

COLONIA ENCANTADA
HOMEOWNERS' ASSOCIATION



RULES AND REGULATIONS

April 2014

CONTENTS

A.	DEFINITIONS	3
B.	GENERAL RULES	3
C.	ARCHITECTURAL CONTROL AND AESTHETICS	4
D.	LANDSCAPE MAINTENANCE	5
E.	SIGNS	7
F.	PETS	7
G.	VEHICLES	7
H.	TRASH COLLECTION	8
I.	SWIMMING POOLS	8
J.	JACUZZI	9
K.	TENNIS COURTS	10
L.	WEST END RECREATION AREA	10
M.	CLUBHOUSE	11
N.	GATEHOUSE	11
O.	LEASING, RENTING AND SALE OF YOUR PROPERTY	12
P.	RULES FOR CONTRACTORS	12
Q.	FINES AND PENALTIES	13
R.	FINALLY	14
	APPENDIX A: FINES AND PENALTIES	15

**COLONIA ENCANTADA
RULES AND REGULATIONS
(Based on the current Ruling Documents)**

A. DEFINITIONS:

1. *Common Area* – shall mean real property owned by the Association. It comprises all Colonia Encantada real property except for the 79-numbered homeowner lots and improvements thereto.
2. *Lot* – shall mean one of the 79 parcels of real property in Colonia Encantada that is deeded to Homeowners. A lot is comprised of the area between the side boundaries, extending from the rear wall to the street curb.
3. *Front Yard* – shall mean that part of a lot that is between the front of the house and the street curb.
4. *Front Courtyard* – shall mean that portion of the front yard that is between the house and the front wall of the lot.

B. GENERAL RULES:

1. Units shall be used for single family dwelling residential purposes only. No gainful occupation, profession, trade or other non-residential use shall be conducted on Homeowner property. Public sales, such as estate or garage sales shall not be conducted on Colonia Encantada properties.
2. No motor home, trailer, tent, shack, garage, or any other temporary building, or vehicle shall be used as a residence in Colonia Encantada.
3. Bicycles, tricycles, and other wheeled equipment (except lawn maintenance equipment) are prohibited on lawns, landscaped areas, tennis courts, or swimming pool decking.
4. Motorcycle or golf cart operation in Colonia Encantada is restricted to residents and guests, and to direct travel between the person's residence and the entrance gate. Also, the operation of motorcycles in Colonia Encantada shall not be a nuisance to other residents. The Board will judge the permissible noise level and hours of operation on a case-by-case basis.
5. Communications regarding Colonia Encantada property and business issues, or complaints about performance of Association or contractor employees, should be routed to the Property Manager.

6. Homeowners, residents, or guests shall not make or permit any disturbing noise on their property, or any common area, nor permit or do anything that would constitute a nuisance or interfere with the quiet and peaceful use of any unit or common area by other residents.
7. Playing, riding on scooters, skates, skateboards, etc are not permitted on Colonia Encantada streets. The recreation area across from the West swimming pool may be used for those activities.
8. Garage doors shall be kept closed except when immediate access to the garage is required. Garage windows should be covered with inside shutters or blinds that are kept closed. The color of the shutters/blinds shall be an earth color that blends with the Unit's exterior colors.
9. No additions, removals, or alterations of any type may be made to Common Areas, except for Board-authorized work done by Colonia Encantada employees or contractors.

C. ARCHITECTURAL CONTROL AND AESTHETICS:

1. Homeowners shall not make any alterations or additions to the exterior of units or lots without first obtaining written permission from the Architectural Committee or Board if no such committee exists. This includes, but is not limited to outside lights, down spouts, scuppers, flag poles, driveways, walkways, patio covers, antennas, cables, wires, satellite dishes, solar panels, pool equipment, spas, fountains, front or back yard landscape changes, or any other item visible from other units, from common areas, or from outside the project. The Architectural Committee, will have 30 business days to address and approve or disapprove any changes requested by the Homeowner. If the Homeowner disagrees with the Architectural Committee's decision, the matter can then be appealed to the Board of Directors.
2. Requests for architectural or landscape changes that involve removal of trees must be submitted to the Board for approval/disapproval.
3. The exteriors of all Colonia Encantada buildings and walls are repainted approximately every five (5) years. Painting of the common area is paid for by the Association and Homeowners pay the cost of repainting their individual units. Paint used on exterior surfaces and driveways must meet the specifications for color and sheen as prescribed by the Board. Units may be repainted at any time the Homeowner desires, providing prior written approval is received from the Architectural Committee. The Homeowner should remember, however, that every house in Colonia Encantada must be painted during the year of the five-year cycle, regardless of when the house was previously painted.
4. With the exception of small pots containing live plants, nothing shall be hung from or placed on the exterior of any lot, wall, window, door, balcony, atrium, patio, or placed on the fence of any unit without written approval from the Architectural Committee.

5. Construction materials, trash, or residue, may not be stored on driveways overnight. If construction companies need overnight storage space during remodeling projects, it is suggested that Homeowners provide space inside their garages.

D. LANDSCAPE MAINTENANCE:

1. The Association provides contractual maintenance for all trees, shrubs, and grass in common areas and front yards of units, (except as noted in the paragraph 6a below), and shall keep all shrubs, trees, grass and plantings of every kind thereon neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material.
2. Homeowners who are planning to re-landscape their front yards should consider the future cost of maintaining the plants before submitting the plan to the Landscape Committee. If it appears to the Committee that the new plants will require an inordinate amount of time for maintenance, the plan will not be approved.
3. Maintenance personnel employed or contracted by the Association shall not perform duties for any Homeowner while on duty as an employee or contractor of the Association.
4. The Association will maintain the trees, grass, shrubs, and plants in the front yards of all units. Shrubs that need replacing in the front yards shall be replaced by the Association with the same, or different types of shrubs, at the discretion of the Landscape Committee. If the Homeowner wants those shrubs replaced by a different type of plant, a request for replacement of the plants should be submitted to the Landscape Committee for approval for approval/disapproval. Replacement of plants in the courtyards is done at the Homeowner's expense. The Association reserves the right to maintain all front yards to the uniform standard that has been established and will notify homeowners if a problem exists. If a homeowner would like their front yard maintained in a different manner, they may submit a "Request for Service" form to the Landscape Committee for review.
5. Replacement or addition of plants in front courtyards is done at the Homeowner's Expense.
6. **Trees. No trees shall be cut down or removed from Colonia Encantada without express written permission from the Board.**
 - a. *Front yard and Common Area trees.* Normally, all trees in common areas and front yards are maintained by the Association on a three-year schedule. The schedule provides for trimming, fertilizing, and in the case of olive trees, spraying. The olive trees are sprayed and fan palm trees are trimmed each year during their pollination period. All other tree maintenance is done every two to three years, depending upon the type of tree and the need. The Association pays the entire costs of common area tree maintenance. The cost of routine maintenance of trees in front yards is shared equally between the Homeowner and the Association.

- b. *Back yard trees.* Maintenance of back yard trees is a responsibility of the Homeowner. As is the case with all trees, back yard trees must be kept healthy and neatly trimmed. Homeowners shall ensure that fan palm trees in their back yards are trimmed every year, along with those in common areas and front yards, to remove seedpods. If back yard trees are not properly maintained, the Association reserves the right to arrange for the necessary maintenance and to bill the Homeowner for the cost.
 - c. The Homeowner shall pay for the cost of removing and/or replacing front yard trees that are more than fifteen (15) feet in height.
7. *Irrigation systems.* The Association furnishes the water and maintains all in-ground irrigation systems in common areas and front yards. The irrigation is provided to individual properties at the risk of the owners. Back yard irrigation systems, except for main water distribution lines, are a responsibility of the Homeowner.
- a. The Association provides irrigation water for Colonia Encantada, including back yards, unless the Homeowner has installed irrigation lines on their lots that are connected to their own water supply. In those cases, water is provided at the owner's expense.
 - b. Homeowners are responsible for the cost of repair of damages caused by irrigation water, and for the maintenance of back yard irrigation systems.
 - c. In the event a sprinkler head breaks or a leak occurs in irrigation lines, the most important consideration is to turn off the flow of water as quickly as possible by closing the appropriate main shut-off valve. This may be done by any Homeowner who is familiar with the valves, the appropriate contractor, Gatehouse personnel, Property Manager, or a Board member (in that order). Upon being notified, the appropriate contractor will examine the problem to determine what corrective measures are needed. If the problem is in a common area, front yard, or a main irrigation line, the Association will arrange for, and pay for the necessary repairs. However, the Association will not be responsible for any collateral damage caused by the water or excavation. If the problem is found to be associated with back yard lateral irrigation lines that extend from main lines, solenoids, valves, or irrigation heads, the Homeowner shall be responsible for correcting the problem, and the Homeowner shall arrange for and pay for the repairs. If the Homeowner is not immediately available, the Association reserves the right to arrange for repairs and bill the owner for the costs.
 - d. Homeowners shall not allow any connections to be made to Association irrigation lines on their lot without prior approval from the Board.
8. *Backyard Drainage.* **Homeowners are responsible for all the costs of maintaining proper drainage of their backyards.**

E. SIGNS:

1. No “For Sale” or “For Rent,” or any other type of sign will be permitted. All “For Sale,” “For Rent,” and “Open House” signs will be handled by gatehouse personnel and placed outside the entrance gate.
2. All Units shall display uniform Unit numbers in a location that is clearly visible from the street. The display shall be identical to the Unit’s original number identification and appearance.

F. PETS:

1. Pets, including cats, shall not run free in Colonia Encantada. Dogs must be on a leash and under a handler’s control whenever the pet is outside a fenced yard.
2. Crying or barking pets shall be controlled so that other residents are not disturbed by the noise.
3. Pet handlers shall immediately pick up and properly dispose of pet droppings.

G. VEHICLES:

1. **The speed limit in Colonia Encantada is 15 MPH.**
2. Vehicle horns shall not be blown within Colonia Encantada except when necessary for safe operation of the vehicle.
3. Vehicles shall not be parked in a location that impedes access to Unit driveways or safe passage of other vehicles on Colonia Encantada streets.
4. Only passenger vehicles such as cars, sport utility vehicles, and mini-vans shall be parked overnight outside of an enclosed garage. Vehicles that may not park overnight include pickup trucks, commercial vehicles, delivery vans, campers, buses, boats, trailers and motor homes. Exceptions to this Rule may be granted at the discretion of the Property Manager for Homeowners’ guests who are visiting for a single night.
5. Inoperative or unsightly vehicles shall never be parked outside of an enclosed garage. The Board will make the determination of what constitutes an unsightly vehicle.
6. Guest parking spaces are reserved for guest parking only. Guests may park in those spaces for not more than two (2) weeks of a six-week period. The Property Manager may grant Homeowners temporary exemptions to this rule on a case-by-case basis.

7. Guest parking is permitted on the streets from 6:00am to midnight, when parked in accordance with state and local law, and other applicable provisions. Vehicles may not be parked on the streets at any other time.
8. Commercial and/or delivery vehicles may be parked in streets and driveways for short durations during the day while services are being performed or goods being delivered to a Unit.
9. Car covers may not be used unless the vehicle is parked inside a garage.

H. TRASH COLLECTION:

1. Trash or recycling containers shall not be placed on streets or driveways before 6:00 PM the day prior to scheduled pickup and shall be relocated out of view not later than 7:00 PM the evening of the day of pick up. Homeowners should inform construction people who are working on their Unit of this rule.
2. Homeowners may be assessed a fine to cover the cost of moving trash containers that are in violation of the above rule.
3. Vehicles shall not be parked in locations that would prevent access to trash containers by the trash pick up trucks.

I. SWIMMING POOLS:

1. Pool hours are from 7:00am to 10:00pm except when pools are closed for service or maintenance.
2. Use of pools is limited to residents, their family members, and their guests.
3. All persons swim and use the pools at their own risk. No lifeguard is on duty.
4. No intoxicated person or persons having infectious diseases shall use the pools.
5. No glass containers may be used in or near the pools. This is to avoid injury and the need to drain the pools in event a glass article is broken.
6. Children under the age of 12 are not allowed in a swimming pool fenced-in area unless accompanied by an adult 18 years or older.
7. No running, rough play, loud or offensive language is permitted.
8. Persons using the pools must be dressed in clothing that was designed for swimwear. No cut-offs or other modified clothing are permitted.

9. Pool play equipment shall be limited to small rings and balls. Large play equipment, such as air mattresses, should be used only when other residents are not using the pools.
10. Do not move or tamper with the swimming pool life-saving equipment.
11. Temperature settings on the pool and Jacuzzi should not be changed by anyone except qualified pool service personnel.
12. All trash shall be placed in proper containers or removed from the pool areas when leaving.
13. Furniture, other than that provided by the Association, shall not be used in the recreational and pool areas. Furniture supplied by the Association shall not be removed from the recreation and pool areas.
14. There shall be no splashing of water other than that accompanying normal swimming.
15. Restrooms are available for swimming pool guests. Please try to make sure that children use them, instead of the pools.
16. Children not toilet trained are not allowed in the swimming pools.
17. Bobby pins, hair pins and suntan oil shall be removed prior to entering pools.
18. There shall be no smoking in the swimming pool areas.
19. Bicycles, tricycles, skateboards, roller skates, in-line skates, or any other device that may be a nuisance to other guests, or mar the pool decks, are not allowed in the swimming pool areas.
20. Pets are not allowed in the swimming pools or on the pool-decks surrounding the pools.
21. Only battery powered radios, TV sets, tape recorders and other playing devices are permitted in the swimming pool areas, and then, only when used with private earphones.
22. Residents must comply with any other requests from the Board, the Property Manager, or Gatehouse personnel, regarding personal conduct in and around the pool and recreation areas.

J. JACUZZI:

CAUTION: The Jacuzzi can be hazardous to your health, so use it at your own risk.

1. All rules and regulations pertaining to the use of the swimming pools also apply to the Jacuzzi, with the additional warning about the danger posed by the strong suction of the drains, and the health danger of using a heated pool without the full knowledge of one's physical condition and limitations.
2. To conserve energy and wear-and-tear on the pumps, the Jacuzzi jets should be turned off when it is not in use, and the cover should be replaced before leaving.

K. TENNIS COURTS:

1. The tennis courts are available for use by Homeowners and their guests during the hours of 8:00am to 10:00pm. The courts may be reserved only by Colonia Encantada residents, on a first come, first serve basis, not more than 48 hours in advance.
2. A Colonia Encantada resident must accompany any outside visitors using the tennis courts until play is completed. Court hours are from 8:00 AM to 10:00 PM.
3. The tennis courts are for tennis only.
4. Appropriate tennis shoes, with non-marking soft rubber soles and no cleats, must be worn at all times.
5. Singles court time is limited to one hour.
6. Doubles court time is limited to one and one-half hours.
7. No bicycles, tricycles, skateboards, roller skates or other wheeled devices are allowed on the tennis courts.
8. Small children should be controlled so they do not disturb players.
9. Proper etiquette should be followed at all times. DO NOT:
 - a. Use loud or offensive language,
 - b. Interfere with other court when ball is in play,
 - c. Use tennis courts as a short cut,
 - d. Hit nets in anger,
 - e. Lean on nets,
 - f. Smoke on courts,
 - g. Bring or drink beverage on the courts, except water, or eat any food on the courts; or
 - h. Allow any pets of any kind on the courts.
10. Instruction time shall be permitted only when neither court is in use.
11. Tennis court lights should be turned off when play is finished.

L. WEST END RECREATION AREA:

1. This is a general-purpose recreation area for the use of residents and guests of Colonia Encantada. It may be used during the hours of 8:00am to 10:00pm.
2. Conduct in this area shall be governed by the same rules as for the rest of Colonia Encantada. People using this area shall not bother other residents by being too loud, using offensive language, or improper etiquette.

M. CLUBHOUSE:

1. The clubhouse is available for the enjoyment of Colonia Encantada residents, their families, and their guests. As such, its primary purpose is to provide an attractive place for Homeowners to entertain family and friends. It may also be used for Association business meetings and social clubs that are sponsored by Homeowners. The clubhouse may not be used as a place to conduct commercial business or as a place to promote or celebrate a religion of any kind.
2. Homeowners may reserve the clubhouse by completing a “Clubhouse Request Form” which may be obtained from Gatehouse personnel.
3. A reservation for the clubhouse does not entitle the resident to exclusive use of the swimming pool, surrounding deck, Jacuzzi, or tennis courts. Those facilities may be used as an extension of the clubhouse as long as their use does not interfere with normal use by other Homeowners.
4. Use of the Exercise Room is restricted to residents, their family members and guests. Users should abide by the following rules:
 - a. Wear appropriate exercise clothing. No flip-flops or clothing with fasteners that could damage equipment seats.
 - b. Use is limited to 30 minutes per session, if someone is waiting to use the exercise equipment.
 - c. No open drink containers or food shall be taken into the Exercise Room.
 - d. Wipe equipment seats and handles when finished exercising.
 - e. Before leaving the Exercise Room, users shall return equipment to the configuration in which it was found and turn off the lights and air conditioner/heating unit.

N. GATEHOUSE:

1. No persons other than gatehouse employees are permitted in the gatehouse, except when necessary to conduct business of the Association. The telephone in the gatehouse is to be used only by gatehouse employees to perform their duties.

2. Gatehouse employees work for the Association and have a duty to report infractions of our Rules and Regulations to the Property Manager. Homeowners should obey requests from Gatehouse personnel and take all steps necessary to carry out those requests for the benefit and safety of all Homeowners. If a Homeowner believes that a gatehouse employee is not performing his duties properly, or his conduct is out of line, the Homeowner shall report the matter to the Property Manager.
3. Homeowners shall not make any personal attacks on gatehouse personnel or confront them about decisions they have made in carrying out their duties.

O. LEASING, RENTING AND SALE OF YOUR PROPERTY:

1. Leasing, renting or sale of your property requires written approval from the Colonia Encantada Board of Directors. No Unit shall be leased more frequent than twice each year and all leases shall be limited to one year in duration.
2. The Board shall have fifteen (15) days after receiving requests for approval to sell or lease, to complete action on the request. If a request is incomplete, it shall be returned to the sender and the Board shall again have fifteen days to complete the action.
3. To obtain the required approvals, the following procedures must be followed. If the transaction is to be done through a realtor, your agent should be told about these requirements:
 - a. Complete copies of the appropriate, "Application For Consent To Sale" or "Application For Consent To Lease" forms and send them to the Property Manager. Copies of those forms may be obtained from the gatehouse or the Property Manager.
 - b. Attach payment for processing the Transfer/Lease Application transaction. The amount of payment is established by the Board and may be changed periodically. If the transaction is being handled through a title or escrow company, the fee will be paid through them.

P. RULES FOR CONTRACTORS:

**It is incumbent upon the owner to convey these rules to their contractors.
Infractions will result in fines that will be assessed to the property owner.**

1. **Prohibited Work Days:** No contractor work will be allowed on any Sunday or on the following holidays, except for mechanical emergency situations (e.g., water leaks, clogged drains or sewer, power outages, and the like.): New Year's Day, Labor Day, Memorial Day, Thanksgiving, Fourth of July & Christmas.

2. **Working Hours:** Outside contractors may work from 7 AM until 5 PM, Monday - Friday & 8 AM until 4 PM on Saturday.
3. **Contractor & Subcontractor Vehicles:** Contractors shall strive to limit the number of vehicles needing entry at any given time. No more than three (3) contractor /subcontractor vehicles shall be parked in the street in front of the unit under construction. All other vehicles must be parked in the visitor parking area or in the public parking lot across McCormick Parkway. At no time shall contractor vehicles be double parked or parked directly in front of a neighboring home. No contractor vehicles may remain within the community overnight without specific written authorization by a member of the Board of Directors.
4. **Storage of Materials & Debris:** All materials, parts & equipment intended for use by the contractor must be stored only within the garage of the unit under construction. No debris may be placed or be allowed to accumulate on the driveway or exterior of the property. A low profile roll-off dumpster may be placed completely within the garage for the collection of debris.
5. **Daily Cleanup:** Prior to the conclusion of each work day, the contractor or homeowner must check to see that no materials, equipment, debris or waste containers remain on the driveway or anywhere on the property as to be visible to passers-by. Further, each day the homeowner or contractor shall sweep and/or hose down the driveway and the street area in front of the home in order to maintain a clean appearance.
6. **Bathrooms:** There is a bathroom available below the tower for contractors & their employees. Please do not use the bathrooms in the clubhouse.

Q. FINES AND PENALTIES:

1. A Homeowner shall be assessed a late charge of ten percent (10%) of the current monthly assessment when any assessment or other payment owed to the Association is not paid within 15 days of the due date. Monthly assessments (dues) are payable in advance and are due on the first day of each month. The purpose of the late charge is to liquidate damages and provide a processing fee in lieu of actual damages. The late charge is not considered a penalty. If the overdue assessment, plus the late fee, are not paid on time, an additional late fee will be added each month until the entire amount is paid.
2. The Board may assess penalties (see Appendix A) for each violation of any of the Covenants, Conditions, Restrictions, Articles of Incorporation, Bylaws or Rules and Regulations (The Ruling Documents of Colonia Encantada Encantada). The Homeowner shall be liable whether the violation is by the Homeowner or by the occupant, dependent, tenant, guest, invitee, contractor or agent of the Homeowner.

R. FINALLY:

1. The Board reserves the right to make other Rules and Regulations from time to time as may be deemed necessary for the safety, care, landscaping, color scheme, exterior appearance, and cleanliness of the community and for securing the comfort and convenience of all the occupants of Colonia Encantada. (Ref CC&Rs Art IV, Sect 4, and ART VII, Sect 7).

DATED this _____ 2004

COLONIA ENCANTADA HOMEOWNERS ASSOCIATION, Inc., an Arizona corporation.

By:
President

APPENDIX A FINES AND PENALTIES

A. Notwithstanding any other provisions of the Association's Rules & Regulations (hereinafter "Rules") to the contrary, the following provisions apply regarding the imposition of fines and penalties. Each Owner is encouraged to become familiar with the Association's policy regarding fines and penalties and to ensure that all residents, family members, tenants, guests, invitees, licensees and agents are familiar with the same.

B. Any infraction of the Rules, or of the articles, Bylaws or Declaration by an Owner, resident, family member, tenant, guest, invitee, licensee or agent shall result in a fine against the applicable Owner and further penalties as follows (in addition to any other penalties, disabilities or remedies available to the Association):

(1) First Offense: Optional Warning with property manager, employee or Board member notifying of violation; or minimum \$50 fine and/or suspension of Owner's membership rights.

(2) Second and Additional Offenses: Minimum \$100 fine and/or suspension of Owner's membership rights.

(3) Unless otherwise indicated in any notice of an offense, a continuing offense shall be deemed to be a new offense every ten (10) days, until remedied.

C. Vandalism will involve a fine as outlined above, plus reimbursement to the Association for actual replacement or repair costs, and for such other amounts as more fully set forth in the Declaration or these Rules.

D. Any charge or fine not paid by its due date, as set forth in the other operative documents or as set by the Board, will be handled in the same manner as any other assessment.

E. With the exception of charges imposed for the late payment of annual or special assessments, all other monetary charges, penalties, or fines imposed upon an Owner for violation of the Declaration, Bylaws, Articles or Rules, shall allow notice and an opportunity to be heard, unless

notice was supplied to an Owner prior to incurring or imposition of any charges, penalties, or fines and no action was taken in response to said notice. The notice requirement is satisfied by mailing a copy of the amount due and payable, postage prepaid to the applicable Owner, to the Owner's address last appearing on the books and records of the Association, or supplied by such Owner to the Association for such notices, or to the extent otherwise provided in the Declaration. The hearing requirement is satisfied by allowing as opportunity for the Owner to be heard at the next meeting of the Board of directors. Unless the meeting date and time is provided in the notice or the notice sets forth requirements for a hearing, such as a written request for a hearing, the Owner so notified has the obligation to find out when and where the next scheduled Board of Directors' meeting will be held as more fully set forth above. Failure to attend said meeting will constitute a waiver of the right to a hearing by the Owner. In the event of a hearing, any determination by the Board shall be conclusive.