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SCPLOA Rule Regarding the Collection of Assessments

Adopted July 12, 2025

AMENDED RULE REGARDING
COLLECTION OF ASSESSMENTS
SWAINS CREEK PINES LOT OWNERS ASSOCIATION
(A Community Association Incorporated in the State of Utah)

WHEREAS, at a Board meeting of the Swains Creek Pines Lot Owners Association (the "Association") held on July 12, 2025, which meeting was called pursuant to Utah Code § 57-8a-217, the following Rules were adopted.

WHEREAS, pursuant to Utah Code § 57-8a-217(2)(a), reasonable notice was sent fifteen (15) days in advance of the meeting that the board was considering adopting the following Rules, to align with law and local standards and practices.

WHEREAS, at the meeting, the Board provided an open forum giving Owners opportunity to be heard before the Board would take action regarding these Rules. (Utah Code § 57-8a-217(2)(b)).

WHEREAS, a copy of this Rule, in its entirety, was delivered to Owners within 15 days after the Board
meeting. (Utah Code § 57-8a-214 and -217(2)(c)).

WHEREAS, Pursuant to Utah Code § 57-8a-217(4), notice is given to Owners that they have 60 days after the Board meeting to disapprove of the Board's adoption of this Rule. Disapproval is only effective if there is a vote of at least 51% of the allocated voting interests of the Owners in the Association and the vote is taken at a special meeting called for that purpose by the Owners as provided for in the Declaration, Articles of Incorporation, or Bylaws. However, the Board has no obligation to call a special meeting of the Owners to consider disapproval unless the Owners submit a petition, in the same manner as provided for in the Declaration, Articles of Incorporation, or Bylaws for a special meeting to be held. Should the Board receive such petition, the Rule will remain in effect, but actions to enforce will be stayed pending and subject to the outcome of the special meeting.

NOW THEREFORE, BE IT HEREBY RESOLVED THAT the following rules are adopted:

1. Any prior Rule, Policy, or Resolution regarding the collection of assessments is superseded by this Rule.

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2. **Assessments.** Pursuant to 57-8a-201, (1) An owner shall pay the owner's proportionate share of (a) the common expenses; and (b) any other assessments levied by the association; and (2) A payment described in Subsection (1) shall be in the amount and at the time determined by the board of directors in accordance with the terms of the (a) declaration; or (b) bylaws; and (3) An assessment levied against a lot is: (a) a debt of the owner at the time the assessment is made; and (b) collectible as a debt described in Subsection (3)(a).

3. **Interest and Late Fees.** Under Utah Code § 57-8a-301 unpaid assessments shall accrue interest and late fees as provided in the Association's governing documents. If any assessment is not paid within sixty (60) days after the due date, a late payment service fee shall be added to the assessment. In addition to late fees, an interest charge may be added to the unpaid balance every month until the account is paid in full. The amount of service fees and interest charges shall be defined in the SCPLOA Fee Schedule in effect at the time the charge is applied.

4. **Accrual of Assessment Amounts.** In the event the accrual of all assessment amounts have not been included in the ledger, statement, invoice or similar instrument issued by the Association or the Manager to the member/lot owner (or whether or not such an instrument has ever been issued by the Association or the Manager), such shall not act as a waiver of the right to collect the assessment amounts or other amounts due and owing.

5. **Voting Rights and Common Facility Use.** In the event a member/lot owner fails to pay an assessment when due, that member is no longer considered a member in good standing and shall have no voting rights or any other rights or privileges of any kind arising out of the membership in the Association until such time as the member is reinstated by paying all delinquent assessments including dues, special assessments, fines, interest, and damages in full. Before terminating the rights of the member the Manager or Board shall give the delinquent member/lot owner notice in the manner provided in the Declaration, Bylaws or Rules. Such notice shall state: (1) that the Association will terminate the member/lot owner's right to vote or access to and use of recreational facilities, or both, if the Association does not receive payment of the assessment within fifteen (15) days after the delinquent member/lot owner receives the notice; (2) the amount of the assessment due, including any interest or late payment fee; and (3) the member/lot owner's right to request a hearing.

   The delinquent member/lot owner may submit a written request to the Board for an informal hearing to dispute the assessment within fifteen (15) days after the date the delinquent lot owner receives the notice. The Board shall conduct the informal hearing in accordance with the standards provided in the Declaration, Bylaws, or Rules of the Association. If a delinquent member/lot owner requests a hearing, the Association may not terminate voting rights or right of access to and use of recreational facilities until after the board: (1) conducts the hearing; and (2) enters a final decision. If the Association

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terminates voting rights and/ or right of access to and use of recreational facilities, the Association shall take immediate action to reinstate the right following the member/lot owner's payment of the assessment, including any interest and late payment fee. The Association may: (1) assess the member/lot owner for the cost associated with reinstating the rights of the member that the Association terminates as provided in this section; and (2) demand that the estimated cost to reinstate the rights of the member be paid before the right is reinstated, if the estimated cost is included in the notice.

6. **Liens.** The amount of any delinquent annual fee, other fee or assessment shall become a lien on such member's lot in the subdivision in favor of the Association and the Association shall have the right to record a notice of claim of lien and proceed thereon in accordance with the applicable statutes of the State of Utah for foreclosure and enforcement of liens. An association may include in the amount due, and may collect, all costs and reasonable attorney fees incurred in collecting the amount due, including the costs of preparing, recording and foreclosing a lien. (Utah Code § 57-8a-301).

7. **Foreclosure.** In the event the Association shall not record a notice of claim of lien, it shall have the right to commence an in personam action against such member for the collection of the delinquent annual fees or other fees or assessments in a court of competent jurisdiction. Delinquent assessments, including fines, late fees, interest and costs and attorney's fees, may be collected by judicial or non-judicial foreclosure as provided by Utah Code §57-8a-303. The Association may, at its election, abandon foreclosure proceedings and file a lawsuit to collect and also recover the costs and fees of foreclosure in the lawsuit.

8. **Application of Payments.** The payments made will first be applied to the oldest debt, late fees, interest, and attorney costs and fees. Partial payments accepted may be split and applied 50/50 between the Association and the company collecting the debt. Any partial payment accepted by the Association will be under a full reservation of rights.

9. **Rent After Foreclosure.** In the event the Association takes title to a Lot/Unit through foreclosure, the Board may elect to rent the Lot/Unit.

If any provision of this Rule is determined to be null and void, all other provisions of the Rule shall remain in full force and effect.

Adopted on July 12, 2025 by a Majority or more of the Association's Board of Directors.

Signed by:
Don Gannon-Jones
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_____, Board Chair

Pursuant to Utah Code § 57-8a-217, a copy of these Rules were sent to each Member of the Association within 15 days after the Board meeting, via Email and/or US Mail.

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Attest: Signed by: Mckenzie Johnson CB2761018ED34A7... Administrative Business Solutions