**SWAINS CREEK PINES LOT OWNERS' ASSOCIATION ®**
*c/o Administrative Business Solutions, LLC*
*PO Box 303, Washington, Utah 84780*
*swainscreek@adminutah.com*
*www.PayHOA.com*
435-200-3375

*October 8th, 2024*

## NOTICE OF THE SWAINS CREEK PINES TRADEMARK USE POLICY

Dear Swains Creek Pines Lot Owners' Association® Members,

This notice is to inform you of the adoption of the Swains Creek Pines Trademark Use Policy, a significant step forward in safeguarding our community's brand and identity. This policy is now part of our ongoing efforts to protect and enhance the value of our association.

The Board of Directors has successfully registered "Swains Creek Pines" and "Swains Creek Pines Lot Owners' Association" as trademarks, underscoring our commitment to maintaining the distinctiveness of our association. This action was driven by the necessity to ensure that our name and its derivatives are used in a manner that consistently reflects the standards of our community.

The enclosed Trademark Use Policy outlines that any use of the Association trademarks by any party requires prior written approval. This is to prevent unauthorized or inappropriate use that could dilute the integrity of our association or its operations. This process ensures that all proposed uses are reviewed for alignment with our community's values and objectives.

A copy of the adopted Trademark Use Policy and the corresponding Trademark Use Application have been enclosed. These documents, along with all other current governing documents of the Lot Owners' Association, are available for review at any time through the online owner portal. Please log in at www.PayHOA.com and navigate to the 'Documents' section to access these materials at your convenience.

We deeply appreciate your support and cooperation as we continue to work diligently to protect the integrity and value of the Swains Creek Pines Lot Owners' Association. By adhering to these new guidelines, together, we can ensure that our association remains a distinguished and respected entity within our community.

Thank you for your attention to this important matter and for your continued commitment to our community.

Sincerely,

**The Board of Directors**
***Swains Creek Pines Lot Owners' Association®***

# Swains Creek Pines Lot Owners' Association® Trademark Use Policy

Adopted October 5th, 2024

## Background

Swains Creek Pines Lot Owners' Association®, a Utah non-profit corporation ("Association"), has invested significant time and resources to protect its trademarks, including the standard character mark SWAINS CREEK PINES®. The Association's commitment to its brand integrity is demonstrated by the formal registration of its trademark with the United States Patent and Trademark Office (USPTO). The details of this registration are as follows:

- **Registration Number:** 7,450,271
- **Registration Date:** July 16, 2024
- **International Class:** 35
- **Nature of Mark:** Service Mark
- **Register:** Principal Register
- **Description of Services:** Homeowner association services, namely, promoting the interests of homeowners in a specific community and marketing the community nationwide to prospective new residents and property owners.
- **First Use in Commerce Date:** May 24, 1974
- **Serial Number:** 98-101,022
- **Filing Date:** July 25, 2023
- **Mark Description:** The mark consists of standard characters without claim to any particular font style, size, or color.

Accordingly, this document establishes general policies for the use of Association trademarks to enable and ensure proper use of the Association brands by others. This policy aims to guide the application of the SWAINS CREEK PINES® mark to maintain its distinctiveness and value, while aligning with the strategic goals and reputation of the Association.

## Important Information About Trademark Law

It is crucial for all stakeholders to recognize that the policies governing the use of our trademarks are not arbitrary; instead, they are firmly rooted in established principles of trademark law. These principles define what trademarks are and detail how they are obtained, maintained, and potentially diluted or lost over time. Additionally, they address critical legal concepts such as 'nominative fair use,' which allows for the use of someone else's trademark under specific conditions, and 'likelihood of confusion,' which refers to the probability that the public might mistakenly believe that goods or services offered under a similar mark come from the same source or are affiliated with the trademark owner.

To deepen understanding and ensure compliance, numerous resources are available. The United States Patent and Trademark Office (USPTO) offers extensive online materials that can be instrumental in educating our members and others on these topics. These resources provide valuable insights into the legal framework surrounding trademarks and their application in various scenarios.

As the trademark owner, the Swains Creek Pines Lot Owners' Association® bears the legal right and the responsibility to oversee the use of its trademarks. This control is essential to prevent market confusion and protect the integrity of the brand that our community values. By enforcing these policies, the Association ensures that the trademarks are used in a manner that upholds their value and the reputation of the Association, thus safeguarding our collective identity and the trust we have established with our members and the broader public.

## Basic Guidelines

Swains Creek Pines Lot Owners' Association® offers a range of homeowner association services focused on promoting the interests of homeowners within our specific community (hereafter referred to as the "Community") and extending the appeal of the Community nationwide to attract prospective new residents and property owners. In maintaining the integrity and distinctive character of our trademark, it is essential that the Swains Creek Pines® trademarks are used solely to accurately and fairly represent the Association and its services. When using our trademarks, you must ensure that all references are factual, non-misleading, and respectful towards the Association, its services, personnel, the residents within the Community, and the Community itself.

It is prohibited to alter or modify any Association trademarks, merge them with other marks, or utilize them as part of a larger trademark without express permission. Additionally, adopting or using any mark that could be perceived as confusingly similar to or implying an affiliation with or endorsement by the Association without our prior approval is strictly forbidden.

**IMPORTANT: THE ASSOCIATION TRADEMARK MAY NOT BE USED IN CONNECTION WITH ANY GOODS OR SERVICES WITHOUT AN EXPRESS LICENSE GRANTED BY THE ASSOCIATION, DOCUMENTED THROUGH A FULLY EXECUTED LICENSE AGREEMENT.** Such licensing may include the payment of royalties from the licensee to the Association, contingent upon the terms stipulated within the licensing agreement. This stringent approach ensures that the usage of our trademark is managed carefully to protect our brand's reputation and legal rights.

## Nominative Fair Uses

In instances where it is necessary to accurately reference the services provided by Swains Creek Pines Lot Owners' Association® or to identify the Community itself, it may be appropriate to use the name as defined under the Association trademarks. Such utilization is recognized under trademark law as "**nominative fair use**." This type of use allows third parties to use the trademark to refer to the trademark owner's goods or services, particularly when no other term is readily available to describe the goods or services in question.

**Guidelines for Nominative Fair Use:**

1. **Accuracy and Non-misleading Use:** Any nominative use of the Association trademarks must be truthful and not deceptive. It should clearly and accurately represent the services or the Community without suggesting misleading information that could confuse the public.
2. **Use of Word Marks:** Generally, nominative fair use applies to the use of word marks rather than logos or stylized versions of the trademark. This limitation helps prevent visual confusion about the source or sponsorship of the products or services.
3. **Limitations on Prominence and Frequency:** The trademark should not be used more prominently or more frequently than necessary for the identification or description purpose. The trademark must appear less prominent than the non-trademark material surrounding it, ensuring that it does not overshadow or appear to be endorsed by the trademark owner.
4. **Compliance with Policy:** Any nominative fair use that does not adhere to these and other provisions set forth in our Trademark Use Policy will not be considered permissible. It is crucial that all uses conform to the guidelines to maintain the integrity of the trademark.

**Infringement Considerations:** It is important to distinguish between nominative fair use and potential infringement. Uses that create confusion among the public—making them uncertain about the origin, sponsorship, or corporate affiliation of a product or service—typically do not qualify as nominative fair use and may instead be infringing. Such confusion can undermine the trademark's ability to serve as a unique identifier of the Association's services and can lead to dilution of the brand.

We strongly encourage anyone wishing to make use of the Association trademarks in a nominative manner to contact the Association for clarification or approval prior to usage. This step ensures all parties understand the permissible scope of use and helps prevent inadvertent trademark infringement.

## Criteria for Allowing the Use of the Swains Creek Pines Lot Owners' Association® Trademark

**Brand Alignment:**
- The proposed use must align with the values, mission, and vision of the Association.
- It shall enhance, not detract from, the Association's reputation and image.

**Purpose of Use:**
- The use shall serve a specific purpose beneficial to the Association, such as promoting community events, member services, or charitable causes.
- The use shall not be for purposes that are purely commercial or for individual profit without benefit to the Association.

**Quality and Presentation:**
- Products or materials bearing the trademark must meet a specified quality standard that reflects positively on the Association.
- The aesthetic and design of the use must be professional and in good taste.

**Context and Placement:**
- The trademark shall be used in appropriate contexts and not associated with content that is unlawful, offensive, or contradicts community standards.
- The placement of the trademark shall be prominent and clear, ensuring it is not overshadowed or diminished by other branding elements.

**Duration of Use:**
- The period for which the trademark is used shall be clearly defined within each written approval. Temporary permissions may be granted for one-off events or limited series products.

**Geographical Restrictions:**
- The use may be restricted to certain geographical areas, particularly where the Association has a strong community presence or where it intends to expand its influence.

**Exclusivity and Limitations:**
- The Board of Directors shall determine whether any and each individual approved use shall be exclusive or if the trademark can be licensed to multiple parties simultaneously.
- Specific limitations on the types of products or services that can carry the trademark shall be established in each approved license.

**Target Audience:**
- The use shall target audiences that are relevant to the Association's demographics and stakeholders.
- It shall cater to or benefit the members of the Association or the local community.

**Legal Compliance:**
- The user must agree to comply with all relevant laws and regulations in the use of the trademark.
- The user must ensure that all advertising, labeling, and promotional materials bearing the trademark are truthful and not misleading.

**Financial Arrangement:**
- If the use is commercial, licensing fees or royalties may be required to be reinvested into the Community Association.
- Financial contributions or obligations involved shall be clearly outlined in the use of the trademark.

**Sub-licensing Restrictions:**
- Written approval shall specify whether the licensee is allowed to sub-license the trademark to other parties.
- If sub-licensing is permitted, similar standards and criteria shall apply to the sub-licensee.

**Revocation Conditions:**
- Permission to use the trademark may be revoked at any time at the discretion of the Board of Directors. This revocation can occur due to breach of agreement, damage to the Association's brand, changes in the Association's strategic direction, or any other reason deemed necessary by the Board.

**Documentation and Record Keeping:**

- The association shall maintain thorough documentation of all permissions granted, including terms, conditions, and communications with the licensee.
- Regular audits or checks shall be performed to ensure compliance with the terms of use.

## Prohibited Uses

The following uses of the Association trademarks violate our policy, and may be considered infringing, therefore, shall not be considered for approval by the Board of Directors under any circumstances:

- Branding products and/or services in a manner that is confusingly similar to Association branding.
- Using company names that may be associated in customers' minds with the Association or its trademarks.
- Claiming Association approval or endorsement of any kind without authorization.
- Creating social media accounts using Association trademarks.
- Using Association trademarks in domain names. This usage is not considered "nominative fair use" because the domain name refers to the offerings on your website, rather than merely being used to identify Association services or the Community.

## Membership Support of Trademark Use

Maintaining the integrity and strength of the Association brand is vital for the well-being of our entire community. As members, you play a crucial role in upholding our trademark standards. Should you encounter any misuse of the Association trademarks or notice usage that is confusingly similar, contravenes our established policies, or is otherwise inappropriate, we encourage you to report these incidents. Please direct your observations and concerns to us at **swainscreek@adminutah.com**.

Additionally, if you receive communication from the Association regarding your use of our trademarks, we ask that you respond promptly and take corrective action as advised. We are committed to clarity and mutual respect in our communications. Should you have any questions or wish to discuss any requests or concerns regarding trademark use, do not hesitate to reach out to us at the same email address. Your proactive engagement helps us preserve the value and reputation of our community brand, ensuring that it continues to represent our collective interests and standards effectively.

## Compliance and Monitoring

It is critical to note that any misuse or unapproved use of the Association trademarks by members will be considered a compliance violation of the Association's governing documents. Such violations may lead to a range of enforcement actions, including but not limited to the imposition of fines, legal fees, and other disciplinary measures as outlined in the Association's rules and regulations.

The Association takes these matters seriously to preserve the integrity and value of its trademarks. Any deviation from the approved use, or any use without proper approval, may result in immediate revocation of the approval and further legal action if necessary. Members are urged to approach the use of the Association's trademarks with the utmost responsibility and adherence to the specified guidelines to avoid any potential penalties.

## Request for Use and Approval Process

To ensure proper management and control over the use of the Association trademarks, a structured and formal process is in place for reviewing and approving any third-party requests for use. This process is designed to maintain the integrity of our brand and ensure that all uses align with our community values and brand identity.

### 1. Submission of Request

All requests to use the Association trademarks must be submitted in writing using the proper application to ensure adequate documentation and review. Completed applications can be sent via email to **swainscreek@adminutah.com** or by mail to the following address:

**Swains Creek Pines Lot Owners' Association®**
**PO Box 303**
**Washington, Utah 84780**

**2. Content of Request**

Each request must include:

- A detailed description of the proposed use of the trademark, including the specific trademarks requested for use.
- The purpose and nature of the use, specifying how it aligns with the Association's values and objectives.
- The proposed duration and geographical scope of the trademark use.
- The target audience for the trademark use, detailing how the use is intended to engage this audience.
- Any proposed designs, promotional materials, or product samples that will feature the trademark.
- Contact information of the requesting party for further communication and documentation.

**3. Review Process**

Upon receipt of a request, the Board of Directors will review the submission to ensure it meets all required criteria and aligns with the Association's policies. This review process may involve consultation with legal advisors or the Board of Directors, as needed. Final determinations shall be made at the sole discretion of the Board, regardless of allowable criteria.

**4. Written Approval**

If a request is approved, the Association Management office will provide express written approval specifying:

- The exact trademark(s) that may be used.
- The approved manner and context of the trademark use.
- Any limitations or conditions related to the use, including the mandatory inclusion of an appropriate attribution and proprietary rights notice. For example, all approved uses must include the following statement: "Swains Creek Pines is a registered trademark of Swains Creek Pines Lot Owners' Association. We and our services or goods are not affiliated with or endorsed by Swains Creek Pines Lot Owners' Association."
- The duration for which the approval is valid, clearly defining the start and end dates.
- Any financial arrangements or royalties associated with the use, if applicable.
- A provision that the approval may be amended or revoked at any time for any reason as deemed necessary by the Board of Directors.

**5. No Implied Approvals**

It must be clearly understood that under no circumstances shall any use of the Association's trademarks commence without such express written approval from the Association Management office. No verbal agreements or written approvals from any other source, including other Association members or staff, are valid or binding.

**6. Monitoring**

Approved users must strictly adhere to the terms specified in the written approval. The Association reserves the right to monitor the use of its trademarks to ensure compliance. Any deviation from the approved use may result in immediate revocation of the approval and further legal action if necessary.

## Disclaimer

The primary goal of this Trademark Use Policy is to prevent the misuse of the Association trademarks and to sustain a clear distinction in the marketplace between the products and services provided directly under the Association name and those offered by other entities. This policy is essential in safeguarding the unique identity and reputation of Swains Creek Pines Lot Owners' Association® and its Community.

**Limitation of Rights:** Nothing contained within this policy should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Association trademarks without the explicit written permission of the Swains Creek Pines Lot Owners' Association®. Additionally, no provisions in this policy grant any third party the right to claim any association with, endorsement by, or approval from the Association. This policy explicitly prohibits the indication or

implication of the Association's support for third-party products or services, regardless of whether they are derivative of services provided by the Association.

**Amendment and Modification Rights:** The Board of Directors of the Association reserves the full right to modify, amend, or revoke this Trademark Use Policy at any time. Such changes may include alterations to the terms of use, permissions granted, and overall policy guidelines. All stakeholders, including licensed users and members of the community, will be informed of any changes to ensure continued compliance and understanding of the trademark use parameters.

**Enforcement and Compliance:** The Association will actively monitor the use of its trademarks and enforce this policy to ensure that the trademarks are used appropriately and in accordance with the terms set forth herein. Failure to comply with this policy may result in legal action to rectify trademark infringement or misuse and could lead to the withdrawal of any permissions previously granted under the terms of this policy.

By adhering to this policy, all parties help ensure that the Association trademarks remain symbols of quality and integrity, clearly associated only with services and initiatives directly overseen or endorsed by the Swains Creek Pines Lot Owners' Association®.

Pursuant to Utah Code 57-8a-217 , a copy of this Policy was sent to each member/lot owner of the Association within (15) days after the Board Meeting via:

☑ U.S. Mail (only to those without email on file with the Association)
☑ Email
☑ Other: Posted on Online Owner Document Portal

Attest: McKenzie Johnson, Community Association Management

# Swains Creek Pines Lot Owners' Association®
# Trademark Use Application Form

**Important: Before completing or submitting this application, applicants are required to thoroughly review the Swains Creek Pines Lot Owners' Association® Trademark Use Policy. Understanding and adhering to this policy is essential to ensure compliance and avoid potential legal issues.**

Any use of Swains Creek Pines trademarks requires prior written approval from the Association's Management office. To apply for trademark use, please complete this form with all required details and submit it via email to **swainscreek@adminutah.com** or by postal mail to: **Swains Creek Pines Lot Owners' Association®, PO Box 303, Washington, Utah 84780**. The Board of Directors will review your application, and you will receive a formal written response.

| **APPLICANT INFORMATION** | |
|---|---|
| **NAME(S):** | |
| **REPRESENTATIVE NAME(S)** (if above is an entity other than a person)**:** | |
| | |
| **MAILING ADDRESS:** | |
| **CONTACT PHONE:** | |
| **CONTACT EMAIL:** | |
| | |
| **TRADEMARK USE DETAILS** | |
| **DESCRIPTION OF PROPOSED USE** (Please provide a detailed description of how you intend to use the Swains Creek Pines trademark(s). Include specific trademarks you are requesting to use)**:** | |
| | |
| **PURPOSE OF USE** (Describe the purpose of the use. Indicate whether it is for community events, member services, charitable causes, or other purposes)**:** | |
| | |

**Swains Creek Pines Lot Owners' Association®**
**Trademark Use Application Form**

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|---|
| **TARGET AUDIENCE** (Specify the target audience for the use of the trademark)**:** |
| |
| **DURATION OF USE** (State the start and end dates for the proposed use of the trademark)**:** |

| | |
|---|---|
| | |
| ***START DATE*** | ***END DATE*** |

| |
|---|
| **GEOGRAPHICAL SCOPE** (Indicate the geographical area where the trademark will be used)**:** |
| |
| **DESIGNS & PROMOTIONAL MATERIALS** (Describe and **attach** any designs, promotional materials, or product samples that will feature the trademark)**:** |
| |
| **MONETARY USE** (Detail any financial considerations involved in the use of the trademark including profit to be derived from the intended use)**:** |
| |
| **STATEMENT OF ACKNOWLEDGEMENT AND AGREEMENT:** |
| **By signing below, I affirmatively acknowledge and agree to fully abide by all provisions of the Swains Creek Pines Lot Owners' Association® Trademark Use Policy, adhere to all applicable trademark laws, and comply with any conditions set forth in any written approval that may be granted by the Association. I understand that this commitment is crucial to maintaining the integrity and value of the Association's trademarks and is a condition of any approval to use such trademarks.**<br><br>**I also acknowledge that any approved use of the Swains Creek Pines trademarks will include the following attribution and proprietary rights notice: "Swains Creek Pines is a registered trademark of Swains Creek Pines Lot Owners' Association. We and our services or goods are not affiliated with or endorsed by Swains Creek Pines Lot Owners' Association."** |

| | |
|---|---|
| **PRINTED NAME OF APPLICANT:** | |
| | |
| **SIGNATURE OF APPLICANT** | **DATE SIGNED** |

***Submission of this application does not guarantee approval. The Board of Directors will review all applications to ensure they meet the Association's standards and align with its values and objectives. The Association reserves the right to amend or revoke approval at any time as deemed necessary.***