Lot, or portion thereof, through foreclosure or deed in lieu of foreclosure, shall not be personally liable for any obligations under this Declaration that arose with respect to the obligations of the Owner of such Lot prior to the date such mortgagee acquired title thereto; provided, however, that any existing lien or right to a lien against such Lot allowed by this Declaration or as a result of the enforcement of this Declaration with respect to matters occurring before such mortgagee so acquired title thereto and shall continue and remain in full force and effect.

6.15 Severability. In the event any provision of this Declaration is held invalid, illegal, or unenforceable, in whole or in part, the remaining provisions of this Declaration shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Declaration is invalid, illegal or unenforceable as written or applied, but that by limiting such provision it would become valid, legal and enforceable, then such provision shall be deemed to be written or applied and shall be construed and enforced as so limited.

6.16 Time of Essence. Time is of the essence with respect to the performance of each of the conditions, covenants, terms and provisions of this Declaration.

6.17 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Iowa.

6.18 Captions. The captions of the Articles, Sections and Subsections of this Declaration are for convenience only and shall not be considered nor referenced in resolving questions of interpretation and construction of this Declaration.

6.19 Authority to Execute. The provisions of the Articles of Association and Operating Agreement of Declarant and the facts related thereto set forth in the Affidavit of Explanatory Title, filed for record in the Office of the Recorder for Warren County, Iowa on 9-18-2001 in Book 2001 at Page 9475, regarding the authority of Hubbell Realty Company to act and execute documents on behalf of Declarant have not been amended or revoked, in whole and in part, and remain in full force and effect.

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA

The following described real estate in Warren County, Iowa:

- (1) Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3;
- (2) Lots 2 and 4, Colonial Meadows Plat 4;
- (3) that part of Lot 1 and that part of Lot Z, Colonial Meadows Plat 5, if any, which is hereafter platted for single-family or town home purposes;
- (4) Outlots T, U, W, X, Y and Z in The Legacy Plat 1; and
- (5) any of the following lots that are hereafter made subject to this Declaration as provided in Section 4.01 of the Declaration:
 - (a) Lots 4, 6, 9, 13, 14, 16, 17, 20, 21, 22, 23, 24, 25 and 26, Colonial Meadows Plat 3;
 - (b) Lots 1, 3 and 5, Colonial Meadows Plat 4;
 - (c) Commencing at the North $\frac{1}{4}$ Corner of Section 12, Township 77 North, Range 25 West of the 5th P. M., Warren County, Iowa; thence S $00^{\circ}06'37''$ W, 55.04; thence S $87^{\circ}48'06''$ E, 449.82 feet; thence S $74^{\circ}30'52''$ E, 66.71 feet; thence N $68^{\circ}27'22''$ E, 38.08 feet; thence S $87^{\circ}48'06''$ E, 259.35 feet to the Point of Beginning; thence S $01^{\circ}23'18''$ W, 855.72 feet; thence N $88^{\circ}14'34''$ W, 102.78 feet; thence S $01^{\circ}02'10''$ W, 424.29 feet; thence S $87^{\circ}52'36''$ E, 422.35 feet; thence N $01^{\circ}08'36''$ W, 424.69 feet; thence N $87^{\circ}40'37''$ W, 160.23 feet; thence N $01^{\circ}22'47''$ E, 854.99 feet; thence N $87^{\circ}43'30''$ W, 159.88 feet to the Point of Beginning, or any portion thereof; and
 - (d) Any other lot allowed to become subject to this Declaration with the sole consent of the Declarant, or if Declarant no longer owns any Lots in The Legacy or has delegated such approval to the Association, the Board, in writing, which consent shall be in the sole discretion of the Declarant or the Board, as the case may be;

all of which plats are Official Plats, now included in and forming a part of the City of Norwalk, Warren County, Iowa.

WARREN COUNTY, IOWA
FILED FOR RECORD

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BOOK 2002 PAGE 8785
JUDITH K. LATHROP, RECORDER

DEPUTY

Prepared by, and when recorded, return to: R. Michael Hayes, Hubbell Realty Company,
904 Walnut St., Suite 900, Des Moines, Iowa 50309-3574 (515) 280-2051

SPACE ABOVE THIS LINE FOR RECORDER

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

And

**SUBSTITUTION OF THE LEGACY DECLARATION FOR THE AMENDED
AND SUBSTITUTED DECLARATION OF COVENANTS FOR COLONIAL
MEADOWS PLAT 3**

And

**SUBSTITUTION OF LEGACY DECLARATION FOR THE DECLARATION OF
COVENANTS FOR COLONIAL MEADOWS PLAT 4**

**THIS SECOND MODIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE
LEGACY, NORWALK, WARREN COUNTY, IOWA and SUBSTITUTION OF
THE LEGACY DECLARATION FOR THE AMENDED AND SUBSTITUTED
DECLARATION OF COVENANTS FOR COLONIAL MEADOWS PLAT 3 and
SUBSTITUTION OF LEGACY DECLARATION FOR THE DECLARATION OF
COVENANTS FOR COLONIAL MEADOWS PLAT 4 is made this 25 day of July,
2002, 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) of the Legacy Declaration as hereinafter defined, 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 amended 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,
(collectively the "Legacy Declaration"); and**

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

WHEREAS, Declarant owns (a) Lots 1 through 25, Lots 27 and 28, and Lots 31 through 61, The Legacy Plat 3, (b) Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3, (c) Lot 2, Colonial Meadows Plat 4, (d) Lot 1 and Outlot Z, Colonial Meadows Plat 5, (e) Outlot T, The Legacy Plat 1, which has been replatted as Outlots S2 and T2, The Legacy Plat 2 Amended, (f) the portion of Outlot X, The Legacy Plat 1, that is currently platted as Outlot X4, The Legacy Plat 4, (g) the portion of Outlot Y, The Legacy Plat 1, that is currently platted as Outlot Y2, The Legacy Plat 2 Amended, and (h) Outlots U and Z, The Legacy Plat 1; all Official Plats, now included in and forming a part of the City of Norwalk, Warren County, Iowa ; and

WHEREAS, Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3, and Lot 2, Colonial Meadows Plat 4, are smaller lots than the lots that are being developed in The Legacy Plat 2 Amended and The Legacy Plat 3; it is not possible to build as large a house on these single family lots; these single family lots were previously subject, respectively, to the Amended and Substituted Declaration of Covenants for Colonial Meadows Plat 3, dated November 22, 2000 and filed for record in the Office of the Recorder for Warren County, Iowa on November 27, 2000 in Book 2000 at Page 10923, (the "Colonial Meadows Plat 3 Declaration"), and to the Declaration of Covenants for Colonial Meadows Plat 4, dated October 6, 2002 and filed for record in the Office of the Recorder for Warren County, Iowa on October 9, 2000 in Book 2000 at Page 9335, (the "Colonial Meadows Plat 4 Declaration"); and it is desirable to conform the minimum size of single family home that can be built upon these lots to the minimum size of single family house permitted by the Colonial Meadows Plat 3 Declaration and the Colonial Meadows Plat 4 Declaration; and

WHEREAS, Declarant is the successor and assignee of Colonial Meadows, L. C., the Declarant of the Colonial Meadows Plat 3 Declaration, as Declarant under said Colonial Meadows Plat 3 Declaration and as the owner of said undeveloped Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3, that are held for resale purposes, and Section 16.01 provides that "[t]his Declaration of Covenants may be amended by an instrument signed (i) by the Declarant as long as the Declarant owns a Lot primarily for resale purposes, or (ii) by not less seventy-five percent of the Lot owners if Declarant does not own a Lot."; and

WHEREAS, Declarant is the successor and assignee of Colonial Meadows, L. C., the Declarant of the Colonial Meadows Plat 4 Declaration, as Declarant under said Colonial Meadows Plat 4 Declaration and as the owner of said undeveloped Lot 2, Colonial Meadows Plat 4, that is held for resale purposes, and Section 16.01 provides that "[t]his Declaration of Covenants may be amended by an instrument signed (i) by the Declarant as long as the Declarant owns a Lot primarily for resale purposes, or (ii) by not less seventy-five percent of the Lot owners if Declarant does not own a Lot."

NOW, THEREFORE, Declarant hereby amends the Legacy Declaration and the Colonial Meadows Plat 3 Declaration and Colonial Meadows Plat 4 Declaration as follows:

PART I

Amendments to the Legacy Declaration

1. Subsection 2.02(f) of the Legacy Declaration is hereby deleted in its entirety and a new Subsection 2.02(f) is substituted in lieu therefore to read as follows:

“(f) Minimum Single-Family House Sizes. (i) All single-family homes located on any of the Lots in Colonial Meadows Plat 3, and on any of the Lots in Colonial Meadows Plat 4, shall contain a minimum square footage of living space exclusive of attached garages, breezeways, porches, and finished basement areas as follows:

- (A) one-story dwellings must have a minimum of 1,450 square feet of finished area directly under the roof;
- (B) one and one-half story dwellings must have a finished ground floor area of at least 1,100 square feet, and a combined total ground floor area and second floor area of at least 1,500 square feet;
- (C) two-story dwellings must have a finished ground floor area of at least 830 square feet, and a combined total ground area and second floor area of at least 1,600 square feet; and
- (D) split entry and split-level dwellings are not permitted.

(ii) All other single-family homes located on Lots in the Legacy shall contain a minimum square footage of living space exclusive of attached garages, breezeways, porches, and finished basement areas as follows:

- (A) All one-story dwellings must have a minimum of 1,600 square feet of finished area directly under the roof.
- (B) All one and one-half story dwellings must have a minimum total finished floor area of 1,800 square feet.
- (C) All two-story dwellings must have a minimum total finished floor area of 2,000 square feet.
- (D) 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.”

2. The last sentence of Subsection 2.02(i) of the Legacy Declaration, (which reads: "All wood steps to front entry porches shall have enclosed risers."), is hereby deleted in its entirety and a new last sentence to Subsection 2.02(i) is substituted in lieu therefore to read as follows: "No wood steps to front entry porches are permitted."

3. The last sentence of Section 2.06 of the Legacy Declaration is hereby amended to read as follows: "No freestanding flagpole is permitted on any Lot other than a model home or sales and display office." Section 2.06 of the Legacy Declaration is hereby further amended by adding an additional sentence thereto to read: No solar collector or panel of any nature shall be permitted on any Lot or any building constructed on a Lot."

4. Section 2.10 of the Legacy Declaration is hereby deleted in its entirety and new Section 2.10 is substituted in lieu therefore to read as follows:

2.10 Motor Vehicles, Boats, Recreational Vehicles, Trucks and Tents. No inoperable vehicle, and no camper (including fold down camper), motor home, boat, tractor, trailer, three-quarter ton or larger truck, bus, snowmobile, all-terrain vehicle, shall be parked or maintained on any Lot (except inside a garage) or on the public street adjacent to any Lot for a period of longer than three (3) consecutive days or for longer than a total of thirty (30) days in any calendar year. No tent or other temporary structure or enclosure shall be maintained on any Lot for longer than a total of thirty (30) days in any calendar year."

5. Section 6.01 of the Legacy Declaration is hereby deleted in its entirety and a new Section 6.01 to the Legacy Declaration is substituted in lieu therefore to read:

6.01 Specific Enforcement of Restrictions. The Owner of any Lot or a portion thereof that is subject to the terms and conditions of this Declaration shall have the right to enforce this Declaration and each and every covenant, condition, easement, provision, restriction and term of this Declaration. In the event of the breach of any such covenant, condition, easement, provisions, restriction or term contained in this Declaration, each such Owner shall have the right to bring an action in any court of competent jurisdiction to enforce this Declaration and enjoin its violation, mandate compliance with the covenants, conditions, easements, provisions, restrictions and terms of this Declaration, or to recover damages for any breach of this Declaration, or for any other remedy or combination of remedies available at law or in equity.

In addition, Declarant for so long as Declarant owns any undeveloped Lot that is held for resale and that is subject to this Declaration and/or the Board, each in its sole discretion, shall have the right, but not the obligation, to enforce this Declaration and each and every covenant, condition, easement, provision, restriction and term of this Declaration and in the event of the breach of any such covenant, condition, easement, provisions, restriction or term contained in this Declaration, and shall have the right to bring an action in any court of competent jurisdiction to enforce this Declaration and enjoin its violation, mandate compliance with the covenants, conditions, easements,

provisions, restrictions and terms of this Declaration, or to recover damages for any breach of this Declaration, or for any other remedy or combination of remedies available at law or in equity.

All Owners of Lots that are subject to this Declaration covenant and agree, by acceptance of a deed to such Lot, whether or not it shall be so expressed in such deed, that monetary damages may not provide adequate compensation for the breach of the restrictions and covenants contained in this Declaration and that this Declaration may be specifically enforced by the Owners of other Lots subject to this Declaration or by the Declarant for so long as Declarant owns any undeveloped Lot that is held for resale and that is subject to this Declaration or by the Board. All remedies provided for in this Declaration or which are otherwise available at law or in equity shall be cumulative. Neither Declarant, the Board nor any Owner of a Lot which is subject to the terms of this Declaration shall have any liability to any person or entity for any failure to enforce any provision of this Declaration.”

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

PART II

Substitution of the Legacy Declaration for the Colonial Meadows Plat 3 Declaration and for the Colonial Meadows Plat 4 Declaration

1. Except as provided in Section 2 of this Part II and Section 2 of Part III, effective from and after the date of recording of this instrument, the Colonial Meadows Plat 3 Declaration and the Colonial Meadows Plat 4 Declaration shall have no further force and effect and the Legacy Declaration, as amended by this instrument, is substituted in lieu therefore, and all Lots in Colonial Meadows Plat 3 and Colonial Meadows Plat 4 shall be considered to be Lots or Units, as applicable, for all purposes under and to be subject to the Legacy Declaration.

2. Notwithstanding anything in the Legacy Declaration to the contrary, the Owners of Lots 4, 6, 9, 13, 14, 16, 17, 20, 21, 22, 23, 24, 25 and 26 of said Colonial Meadows Plat 3 and the Owners of Lots 1, 3, and 5 of said Colonial Meadows Plat 4 shall not be Members of The Legacy Owners Association nor entitled to the rights and privileges of Members of said Association nor subject to the burdens and obligations of Members of such Association unless and until the Owners of any such Lot elects to become a Member of the Association upon and subject to all of the terms and conditions applicable to Members of the Association under the Legacy Declaration and the Articles of Incorporation and Bylaws of the Association, as amended from time to time, and agrees irrevocably to subject such Lot to assessments for the Association. Such election shall be made in the manner and shall be subject to the approvals as set forth in Subsection 4.01(b) of the Legacy Declaration.

PART III

General Provisions

1. All capitalized terms used in this instrument that are not otherwise defined in this instrument shall have the meanings given to them in Legacy Declaration.
2. If, prior to the recording of this instrument, there exists or is under construction, on any Lot within Colonial Meadows Plat 3, Colonial Meadows Plat 4, or The Legacy, any Improvement that was in conformance with the Colonial Meadows Plat 3 Declaration, the Colonial Meadows Plat 4 Declaration, or, the Legacy Declaration, as applicable, but is not in conformance with the Legacy Declaration as amended by this instrument and as the same may hereafter be amended, (a "Non-Conforming Improvement"), such Non-Conforming Improvement may continue in existence subject to the following provisions. The Non-Conforming Improvement may not be enlarged or relocated and must, at all times, be in compliance with the provisions of the Colonial Meadows Plat 3 Declaration, Colonial Meadows Plat 4 Declaration, or the Legacy Declaration, as applicable, that was in effect at the time such Improvement was originally constructed. If a Non-Conforming Improvement is in need of repair, such Non-Conforming Improvement may be repaired without such Non-Conforming Improvement being brought into compliance with this the Legacy Declaration, as amended by this instrument and as the same may hereafter be amended; provided, however, all such repairs shall be made in a manner so that the Non-Conforming Improvement would be in compliance with the provisions of the Colonial Meadows Plat 3 Declaration, the Colonial Meadows Plat 4 Declaration, or the Legacy Declaration, as applicable, as the same existed at the time such Improvement was originally constructed. Notwithstanding the foregoing, in the event a Non-Conforming Improvement is damaged, in any manner, by any cause, to the extent of more than fifty percent (50%) of its replacement cost at the time of destruction, or if more than fifty percent (50%) of the Non-Conforming Improvement is replaced, for any reason, such Non-Conforming Improvement shall be repaired or replaced, in its entirety, in a manner so that such Non-Conforming Improvement is in compliance with the Legacy Declaration as amended by this instrument and as the same may hereafter be amended to the time of such damage or replacement, and if under such circumstances such Non-Conforming Improvement cannot be repaired or replaced in a manner so that such Non-Conforming Improvement is in compliance with the Legacy Declaration as amended by this instrument and as the same may hereafter be amended to the time of such damage or replacement, such Non-Conforming Improvement shall be removed from the Lot. Once a Non-Conforming Improvement has been changed to conform with the terms of the Legacy Declaration, as amended from time to time, it shall thereafter conform, at all times, with the terms of this Declaration, as amended from time to time.

[The Signatures appear on the next page.]

WARREN COUNTY, IOWA
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2003 PAGE 5801
JUDITH K. TATHAM, RECORDER

1604
JAT
DEPUTY

Prepared by, and when recorded, return to: R. Michael Hayes, Hubbell Realty Company,
6900 Westown Parkway, West Des Moines, Iowa 50265-2520 (515) 280-2051

SPACE ABOVE THIS LINE FOR RECORDER

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

**THIS THIRD MODIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE
LEGACY, NORWALK, WARREN COUNTY, IOWA** is made this 25th day of April,
2003, by **H-CM, L. L. C.**, an Iowa limited liability company, (“**Declarant**”).

WHEREAS, Declarant, as the Owner of The Legacy, as defined in Section 1.02(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 amended 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, and as amended by that Second Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and Substitution of The Legacy Declaration for the Amended and Substituted Declaration of Covenants for Colonial Meadows Plat 3 and Substitution of The Legacy Declaration for the Declaration of Covenants for Colonial Meadows Plat 4, 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, (collectively the “Legacy 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, Declarant owns (a) Lots 1 through 25 and Lots 27 through 61, The Legacy Plat 3, (b) Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3, (c) Lots 2 and 4, Colonial Meadows Plat 4, (d) Lot 1 and Outlot Z, Colonial Meadows Plat 5, (e) Lots 1 through 20 and Lot 25, The Legacy Plat 5, (f) the portion of Outlot X, The Legacy Plat 1, that is currently platted as Outlots R4 and X4, The Legacy Plat 4, (g)

the portion of Outlot Y, The Legacy Plat 1, that is currently platted as Outlot Y2, The Legacy Plat 2 Amended, and (h) Outlots U and Z, The Legacy Plat 1; all Official Plats, now included in and forming a part of the City of Norwalk, Warren County, Iowa ; and

WHEREAS, Declarant desires to amend Section 2.06 of the Declaration to allow flagpoles.

NOW, THEREFORE, Declarant hereby amends the Legacy Declaration as follows:

1. Section 2.06 of the Legacy Declaration is hereby amended by deleting the sentence that reads "No flagpole is permitted on any Lot other than a model or a sales and display office." therefrom in its entirety.

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

Dated this 25th day of April, 2003.

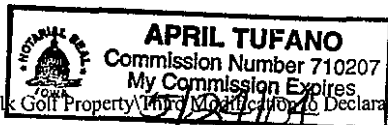
H-CM, L. L. C.
BY: Hubbell Realty Company, Manager

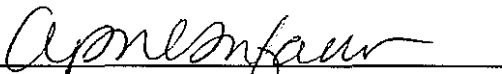
By: 
Rick J. Tollakson, President

By: 
R. Michael Hayes, Secretary

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 25th day of April, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Rick J. Tollakson and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of **Hubbell Realty Company**, the Manager of **H-CM, L. L. C.**, an Iowa limited liability company; that the foregoing instrument was signed on behalf of said corporate manager 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 Rick J. Tollakson and R. Michael Hayes, as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporate manager and said limited liability company, by each entity and by them voluntarily executed.



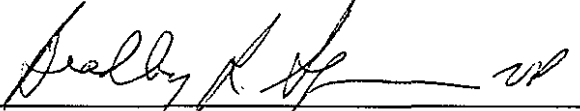

Notary Public in and for said State

MORTGAGEE'S CONSENT AND PARTIAL SUBORDINATION OF MORTGAGE

That **LIBERTY BANK, FSB**, ("Liberty Bank"), the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by H-CM, L. L. C., as Mortgagor, to Liberty Bank, as Mortgagee, dated September 20, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on September 20, 2001 in Book 2001 at Page 9621, (the "Mortgage"), which Mortgage creates a lien on, among other property, the property described as Outlot W2, The Legacy Plat 2 Amended, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa (formerly described as Outlot W, The Legacy Plat 2, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa), (the "Mortgaged Property"), which is part of the property to be platted as **The Legacy Plat 3**, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa, hereby consents to the within and foregoing First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and agrees that the lien of the Mortgage shall be subject, subordinate and inferior to said landscaping easements.

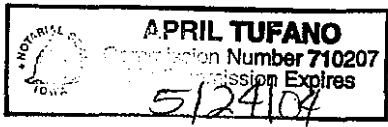
Dated this 25th day of April, 2003.

LIBERTY BANK, FSB, Mortgagee

By: 
Bradley R. Sporrer, Vice President

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 25th day of April, 2003, before me, a Notary Public in and for the State of Iowa, personally appeared Bradley R. Sporrer, to me personally known, who being by me duly sworn did state that he is the Vice President of **Liberty Bank, FSB**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and the said Bradley R. Sporrer, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.




Notary Public in and for said State

✓✓✓
WARREN COUNTY, IOWA
FILED FOR RECORD

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BOOK 2005 PAGE
JUDITH K. LATHROP, RECORDER

DEPUTY

\$22.00
Jat
Cng

Prepared by, and when recorded, return to: R. Michael Hayes, Hubbell Realty Company,
6900 Westown Parkway, West Des Moines, Iowa 50266-2520 (515) 280-2051

SPACE ABOVE THIS LINE FOR RECORDER

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

THIS FOURTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 30th day of August, 2005, 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 (collectively the “Declaration”); and

WHEREAS, Subsection 3.04(a)(ii) of the Declaration provided that Declarant could dedicate additional landscaping easement areas by a written amendment to the Declaration; and

WHEREAS, in connection with its development of The Legacy Plats 9 and 10, Declarant desires to dedicate certain additional landscaping easement areas within the meaning of Section 3.04 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration to dedicate the following additional Landscaping Easement areas with the meaning of, and upon the terms and conditions set forth in, said Sections 3.04 and 2.04 of the Declaration:

1. A forty (40) foot strip of land to be used for landscaping easement in the Northern forty (40) feet of Lots 1 and 28, all in the Official Plat of The Legacy Plat 9, now in and forming a part of the City of Norwalk, Warren County, Iowa; and
2. A forty (40) foot strip of land to be used for landscaping easement in the Northern forty (40) feet of Lots 1, 3, 4 and 28, all in the Official Plat of The Legacy Plat 10, now in and forming a part of the City of Norwalk, Warren County, Iowa.


All subject to those concurrent public utility easements granted to the electric company or companies, the gas company or companies, the telephone company or companies, the data transmission company or companies, and the cable television company or companies providing underground electrical, natural gas, telephone, data transmission or cable television services to The Legacy Plat 9 and to the concurrent storm sewer easement, all as more particularly shown on the Final Plat of The Legacy Plat 9.

Except as expressly modified by this Fourth 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 30th day of August, 2005.

H-CM, L. L. C.

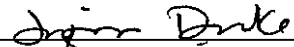
BY: Hubbell Realty Company, Manager

By: 
Steven L. Niebuhr, Senior Vice President

By: 
R. Michael Hayes, Secretary

STATE OF IOWA)
) SS.
COUNTY OF DALLAS)

On this 30th day of August, 2005, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven L. Niebuhr and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the Senior Vice President and 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 Steven L. Niebuhr and R. Michael Hayes, 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




MORTGAGEE'S CONSENT AND PARTIAL SUBORDINATION OF MORTGAGE

That **FIRST AMERICAN BANK**, ("First American Bank"), the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by H-CM, L. L. C., as Mortgagor, to First American Bank, as Mortgagee, dated August 2, 2005 and filed for record in the Office of the Recorder for Warren County, Iowa on August 11, 2005 in Book 2005 at Page 8738, (the "Mortgage"), which Mortgage creates a lien on, among other property, the property described as The Legacy Plats 9 and 10, Official Plats, now included in and forming a part of the City of Norwalk, Warren County, Iowa (the "Mortgaged Property"), now included in and forming a part of the City of Norwalk, Warren County, Iowa, hereby consents to the within and foregoing Fourth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and agrees that the lien of the Mortgage shall be subject, subordinate and inferior to said landscaping easements.

Dated this 31st day of August, 2005.

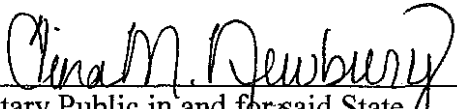
FIRST AMERICAN BANK, Mortgagee

By 
Dean L. Peyton, Executive Vice President

STATE OF IOWA)
) SS.
COUNTY OF POLK)

On this 31st day of August, 2005, before me, a Notary Public in and for the State of Iowa, personally appeared Dean L. Peyton, to me personally known, who being by me duly sworn did state that he is the Executive Vice President of **First American Bank**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and the said Dean L. Peyton, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.




Notary Public in and for said State

Prepared by, and when recorded, return to: R. Michael Hayes, Hubbell Realty Company,
904 Walnut St., Suite 900, Des Moines, Iowa 50309-3574 (515) 280-2051

SPACE ABOVE THIS LINE FOR RECORDER

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

THIS FIRST MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 13th day of November, 2001, 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, (the "Declaration"); and

WHEREAS, Subsection 3.04(a)(ii) of the Declaration provided that Declarant could dedicate additional landscaping easement areas by a written amendment to the Declaration; and

WHEREAS, in connection with its development of The Legacy Plat 3, Declarant desires to dedicate certain additional landscaping easement areas within the meaning of Section 3.04 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration to dedicate the following additional Landscaping Easement areas with the meaning of, and upon the terms and conditions set forth in, said Sections 3.04 and 2.04 of the Declaration:

- (1) That portion of Lot 49, The Legacy Plat 3, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa, more particularly described as follows:

Commencing at the Southwest Corner of said Lot 49; thence N 87° 03' 53" E 46.28 feet to the Southeast Corner of said Lot 49; thence N 38° 16' 34" E 45.89 feet along the Eastern line of said Lot 49 to the Point of Beginning; thence N 01° 38' 54" W 124.92 feet to a point on the North Line of said Lot 49; thence 53.11 feet Easterly along a 70 foot radius curve concave Southerly and having a central angle of 43° 28' 19" and a chord bearing S 67° 55' 01" E 51.85 feet; thence S 46° 10' 58" E 30.95 feet along the North line of said Lot 49; thence 21.24 feet Southwesterly along the East line of said Lot 49 a 530 foot radius curve concave Southeasterly having a central angle of 02° 17' 46" and a chord bearing S 39° 25' 28" W 21.24 feet; thence S 38° 16' 34" W 86.03 feet along the East line of said Lot 49 to the Point of Beginning; and

- (2) That portion of Lots 49, 50, 51, 52, 53, 54, 58, 59, 60 and 61 The Legacy Plat 3, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa, more particularly described as follows:

Commencing at the Southwest Corner of Lot 54, The Legacy Plat 3, said point also being the Point of Beginning; thence N 02° 52' 36" E 25.13 feet along the West Line of said Lot 54; thence N 87° 03' 53" E 469.15 feet to a point on the East line of Lot 49, The Legacy Plat 3; thence S 38° 16' 34" W 144.23 feet along the East line of Lots 49 and 61, The Legacy Plat 3; thence N 51° 43' 26" W 88.79 feet; thence S 87° 03' 53" W 312.42 feet to a point on the East line of Lot 58, The Legacy Plat 3; thence N 02° 52' 36" E 25.13 feet along the West Line of Lot 58, The Legacy Plat 3 to the Point of Beginning;

All subject to those concurrent public utility easements granted to the electric company or companies, the gas company or companies, the telephone company or companies, the data transmission company or companies, and the cable television company or companies providing underground electrical, natural gas, telephone, data transmission or cable television services to The Legacy Plat 3 and to the concurrent street tree easements, all as more particularly shown on the Final Plat of The Legacy Plat 3.

(The rest of this page is left intentionally blank.)

Except as expressly modified by this First 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 13 day of November, 2001.

H-CM, L. L. C.

BY: Hubbell Realty Company, Manager

By:

James W. Hubbell III
James W. Hubbell III, President

By:

R. Michael Hayes
R. Michael Hayes, Secretary

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 13 day of November, 2001, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James W. Hubbell III and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of **Hubbell Realty Company**, the Manager of **H-CM, L. L. C.**, an Iowa 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 James W. Hubbell III and R. Michael Hayes, 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.

Ann L. Taylor

Notary Public in and for said State



MORTGAGEE'S CONSENT AND PARTIAL SUBORDINATION OF MORTGAGE

That **LIBERTY BANK, FSB** , ("Liberty Bank"), the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by H-CM, L. L. C., as Mortgagor, to Liberty Bank, as Mortgagee, dated September 20, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on September 20, 2001 in Book 2001 at Page 9621, (the "Mortgage"), which Mortgage creates a lien on, among other property, the property described as Outlot W2, The Legacy Plat 2 Amended, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa (formerly described as Outlot W, The Legacy Plat 2, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa), (the "Mortgaged Property"), which is part of the property to be platted as **The Legacy Plat 3**, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa, hereby consents to the within and foregoing First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and agrees that the lien of the Mortgage shall be subject, subordinate and inferior to said landscaping easements.

Dated this 14th day of November, 2001.

LIBERTY BANK, FSB, Mortgagee

By: Bradley R. Sporrer *BR*
Bradley R. Sporrer, Vice President

By: Matthew Jenkins
Print Name: Matthew Jenkins
Title: Officer

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 14th day of November, 2001, before me, a Notary Public in and for the State of Iowa, personally appeared Bradley R. Sporrer and Matthew Jenkins, to me personally known, who being by me duly sworn did state that they are the Vice President and Officer, respectively of **Liberty Bank, FSB**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and the said Bradley R. Sporrer and Matthew Jenkins, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Andrew L. Vance
Notary Public in and for said State



WARREN COUNTY, IOWA
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WARREN COUNTY, IOWA
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07 FEB 21 PM 2:09

BOOK 2007 PAGE 2235
POLLY J. GLASCOCK, RECORDER

BOOK 2007 PAGE 1653
POLLY J. GLASCOCK, RECORDER

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DEPUTY

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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 26th 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

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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.

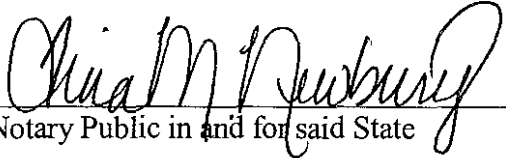

Notary Public in and for said State



EXHIBIT A



6900 Westown Parkway
West Des Moines, Iowa 50266
www.hubbellrealty.com
515-243-3228
FAX 515-280-2000

The Legacy Mailbox

Decorative mailbox post-designer-
in-ground mounted. Black.
Dimensions 4"W x 81"H x 4"D

Model # 4835BLK

Price: \$110.00

Installation: \$50.00



For ordering/installation
please contact:

Brant Janke
Hubbell Realty Company
554-6376

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BOOK ~~2001~~ 2007 PAGE _____
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

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

THIS SIXTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 15th day of November, 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 modified 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, as modified by that Fifth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, dated February 20, 2007 and filed for record in the Office of the Recorder for Warren County, Iowa on February 21, 2007 in Book 2007 at Page 1653 (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, Declarant continues to own Lots located in The Legacy; and

WHEREAS, Declarant desires to amend the Declaration, in accordance with Section 6.12, with regard to Section 3.06 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration to prohibit individuals from trespassing on private Lots in order to access the ponds located within the Common Area:

1. Subsection 3.06(a) shall be amended as follows:

“(a) Declarant hereby grants to the members of the Association, their families, guests and invitees, the right to use the Ponds for fishing from the shore of the Pond and to otherwise use the Pond Easements and the improvements located thereon in accordance with such terms and conditions from time to time prescribed by the Board and kept on file with the Association. Notwithstanding the foregoing, no Owner, Association Member or any other person shall have the right to cross, utilize or otherwise trespass upon a Lot in order to access any Pond Lot located at The Legacy.”

2. 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 15th day of November, 2007.

H-CM, L.L.C.

BY: Hubbell Realty Company, Manager

By: 

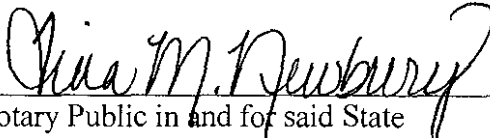
Steven L. Niebuhr, Senior Vice President

By: 

Jennifer L. Drake, Assistant Secretary

STATE OF IOWA)
) SS.
COUNTY OF DALLAS)

On this 15th day of November, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven L. Niebuhr and Jennifer L. Drake, to me personally known, who, being by me duly sworn, did say that they are the Senior 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 Steven L. Niebuhr 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



WARREN COUNTY, IOWA
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BOOK 2008 PAGE 7438
POLLY J. GLASCOCK, RECORDER

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Prepared by, and when recorded, return to: Chet A. Mellema, Hubbell Realty Company, 6900 Westown Parkway,
West Des Moines, Iowa 50266-2520 (515) 280-2042

SPACE ABOVE THIS LINE FOR RECORDER

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

THIS SIXTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 26th day of August, 2008, by **H-CM, L.L.C.**, an Iowa limited liability company ("**Declarant**").

WHEREAS, Declarant, as the Owner of The Legacy, as defined in Section 1.02(n) of the Declaration, 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 modified 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, and as modified by that Fifth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, dated February 20, 2007, and filed for record in the Office of the Recorder for Warren County, Iowa on February 21, 2007, in Book 2007 at Page 1653 (herein collectively the "Declaration"); and

WHEREAS, Declarant desires to modify the Declaration, in accordance with Section 6.12 thereof.

NOW, THEREFORE, Declarant hereby modifies the Declaration, with such modifications to take effect upon the recording of this Sixth Modification in the Office of the Recorder of Warren County, Iowa, as follows:

1. Section 2.06 is deleted in its entirety and replaced with the following:

“Playhouses, playgrounds, and/or play sets of any kind, utility buildings, storage sheds, tennis courts or other similar structures and improvements, shall be permitted only at the sole discretion and prior written approval of the Declarant, and if the Declarant no longer owns any Lots in The Legacy, at the sole discretion and prior written approval of the Association. Owners desiring to install such structures shall submit a written application to the Declarant or Association, as applicable, describing the structure and its intended location. The Declarant or Association shall approve or disapprove, in its sole discretion, the installation and location of any such structure on an Owner’s Lot within The Legacy. At a minimum, the Declarant or Association shall not permit any such structure to be located closer than twenty feet (20’) from any lot line, nor shall the Declarant or Association permit any such structure to be located closer than forty-five feet (45’) from any Lot line abutting The Legacy golf course. Furthermore, all such structures shall be located in rear yards only and the Declarant or Association shall prefer structures that are reasonably congruent with the appearance and construction materials of the dwelling unit located on the Lot.

No freestanding flagpole is permitted on any Lot other than a model home or sales and display office. No solar collector or panel of any nature shall be permitted on any Lot or any building constructed on a Lot.”

2. The modification to Section 2.06 of the Declaration set forth above shall take effect and apply to improvements or structures described therein on and after the date of the recording of this Sixth Modification in the Office of the Recorder of Warren County, Iowa. Improvements and structures already installed on the date of the recording of this Sixth Modification shall be subject to the provisions of the Declaration as they existed prior to said recording date.

3. Except as expressly modified by this Sixth 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 26th day of August, 2008.

H-CM, L.L.C.

By: Hubbell Realty Company, its Manager

By: 
Steve Niebuhr, Senior Vice President

By: *Jennifer L. Drake*
Jennifer L. Drake, Assistant Secretary

STATE OF IOWA, COUNTY OF DALLAS) ss:

This instrument was acknowledged before me on August 26, 2008 by Steve Niebuhr as Senior Vice President, and Jennifer L. Drake as Assistant Secretary, respectively, of Hubbell Realty Company, an Iowa corporation, the Manager of H-CM, L.L.C., an Iowa limited liability company.



Kristina Ashby
Notary Public in and for said State

Warren County, Iowa
Recorded: 6/11/2014 at 10:36:00.0 AM
BK: 2014 PG: 3999
Polly J. Glascock RECORDER
Number: 2014-3999
Fee Amount: \$22.00
Revenue Tax:

NINTH MODIFICATION OF DECLARATION

Recorder's Cover Sheet

Preparer Information: Ashley J. Aust, Hubbell Realty Company, 6900 Westown Parkway,
West Des Moines, Iowa, 50266

Taxpayer Information: H-CM, L.L.C.

Return Document To: Ashley J. Aust, Hubbell Realty Company, 6900 Westown Parkway,
West Des Moines, Iowa, 50266

Grantors: See Page 2

Grantees: See Page 2

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

THIS NINTH MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY, NORWALK, WARREN COUNTY, IOWA is made this 10th day of June, 2014, by H-CM, L.L.C., an Iowa limited liability company (“Declarant”).

WHEREAS, Declarant, as the Owner of The Legacy, as defined in Section 1.02(n) of the Declaration, 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 Warren County, Iowa, Recorder’s Office on September 18, 2001, in Book 2001, 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 on November 29, 2001 in Book 2001, Page 12532, as modified by that certain 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 on July 31, 2002, in Book 2002, Page 8785, as modified by that certain Third Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated April 25, 2003 and filed for record on April 28, 2003 in Book 2003, Page 5801, as modified by that certain Fourth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated August 30, 2005, and filed for record on October 17, 2005 in Book 2005, Page 11853, as modified by that certain Fifth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated February 20, 2007 and filed for record on February 21, 2007, in Book 2007, Page 1653 and re-recorded on March 9, 2007 in Book 2007, Page 2235, as modified by that certain Sixth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated November 15, 2007 and filed for record on November 20, 2007 in Book 2007, Page 11230, as modified by that certain Sixth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated August 26, 2008 and filed for record on August 27, 2008, in Book 2008, Page 7438, and as modified by that certain Eighth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated February 19, 2009 and filed for record on February 20, 2009 in Book 2009, Page 1355, (herein collectively referred to as the “Declaration”); and

WHEREAS, Declarant desires to modify the Declaration, in accordance with Section 6.12 thereof.

NOW, THEREFORE, Declarant hereby modifies the Declaration as follows:

1. Section 2.02(b) of the Declaration is hereby deleted in its entirety.
2. Section 2.03(a) of the Declaration is hereby deleted in its entirety and amended and substituted to read as follows:

“(a) Single-Family Lots. On each Single-Family Lot, the Owner from the time the dwelling is first occupied is required to plant, within ninety (90) days following the date of commencement of

occupancy in the event not already planted, one tree on such lot from any of the following species of trees: Red Maple (*Acer rubrum*), Norway Maple (*Acer platanoides*), Northern Red Oak (*Quercus borealis*), Burr Oak (*Quercus macrocarpa*), or Non-Fruit Bearing Crabapple, or any other species approved by Declarant, in writing, or once the Declarant no longer owns any Lots in The Legacy approved by the Board, in writing, a copy of which additional approved trees shall be kept on file with the Association, (hereinafter such species of trees shall be referred to as "Street Trees"). Street Trees shall be a minimum of 2" caliper in diameter, 10' - 12' in height, and have a minimum spread of 4'. Street Trees shall be planted in the front yard of the Single Family Lot, outside the public right-of-way, but within any street tree easement, if any, upon such Single-Family Lot, or if there is no street tree easement, as near to the right-of-way as possible and not within an easement area without the consent of the easement holder.

In addition to the Street Tree required above, the following minimum quantities of landscape plants shall be planted, or maintained in the event already installed, on the applicable Single-Family Lot by the Owner from the time the dwelling is first occupied, within ninety (90) days following the date of commencement of occupancy in the event not already planted:

- (i) Two trees on all Single-Family Lots (trees other than Street Trees may be either deciduous trees whose trunks are at least 2" in caliper in diameter or evergreens that are at least 6' in height); and
- (ii) Ten (10) deciduous shrubs and/or evergreen shrubs, or any other species approved in writing by the Declarant, or once the Declarant no longer owns any Lots in The Legacy approved in writing by the Board, concentrated on the front and side yards within view from the street.

After such landscaping materials are planted the Owners of each Lot shall maintain, replace and replant such landscaping materials so as to maintain the minimum landscaping required by this Section.

Within ninety (90) days after completion of the single-family home upon a Single Family Lot, the front yard, side yards and the twenty-five feet (25') of the rear yard measured from the rear of the dwelling foundation shall be fully sodded, and the remainder of the rear yard to the rear lot line shall be seeded or sodded.

If weather conditions make the time elements of the requirements of this Section 2.03(a) impossible to fulfill, Declarant, or once Declarant no longer owns any Lots in The Legacy the Board, shall establish a reasonable period of time for compliance.

It is the ultimate responsibility of the first and all subsequent Owners of a Lot to install and maintain landscaping; and Declarants have no responsibility to install or maintain landscaping on Single Family Lots."

3. Section 2.03(b) of the Declaration is hereby deleted in its entirety and amended and substituted to read as follows:

"(b) Town Home Lots. An overall landscaping plan for all Town Home Lots shall be submitted to Declarant, or once Declarant no longer owns any Lots in The Legacy to the Board, for approval prior to the installation of any landscape. The following minimum quantities of landscape plants shall be planted by the builder for each Town Home Lot, within ninety (90) days following the completion of the applicable Town Home Lot:

- (i) Two (2) Street Trees (as defined above for single family lots); and
- (ii) Ten (10) deciduous shrubs and/or evergreen shrubs concentrated on the front and side yards within view from the street.

After such landscaping materials are planted the Owners of each Townhome Lot shall maintain, replace, and replant such landscaping materials so as to maintain the minimum landscaping required by this Section.

If weather conditions make the time elements of the requirements of this Section 2.03(b) impossible to fulfill, Declarant, or if Declarant no longer owns any Lots in The Legacy, the Board, shall establish a reasonable period of time for compliance.”

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

Dated this 10th day of June, 2014.

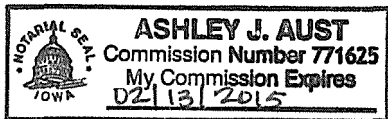
H-CM, L.L.C.
By: Hubbell Realty Company, its Manager

By: [Signature]
Joseph F. Pietruszynski, Vice President

By: [Signature]
Jennifer L. Drake, Assistant Secretary

STATE OF IOWA)
) SS:
 COUNTY OF DALLAS)

This instrument was acknowledged before me on June 10th, 2014 by Joseph F. Pietruszynski and Jennifer L. Drake as Vice President and Assistant Secretary respectively of Hubbell Realty Company, an Iowa corporation, the Manager of H-CM, L.L.C., an Iowa limited liability company.



[Signature]
 Notary Public in and for the State of Iowa

Warren County, Iowa
Recorded: 1/20/2017 at 8:53:00.0 AM
BK: 2017 PG: 520
Polly J. Glascock RECORDER
Number: 2017-520
Fee Amount: \$27.00
Revenue Tax:

Prepared By/Return To: Jennifer L. Schumann, 6900 Westown Parkway, West Des Moines, IA 50266 (515)280-2009
Previously Recorded Documents: Document No. 2001-9480; 2001-12532; 2002-8785; 2003-5801; 2005-11853; 2007-1653;
2007-2235; 2007-11230; 2008-7438; 2009-1355

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

**THIS TENTH MODIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE LEGACY,
NORWALK, WARREN COUNTY, IOWA** is made and entered into the 13 day of January,
2017, by H-CM, L.L.C., an Iowa limited liability company (the "Declarant").

WHEREAS, Declarant, as the owner of The Legacy, as defined in Section 1.02(n) of the Declaration, 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 Warren County, Iowa, Recorder's Office on September 18, 2001, in Book 2001, 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 on November 28, 2001 in Book 2001, Page 12532, as modified by that certain 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 on July 31, 2002, in Book 2002, Page 8785, as modified by that certain Third Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated April 25, 2003 and filed for record on April 28, 2003 in Book 2003, Page 5801, as modified by that certain Fourth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated August 30, 2005, and filed for record on October 17, 2005 in Book 2005, Page 11853, as modified by that certain Fifth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated February 20, 2007 and filed for record on February 21, 2007, in Book 2007, Page 1653 and re-recorded on March 9, 2007 in Book 2007, Page 2235, as modified by that certain Sixth Modification of

Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated November 15, 2007 and filed for record on November 20, 2007 in Book 2007, Page 11230, as modified by that certain Sixth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated August 26, 2008 and filed for record on August 27, 2008, in Book 2008, Page 7438, and as modified by that certain Eighth Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa dated February 19, 2009 and filed for record on February 20, 2009 in Book 2009, Page 1355 (collectively, the "Declaration"); and

WHEREAS, the Declarant now wishes to amend and ratify the Declaration in the manner described herein.

NOW THEREFORE, Declarant hereby amends the Declaration as follows:

1. The following language from the second and third sentences of Article V, Section 5.01 is hereby stricken and amended as follows:

The assessments levied by the Association and any other charges against the Owner of a Unit set forth elsewhere in this Declaration, together with ~~interest, late charges,~~ costs and reasonable attorney's fees shall be a charge on the Unit of such Owner and shall be a continuing lien upon such Unit against which each such assessment or charge is made senior to all liens except the first mortgage of record, any ad valorem taxes, and any special assessments levied by the City. Such assessment or charge, together with ~~interest, late charges,~~ costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Unit at the time when the assessment or charge fell due.

2. Article V, Section 5.04(b) is hereby deleted in its entirety and amended to read as follows:

(b) Any assessments not paid within fifteen (15) days of the due date may be assessed a late fee, in such amount to be determined annually by the Board of Directors (the "Late Fee"). Any such Late Fee on a delinquent payment shall also be part of the assessment against the Unit and subject to the lien for assessments created by this Declaration. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of such assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of the Owner's Unit. In addition to the Late Fee, the Association may charge any Owner a fee for any returned check or electronic payment, in an amount to be determined by the Board of Directors.

3. Article II, Section 2.15 is hereby deleted in its entirety and amended to read as follows:

No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that pets, specifically dogs, cats, fish and birds may be kept, provided they are not kept, bred or maintained for commercial purposes and the Owner complies with the restrictions set forth in this Section 2.15. Owners shall not keep more than two (2) dogs, or two (2) cats, or one (1) of each a dog and a cat at one time on the Lot. There shall be no weight restrictions on the pets. Any breeds that have been determined by local municipal, county and state laws, regulations, or ordinances to constitute dangerous breeds, or animals that endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to other Owners in the sole discretion of the Board shall not be kept on any Lot. Any person owning or keeping a pet shall be responsible for the care and control of, and shall at all times clean up any waste or excrement from such pets on the Commons Areas and Common Elements. Failure to do so in a prompt or responsible manner shall result in a fine or special assessment by the Association against such Lot on which such pet is kept. Dogs shall be kept on a leash or otherwise confined whenever outside a residence or enclosed portion of the Lot and Owners shall bear full responsibility for animals not under leash. No animal shall be chained or otherwise restrained outside or in the garage. Outside pens or dog runs may be allowed if approved in writing by the Board of Directors, in its sole discretion. Please refer to Article II, Section 2.04d for guidelines. Any complaint shall be brought before the Board, which shall have the right to prohibit them from continued habitation on the Lot if further complaints occur. The Association may, by rules and regulations, prohibit or further limit the raising, breeding or keeping on any Lot, front lot or rear lot of any pet.

4. Add Article VII, Section 7.01 as follows:

ARTICLE VII

7.01 Notice. All notices referenced hereunder shall be in writing and shall be deemed to have been given (a) when delivered by personal delivery, (b) when deposited in the United States Mail (postage prepaid), (c) when deposited with a nationally recognized courier, or (d) on the date sent by facsimile or email transmission. Notwithstanding the foregoing, turnover meeting announcements and annual assessment letters shall be sent via U.S. mail or certified mail.

5. The following language in Article II, Section 2.09 is stricken and amended as follows:

~~“If the Owner of a Lot has not removed such holiday display within the foregoing time periods, and if the Owner of such Lot fails to remove such holiday display within fifteen (15) days after such Owner receives written notice given by certified mail, return receipt requested, or delivered in person, from the Association or from any Owner within five hundred (500) feet of such Lot, the Association or Owner of the applicable Lot within five hundred (500) feet of the offending Lot shall have the right and easement to enter upon the premises and remove and dispose of the holiday display at the expense of the Owner of the applicable Lot where such holiday display is located, and shall have the right of action against the Owner of the~~

applicable Lot for collection of the cost thereof, plus the reasonable costs, including attorneys' fees, of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa, until such amount, plus the reasonable costs, including attorney's fees of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid."

6. The following language in the second and third sentences of Article II, Section 2.20 are stricken and amended as follows:

Each Owner of a Lot shall cut such grass or weeds and/or remove such debris within fifteen (15) days after such Owner receives written notice ~~given by certified mail, return receipt requested, or delivered in person,~~ from the Association or from any Owner within five hundred (500) feet of such Lot. If the grass or weeds are not mowed within fifteen (15) days of receiving notice, the Association ~~or Owner within five hundred (500) feet of the offending Lot~~ shall have the right and easement to enter upon the premises and mow or cut the weeds or grass or remove the offending debris at the expense of the Owner of the Lot where such grass or weeds are not so mowed or such debris is located, and shall have a right of action against the Owner of such Lot for collection of the cost thereof, plus the reasonable costs, including attorney's fees, of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate allowed by law, from the date such cost is incurred, and shall have a lien against such Lot from the day an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder for Warren County, Iowa until such amount, plus the reasonable costs, including attorney's fees of collecting such amount and costs of filing of such lien, incurred by the lienholder is paid.

7. Except as provided herein, the Declaration continues unmodified and in full force and effect and Declarant hereby ratifies and affirms the Declaration, as modified herein.
8. Terms capitalized but not defined herein shall have the meaning given to them in the Declaration.

[Signature Page Follows]

IN WITNESS WHEREOF, this Tenth Modification of Declaration has been executed as of the day and year first above written.

H-CM, L.L.C.

By: Hubbell Realty Company, Managing Member

By: [Signature]
Dan Cornelison, Senior Vice President

By: [Signature]
Jennifer L. Schumann, Assistant Secretary

STATE OF IOWA)
)ss:
COUNTY OF DALLAS)

On this 13 day of January, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Dan Cornelison and Jennifer L. Schumann as Senior Vice President and Assistant Secretary respectively of Hubbell Realty Company as Managing Member for H-CM, L.L.C.

[Signature]
Notary Public in and for the State of Iowa



NOW THEREFORE, H-CM, by the execution and recording of this Declaration, hereby declares that the Real Estate shall be held, occupied, sold and conveyed subject to the easements, covenants and restrictions set forth in this Declaration.

**ARTICLE I
EASEMENTS AND RESTRICTIONS FOR THE BENEFIT OF
THE GOLF COURSE PROPERTY**

1.1. **Golf Course Play Easement.** There is hereby granted to the owner of the Golf Course Property, along with its servants, independent contractors, agents, members, guests, and invitees (collectively, the "Golf Course Users"), a nonexclusive easement over and across the following described portions of the Development Property for the following purposes:

(a) Retrieval of golf balls, including the right to enter on the Development Property and any platted lot thereon ("Lot") thereon, for that purpose, provided the right to retrieve golf balls shall only extend to non-enclosed portions of the Development Property or Lots, and the person retrieving the golf balls shall do so in a reasonable manner and the owner of the Golf Course Property will repair any damage caused by entry onto the Development Property or Lot to retrieve the golf ball; provided, that no play of such golf balls shall be allowed from outside of the Golf Course Property boundary;

(b) Flight of golf balls over, across, and upon the Development Property; provided, that no play of such golf balls shall be allowed from outside of the Golf Course Property boundary;

(c) Doing of every act necessary and incident to the playing of golf and other recreational activities on the Golf Course Property, including, but not limited to, the operation of lighting facilities for operation of driving range, and golf practice facilities during hours of darkness (but in no circumstances later than 10:00 p.m.), and the creation of usual and common noise levels associated with such recreational activities. All exterior lighting for the driving range and golf practice facilities shall be directed downwards and away from adjacent residential housing so as to avoid adverse impact on such residential housing and shall be in compliance with all applicable governmental requirements and all criteria established by H-CM or its successors (including any homeowners' association that may be organized by owners of residential Lots, a "Homeowners Association");

(d) Creation of noise related to the normal maintenance and operation of the Golf Course, including, but not limited to, the operation of mowing and spraying equipment. Such noises may occur between the hours of 5:00 a.m. and 10:00 p.m.; and

(e) An easement for the occasional overspray of herbicides, fungicides, pesticides, fertilizers, and water over the Development Property located adjacent to the Golf Course Property. Such easement shall extend for twenty feet (20') onto the Development Property along the mutual property line between the Development Property and the Golf

Course Property. All such overspraying shall be accomplished in a safe and reasonable manner and the owner of the Golf Course Property shall repair any damage caused by such overspraying on the Development Property.

1.2. **Damage by Errant Golf Balls.** H-CM, for itself and each and every subsequent owner of portions of the Development Property, hereby acknowledges and agrees that the existence of a golf course on the Golf Course Property is beneficial and highly desirable; however, each such owner acknowledges and agrees that portions of the Development Property located adjacent to the Golf Course Property shall be subject to the risk of damage or injury due to errant golf balls. H-CM, for itself and each subsequent owner of portions of the Development Property, their successors and assigns, hereby assumes the risk of damage and injury on the Development Property or Lot and hereby releases the owner of the Golf Course Property, its successors and assigns, from any and all liability for damage or injury caused by errant golf balls in, or on the Development Property, arising from, directly or indirectly, golf balls flying, landing, hitting, or resting in or around the Development Property. The above releases shall not be construed to extend to the release of the golfer who actually hits the errant golf ball.

1.3. **Fencing and Building Restrictions.** No owner of land within the Development Property shall construct a fence or enclosure located along or next to the boundary lines between the Golf Course Property and the Development Property, except in compliance with the fence criterion established by H-CM or its successors and as modified, from time to time, by H-CM or its successors.

1.4. **Signage.** An easement is hereby granted for the construction, repair, maintenance, and replacement of directional and informational signage within the Development Property along the roads, streets and rights-of-way located therein, for the purpose of directing Golf Course Users to the Golf Course Property. Such signage shall be constructed of materials and of a size and type of signage utilized for similar purposes within the Development. However, the owner of the Golf Course Property shall exercise its best efforts to locate all signage within the Golf Course Property or, if allowed by the City of Norwalk, within the public rights-of-way granted unto the City of Norwalk.

1.5. **Golf Cart and Maintenance Vehicle Easement.** A nonexclusive easement is hereby granted to Golf Course Users to operate golf carts, pull-carts, machinery, equipment, and maintenance vehicles used in connection with the construction and operation of the Golf Course Property over and across the Development Property as agreed to, in writing, from time to time, by H-CM and the owner of the Golf Course Property until the development of both the Development and the Golf Course are completed, or until such time as each such easement areas are developed as a public street and dedicated to the City of Norwalk, Iowa. The foregoing easement shall terminate with respect to every Lot once it has been platted by H-CM. The owner of the Golf Course recognizes and agrees that the right to use the normal cart path through these easement areas may be disrupted by the owner of the Development Property during the construction of the public streets and public utilities in such easement areas, provided that after the Golf Course is open for play, the

owner of the Development Property agrees that it shall construct such public streets and public utilities in a manner so as not disrupt the entire use of any such easement area; provided, however, it shall have no liability for any disruption to such usage caused by the electric, gas, telephone, cable television, fiber optic utility companies or any other public utility company in the installation, maintenance or repair of its utilities .

1.6. **Utility Easements.** A nonexclusive easement is hereby granted to the owner of the Golf Course Property, its successors and assigns, for the purpose of constructing, maintaining, repairing and replacing private irrigation and drinking water lines over, through, under, and across portions of the Development Property as agreed to, in writing, from time to time, by H-CM and the owner of the Golf Course Property until the development of both the Development and the Golf Course are completed. The owner of the Golf Course shall be liable to repair any damage to the streets, roads, utilities, landscaping, and other improvements in such areas that it disturbs or damages in the course of maintenance, operation and use of such irrigation lines and easement areas.

The owner of the Development Property hereby grants the owner of the Golf Course Property, its successors and assigns, the right to such surface water drainage over and across the Development Property as shall naturally occur if the Golf Course Property and Development Property are graded and developed substantially in accordance with a grading plan approved, by H-CM, in writing.

The owner of the Development Property hereby agrees that it shall grant the governmental body or public utility company furnishing any sanitary sewer, storm sewer, electricity, natural gas, telephone, cable television, fiber optics or other utility service such nonexclusive easements over, through, across and under the Development Property as such entity may reasonably require for the purpose of constructing, maintaining, repairing and replacing sanitary sewers, storm sewers, and water, electrical, natural gas, telephone, cable television, fiber optics and other utility service lines and facilities serving the Golf Course Property, provided that such utility easements shall only be centered on lot lines between Lots or adjacent to the rear lot line (except that if the rear lot line abuts the Golf Course Property such easements shall be on the Golf Course Property) or adjacent to a lot line abutting a public street, such easement shall be no greater in width than is usual and customary for such easements in Norwalk, Iowa, and shall be in conformance generally with such easements in Warren County, Iowa. The owner of the Development Property shall execute individual easements for each such utility service line actually constructed.

1.7. **Ingress/Egress Easement.** In the event that the Development Property is developed or hereafter converted into a private development without public streets and rights-of-way, a nonexclusive easement is hereby granted for ingress and egress over, across, and through all streets, roads and rights-of-way, and through any security gates facilities now or hereafter existing on the Development Property, to and from the Golf Course Property by Golf Course Users. The Golf Course Users shall have the right to proceed through any security gate or similar security device without interference or restriction and in no event shall the Golf Course users or the owner of the Golf Course

Property be required to pay any fee or charge for ingress or egress over and across the Development Property or such security gate.

**ARTICLE II
EASEMENTS AND RESTRICTIONS BENEFITING
THE DEVELOPMENT PROPERTY**

2.1. **Utility Easements.** The owner of the Golf Course Property, on behalf of itself and its successors and assigns, acknowledges and agrees that in order to provide for orderly construction and development of the Development Property for its intended uses that it shall grant utility easements over, through, under and across certain portions of the Golf Course Property (a) for the sanitary sewers, storm sewers and water mains, (b) for a sewer lift pump station, including a building, fencing, wet well, pumps and associated equipment and (c) for such natural gas, electricity, telephone, cable television, fiber optics, water, additional sanitary or storm sewers as may be reasonable or necessary for development of the Development Property, (collectively, the easements described in (a), (b) and (c) above shall be referred to as "Utility Easements"), subject to the following terms and conditions:

(a) All Utility Easements, with the exception of the sewer lift pump station, shall be located underground and shall be buried to a depth so as to not interfere with the operation of the Golf Course;

(b) The owner of the Development Property shall construct the portions of the sanitary sewers and storm sewers which cross the Golf Course, although such portions may not be connected to fully functioning systems, prior to or coordinated with the initial construction of the Golf Course, and upon completion of such construction, or thereafter as part of the dedication of the storm sewer or sanitary sewer of which such portion is a part to the City of Norwalk, Iowa, shall grant an easement therefor to the City of Norwalk, Iowa in the standard form of storm and sanitary sewer easements in the City of Norwalk, Iowa. Until such easement is granted to and accepted by the City of Norwalk, Iowa, the owner of the Development Property shall have the right to enter onto the Golf Course Property for the purpose of operating, maintaining, repairing and replacing all such storm and sanitary sewer facilities, provided that it shall repair any damage caused to the Golf Course by such entry;

(c) The owner of the Development Property shall submit any other proposed Utility Easement (the "Proposed Easements") to the owner of the Golf Course Property for its approval, together with a survey or plat showing the location and size of the Proposed Easement, which survey shall indicate the location of all improvements, including, but not limited to, tees, greens, cart paths, trees, and water irrigation facilities (provided that the owner of the Golf Course Property shall furnish Seller with an as built survey of the same) located, or to be located within fifty feet (50') of the Proposed Easement. The owner of the Golf Course Property

shall have the right to object and to require the owner of the Development Property to relocate the Proposed Easement only in the event that the Proposed Easement materially interferes with the play on, or operation of, the Golf Course as constructed or reconstructed. If the owner of the Golf Course Property does not object within fifteen (15) days after notification of the Proposed Easement, accompanied by the required survey or plat information, the owner of the Golf Course Property shall be deemed to have consented to the Proposed Easement. Upon the expiration of such fifteen (15) day period, unless the owner of the Golf Course has objected for the reasons described above, the owner of the Development Property shall execute and deliver to the governmental body or utility provider a Utility Easement substantially in the standard form of utility easement used by such governmental body or utility company. If the owner of the Development Property needs to complete construction of utility lines and facilities before their dedication, the owner of the Golf Course Property also shall grant the owner of the Development Property a temporary construction period easement for construction of such utility lines and facilities;

(d) The owner of the Development Property shall give the owner of the Golf Course Property at least fifteen (15) days advanced written notice of the intended construction within a Utility Easement. Upon receipt of such written notice, the owner of the Golf Course Property: (i) shall promptly provide the owner of the Development Property notice of any planned tournament or other special event on the Golf Course scheduled during the anticipated time of construction and (ii) shall have the right to request the delay in such construction for a reasonable period of time, not to exceed thirty (30) days, in the event such activities shall affect a planned tournament or other special event on the Golf Course;

(e) All construction within Utility Easements shall be done in a manner to minimize the interruption or play on the Golf Course, and, once begun, construction activities shall be continued to completion with all due diligence;

(f) The owner of the Golf Course Property shall not be liable for the costs of construction of public utilities within any such Utility Easements. The owner of the Development Property shall indemnify and hold the owner of the Golf Course Property harmless from any and all costs, expenses and liability arising from and in any way connected with the construction, operation and maintenance of the Utility Easements by the owner of the Development Property. The owner of the Development Property shall not, however, have any liability relating to the construction, maintenance or operation of the Utility Easements from and after the date that the Utility Easements are dedicated to the City of Norwalk or the utility providers. The owner of the Development Property acknowledges and agrees that certain risks of loss of life, personal injury, and property loss or damage may be caused by operation of the Golf Course during the construction of any Utility Easement. The owner of the Development Property agrees that the owner of the Golf Course Property, and its successors and assigns, and their officers, directors,

employees and agents shall have no liability for any such loss of life, personal injury, and property loss or damage arising from the play of golf on the Golf Course during such construction;

(g) The owner of the Development Property shall assure that all persons involved in construction within the Utility Easements are insured by workers' compensation and that no materialmen's or mechanic's liens are placed or filed on any portion of the Golf Course Property as a result of the construction of such Utility Easements; and

(h) Upon completion of construction within the Utility Easement, the surface of the Utility Easement shall be repaired, restored and replaced to the condition that existed immediately prior to such construction. Such restoration shall include, without limitation, sod, ground cover, plantings, cart paths, sidewalks and other improvements disturbed by the construction within the Utility Easement.

- 2.2. **Surface Water and Detention Facilities Easements.** The owner of the Golf Course Property hereby grants the owner of the Development Property, its successors and assigns, the right to such surface water drainage over and across the Golf Course Property as shall naturally occur if the Golf Course Property and Development Property are graded and developed substantially in accordance with the grading plan approved by H-CM.

The owner of the Golf Course Property hereby grants the owner of the Development Property, its successors and assigns, the right to construct storm water detention facilities, (the "Detention Facilities"), as may be necessary for construction and development of the Development Property within the rough and other undeveloped areas of the Golf Course Property upon the following terms and conditions:

(a) The owner of the Development Property shall submit any proposed storm water detention facility (the "Proposed Detention Facility") to the owner of the Golf Course Property for its approval, together with a survey or plat showing the location and size of the Proposed Detention Facility, which survey shall indicate the location of all improvements, including, but not limited to, tees, greens, cart paths, trees, and water irrigation facilities (provided that the owner of the Golf Course Property shall furnish the owner of the Development Property with an as built survey of the same) located, or to be located within fifty feet (50') of the Proposed Detention Facility. The owner of the Golf Course Property shall have the right to object and to require the owner of the Development Property to relocate the Proposed Detention Facility only in the event the Proposed Detention Facility materially interferes with the play on, or operation of, the Golf Course as constructed or to be constructed. If the owner of the Golf Course Property does not object within fifteen (15) days after notification of the Proposed Detention Facility, accompanied by the required survey or plat information, it shall be deemed to have consented to the Proposed Detention Facility (the "Detention Facility"). Unless the owner of the Golf Course has objected for the reasons and within the time period described above, the owner of

the Golf Course Property shall promptly execute and deliver to the owner of the Development Property an easement for the Detention Facility;

(b) The owner of the Development Property shall give the owner of the Golf Course Property at least fifteen (15) days advanced written notice of the intended construction of a Detention Facility. Upon receipt of such written notice, the owner of the Golf Course Property: (i) shall promptly provide the owner of the Development Property notice of any planned tournament or other special event on the Golf Course scheduled during the anticipated time of construction and (ii) shall have the right to request the delay in such construction for a reasonable period of time, not to exceed thirty (30) days, in the event such activities shall affect a planned tournament or other special event on the Golf Course;

(c) All construction of Detention Facilities shall be done in a manner to minimize the interruption or play on the Golf Course, and, once begun, construction activities shall be continued to completion with all due diligence;

(d) The owner of the Golf Course Property shall not be liable for the costs of construction of any such Detention Facilities and the owner of the Development Property shall indemnify and hold the owner of the Golf Course Property harmless from any and all costs, expenses and liability arising from and in any way connected with the construction, or to the extent set forth in this section as the owner of the Development Property's responsibility, the operation and maintenance, of the Detention Facilities. In addition, the owner of the Development Property acknowledges and agrees that certain risks of loss of life, personal injury, and property loss or damage may be caused by operation of the Golf Course during the construction of any Detention Facility. The owner of the Development Property agrees that the owner of the Golf Course Property, and its successors and assigns, and their officers, directors, employees and agents shall have no liability for any such loss of life, personal injury, and property loss or damage arising from the play of golf on the Golf Course during such construction;

(e) The owner of the Development Property shall insure that all persons constructing the Detention Facilities are insured by workers' compensation and that no materialmen's or mechanic's liens are placed or filed on any portion of the Golf Course Property as a result of the construction of such Detention Facilities; and

(f) Upon completion of construction of the Detention Facility, the surface of the Detention Facility shall be seeded or sodded and any adjacent areas of the Golf Course damaged during such construction shall be repaired, restored and replaced to the condition that existed immediately prior to such construction. Such restoration shall include, without limitation, sod, ground cover, plantings, cart paths, sidewalks and other improvements disturbed by the construction of the Detention Facility. After completion of the Detention Facility, the owner of the Golf Course shall mow and maintain the Detention Facility, provided, however, until all portions of the

Development Property that drain into the Detention Facility have been developed (seeding, sod or installation of other landscaping), the owner of the Development Property shall remain liable to remove any silt that accumulates in the Detention Facility, to replace any Detention Facility ground cover damaged by such silting and to otherwise repair major damage (costing more than \$500 in repairs in any instance) to the Detention Facility.

2.3. **Golf Course Property Use Restriction.** The owner of the Golf Course Property covenants and agrees that use of the Golf Course Property shall be restricted to golf course, country club and similar recreational uses, including, but not limited to, tennis, swimming, driving range, restaurant, private parties and meeting uses. This restriction as to the use of the Golf Course Property shall be deemed a covenant running with the land and shall be binding upon subsequent owners of the Golf Course Property, or any portion thereof.

ARTICLE 3 MISCELLANEOUS

3.1. **Assignment.** This Agreement shall inure to the benefit of and be binding upon the owners of the Golf Course Property and the Development Property, their successors or assigns. Any subsequent owner of the Development Property, or any portion hereof, or the Golf Course Property shall be subject to the provisions of this Agreement. Following the sale of the Development Property, or any part thereof, the subsequent owner will assume all obligations and inure to all rights of the owner of the Development Property (with respect to such portion) and the seller of such portion of the Development Property shall have no further rights or obligations as to that portion sold; provided, however, the seller of such portion of the Development Property shall remain obligated for those obligations of the seller which arose prior to the date of the sale. Following the sale of the Golf Course Property, or any part thereof, the subsequent owner will assume all obligations and inure to all rights of the owner of the Golf Course Property (with respect to such portion) and the seller of the Golf Course Property shall have no further rights or obligations as to that portion sold; provided, however, the seller of such portion of the Golf Course Property shall remain obligated for those obligations of the seller which arose prior to the date of the sale.

3.2. **Notices.** Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) personally delivered, or (ii) sent by certified mail, return receipt requested, postage prepaid, addressed to the last known official address for such owner, or to such other address as such owner may substitute by written notice to the other. All notices forwarded by mail shall be deemed to be received on the date that is three (3) business days following date of deposit in the U.S. mail. Provided, however, the return receipt indicating the date upon which all notices were received shall be prima facie evidence that such notices were received on the date on the return receipt.

3.3. **Duration and Enforceability.** The easements and restrictions set forth in Article I of this Agreement shall constitute covenants running with the land as long as Golf Course is

in operation, burdening the Development Property, and benefiting the Golf Course Property, and shall be binding upon the owner of the Development Property, its successors and assigns, including, but not limited to, any property or Lot owners and all persons or parties claiming through, by, or under the owner of the Development Property, for the benefit of the owner of the Golf Course Property, its successors and assigns.

The easements and restrictions set forth in Article II of this Agreement shall constitute covenants running with the land in perpetuity, burdening the Golf Course Property, and benefiting the Development Property, or any part thereof, and shall be binding upon the owner of the Golf Course Property, its successors and assigns, for the benefit of the owner of the Development Property, and its successors and assigns, including all Lot owners and all persons or parties claiming through, by, or under H-CM.

3.4. **Persons Entitled to Enforce Restrictions.** The owner of the Golf Course Property and the owner of the Development Property, or their successors and assigns, including the Homeowners Association, if one is created for the Development, and otherwise including any Lot owner in the Development, shall have the right to enforce any of the easements and restrictions set forth in this Declaration. The right of enforcement for the owner of the Golf Course Property or the owner of the Development Property shall include the right to bring an action for damages, as well as an action to enjoin any violation of, or seek specific performance, of any of the rights, obligations, easements or restrictions created by this Declaration; provided, however the right for any homeowner or Homeowners Association to enforce any of the easements or restrictions set forth in this Declaration shall be limited to a suit for an injunction or specific performance.

3.5. **Violations Constitute a Nuisance.** Any violation of the fencing restrictions or the Golf Course use restrictions or the restrictions on lighting set forth herein or which are otherwise established pursuant to the terms of this Agreement are hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any party entitled to enforce the provisions of this Agreement.

3.6. **Remedies Cumulative.** Each remedy provided under this Agreement is cumulative and not exclusive.

3.7. **Costs and Attorney's Fees.** In any action or proceeding under this Agreement, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

3.8. **Governing Law.** This Agreement shall be construed and governed under the laws of the State of Iowa.

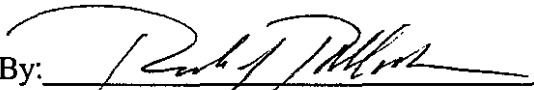
3.9. **Severability.** Each of the provisions of this Agreement shall be deemed independent and severable, and the invalidity or unenforceability or partial validity or partial enforceability of the provisions or portion thereof shall not affect the validity or enforceability of any other provision.

3.10. Captions for Convenience. The titles, headings, and captions used in this Agreement are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Agreement.

3.11 Notice to Property Owners Within the Development. NO OWNER OF PROPERTY OR A LOT WITHIN THE DEVELOPMENT SHALL HAVE ANY RIGHTS IN OR TO THE GOLF COURSE OR OTHER AMENITIES LOCATED ON THE GOLF COURSE PROPERTY, OR ANY RECREATIONAL ACTIVITIES OCCURRING THEREON, INCLUDING, BUT NOT LIMITED TO, RIGHTS OF MEMBERSHIP IN OR TO THE GOLF COURSE, OR RIGHT OF ACCESS TO OR ACROSS THE GOLF COURSE PROPERTY, UNLESS SUCH RIGHT OR RIGHTS HAVE BEEN GRANTED OR CONVEYED IN WRITING BY THE OWNER OF THE GOLF COURSE PROPERTY OR ITS SUCCESSORS AND ASSIGNS. RIGHTS TO USE THE RECREATIONAL FACILITIES LOCATED ON THE GOLF COURSE PROPERTY SHALL BE ON SUCH TERMS AND CONDITIONS AS MAY BE PROMULGATED FROM TIME TO TIME BY THE OWNER OF THE GOLF COURSE. ADDITIONALLY, THE OWNER OF THE GOLF COURSE PROPERTY, ITS SUCCESSORS AND ASSIGNS, HAVE THE RIGHT, WITHOUT NOTICE OR WARNING, TO PLANT, REMOVE OR TRIM TREES OR BUSHES ON THE GOLF COURSE PROPERTY AS ITS DEEMS ADVISABLE, IN ITS SOLE AND ABSOLUTE DISCRETION

IN WITNESS WHEREOF, H-CM has caused this Declaration to be executed, as of the day and year first above written.

H-CM, L.L.C.
By HUBBELL REALTY COMPANY, Manager

By: 
Rick J. Tollakson, Senior Vice-President

By: 
R. Michael Hayes, Secretary

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 27th day of June, 2001, before me a Notary Public in and for the State of Iowa, personally appeared Rick J. Tollakson and R. Michael Hayes, to me personally known, who being by me duly sworn did state that they are the Senior Vice-President and Secretary, respectively, of Hubbell Realty Company which is the manager of H-CM, L.L.C.; that said instrument was signed on behalf of said Hubbell Realty Company, as Manager of H-CM, L.L.C.; and that said Rick J. Tollakson and R. Michael Hayes acknowledged the execution of said instrument to be the voluntary act and deed of said Hubbell Realty Company and H-CM, L.L.C., by them voluntarily executed.



Nicole Christensen
Notary Public in and for said State

- Exhibit A - Real Estate Description
- Exhibit B - Golf Course Property
- Exhibit C - Development Property

EXHIBIT A
TO
DECLARATION OF GOLF COURSE EASEMENTS AND RESTRICTIONS
AND DEVELOPMENT EASEMENTS AND RESTRICTIONS

The following described lots in The Legacy Plat 1, an Official Plat now included in and forming a part of the City of Norwalk, Warren County, Iowa:

- | | |
|-------------|------------|
| • Lot 1 | • Outlot V |
| • Lot 2 | • Outlot W |
| • Lot 3 | • Outlot X |
| • Outlot T | • Outlot Y |
| • Out lot U | • Outlot Z |

The following described lots in the Official Plats of Colonial Meadows, now included in and forming a part of the City of Norwalk, Warren County, Iowa:

- | | |
|-----------------|-------------------|
| • Plat 1 Lot 3 | • Plat 3 Lot 18 |
| • Plat 1 Lot 2 | • Plat 3 Lot 19 |
| • Plat 3 Lot 1 | • Plat 4 Lot 2 |
| • Plat 3 Lot 2 | • Plat 4 Lot 4 |
| • Plat 3 Lot 3 | • Plat 5 Lot 1 |
| • Plat 3 Lot 5 | • Plat 5 Lot 2 |
| • Plat 3 Lot 7 | • Plat 5 Lot 3 |
| • Plat 3 Lot 8 | • Plat 5 Lot 4 |
| • Plat 3 Lot 10 | • Plat 5 Outlot Z |
| • Plat 3 Lot 11 | |
| • Plat 3 Lot 12 | |
| • Plat 3 Lot 15 | |

EXHIBIT B
TO
DECLARATION OF GOLF COURSE EASEMENTS AND
RESTRICTIONS AND DEVELOPMENT EASEMENTS AND RESTRICTIONS

The following described real estate located in Warren County, Iowa:

Lots 1, 2 and 3 in The Legacy Plat 1, an Official Plat, now included
in and forming a part of the City of Norwalk, Iowa.

EXHIBIT C
TO
DECLARATION OF GOLF COURSE EASEMENTS AND RESTRICTIONS
AND DEVELOPMENT EASEMENTS AND RESTRICTIONS

The following described lots in The Legacy Plat 1, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa:

- Outlot T
- Outlot U
- Outlot V
- Outlot W
- Outlot X
- Outlot Y
- Outlot Z

The following described lots in the Official Plats of Colonial Meadows, now included in and forming a part of the City of Norwalk, Warren County, Iowa:

- Plat 1 Lot 3
- Plat 1 Lot 2
- Plat 3 Lot 1
- Plat 3 Lot 2
- Plat 3 Lot 3
- Plat 3 Lot 5
- Plat 3 Lot 7
- Plat 3 Lot 8
- Plat 3 Lot 10
- Plat 3 Lot 11
- Plat 3 Lot 12
- Plat 3 Lot 15
- Plat 3 Lot 18
- Plat 3 Lot 19
- Plat 4 Lot 2
- Plat 4 Lot 4
- Plat 5 Lot 1
- Plat 5 Lot 2
- Plat 5 Lot 3
- Plat 5 Lot 4
- Plat 5 Outlot Z