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Rule Regarding Enforcement and Fines

Swains Creek Pines Lot Owners Association

Adopted July 12, 2025

AMENDED RULE REGARDING
(1) ENFORCING THE GOVERNING DOCUMENTS AND (2) FINES
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 laws and local standards and practices.

WHEREAS, at the meeting, the Board provided an open forum giving Owners the 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:

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Any prior Rule, Policy, or Resolution regarding the collection of assessments is superseded by this Rule.

I. ENFORCEMENT RULE

1. Owners shall be responsible for the improper actions or damages caused by themselves, their residents, tenants, guests, and other invitees. Furthermore, pursuant to Utah Code § 57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the Governing Documents, as defined in the Utah Community Association Act, by the tenant.

2. Under Utah Code § 57-8a-208(3)(c), a fine assessed shall accrue interest and late fees as provided in the Association's governing documents, including the SCPLOA Fee Schedule.

3. Under Utah Code § 57-8a-301, the Association may file a lien in favor of the association for delinquent fines and assessments and the costs of collection, including court costs and reasonable attorney fees, late charges and interest.

4. Under Utah Code § 57-8a-213, the Board may use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, including: (i) whether to compromise a claim made by or against the Board or the Association; and (ii) whether to pursue a claim for an unpaid assessment. The Association may not be required to take enforcement action if the Board determines that it has complied with the provisions of Utah Code § 57-8a-213.

   If the Board decides to forego enforcement, the Association is not prevented from later taking enforcement action. Moreover, this section does not govern whether the Association's action in enforcing a provision of the Governing Documents constitutes a waiver or modification of that provision.

   This Enforcement Policy does not apply to collection of assessments, actions for injunctive relief, or actions or remedies pursued by the Association for the protection of the health, welfare, and safety of the properties within the Association's jurisdiction.

II. FINE RULE

1. **General Schedule of Fines.** Fines will be assessed for any violation or non-compliance with the Association's Governing Documents as specifically provided for in the SCPLOA Fee Schedule in effect at the time the fine is assessed.

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2. **Violation Notices.**
    - **a.** Written Warning. Upon verification of the probability of a violation, the Board, or its agent, shall cause to be sent to the Owner – prior to assessing a fine -- a Written Warning that the violation exists. The Written Warning will include the following:
        - **i.** A description of the violation;
        - **ii.** A statement of the rule or provision of the Governing Documents the Owner's conduct violates;
        - **iii.** If the violation is a continuing violation, a statement of the time that is not less than forty-eight (48) hours after the day on which the Board of Directors gives the Owner the Written Warning by which the Owner shall cure the violation. A "Continuing Violation" is one that continues without interruption for a period of twenty-four (24) consecutive hours or more.
        - **iv.** For violations that are not a continuing violation, a statement that the Board of Directors may, in accordance with Utah Code § 57-8a-208 and the provisions of this Fining Policy, assess fines against the Owner if the Owner commits the same violation within one year after the day on which the Board of Directors gave the written warning to the Owner. (Violations that are not "continuing violations" are hereafter referred to as "Per Occurrence Violations."
    - b. Date Notice Deemed Given. Notices and Warnings sent pursuant to this Rule shall be given as provided in the Governing Documents.
    - c. Failure to Comply/Basis for Initial Fine. Failure to comply with the Written Warning will result in one or more of the following (which shall be cumulative and not exclusive):
        - i. For a Continuing Violation, a fine will be issued against the Owner if the violation is not cured within the time period that is stated in the Written Warning described above. The initial fine will be deemed issued, without further warning, by sending a subsequent notice to the Owner that the violation was not cured within the time provided in the warning letter. Fines for continuing violations will run beginning the day following the date the violation was to be cured. Additional fines will be deemed issued without further notice every tenth (10th) day the violation continues.
        - ii. For a Per Occurrence Violation, a fine will be issued against the Owner per occurrence if within one year after the day on which the Board of Directors gives the Owner a Written Warning described above, another violation of the same rule or provision identified in the Written Warning. The fine will be deemed issued, without further warning, by sending a subsequent notice to the Owner that the same or similar violation has occurred and the fine is assessed.
3. **Hearing Before Board.** An Owner who is assessed a fine may request an informal hearing before the Board to dispute the initial fine and each additional fine within thirty (30) days after the day on which the Owner is sent notice that the initial fine has been assessed. The Owner will be given a reasonable opportunity to present the Owner's

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position to the Board. An Owner, Board member, or any other person involved in the hearing shall be afforded the right to participate by means of electronic participation.

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.

Attest: Signed by:
Mckenzie Johnson
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_____ Administrative Business Solutions