

**CITY OF TEMPE
HEARING OFFICER**

Meeting Date: 01/17/2023

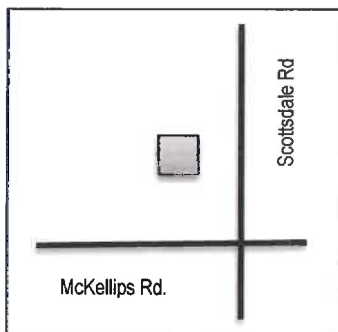
Agenda Item: 2

ACTION: Request approval to abate public nuisance items at the MacDonald Property located at 2111 N. Van Ness Avenue. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$2448 for abatement request: front & back yard landscape cleanup, remove trash, litter & debris.

RECOMMENDATION: Staff – Approval of 180-day open abatement

BACKGROUND INFORMATION: City of Tempe – Code Compliance Section requests approval to abate items in violation of the Tempe City Code at the MACDONALD PROPERTY. The details of this case represent several months of correspondence for compliance with the property owner. Staff requests the approval of abatement of the following nuisance items under Complaint CE225852 : front & back yard landscape cleanup, remove trash, litter & debris.



Property Owner	Joy & Laurie MacDonald
Applicant	City of Tempe – Code Compliance
Zoning District	R1-6 Single Family Residential
Code Compliance Inspector	Andres Lara-Reyes

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Code Administrator (480-858-2190)

Department Director: Jeffrey Tamulevich, Department Director

Legal review by: N/A

Prepared by: Barbara Simons, Code Inspector

Reviewed by: Drew Yocom, Code Administrator

COMMENTS:

Code Compliance is requesting approval to abate the MacDonald Property located at 2111 N. Van Ness Avenue, in the R1-6 Single Family Residential district. This case was initiated 09/29/2022, after which Code Compliance has attempted to obtain compliance through correspondence with the property owner regarding violations of the Tempe City Code.

Without the intervention of abatement, the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve a 180-day open abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

HISTORY & FACTS:

The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

ABATEMENT

Planning Application

Part 1 of 2

City of Tempe
 Community Development Department
 31 East 5th Street, Garden Level, Tempe, Arizona 85281
 (480) 350-4311 Fax (480) 350-8677
 Planning Fax (480) 350-8872
<http://www.tempe.gov/planning>



All applications must be accompanied by the required plans, submittal materials, and correct fee(s)

PROJECT INFORMATION – REQUIRED			
PROJECT NAME	JOY & LAURIE MACDONALD	EXISTING ZONING	R1-6 <input type="checkbox"/>
PROJECT ADDRESS	2111 N VAN NESS AVE	SUITE(S)	CE225852 <input type="checkbox"/>
PROJECT DESCRIPTION	TRASH, LITTER, DEBRIS; OVER HEIGHT GRASS IN THE FRONT BACK YARDS HEARING DATE: JANUARY 17, 2023	PARCEL No(s)	129-18-124 <input type="checkbox"/>

PROPERTY OWNER INFORMATION – REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW)			
BUSINESS NAME	JOY & LAURIE MACDONALD	ADDRESS	2111 N VAN NESS AVE
CONTACT NAME		CITY	TEMPE, AZ 85281
EMAIL		PHONE 1	STATE AZ ZIP
		PHONE 2	

I hereby authorize the applicant below to process this application with the City of Tempe.

PROPERTY OWNER SIGNATURE	X	DATE
or attach written statement authorizing the applicant to file the application(s)		

APPLICANT INFORMATION – REQUIRED			
COMPANY / FIRM NAME	CITY OF TEMPE	ADDRESS	
CONTACT NAME	ANDRES LARA-REYES	CITY	STATE ZIP
EMAIL		PHONE 1 (480) 350-8963	PHONE 2

I hereby attest that this application is accurate and the submitted documents are complete. I acknowledge that if the application is deemed to be incomplete it will be returned to me without review, to be resubmitted with any missing information.

APPLICANT SIGNATURE	X	DATE
	<i>[Signature]</i>	12/8/2022

BUSINESS INFORMATION – REQUIRED FOR USE PERMITS & SIGN DPRs			
BUSINESS NAME		ADDRESS	
CONTACT NAME		CITY	STATE ZIP
TYPE OF BUSINESS		PHONE	EMAIL

APPLICATION (check all that apply)	QTY	SPECIFIC REQUEST (see planning & zoning fee schedule for types)	FOR CITY USE ONLY (planning record tracking numbers)
<input type="checkbox"/> A. PRELIMINARY SITE PLAN REVIEW			SPR
<input type="checkbox"/> B. ADMINISTRATIVE APPLICATIONS			ADM
<input type="checkbox"/> C. VARIANCES			VAR
<input type="checkbox"/> D. USE PERMITS / USE PERMIT STANDARDS			ZUP
<input type="checkbox"/> E. ZONING CODE AMENDMENTS			ZOA ZON
<input type="checkbox"/> F. PLANNED AREA DEVELOPMENT OVERLAYS			PAD REC
<input type="checkbox"/> G. SUBDIVISIONS / CONDOMINIUMS			SBD REC
<input type="checkbox"/> H. DEVELOPMENT PLAN REVIEW			DPR
<input type="checkbox"/> I. APPEALS			
<input type="checkbox"/> J. GENERAL PLAN AMENDMENTS			GPA
<input type="checkbox"/> K. ZONING VERIFICATION LETTERS			ZVL
<input checked="" type="checkbox"/> L. ABATEMENTS			CE CM
TOTAL NUMBER OF APPLICATIONS	0		

FOR CITY USE ONLY			
DS TRACKING #	FILE THIS APPLICATION WITH CE / CM TRACKING #	DATE RECEIVED (STAMP)	VALIDATION OF PAYMENT (STAMP)
PL TRACKING #			
SPR TRACKING # (if 2 nd or 3 rd submittal, use planning resubmittal form)			TOTAL APPLICATION FEES
			RECEIVED BY INTAKE STAFF (INITIALS)

SEE REVERSE SIDE FOR REQUIRED PROJECT DATA



DATE: December 8, 2022
TO: Julie Scofield, Senior Code Inspector
FROM: Andres Lara-Reyes, Code Inspector
SUBJECT: CE225852, JOY & LAURIE MACDONALD Property Abatement

LOCATION: 2111 N VAN NESS AVE TEMPE, AZ 85281

PARCEL: 129-18-124

OWNER: JOY & LAURIE MACDONALD
2111 N VAN NESS AVE
TEMPE, AZ 85281

FINDINGS:

09/29/2022 The Code Compliance Division received complaint for trash, litter & debris; over height grass and weeds; rat infestation; odor.

10/03/2022 Inspected property and met Joy (owner) at the property, a complaint was received for trash, debris front & back yards, and rats infestation. she admitted she does have rats.

10/03/2022 Contacted Care 7 & spoke to Andrea & Shawn. They were to pay her a visit the following morning to see if they can assist her.

10/04/2022 A correction notice was hand delivered to Joy (owner), explained guidelines & asked to make herself available to Care 7 if they reach out, she understood.

10/25/2022 No changes or improvements made; odor; trash litter & debris front & back yards; infestation of rats - final notice mailed.

10/26/2022 Final notice hand delivered to Joy (owner). advised her to contact Care 7 to assist with the cleanup & pest control, she understood. provided her with Care 7 brochure.

11/09/2022 No changes, trash, litter, debris, black trash bags, tree branches debris in the carport & back yard areas; oh g/w back yard; broken back yard gate. possible rat infestation.

Review case with Drew Yocom, not a good idea to issue a citation for this property. the owner is elderly & the property has no running water.

12/06/2022 No changes or improvements done to clean up the property.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property at 2111 N VAN NESS AVE due to property owner's failure to bring property into compliance with Tempe City Code 21-3.B.1; 21-3.B.8. Mrs. MACDONALD has been given ample time to come into compliance and maintain the property. The property owner was not issued any civil citations. There has been no indication that the property owner will bring the property into compliance. The property represents a health hazard and an eyesore to the community.

Without the intervention of abatement, the property will continue to deteriorate. I therefore make a request to the City of Tempe Community Development Hearing Officer for authorization to abate this public nuisance in accordance with section 21-53 of the Tempe City Code and authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Respectfully submitted,

Andres Lara-Reyes
Code Inspector

ACTION TAKEN:

submitted

NAME

Julie Scoglio

DATE:

12/8/22



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 12/08/2022
CASE #: CE225852

JOY & LAURIE MACDONALD
2111 N VAN NESS AVE
TEMPE, AZ 85281

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations on the following described property:

LOCATION: 2111 N VAN NESS AVE TEMPE, AZ 85281
PARCEL: 12918124

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers **01/17/2023**. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal and repair of:

- CC 21-3.b.1** Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items
- CC 21-3.b.8** Any landscaping, visible from public property, that is substantially dead, damaged, or characterize by uncontrolled growth, or presents a deteriorated appearance.

As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct any violation as described below. If the violation(s) have not been corrected, our office will proceed with the abatement process.

- CC 21-3.b.1** Please remove all trash, litter, debris, trash bags, tree branches debris in the front and back yard areas.
- CC 21-3.b.8** Please cut all over height grass and weeds in the front and back yard areas.

Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be **\$2448.00**. In addition to the actual cost of abatement, an administrative charge of fifteen percent (15%) of the actual cost of abatement or three hundred (\$300) dollars, whichever is greater, for expenses incurred by the city for abatement procedures, and the cost of recording liens and releases will be charged. The recorded lien may bear interest at the legal rate of judgments in the State of Arizona. Administrative charges and the cost of recording liens and releases shall become a lien on the property whether or not the public nuisance is abated by the City.

If you have questions regarding this matter, please contact our office at (480)350-4311.

Code Inspector: Andres Lara-Reyes
Phone Number: 480-350-8963
E-mail: andres_lara-reyes@tempe.gov



Artistic Land Management, Inc.

December 7, 2022

City of Tempe
Attn: Andres Lara-Reyes
Code Inspector

RE: Clean-Up at 2111 N. Van Ness Ave.

Thank you for giving Artistic Land Management, Inc the opportunity to serve your landscaping needs. Below is our price to provide all labor, equipment, landfill fees, and supervision to perform the work listed below at 2111 N. Van Ness Ave, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

Scope of Work

- Cut over height grass and weeds down to ground level and apply post-emergent chemical where needed
- Remove trash, litter, and debris from front and backyard areas
- Dispose of removed items off-site

Total: \$2,448.00

- Police presence on-site for duration of the visit

6 Hours X \$77/Hour = \$462.00

Respectfully,

Jose Hernandez





COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

10/04/2022

JOY & LAURIE MACDONALD
2111 N VAN NESS
TEMPE, AZ 85281

Case #: CE225852
Site Address: 2111 N VAN NESS AVE, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 10/04/2022 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Section	Violation
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items;
CC 21-3.b.20	To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.1	Please remove all trash, litter, debris, trash bags, tree branches debris in the front and back yard areas of the property.	10/18/2022
CC 21-3.b.20	Please immediately take measures to eliminate the rat infestation inside and outside of the home.	10/18/2022

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Andres Lara-Reyes
Code Inspector

Direct: 480-350-8963
Code Compliance: 480-350-4311
Email: andres_lara-reyes@tempe.gov

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$82.00 pursuant to City Code Section 21-51, subsection (b).

Civil and Criminal Penalties

City Code: Section 21-3, subsections (b) 1-8, 17-19 and 21; Sections 21-4; 21-13; Section 21-24; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation | Sections 21-31; 21-32; 21-33; 21-35; 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Section 21-3, subsections (b) 9-16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 per violation | The city has authority to abate the violation should the owner neglect, fail or refuse to correct the violation within 30 days and to assess a lien against the property for the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



COMMUNITY DEVELOPMENT DEPARTMENT
 CODE COMPLIANCE
 FINAL CORRECTION NOTICE

10/25/2022

JOY & LAURIE MACDONALD
 2111 N VAN NESS
 TEMPE, AZ 85281

Case #: CE225852
 Site Address: 2111 N VAN NESS AVE, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 10/25/2022 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Section	Violation
CC 21-3.b.1	Filthy, littered, debris or trash-covered exterior areas, including exterior areas under any roof not enclosed by the walls, doors or windows of any building; including, but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items;
CC 21-3.b.20	To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.
CC 21-3.b.11	The erection, continuance or use of any building, room or other place in the city that, by noxious exhalations, including but not limited to smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, is discomforting or offensive or detrimental to the health of individuals or of the public.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.1	Please remove all trash, litter, debris, trash bags, tree branches debris in the front and back yard areas of the property.	11/08/2022
CC 21-3.b.20	Please immediately take measures to eliminate the rat infestation inside and outside of the home.	11/08/2022
CC 21-3.b.11	Please remove any smell or odors from the front & back yard areas of the property.	11/08/2022

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Andres Lara-Reyes
 Code Inspector

Direct: 480-350-8963
 Code Compliance: 480-350-4311
 Email: andres_lara-reyes@tempe.gov

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$82.00 pursuant to City Code Section 21-51, subsection (b).

Civil and Criminal Penalties

City Code: Section 21-3, subsections (b) 1-8, 17-19 and 21; Sections 21-4; 21-13; Section 21-24; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation | Sections 21-31; 21-32; 21-33; 21-35; 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Section 21-3, subsections (b) 9-16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 per violation | The city has authority to abate the violation should the owner neglect, fail or refuse to correct the violation within 30 days and to assess a lien against the property for the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

12/08/2022

JOY & LAURIE MACDONALD
2111 N VAN NESS
TEMPE, AZ 85281

Case #: CE225852
Site Address: 2111 N VAN NESS AVE, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 12/08/2022 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Section	Violation
CC 21-3.b.8	Any landscaping, visible from public property, that is substantially dead, damaged, or characterize by uncontrolled growth, or presents a deteriorated appearance;

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.8	Please cut all over height grass and weeds in the front and back yard areas of the property.	12/22/2022

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Andres Lara-Reyes
Code Inspector

Direct: 480-350-8963
Code Compliance: 480-350-4311
Email: andres_lara-reyes@tempe.gov

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