

**CITY OF TEMPE
HEARING OFFICER**

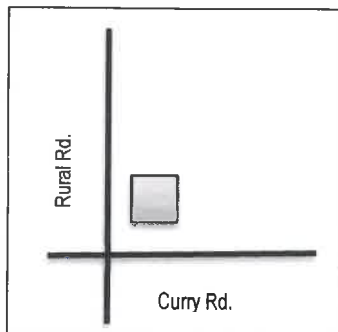
**Meeting Date: 04/18/2023
Agenda Item: 2**

ACTION: Request approval to abate public nuisance items at the McKenna Property located 1108 N. Esther Street. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$2388 for abatement request: dead tree removal.

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 MCKENNA 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 CE225029: dead tree removal.



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

Joseph McKenna
City of Tempe – Code Compliance
R-2 Multi Family Residential
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 McKenna Property located at 1108 N. Esther Street, in the R-2 Multi Family Residential district. This case was initiated 08/26/2023, 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	JOSEPH MCKENNA	EXISTING ZONING	R-2	<input type="checkbox"/>
PROJECT ADDRESS	1108 N ESTHER ST, TEMPE 85281	SUITE(S)	CE225029	<input type="checkbox"/>
PROJECT DESCRIPTION	DEAD TREE IN THE BACK YARD. HEARING DATE: APRIL 18, 2023	PARCEL No(s)	132-12-103	<input type="checkbox"/>

CE225029

PROPERTY OWNER INFORMATION – REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW)

BUSINESS NAME	JOSEPH MCKENNA	ADDRESS	1108 N ESTHER ST		
CONTACT NAME		CITY	TEMPE, AZ	STATE	AZ
EMAIL		PHONE 1		PHONE 2	

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

PROPERTY OWNER SIGNATURE	X	DATE	
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APPLICANT INFORMATION – REQUIRED

COMPANY / FIRM NAME	CITY OF TEMPE	ADDRESS			
CONTACT NAME	ANDRES LARA-REYES	CITY		STATE	
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	3/13/2023
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BUSINESS INFORMATION – REQUIRED FOR USE PERMITS & SIGN DPRs

BUSINESS NAME		ADDRESS			
CONTACT NAME		CITY		STATE	
TYPE OF BUSINESS		PHONE		EMAIL	

<input checked="" type="checkbox"/>	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
<input type="checkbox"/>	F. PLANNED AREA DEVELOPMENT OVERLAYS			PAD
<input type="checkbox"/>	G. SUBDIVISIONS / CONDOMINIUMS			SBD
<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)
PL TRACKING #			VALIDATION OF PAYMENT (STAMP)
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: March 13, 2023
TO: Julie Scofield, Senior Code Inspector
FROM: Andres Lara-Reyes, Code Inspector
SUBJECT: CE225029, JOSEPH MCKENNA Property Abatement

LOCATION: 1108 N ESTHER ST, AZ 85281

PARCEL: 132-12-103

OWNER: JOSEPH MCKENNA
1108 N ESTHER ST
TEMPE, AZ 85281

FINDINGS:

8/26/2022 The Code Compliance Division received complaint for a dead tree in the back yard.

8/29/2022 Inspected property and found a dead tree in the back yard. 2 notices were mailed out.

10/13/2022 I have had several contacts with the owner throughout this process. Also dropped off HEART & Tempe Landscape referral brochures Several extensions have been given to try to bring the property into compliance.

1/13/2023 a Civil Citation was issued.

02/09/2023 Owner failed to appear for court

3/13/2023 Posted notice of intent to abate to property and mailed to property owner.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property at 1108 N ESTHER ST due to property owner's failure to bring property into compliance with Tempe City Code 21-3.B.8. Mr. MCKENNA has been given ample time to come into compliance and maintain the property. The property owner has been issued a civil citation and has failed to appear to court. There has been no indication that the property owner will bring the property into compliance. The property represents 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,

Inspectors Name
Code Inspector

ACTION TAKEN: submitted
NAME Julie Scofield
DATE: 3/13/23



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 03/13/2023
CASE #: CE225029

JOSEPH MCKENNA
1108 N ESTHER ST
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: 1108 N ESTHER ST TEMPE, AZ 85281
PARCEL: 13212103

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers **04/18/2023**. 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.8 Any landscaping, visible from public property, that is substantially dead, damaged, or characterize by uncontrolled growth; or any dead trees, bushes, shrubs or portions thereof, including stumps;

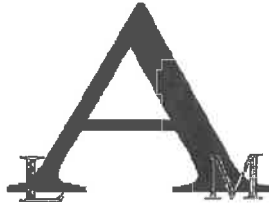
As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct any violation as described below. If the violation(s) have not been corrected, our office will proceed with the abatement process.

CC 21-3.b.8 Please remove or cut to ground level the dead tree in the back yard, south side area of the property.

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 **\$2388.00**. 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.

March 8, 2023

City of Tempe
Attn: Andres Lara-Reyes
Code Inspector

RE: Clean-Up at 1108 N. Esther St.

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 1108 N. Esther St, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

Scope of Work

- Cut down one dead tree to ground level
- Haul off debris

Total: \$2,388.00

Respectfully,

Jose Hernandez



10/14/2022 09:12

411/10815



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

08/29/2022

JOSEPH MCKENNA
1108 N ESTHER ST
TEMPE, AZ 85281

Case #: CE225029
Site Address: 1108 N ESTHER ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 08/29/2022 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 any dead trees, bushes, shrubs or portions thereof, including stumps

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.8	Please remove or cut to ground level the dead tree in the back yard, south side area of the property.	09/29/2022

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

09/29/2022

JOSEPH MCKENNA
1108 N ESTHER ST
TEMPE, AZ 85281

Case #: CE225029
Site Address: 1108 N ESTHER ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 09/29/2022 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 any dead trees, bushes, shrubs or portions thereof, including stumps

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.8	Please remove or cut to ground level the dead tree in the back yard, south side area of the property.	10/13/2022

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.

Arizona Traffic Ticket and Complaint

City of Tempe
Maricopa County
State of Arizona



Complaint Number 1702757		Case Number		Social Security Number		Military		<input type="checkbox"/> Serious Physical Injury		<input type="checkbox"/> Accident <input type="checkbox"/> Fatality		<input type="checkbox"/> Commercial <input type="checkbox"/> Haz. Material	
Driver's License No.				DLP <input type="checkbox"/>		State		Class		Endorsements M H N P T X D		Incident Report Number CE 225029	
Interpreter Required? <input type="checkbox"/> Spanish <input type="checkbox"/> Other Language													
Defendant		Name (First, Middle, Last) JOSEPH MCKENNA										Juvenile	
Residence Address, City, State, Zip Code 1108 N ESTHER ST TEMPE AZ 85281										Telephone: (cell phone) (480) 569-2893			
Sex	Height	Weight	Eyes	Hair	Origin	Date of Birth	Restrictions	Email Address					
Business Address, City, State, Zip Code										Business Phone No.			
Vehicle		Color	Year	Make	Model	Style	License Plate	State	Expiration Date				
Registered owner & address, City, State, Zip Code							Vehicle Identification Number						
The Undersigned Certifies That:													
On	Month 01	Day 12	Year 2023	Time 9:21	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Speed	Approx.	Posted	R & P	Speed Measurement Device <input type="checkbox"/> Radar <input type="checkbox"/> Laser <input type="checkbox"/> Pace			Direction of Travel
At	Location 1108 N ESTHER ST							<input checked="" type="checkbox"/> Tempe	85281	State of Arizona		Area	Dist.
The Defendant Committed the Following:													
A	Section: TCC 21-3A		ARS Violation: CC 21-3.B.8 DEAD TREE		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic		<input checked="" type="checkbox"/> Municipal Code				
	Docket Number		Disp. Code:		Date of Disposition:		Sanction:		<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense				
MVD													
B	Section:		ARS Violation:		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic		<input type="checkbox"/> Municipal Code				
	Docket Number		Disp. Code:		Date of Disposition:		Sanction:		<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense				
MVD													
C	Section:		ARS Violation:		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic		<input type="checkbox"/> Municipal Code				
	Docket Number		Disp. Code:		Date of Disposition:		Sanction:		<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense				
MVD													
D	Section:		ARS Violation:		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic		<input type="checkbox"/> Municipal Code				
	Docket Number		Disp. Code:		Date of Disposition:		Sanction:		<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense				
MVD													
E	Section:		ARS Violation:		<input type="checkbox"/> Domestic Violence Case		<input type="checkbox"/> Criminal <input type="checkbox"/> Criminal Traffic		<input type="checkbox"/> Municipal Code				
	Docket Number		Disp. Code:		Date of Disposition:		Sanction:		<input type="checkbox"/> Civil Traffic <input type="checkbox"/> Petty Offense				
MVD													
You must appear on the date and time indicated at:	Tempe Municipal Court 140 E. 5th Street Tempe, AZ 85281 Court No. 0753			<input checked="" type="checkbox"/> Traffic Court Suite 150, 1st Floor		Date: 01/26/2023		Time: Between 9AM & 4PM					
				<input type="checkbox"/> Criminal Court Suite 200, 2nd Floor		Date: _____		Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM					
	Court:					Date:		Time:		<input type="checkbox"/> AM <input type="checkbox"/> PM Court No.			
Court Address, City, State, Zip Code													
Criminal: <input type="checkbox"/> Without admitting guilt, I promise to appear as directed hereon.							Victim? <input type="checkbox"/>						
Civil: <input type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.							I certify that upon reasonable grounds I believe the defendant committed the act described contrary to law and I have served a copy of this complaint upon the defendant.						
X <u>MAILED</u>							<u>Anders</u>						
Comments: Juvenile Notification: Failure to appear or comply as ordered will result in a suspension of your driver's license /driving privileges until you comply or reach your 18th birthday. Initials _____													
1ST VIOLATION \$200.00 CODE COMPLIANCE													
Date issued if not violation date _____													

COMPLAINT

If you were charged with a civil ordinance violation and you fail to appear as directed in this complaint, a default judgement will be entered, and a monetary penalty will be imposed.



1702757