

**CITY OF TEMPE
HEARING OFFICER**

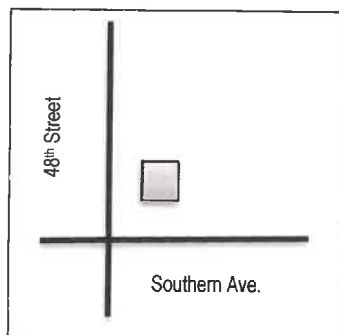
Meeting Date: 05/18/2021
Agenda Item: 2

ACTION: Request approval to abate public nuisance items at the Qik Stop Property located at 3233 S. 48th Street. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$597.00 for abatement request: landscape cleanup, remove trash, debris & makeshift shelter, remove graffiti.

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 QIK STOP 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 CM210251: landscape cleanup, remove trash, debris & makeshift shelter, remove graffiti.



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

TL Qik Stop Market Inc./Debbie Nguyen
City of Tempe – Code Compliance
PCC-1 – Planned Commercial Center
Jack Scofield - Code Inspector

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Planning & Research Analyst (480-858-2190)

Department Director: Jeff Tamulevich, Code Compliance Administrator

Legal review by: N/A

Prepared by: Barbara Simons, Code Inspector

Reviewed by: Drew Yocom, Planning & Research Analyst

COMMENTS:

Code Compliance is requesting approval to abate the Qik Stop Property located at 3233 S. 48th Street, in the PCC-1, Planned Commercial Center district. This case was initiated 02/12/21, 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 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	TL QIK STOP MARKET INC PROPERTY ABATEMENT	EXISTING ZONING	PCC-1 <input type="checkbox"/>
PROJECT ADDRESS	3233 S 48TH ST TEMPE, AZ 85282	SUITE(S)	<input type="checkbox"/>
PROJECT DESCRIPTION	ABATEMENT OF CM210251 MAY 18, 2021	PARCEL No(s)	123-28-130J <input type="checkbox"/>

PROPERTY OWNER INFORMATION - REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW)			
BUSINESS NAME	ADDRESS		
CONTACT NAME	CITY	STATE	ZIP
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
or attach written statement authorizing the applicant to file the application(s)		

APPLICANT INFORMATION - REQUIRED			
COMPANY / FIRM NAME	CITY OF TEMPE/CODE ENFORCEMENT	ADDRESS	21 E 6TH ST STE 208
CONTACT NAME	JACK SCOFIELD/SR. CODE INSPECTOR	CITY	TEMPE STATE AZ ZIP
EMAIL	jack_scofield@tempe.gov	PHONE 1	(480) 350-8967 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	4/6/2021
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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	1		CE	CM
TOTAL NUMBER OF APPLICATIONS	1			

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: April 6, 2021
TO: Jeff Tamulevich, Code Compliance Administrator
FROM: Jack Scofield, Senior Code Inspector
SUBJECT: CM210251, TL Qik Market Inc.

LOCATION: 3233 S 48TH ST TEMPE, AZ 85282

LEGAL: EATON FREEWAY INDUSTRIAL PARK MCR 171/31 PT LOT 127
COMM W/MOST SW COR SD LOT N 175.98F TO POB CONT N 101F
E 170F S 101F W 170F TO POB

PARCEL: 123-28-130J

OWNER: TL QIK STOP MARKET INC
DEBBIE L NGUYEN
525 N VAL VISTA DR UNIT 45
MESA, AZ 85213

FINDINGS:

2/12/2021 Inspected property and found grass and weeds scattered throughout the property, trash and debris throughout the property, and graffiti on the north and south side of the building. Notice to comply mailed to owner.

3/2/2021 Mailed final notice to comply to owner.

4/6/2021 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 3233 S 48th St due to property owner's failure to bring property into compliance with Tempe City Code 21-3.B.1, 21-3.B.1, and 22-105.A. Ms. Nguyen has been given ample time to come into compliance and maintain the property. 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,

Jack Scofield
Senior Code Inspector

ACTION TAKEN:

~~Submit~~
~~CS~~
~~4 6 21~~

NAME

DATE:



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE:4/6/21
CASE # CM210251

**TL QIK STOP MARKET INC
DEBBIE L NGUYEN
525 N VAL VISTA DR UNIT 45
MESA, AZ 85213**

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

LOCATION: 3233 S 48TH ST TEMPE, AZ 85282
PARCEL: 123-28-130J

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers on **05/18/2021**. 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:

Violation of City of Tempe Code 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; lumber, scrap iron, tin and other metal not neatly piled, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the county health officer or this code or any other ordinance of the city.

Violation of City of Tempe Code 21-3-B-8

Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

Violation of Tempe Zoning and Development Code 4-102.E.1

The owner or owner's association, or the lessee of the site, as applicable, shall maintain the development and property in conformance with the plans approved by the city. Any deterioration shall be considered a violation of this Code and any applicable ordinances. Such deterioration shall be based on the definition as defined in the City Code.

Violation of Tempe Zoning and Development Code 4-102.E.6

The lack of maintenance shall constitute a violation of this Code, penalties for which are provided in Section 1-201.

Violation of City of Tempe Code 22-105.A

- (a) Graffiti prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

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

1. **REMOVE GRASS AND WEEDS FROM THE GRAVEL AREAS AND ASPHALT.**
2. **REMOVE TRASH, DEBRIS, AND TRANSIENT MAKESHIFT SHELTER FROM PROPERTY.**
3. **REMOVE GRAFFITI FROM PERIMETER AND BUILDING WALLS. PAINT NEEDS TO BE COMPATIBLE WITH EXISTING PAINT COLOR.**

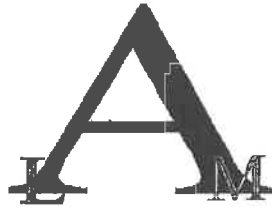
Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be **\$597.00**. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual 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 for 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: Jack Scofield

Phone Number: 480-350-8967

E-mail: jack_scofield@tempe.gov



Artistic Land Management, Inc.

March 23, 2021

City of Tempe
Attn: Jack Scofield
Code Inspector II

RE: Clean-Up 3233 S. 48th Street.

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 3233 S. 48th Street, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

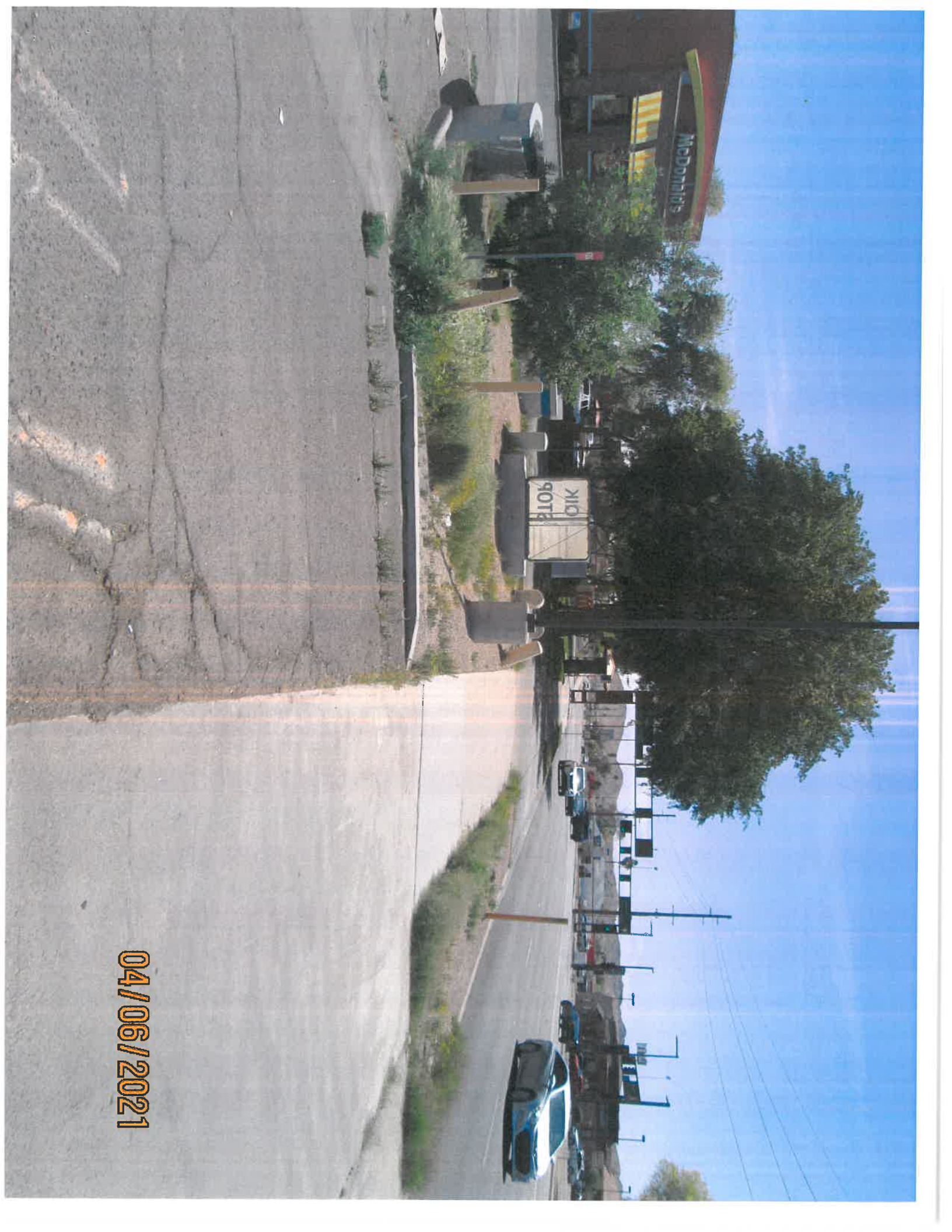
Scope of Work

- Cut weeds and unwanted grass down to ground level
- Remove trash and debris
- Paint over graffiti

Total = \$597.00

Respectfully,

Jose Hernandez



04/06/2021



04/06/2021



04/06/2021



04/06/2021



04/06/2021

3233

MOOSE: MOOSE-4

04/06/2021



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE**

2/16/21

TL QIK STOP MARKET INC
DEBBIE L NGUYEN
525 N VAL VISTA DR UNIT 45
MESA, AZ 85213

Case#: CM210251
Site Address: 3233 S 48TH ST TEMPE, AZ 85282

SITE REINSPECTION ON OR AFTER: 03/02/2021

This is a notice to inform you that this site was inspected on 2/16/21 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.

VIOLATION SECTION:

Violation of City of Tempe Code 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; lumber, scrap iron, tin and other metal not neatly piled, or anything whatsoever that is or may become a hazard to public health and safety, or that may harbor insect, rodent or vermin infestation. This subsection shall not be deemed to include items kept in covered bins or metal receptacles approved by the county health officer or this code or any other ordinance of the city.

Violation of City of Tempe Code 21-3-B-8

Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

Violation of Tempe Zoning and Development Code 3-202.A

Non-Permitted land use within the Planned Commercial Center Neighborhood District.

Violation of Tempe Zoning and Development Code 4-102.E.1

The owner or owner's association, or the lessee of the site, as applicable, shall maintain the development and property in conformance with the plans approved by the city. Any deterioration shall be considered a violation of this Code and any applicable ordinances. Such deterioration shall be based on the definition as defined in the City Code.

Violation of Tempe Zoning and Development Code 4-102.E.6

The lack of maintenance shall constitute a violation of this Code, penalties for which are provided in Section 1-201.

Violation of City of Tempe Code 22-105.A

(a) Graffiti prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

1. **DO NOT ALLOW RESIDENTIAL USE OF PROPERTY (TRANSIENT LIVING BEHIND BUILDING IN MAKESHIFT SHELTER).**
2. **REMOVE GRASS AND WEEDS FROM THE GRAVEL AREAS AND ASPHALT.**
3. **REMOVE TRASH, DEBRIS, AND TRANSIENT MAKESHIFT SHELTER FROM PROPERTY.**
4. **REMOVE GRAFFITI FROM PERIMETER AND BUILDING WALLS. PAINT NEEDS TO BE COMPATIBLE WITH EXISTING PAINT COLOR.**

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

Jack Scofield
Code Inspector II
E-Mail

Direct: 480-350-8967
Code Compliance: 480-350-8372
jack_scofield@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 \$75.00 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**

3/2/21

TL QIK STOP MARKET INC
DEBBIE L NGUYEN
525 N VAL VISTA DR UNIT 45
MESA, AZ 85213

Case#: CM210251
Site Address: 3233 S 48TH ST TEMPE, AZ 85282

SITE REINSPECTION ON OR AFTER: 03/23/2021

This is a notice to inform you that this site was inspected on 3/2/21 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.

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4. REMOVE GRAFFITI FROM PERIMETER AND BUILDING WALLS. PAINT NEEDS TO BE COMPATIBLE WITH EXISTING PAINT COLOR.

CORRECTIVE ACTION MUST BE COMPLETD OR CITATIONS WILL BE ISSUED.

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

Jack Scofield
Code Inspector II
E-Mail

Direct: 480-350-8967
Code Compliance: 480-350-8372
jack_scofield@tempe.gov

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