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**DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF NEWPORT LANDING, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located in Douglas County, Nebraska, and legally described as follows:

Lots 2 through 274, inclusive, and Lots 276 through 283, inclusive, in Bennington Lake, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot."

The Declarant is the owner of certain real property located in Douglas County, Nebraska, and legally described as follows:

Lot 1, Bennington Lake, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Such lot is herein referred to as the "Lake Lot."

The Declarant is the owner of certain real property located in Douglas County, Nebraska, and legally described as follows:

Outlots 1 and 4 through 9, inclusive, Bennington Lake, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Outlots" and individually as each "Outlot."

The Declarant is the owner of certain real property located in Douglas County, Nebraska, and legally described as follows:

Lot 275, Bennington Lake, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Return recorded document to:  
James D. Buser  
GAINES PANSING & HOGAN  
10050 Regency Circle, Suite 200  
Omaha, Nebraska 68114

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Such lot is herein referred to as the "Island Lot."

The Declarant is the owner of certain real property located in Douglas County, Nebraska, and legally described as follows:

Lot 284, Bennington Lake, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lot is herein referred to as the "Marina Lot."

The Lots, Lake Lot, Outlots, Island Lot and Marina Lot, are all part of the residential lake community known as Newport Landing. The Declarant desires to provide for the preservation of the values and amenities of Newport Landing, for the maintenance of the character and residential integrity of Newport Landing, and for the acquisition, construction and maintenance of common facilities for the use and enjoyment of the residents of Newport Landing.

NOW, THEREFORE, the Declarant hereby declares that the Newport Landing Property shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Newport Landing Property and to permit the residents to realize the full enjoyment of the Lots. The Newport Landing Property shall be subject to all and each of the following conditions and other terms:

ARTICLE I.  
DEFINITIONS

1. Association. "Association" shall mean and refer to the NEWPORT LANDING HOMEOWNERS AND LAKE ASSOCIATION, a Nebraska not for profit corporation.

2. Common Facility. "Common Facility" shall mean facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include, but shall not be limited to: (a) the Lake and Lake amenities and improvements; (b) recreational facilities such as tennis courts, health facilities, playgrounds and parks; (c) dedicated and nondedicated roads, paths, ways and green areas; and (d) signs and entrances to Newport Landing. Common Facilities may be situated on property owned or leased by the Association, by Sanitary and Improvement District No. 425 of Douglas County, Nebraska, or on dedicated property.

3. Declaration. "Declaration" shall collectively mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Newport Landing, as such may be amended from time to time.

4. Development Review Committee or DRC. "Development Review Committee" or "DRC" shall mean the Declarant until the earlier of: (a) ten (10) years from the date this Declaration is recorded with the Douglas County Register of Deeds; or (b) the date Declarant records a "Termination of DRC Status" with the Douglas County Register of Deeds, at which time the Association, or a committee appointed by the Association, shall succeed to the status of the Development Review Committee and shall have all rights and perform all duties associated therewith.

5. Lake. "Lake" shall mean and refer to the lake constructed on and around the Lake Lot.

6. Member. "Member" shall mean and refer to each Owner of a Lot.

7. Newport Landing Property. "Newport Landing Property" shall mean collectively the "Lots, Lake Lot, Outlots, Island Lot, and Marina Lot.

8. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lots merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). A purchaser of a Lot under a land contract or similar instrument shall be deemed to be the Owner of the Lot for purposes of this Declaration.

ARTICLE II.  
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for any Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility.

2. No residence, building, addition, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboard, dog house, pool house, flag pole, tennis court, mailbox, dock or shore station, or other external improvement, including shrubs, bushes, trees and other landscaping, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any of the Newport Landing Property, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by the Development Review Committee, as follows:

(a) An Owner desiring to erect an Improvement on any Lot shall deliver two sets of construction plans, grading plans, detailed landscaping plans, erosion control plans, and plot plans to the DRC (herein collectively referred to as the "plans"). Such plans shall include a description of the type, quality and color of materials proposed for the exterior of such Improvement and shall include proposed final grade elevations. Concurrent with submission of the plans, Owner shall notify the DRC of the Owner's mailing address and shall pay the DRC a plan review fee of \$250.

(b) The DRC (with or without the advice of professional engineers or other experts retained by the DRC, in its sole discretion) shall review such plans in light of the conditions and restrictions in Article II of this Declaration and in relation to the type and exterior of improvements which have been constructed, or approved for construction, on the Lots. In this regard, it is intended that the Lots shall be developed as a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by the DRC in a reasonable manner to promote conformity and harmony of the external design of the improvements constructed within the Newport Landing subdivision and to protect the value, character and residential quality of all Lots in a manner consistent with this Declaration. By way of illustration, and not of limitation, it is intended that the quality of the residential structures constructed and architecture shall be of a quality not less than that found in the Huntington Park, Barrington Park, and Eagle Run West subdivisions in Douglas County, Nebraska. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins will not be approved unless the DRC determines that construction of these improvements will not be materially inconsistent with the scheme of development contemplated by this Declaration. If the DRC determines that the external design and location of the proposed Improvement does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots as a quality residential community, the DRC may refuse approval of the proposed Improvement.

(c) Written Notice of any approval of a proposed Improvement shall be mailed to the Owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by the DRC.

(d) No Owner, or combination of Owners, or other person or persons shall have any right to any action by the DRC, or to control, direct or influence the acts of the DRC with respect to the approval or disapproval of any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon the DRC by virtue of the authority granted to the DRC in this Section, or as a result of any act or failure to act by the DRC with respect to any proposed Improvement.

3. No single-family residential structure shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height. Except as otherwise specifically provided in this Declaration, or as specifically permitted in writing by the DRC, no Improvements may be erected or maintained on any of the Lots within thirty (30) feet of any street right-of-way abutting a Lot (the "Front Yard Area"), or within sixty (60) feet of the Lot's common boundary with the Lake Lot (the "Rear Yard Area"), or within seven (7) feet of the side boundaries of the Lot (the "Side Yard Area"). Notwithstanding the foregoing, a noncovered deck may be constructed up to a point which is not closer than forty (40) feet of the Lot's common boundary with the Lake Lot.

4. No Improvements of any type or kind shall be permitted on any Lot within eight (8) feet of the land side of the Sea Wall.

5. Subject to written approval by the DRC and subject to Article II, Section 4, landscaping Improvements shall be permitted in the Front Yard Area and Side Yard Area and in that part of the Rear Yard Area that is not closer than forty (40) feet of the Lot's common boundary with the Lake Lot, and landscaping Improvements that do not exceed three (3) feet in height shall be permitted in the Rear Yard Area that is within (40) feet of the common boundary with the Lake Lot.

6. Except as otherwise approved in writing by the DRC, the exposed foundation walls of all residential structures (including garages) must be constructed of or faced with brick, stucco, EFIS or painted simulated brick. All driveways must be constructed of concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, brick or stone. No vertical siding shall be permitted on exterior walls. All horizontal siding on exterior walls must be of overlap variety no greater than 6". The roof of all improvements shall be covered with shake, concrete, slate, tile, copper or asphalt of forty (40) year warranty quality or greater, or other materials approved in writing by the DRC.

7. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall a Lot be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner or Owners of any Lot or any resident thereof. The foregoing restriction in this Article II, Section 7 shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, or its agents and assigns, during the development and sale of Lots.

8. No exterior television or radio antenna or satellite receiving dish of any type shall be permitted on any Lot, provided, however, an antenna or dish that is designed to receive over-the-air programming signals that does not exceed one meter in diameter and that is attached directly to the residence, may be permitted if the location and size of the proposed antenna or dish is approved in writing by the DRC.

9. No repair of any boats, snowmobiles, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of twenty-four (24) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building construction operations, and then only in as neat and inconspicuous a manner as possible.

10. No boat, snowmobile, motorcycle, four wheeler, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure). No motor vehicle may be parked or stored outside on any Lot, except automobiles, SUV's and passenger vans and trucks driven on a regular basis by the occupants of the

dwelling located on such Lot. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Article II, Section 10 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other Improvements during the period of construction. All Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable governmental zoning ordinances.

11. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothesline shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

12. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

13. All fences must be approved by the DRC pursuant to Section 2 of this Article II. Unless otherwise specifically approved by the DRC: (a) no fence shall extend beyond the front line of the main residential structure on the Lot; (b) no fence shall be constructed closer than forty (40) feet of the Lot's common boundary with the Lake Lot; (c) perimeter fences or hedges or mass plantings shall not exceed six (6) feet in height; (d) all fences shall be wrought iron, with columns permitted if constructed of brick or stucco; and (e) no hedges or mass plantings shall be permitted more than ten (10) feet in front of the front building line of the main residential structure on the Lot.

14. Owners shall take all necessary precautions to ensure that construction, landscaping and lawn maintenance activity does not result in erosion and does not contaminate the Lake. Owners shall install siltation fences and other erosion control devices during construction of Improvements and until their Lots are sodded or until seeded yards are reasonably established, which siltation fences and/or erosion control devices shall be installed in a manner which will eliminate or substantially reduce erosion and runoff of soil from the Lot to the Lake. The Declarant and the DRC may require Owners to install siltation fences or erosion control devices and measures in such locations, configurations, and designs as they may determine appropriate in their sole and absolute discretion.

15. No swimming pool may extend more than one foot above ground level.

16. Construction of any Improvement shall be completed within eighteen (18) months from the date of commencement of excavation or construction of the Improvement. Each Owner agrees that failure to complete construction in a timely manner will be a nuisance and eye sore to the Newport Landing neighborhood and will hinder the Declarant's ability to maintain the desirability and attractiveness of the Newport Landing subdivision. Each owner further agrees that the damages to the Declarant for its breach of this Article II, Section 16, shall be difficult to measure precisely in money damages and therefore agrees to pay to Declarant the sum of Thirty and no/100 Dollars (\$30.00) per day as liquidated damages for each day that it violates this Article II, Section 16, which sum the Owner agrees is reasonable. The number of days for which damages shall be paid shall be measured from the date of first breach until the date on which the Owner secures a certificate of occupancy from the local governing body, or secures such other certificate or documentation evidencing substantial completion of the Improvements. Declarant may enforce any breach of this Article II, Section 16, in the courts of Douglas County, Nebraska, and shall be entitled to recover as additional damages its expenses, costs and fees (including reasonable attorney fees to the extent permitted by law) in recovering such damages.

17. The final grade of the Lot must result in all surface water draining from the front of the Lot to the boundary of the Lot adjacent to the Lake Lot. As provided in Article II, Section 2, grading plans must be submitted to and approved by the DRC prior to commencement of Improvements to any Lot. The DRC shall review the grading plans in light of the master grading plan for Newport Landing, the requirements of this

Declaration, and commercially recognized development and engineering standards provided, however, it is ultimately the responsibility of every Owner to grade their Lot in a manner consistent with the master grading plan for Newport Landing.

18. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed four feet (4') back of the street curb line on curbed streets and four feet six inches (4'6") back of the street line on non-curbed streets and shall be constructed by the Owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any conflicting requirements of the City of Bennington.

19. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

20. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Doghouses shall only be allowed adjacent to the rear of the residential structure, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot. No livestock or agricultural-type animals shall be allowed in the Newport Landing subdivision, including pot-bellied pigs.

21. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. All Lots must be fully sodded or seeded following completion of construction of the residential structure on the Lot. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

22. No residential structure shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one Owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot with the written approval of the DRC.

23. No temporary structure of any character, and no carport, trailer, modular home, open basement, tool shed, or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. An Owner may erect a swing set, playground equipment, pool house, gazebo, or other non prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside Newport Landing to any Lot without the written approval of the DRC.

24. All utility service lines from each lot line to a dwelling or other Improvement shall be underground.

25. Owners shall be permitted to construct shore stations, docks, or other boating convenience features on the Lake Lot as abuts their Lot ("Lake Improvements"), provided: (a) such Lake Improvements shall be subject to written approval of the DRC in accordance with the procedures of Section 2 of this Article II; (b) the construction and maintenance of such Lake Improvements shall not violate any of the provisions of this Declaration; (c) the construction and maintenance of such Lake Improvements shall conform with the requirements, conditions and restrictions of the Lake Rules, as hereinafter defined; and (d) the construction and maintenance of such improvements shall not violate any of the covenants, terms, conditions, restrictions and easements as set forth in the PMNRD Restrictions, as hereinafter defined.

ARTICLE III.  
COMMON AREAS, LAKE AND SEA WALL

1. The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association, on such other terms and conditions, and within the sole discretion of Declarant, real and personal property for use as Common Facilities. Such property may include, without limitation, the Lake Lot.

2. Subject to applicable rules and restrictions, each Member shall have a right to use and enjoy Common Facilities, which right shall be appurtenant to and shall pass with the title of every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Facilities by other Owners.

3. The Members use of the Lake shall be limited by rules and regulations pertaining to such use as shall be established, amended and modified from time to time by the Association (the "Lake Rules"). The Lake Rules, as adopted by the Association and in effect as of the date of this Declaration, are attached as Exhibit "A" to this Declaration. The Lake Rules may include provisions restricting or eliminating the right of any Owner to use the Lake in the event of a violation of the Lake Rules. The Lake Rules, as amended from time to time, shall be available for all Owners for inspection in the offices of the DRC. The Association shall endeavor to provide all Members with copies of any amendments or modifications to the Lake Rules within thirty (30) days following such amendment or modification. Notwithstanding the foregoing, the failure of the Association to provide Members with copies of amendments or modifications to the Lake Rules shall not be a condition as to the enforceability of the Lake Rules against the Members, it being an affirmative obligation of the Members to be familiar with and abide by the Lake Rules at all times. All Owners, by acceptance of delivery of a deed, assume all risks associated with using the Lake, and all Owners agree and covenant on their own behalf and on behalf of their guests, licensees and invitees, not to make any claim or institute any action whatsoever against Declarant or the Association, or their respective officers, directors, employees, owners or agents arising or resulting from use of the Lake or other Common Facilities, any damages that may be caused thereby, or for negligent design of the Lake.

4. The Declarant has constructed a seawall around the entire Lake Lot (the "Sea Wall"). **No attachments of any kind (temporary or permanent) may be made to the Sea Wall.** Placing excessive force on the Sea Wall may cause damage to or failure of the Sea Wall. Each Owner shall repair and maintain that part of the Sea Wall on and adjacent to its Lot in good condition. In the event that an Owner fails to repair and maintain the Sea Wall in good condition, the Association or Declarant may make written demand upon an Owner to take such actions to repair and maintain the Sea Wall to good condition. Should an Owner fail to complete such repair and maintenance activities within thirty (30) days following delivery of written notice, then either the Declarant or the Association may cause such repair and maintenance to occur and charge the Owner of such Lot all of its expenses in conducting such maintenance and repair, plus a fifteen percent (15%) administrative charge. Assessment and demand for payment of such expenses shall be made in writing by Declarant. If such assessment is not paid within thirty (30) days after written demand, such assessment shall constitute a lien on the Lot, which lien shall attach, have the priority and be enforceable by the Association in the same manner as liens for assessments and dues as provided in Article IV of this Declaration.

ARTICLE IV.  
HOMEOWNERS ASSOCIATION

1. The Association has been incorporated for the benefit of the residents of Newport Landing. The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Newport Landing, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and

enjoyment of the Members. Common Facilities may be situated on property owned or leased by the Association within or outside the Newport Landing subdivision, on private property subject to an easement in favor of the Association, on public property, or on property dedicated to a Sanitary and Improvement District.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents Newport Landing; and the protection and maintenance of the residential character of Newport Landing.

2. Membership and Voting. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Association shall have two classes of voting membership:

(a) Class A. The Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as they shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. The Class B Members shall be the Declarant and it shall be entitled to thirty-five (35) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or

(ii) On January 1, 2010.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

(a) The acquisition, development, maintenance, repair, replacement, operation, and administration of any Common Facilities, including the promulgation, enactment, amendment and enforcement of the Lake Rules and other rules and regulations relating to the use and enjoyment of any Common Facilities.

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks and other public property, within or near Newport Landing.

(c) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.



(e) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

(f) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

(g) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

(h) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

(i) General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

(j) The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Mandatory Duties of the Association. The Association shall:

(a) Maintain and repair the Common Facilities, and the signs which have or will be installed by Declarant at entrances to the Newport Landing subdivision in good repair and neat condition; and

(b) Maintain, repair, and replace as necessary all fences and trees, shrubs, and other natural barriers and green areas constructed on and along property owned by the Association, so that such are in good repair and neat condition.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant. Lots owned by the Declarant shall not be subject to imposition of dues, assessments or Association liens.

7. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 10, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

(a) Five Hundred and no/100 Dollars (\$500.00) per Lot; or

(b) In each calendar year beginning on January 1, 2002, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Lake Assessments. In addition to the imposition of dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, maintenance or improvement to the Lake (the "Lake Assessments"). The aggregate assessments in each calendar year shall be limited in amount to Five Hundred and no/100 Dollars (\$500.00) per Lot.

11. Assessments for Extraordinary Costs. In addition to the dues and Lake assessments, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to One Thousand and no/100 Dollars (\$1,000.00) per Lot.

12. Excess Dues and Assessments. With the approval of sixty percent (60%) of the voting interests of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

13. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may be abated as to individual Lots, as provided in Section 6, above.

14. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

15. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessments which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Facilities or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

16. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home

improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

ARTICLE V.  
EASEMENTS AND CHARGES

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Qwest Communications, Telepartners, L.L.C., Cox Communications, and to any other company granted a franchise or license by the City of Bennington, Nebraska, to provide telecommunications within the Lots, their successors and assigns, to erect, operate and maintain, repair and renew poles, wires, crossarms, downguys and anchors, cables, conduits and other related facilities; and to extend thereon wires or cables for the caring and transmission of electric current for light, heat and power for the transmission of signals and sounds of all kinds, including signals provided by a cable television system, and the reception thereon, over, through, under and across a five (5) foot strip of land abutting the front boundary of each Lot and a five (5) foot strip of land abutting all side boundaries of the Lots, except where a sanitary sewer easement has been granted. Lot 284 is not included in the aforementioned side and front boundary lot line easements.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants, valves and other related facilities, and to extend thereon pipes for the transmission of gas and water, on, through, under and across the five (5) foot strip of land abutting all streets; this license being granted for the use and benefit of all present and future Owners of these Lots. No permanent buildings, trees, retaining walls or loose rock wall or walls shall be placed on the above-described easementways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights granted herein.

3. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Qwest Communications telephone company files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then the telephone company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority. Should such charge be implemented by the telephone company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date; and (2) the telephone company sends each Owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

4. Other easements are provided for in the final plat of Bennington Lake which is filed in the Register of Deeds of Douglas County, Nebraska (Book 2041, Page 55).

5. Each Lot is restricted by covenants, conditions and easements of record with the Register of Deeds of Douglas County, Nebraska, relating to agreements with the Papio-Missouri River Natural Resources District and the Lake and its operation, maintenance and repair (the "PMNRD Restrictions").

6. An easement is reserved for the Association and Declarant, and their respective agents, employees and contractors, on and across each of the Lots for ingress to and egress from the Lots as necessary or appropriate to effect repairs and maintenance to the Sea Wall in the event that the Owner fails to comply with its obligations under Article III, Section 4, of this Declaration, and as necessary and appropriate for the operation, maintenance and repair of the Lake and other Common Facilities as may be adjacent to the Owner's Lot.

ARTICLE VI.  
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant, the Association, or any Owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. This Declaration and the covenants, conditions, restrictions and easements of this Declaration shall run with and bind the land in perpetuity and shall be binding upon all persons or entities having or acquiring any right, title or interest in the Bennington Lake Property. This Declaration may be amended by HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, or any person, firm, corporation, partnership, or entity designated in writing by HORGAN DEVELOPMENT COMPANY, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than sixty percent (60%) of the Lots covered by this Declaration.

3. By written consent of the Declarant for a period of ten (10) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver, modification or amendment will have on the Bennington Lake subdivision and the Owner requesting the waiver. Declarant's decision on any requested waiver, modification or amendment shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification, or amendment.

4. HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

5. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

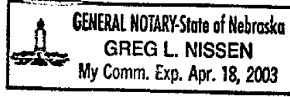
IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 1<sup>st</sup> day of MAY, 2001.

HORGAN DEVELOPMENT COMPANY, a Nebraska corporation

By: Robert P. Horgan  
Robert P. Horgan, President

STATE OF NEBRASKA )  
 ) ss.:  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2001, by Robert P. Horgan, President of HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, on behalf of the corporation.



[Signature]  
Notary Public

76943v7

**EXHIBIT "A"****NEWPORT LANDING LAKE  
RULES AND REGULATIONS  
May 1, 2001**

These Newport Landing Lake Rules and Regulations are made and adopted effective May 1, 2001, by the Newport Landing Homeowners and Lake Association, a Nebraska not-for-profit corporation.

**ARTICLE I  
DEFINITIONS**

For purposes of these Lake Rules and Regulations, the terms below shall have the meanings as follows:

1. "Association" shall mean and refer to the Newport Landing Homeowners Association, a Nebraska not-for-profit corporation.
2. "Committee" shall mean the Lake Rules and Regulations Committee, if any, appointed by the Board of Directors of the Association.
3. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions and Easements for Newport Landing, as such may be amended from time to time and recorded with the Register of Deeds of Douglas County, Nebraska.
4. "Family Member" shall mean and refer to the spouse of an Owner of a Lot and the unmarried children of an Owner of a Lot that reside at the Lot.
5. "Guest" shall mean and refer to all persons who are using the Lake and Lake Facilities at the invitation and with the consent of an Owner or a Family Member of an Owner.
6. "Lake" shall mean and refer to the lake constructed on or around the Lake Lot.
7. "Lake Facilities" shall mean and refer to any and all improvements or facilities constructed on or about the Lake and available for use of the Owners and their Family Members.
8. "Lake Lot" shall mean and refer to Lot 1, Bennington lake, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.
9. "Lake Rules" shall mean and refer to these Newport Landing Lake Rules and Regulations, as amended and supplemented from time to time.
10. "Lot" shall mean each individual residential lot in the Newport Landing Subdivision.

11. "Newport Landing Subdivision" shall mean collectively the Lots, Lake Lot, Outlots, Island Lot, and Marina Lot as defined in the Declaration, as such lots may be replatted or amended from time to time.

12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lots merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). A purchaser of a Lot under a land contract or similar instrument shall be deemed to be the Owner of a Lot for purposes of these Lake Rules.

13. "Permitted Watercraft" shall mean conventional recreational fishing, pontoon, house and ski boats powered by inboard or outboard motors, canoes, paddleboats, and sailboats, jet skis or wave runners, but shall exclude any and all other watercraft, including, without limitation, jet boats and air boats.

Any terms not herein defined with an initial capitalized letter shall have the meaning ascribed to them by the Declaration.

## ARTICLE II LAKE USAGE

1. All Owners and their respective Family Members shall have the right, in common with all Owners and Family Members, to use the Lake and Lake Facilities subject to the restrictions in these Lake Rules and the Declaration. Except for specified public use areas, the Lake and Lake Facilities may not be used by persons other than Owners, Family Members and Guests.

2. Guests shall be permitted to use the Lake and Lake Facilities subject to the following requirements:

(a) All usage of the Lake and Lake Facilities by Guests shall be in conformance with the Lake Rules and the Declaration;

(b) Guests must be accompanied by an Owner or a Family Member of an Owner at all times when using the Lake or Lake Facilities; and

(c) Guests shall be registered in accordance with any Guest registration requirements adopted by the Association.

### ARTICLE III BOATING RESTRICTIONS

1. All Permitted Watercraft operating on the Lake must comply with these Lake Rules as well as the binding provisions of the Nebraska State Boat Act, Neb. Rev. Stat. §§ 37-1201 et seq. and binding regulations adopted thereunder, as amended from time to time (the "State Rules"). In the event of any conflict between the terms of these Lake Rules and the State Rules, the State Rules shall control unless the provisions of the Lake Rules are more stringent, in which event these Lake Rules shall control.
2. Permitted Watercraft and trailers, may be parked or stored on a Lot for no longer than 24 consecutive hours unless stored in the garage. Notwithstanding the foregoing, Permitted Watercraft on trailers may be parked in a driveway of a Lot during the 15 day period between April 15 and April 30 and October 15 and October 30 to permit Owners to ready their Permitted Watercraft for usage and/or storage.
3. Each Lot Owner may install a dock in the Lake in front of their respective Lot. All boat docks must be constructed from a wood, polyethylene, vinyl, fiberglass, aluminum or non-rusting material and shall not extend more than 30 feet into the Lake from the Owner's Lake Lot line. Decking on boat docks can be made of redwood, vinyl or treated wood material. The plans for all docks, showing their material, configuration and size, shall be subject to approval by the DRC prior to their installation in accordance with the procedures set forth in Article II, Section 2, of the Declaration. Permitted boat lifts will be those made of aluminum such as "Shore Station-Hewitt" etc., or a non-rusting type of material as approved by the Association, with white or gray canopy covers, or of a canopy color approved by the Association. The plans for all boat lifts showing their size, materials, colors and configuration, must be approved by the DRC in accordance with the procedures set forth in Article II, Section 2, of the Declaration.
4. Boat Houses on the Lake are prohibited.
5. Lot Owners may not use the Lake for boating unless construction of their residence has commenced on their Lot and they have a DRC approved dock and boat lift in place.
6. All Permitted Watercraft on the Lake must be owned by an Owner or Family Member, must be registered with the Association, and must have affixed current Association registration sticker in a visible location on the starboard aft side.
7. Boat speeding on the Lake is prohibited. The maximum permitted speed for Permitted Watercraft is 50 m.p.h. The launching, marina, shore, cove, and dock areas are NO WAKE Areas, and the entire Lake is a No Wake Area between sundown and sunrise.
8. All boats and skiers, and others being pulled by a boat, must remain a minimum of sixty (60) feet from the Lake shore and boat lifts and docks.



9. Any Permitted Watercraft found on the Lake or its shores that is not owned by an Owner or Family Member, or that does not contain the appropriate Association registration sticker may be removed by the Association or its duly authorized agent at the expense of the owner.
10. Permitted Watercraft may be restricted during special events as deemed necessary by the Association.
11. No more than two (2) Permitted Watercraft from each Lot shall be operated on the Lake at any given time.
12. No Permitted Watercraft shall be equipped with sanitary facilities of any kind which are capable of directly discharging into the water.
13. No water bladders, weighted transoms or any modification to increase boat wake is allowed.
14. The following are maximum boat and motor sizes for Permitted Watercraft operating on the Lake:
  - (a) Pontoon Boats. Maximum length is 28 feet determined by the length of the pontoons. Decks not to extend beyond either end of the pontoons and with a maximum of 75 horsepower motors.
  - (b) Sailboats. Maximum length is 24 feet. Mast height of sailboats shall not exceed 10 feet.
  - (c) Inboard IV-Drive Ski Boats. Ski boats must be A.W.S.A. approved. Maximum length is 23 feet with a maximum of 375 horsepower motors.
  - (d) Inboard/Outboard. Maximum length is 23 feet with a maximum of 375 horsepower motors. No above-water or through-hull exhaust including adjustable (captain's call, silent choice, etc.).
  - (e) Outboard Boats. Maximum length is 23 feet with a maximum of 220 horsepower. Boats under 18 feet 6 inches may have a maximum of 190 horsepower motors.
  - (f) Boat Motors. No motors may be altered or modified from their original factory production standards to increase their performance or horsepower. No above water or through hull exhaust systems allowed.
  - (g) Jet Skis, Wave Runners. All motors for jet skis, wave runners or similar watercraft shall have 4 cycle motors.

15. Future establishment or use of a slalom course on the Lake must be by annual application to and approval by the Association Board of Directors. If approved, the slalom course must be utilized when there is minimum traffic on the Lake. Permitted Watercraft may not go through the course when it is in use and should take on the responsibility to either replace a buoy if they cut it or seek help from a Ski Club member.
16. Boats pulling skiers, running in open waters or around islands or operating in excess of 25 m.p.h. must be run in a COUNTERCLOCKWISE direction.
17. All boats towing skiers, sleds, etc. must have an onboard observer, 13 years or older.
18. Permitted Watercraft may not follow a person being towed (skier, etc.) closer than 200 feet (2/3 of a city block).
19. Permitted Watercraft may not operate between a downed skier and the towing boat.
20. Towlines may not be towed in the water for more than 300 feet (one city block). Towlines may not exceed 75 feet in length.
21. Permitted Watercraft shall be limited to a maximum of two towlines at one time except on weekends and holidays when only one towline shall be permitted.
22. Permitted Watercraft with a downed skier should turn around only while turning into or toward shore in order to pick up their skier.
23. Pontoon boats shall not be allowed to pull water skiers.
24. Children under 12 years of age and younger must wear a U.S. Coast Guard approved life preservers when in a moving boat.
25. No one under the age of 14 years shall operate mechanically powered Permitted Watercraft at any time.
26. All Permitted Watercraft must use appropriate lights if on the lake at night.
27. Sailboats, canoes, rowboats, paddleboats, any other Permitted Watercraft not operating under mechanical power, any anchored vessel, and swimmers always have right of way over any other Permitted Watercraft operating under mechanical power.
28. Chasing waterfowl with Permitted Watercraft is prohibited.
29. All water skiers or persons being towed must wear a life jacket while being towed.

30. All Permitted Watercraft towing people must have an orange warning flag on board and show it when the person being towed is down.

31. All boats must have a U.S. Coast Guard-approved life saving device of Type I, II, or III, for each person on board. In addition, every boat shall carry at least one U.S. Coast Guard-approved throwable flotation device.

32. All boats must have an efficient whistle or other mechanical sound producing device.

### **ARTICLE III SWIMMING/SCUBA DIVING**

1. Swimming across the main part of the lake is prohibited.

2. Swimming at the boat launching and marina areas is prohibited.

3. The 50-foot area adjoining the residential lots is reserved for swimming.

4. Scuba diving is allowed only by special permit from the Association and never on weekends or holidays.

5. All scuba divers must use a flag while diving. All Permitted Watercraft must stay 75 feet from this flag.

### **ARTICLE IV FISHING**

1. All fishermen must comply with these Lake Rules as well as the binding State of Nebraska fishing rules and regulations (the "State Rules"). In the event of any conflict between the terms of these Lake Rules and the State Rules, the State Rules shall control unless the provisions of the Lake Rules are more stringent, in which event these Lake Rules shall control.

2. Except for specified public use areas, fishing shall be permitted only for Owners, Family Members and Guests.

3. All fishing shall be catch and release until the fish population has been established and these rules are modified.

4. No cleaning of fish shall be permitted around the Lake except in approved fish clean stations.

5. Fishermen shall not leave dead fish on or about the Lake.

6. Ice fishing with a maximum 10 inch diameter hole is permitted.
7. Anglers are limited to 2 lines with 2 hooks on each line. One hook means a single double or treble-pointed hook. All hooks attached to an artificial bait or lure are counted as one hook. These limits apply to all fishing, including rod and reel, poles, float lines, bank lines, setlines and all other types.
8. It is prohibited to possess a net (other than landing net) or seine of any type on the Lake.
9. It is prohibited to use minnows on the Lake, except those legally collected from the Lake.
10. Digging, seining and trapping for bait or any purpose is prohibited.
11. It is prohibited to import or transport carp, carpsucker, goldfish, buffalo, quill-back, gar, gizzard shad or bowfin into the Lake.

#### **ARTICLE V SNOWMOBILING AND WINTER USAGE**

1. Use of the Lake and Lake Facilities during the winter months is at the sole and exclusive risk of the Owners, Family Members and Guests. Use of the Lake and Lake Facilities is prohibited when ice conditions are dangerous. The Association will not be monitoring the ice conditions and judgment as to the ice conditions will be in the discretion of each individual.
2. Recreational snowmobiles and four-wheelers shall be permitted on the Lake. All snowmobiles and four-wheelers must enter the Lake from the boat ramp at the marina. No racing of these vehicles shall be permitted and the speed limit on the Lake shall be 50 m.p.h.
3. No one under the age of 14 years shall operate snowmobiles or four-wheelers on the Lake. Each Owner shall be limited to the operation of no more than four snowmobiles at any one time on the Lake.
4. Ice fishing on the Lake shall be permitted subject to compliance with the fishing rules in Article IV of these Lake Rules. No ice fishing tents or huts may be left on the Lake overnight.
5. No cars, trucks, or other similar motor vehicles shall be permitted on the frozen surface of the Lake.

**ARTICLE VI  
LAWN MAINTENANCE AND  
MANAGEMENT PRACTICES**

1. These practices are formulated in response to the Corp of Engineers Section 404 permit for the construction of the lake and to minimize adverse effects to the water quality of the Lake. It is recommended that turf on all Lots be Super Turf II without the perennial rye or equivalent. These regulations discourage the use of bluegrass, but if it is to be used, it should be Sure Shot Kentucky Bluegrass Blend or equivalent. Perennial rye grass, zoysia grass or buffalo grass should not be used.

2. **Mowing:** It is recommended to return clippings to the lawn as this can provide up to 25% of the nitrogen required for the lawn. The use of a mulching mower is recommended. Following is the recommended mowing schedule:

<u>Grass Species</u>	<u>Mower Setting In Spring/Fall</u>	<u>Mow When Grass Is</u>
Turf Type Tall Fescue (Super Turf II)	2½" - 3"	3½" - 4"
Kentucky Bluegrass	2"	3"

To cool the turf plant and reduce stress in June, July and August, raise the mower height one inch.

3. **Fertilizing:** The rate of fertilizer application, the frequency of application and the source of the nitrogen will determine how fast the lawn grows. The following fertilizer plan is recommended:

<u>Grass Species</u>	<u>Timing</u>	<u>Nitrogen 1,000 Sq. Ft.</u>
Turf Type Tall Fescue	April 20 - 28	0.50 lbs.
	May 5 - 15	0.50 lbs.
	June 5 - 10	0.75 lbs.
	Sept. 1 - 10	0.75 lbs.
	Oct. 20 - Nov. 10	1.00 lbs.
Kentucky Bluegrass	April 20 - 28	1.00 lbs.
	May 5 - 15	0.75 lbs.
	June 5 - 10	1.00 lbs.
	Sept. 1 - 10	1.00 lbs.

<u>Grass Species</u>	<u>Timing</u>	<u>Nitrogen 1,000 Sq. Ft.</u>
	Oct. 20 - Nov. 10	1.50 lbs.

4. **Watering:** Turf Type Tall Fescue should require about one-half inch of water every five or six days in the driest period of the summer.

Kentucky Bluegrass should require about one inch of water every five or six days in the driest period of the summer.

The best time to water is early morning. The worst time to water is in the evening because the lawn stays wet all night which encourages disease development. Lawns watered too frequently tend to develop shallow root systems which may make them more susceptible to grub damage and heat/drought stress. If water runs off the lawn before the recommended amount is applied, turn the sprinkler off, let the water soak in for about one hour, then continue watering.

5. **Pest Control:** All pesticide applications should be on a specific grass type basis except for pre-emergence weed control in the spring, and grub control in mid-summer. Weed control, other than pre-emergence, should be spot treated applications rather than broadcast. All granular pesticides should be swept or blown onto the lawn off driveways and sidewalks after applications. Fungicide applications should be avoided if possible.

#### ARTICLE VII MISCELLANEOUS

1. These Lake Rules may be amended from time to time by the Board of Directors of the Association. The Lake Rules, as amended from time to time, shall be made available to all Owners upon request.

2. There is a punitive system for the violation of the Lake Rules. Any Owner who shall have violated or permitted, authorized or allowed the violation of these Lake Rules by a Family Member or Guest shall be subject to fines and suspensions as provided in these Lake Rules. The first offense is a warning. The second and subsequent offenses shall result in a \$100.00 fine. In the event of three or more offenses in any one calendar year, the Owners and related Family Member privileges to use the Lake and Lake Facility shall be suspended for the longer of one (1) year following notice of the third offense or until reinstatement is granted by the Association Board of Directors after written application for reinstatement is made to the Association Board.

3. The Owners, Family Members and Guests assume all risks associated with using the Lake and all Owners agree and covenant, on their own behalf and on behalf of their Family Members and Guests, not to make any claim or institute any action whatsoever against the

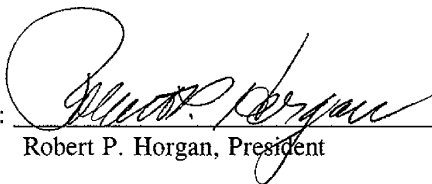
Association, the developer, or their respective officers, directors, employees or agents arising or resulting from their use of the Lake and Lake Facilities.

4. Each Owner agrees to indemnify and hold harmless the Association, and its officers, directors, employees, and agents from and against any and all liability, loss, or damage suffered or incurred by the Association, its officers, directors, employees or agents arising or resulting from the negligent or wrongful acts or omissions to act of the Owner, the Owner's Family Members and Guests pertaining to the Lake and the Lake Facilities.

5. In the event of a conflict between the terms and conditions of these Lake Rules and the terms and conditions of the Declaration, the terms of the Declaration shall control.

IN WITNESS WHEREOF, these Lake Rules have been adopted as of the date and year first above written.

NEWPORT LANDING HOMEOWNERS  
AND LAKE ASSOCIATION, INC., a  
Nebraska not-for-profit corporation

By:   
Robert P. Horgan, President

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