
**CITY OF TEMPE
HEARING OFFICER**

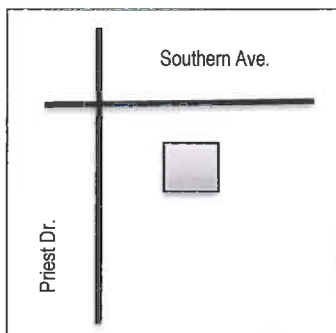
**Meeting Date: 10/05/2021
Agenda Item: 3**

ACTION: Request approval to abate public nuisance items at the Brown Property located at 1208 W. Malibu Drive. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$731 for abatement request: remove junk, trash and debris from the property and landscape cleanup.

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 BROWN 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 CE206334: remove junk, trash and debris from the property and landscape cleanup.



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

Kenton R. Brown
City of Tempe – Code Compliance
R1-6, Single Family Residential
Ashley Nichols

ATTACHMENTS: Supporting Attachment

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

Department Director: Shelly Seyler, Interim Department Director

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 Brown Property located at 1208 W. Malibu Drive, in the R1-6, Single Family Residential district. This case was initiated 10/09/2020, 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	BROWN PROPERTY ABATEMENT	EXISTING ZONING	R1-6 <input type="checkbox"/>
PROJECT ADDRESS	1208 W MALIBU DR, TEMPE, AZ 85282	SUITE(S)	<input type="checkbox"/>
PROJECT DESCRIPTION	WESTWAY PARK ABATEMENT CE206334 OCTOBER 5TH, 2021	PARCEL No(s)	123-42-012 <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	ASHLEY NICHOLS / CODE INSPECTOR	CITY	TEMPE
		STATE	AZ
		ZIP	85281-3681
EMAIL	ASHLEY_NICHOLS@TEMPE.GOV	PHONE 1	(480) 858-2085
		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 Ashley Nichols	DATE	9/3/2021
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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			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: September 3rd, 2021
TO: Jack Scofield, Senior Code Inspector
FROM: Ashley Nichols, Code Inspector
SUBJECT: CE206334, Brown Property Abatement

LOCATION: 1208 W MALIBU DR, TEMPE, AZ 85282

PARCEL: 123-42-012

OWNER: KENTON R BROWN
1208 W MALIBU DR
TEMPE, AZ 85282

FINDINGS:

10/09/2020 Conducted an inspection of the property and observed grass and weeds in the front landscaping, a dead tree in the front yard, and a large amount of junk, trash, and debris items around the front of the property. A notice to comply was mailed to the property owner.

11/02/2020 Received an email from the property owner, Kenton Brown, requesting an extension. Extended case.

12/11/2020 Conducted another inspection of the property and observed the property owner outside working on cleaning up his carport area and driveway. Spoke with Kenton regarding his property. He mentioned some recent health issues, so I referred him to Care 7 for help.

01/08/2021 Conducted another inspection of the property and observed the property owner outside making more progress on the cleanup of his property. Extended the case to monitor his progress.

01/22/2021 Conducted another inspection of the property and observed no further progress had been made and the condition of the property remained the same. A final notice to comply was mailed to the property owner.

02/12/2021 Received a call from the property owner, Kenton Brown, who stated he had been in contact with Care 7 and would be receiving help from them on the cleanup of his property. Extended case.

03/08/2021 Conducted another inspection of the property and observed the property owner continuing to make progress on the cleanup. Extended case.

04/07/2021 Conducted another inspection of the property and observed very little progress had been made. Spoke with the property owner, Kenton Brown, who stated he had more health issues come up. Extended case.

04/28/2021 Conducted another inspection of the property and observed some grass and weeds still remaining around the front landscaping but the dead tree had been removed. There had also been more progress on the removal of the junk, trash, and debris items in the front of the house. Extended case.

05/26/2021 The property was reinspected and found to be in the same condition. A final notice to comply was mailed to the property owner.

06/16/2021 Conducted another inspection of the property and observed more progress had been made on the cleanup. Extended case.

07/08/2021 Conducted another inspection of the property and found that the grass and weeds still remained throughout the front landscaping as well as the junk, trash, and debris items out front. A bid request was sent for the cleanup of the property.

07/21/2021 Another inspection was conducted on the property, and it was observed that more progress had been made on removing the junk, trash, and debris items from in front of the house. Extended case.

08/02/2021 Conducted another inspection of the property and observed the grass and weeds had been removed from the front landscaping but the junk, trash, and debris items still remained. Extended case.

08/23/2021 The property was reinspected and found to be in worse condition with no further improvements having been made. There were more grass and weeds growing in the front landscaping and more items in front of the house.

09/03/2021 Submitted the abatement packet and posted the notice of intent to abate to the property.

RECOMMENDATIONS:


I recommend an abatement of the nuisance violations at the property at 1208 W Malibu Dr., due to the property owner's failure to bring the property into compliance with Tempe City Codes 21-3.B.1 and 21-3.B.8. Mr. Brown has been given ample time to come into compliance and maintain the property. The property represents a health hazard and is an eyesore to the community.

Without the intervention of the 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.

Respectfully submitted,

Ashley Nichols
Code Inspector
City of Tempe

ACTION TAKEN: Submit
NAME: 
DATE: 9/7/21



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 09/03/2021
CASE #: CE206334

KENTON R BROWN
1208 W MALIBU DR
TEMPE, AZ 85282

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

LOCATION: 1208 W MALIBU DR, TEMPE, AZ 85282
PARCEL: 123-42-012

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers **10/05/2021**. 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:

- CC 21-3.b.1** Filthy, littered, debris or trash-covered exterior areas
- CC 21-3.b.8** Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches

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 the junk, trash, and debris items from around the front and side of the property.
- CC 21-3.b.8** Please trim all over height grass and/or weeds in the front yard of the property as well as remove all grass and/or weeds from any gravel landscaping 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 **\$730.48**. 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: Ashley Nichols
Phone Number: 480-858-2085
E-mail: Ashley_Nichols@tempe.gov



East Valley Disaster Services

East Valley Disaster Services, Inc.
257 W. Broadway
Mesa, AZ 85210
(480) 833-4538 (Office & 24 Hour Emergency)
Info@evds.co
EIN: 86-0721883 / ROC: B License #097838

Client: City of Tempe / Nuisance Abatement Services
Property: 1208 West Malibu Drive
Tempe, AZ 85282

Operator: SKIP

Estimator: Skip Yaw
Company: EVDS

Business: (480) 833-4538
E-mail: Skip@evds.co

Type of Estimate: Nuisance Abatement Services
Date Entered: 7/13/2021 Date Assigned:

Price List: AZPH8X_JUL21
Labor Efficiency: Restoration/Service/Remodel
Estimate: 21-1585-NUISANCE



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257 W. Broadway
Mesa, AZ 85210
(480) 833-4538 (Office & 24 Hour Emergency)
Info@evds.co
EIN: 86-0721883 / ROC: B License #097838

21-1585-NUISANCE
Nuisance Abatement Services

Exterior

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	TOTAL
1. Nuisance Abatement Services	1.00 EA	0.00	707.00	23.48	730.48

- NOTE: Abatement services includes;**
- 1) Cut/remove overgrown weeds and grass in front and side yard.
 - 2) Application of a pre-emergent solution in the affected areas.
 - 3) Removal of junk, trash and debris from around the front of the property.
 - 4) Haul off and disposal of yard waste, junk, trash and debris.
 - 5) Security provided by the City of Tempe Police Department.

Totals: Exterior 23.48 730.48

Total: Nuisance Abatement Services **23.48 730.48**

Line Item Totals: 21-1585-NUISANCE **23.48 730.48**



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257 W. Broadway
Mesa, AZ 85210
(480) 833-4538 (Office & 24 Hour Emergency)
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EIN: 86-0721883 / ROC: B License #097838

Summary

Line Item Total	707.00
Material Sales Tax	23.48
Replacement Cost Value	\$730.48
Net Claim	\$730.48

Skip Yaw



East Valley Disaster Services

East Valley Disaster Services, Inc.
257 W. Broadway
Mesa, AZ 85210
(480) 833-4538 (Office & 24 Hour Emergency)
Info@evds.co
EIN: 86-0721883 / ROC: B License #097838

- 1 1-1208 West Malibu Drive (1)
Date Taken: 7/9/2021



- 2 2-1208 West Malibu Drive (2)
Date Taken: 7/9/2021





East Valley Disaster Services

East Valley Disaster Services, Inc.
257 W. Broadway
Mesa, AZ 85210
(480) 833-4538 (Office & 24 Hour Emergency)
Info@evds.co
EIN: 86-0721883 / ROC: B License #097838

- 3 3-1208 West Malibu Drive (3)
Date Taken: 7/9/2021



- 4 4-1208 West Malibu Drive (4)
Date Taken: 7/9/2021

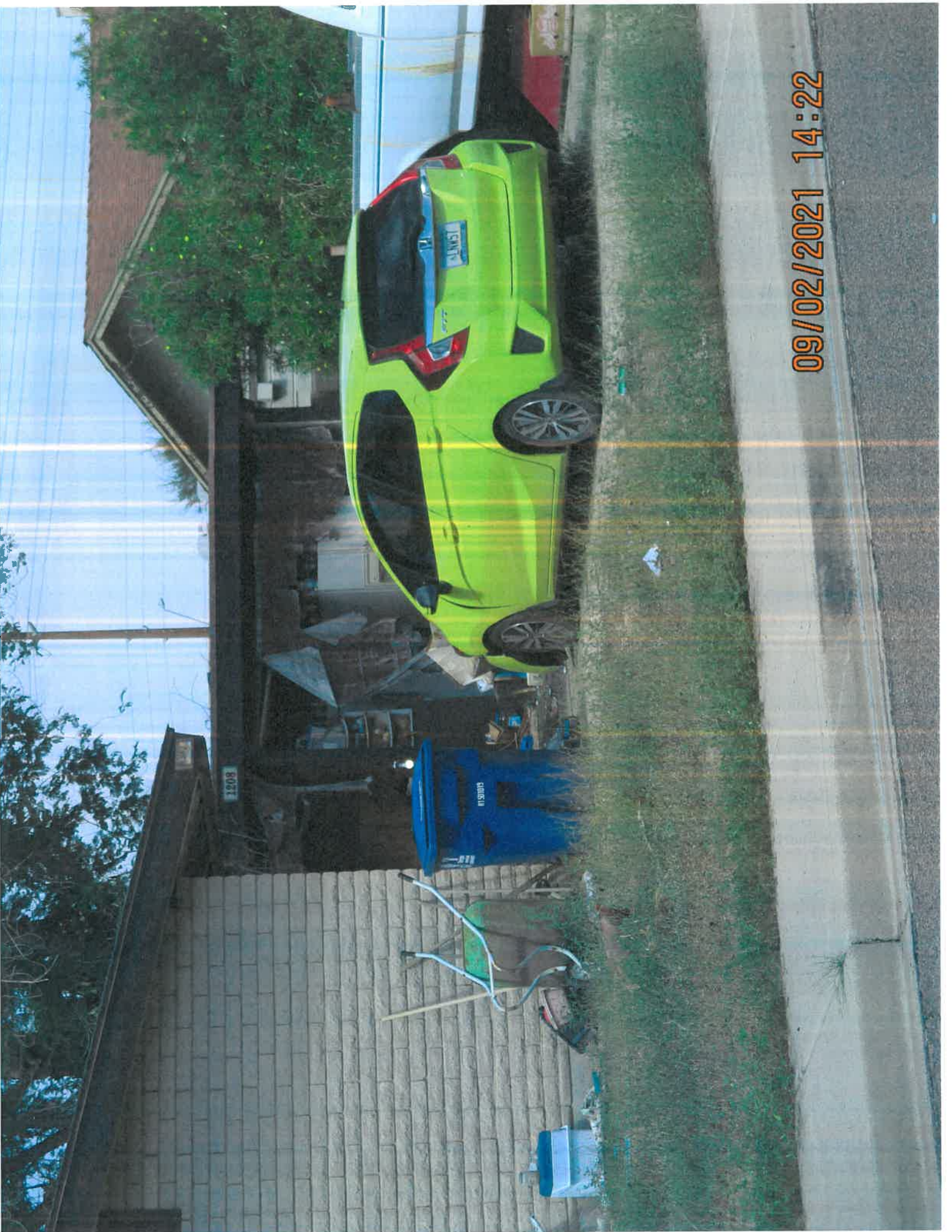




09/02/2021 14:22



09/02/2021 14:22



09/02/2021 14:22



09/02/2021 14:22

1208

SLNWS7

PLS RECYCLE

1208

09/02/2021 14:22



09/02/2021 14:23



1208



09/02/2021 14:23



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

10/09/2020

KENTON R BROWN
1208 W MALIBU DR
TEMPE, AZ 85282

Case #: CE206334
Site Address: 1208 W MALIBU DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 10/09/2020 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.
CC 21-3.b.8	Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches.
CC 21-3.b.8	Dead trees or parts including stumps.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.1	Please remove all of the junk, trash, and debris items from around the front and side of the property.	11/02/2020
CC 21-3.b.8	Please trim all over height grass and weeds as well as remove all grass and weeds from any gravel landscaping areas.	11/02/2020
CC 21-3.b.8	Please remove the dead tree located in the front landscaping of the property.	11/02/2020

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

Ashley Nichols
Code Inspector

Direct: 480-858-2085
Code Compliance: 480-350-8372
Email: Ashley_Nichols@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



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

01/22/2021

KENTON R BROWN
1208 W MALIBU DR
TEMPE, AZ 85282

Case #: CE206334
Site Address: 1208 W MALIBU DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 01/22/2021 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.
CC 21-3.b.8	Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches.
CC 21-3.b.8	Dead trees or parts including stumps.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
CC 21-3.b.1	Please remove all of the junk, trash, and debris items from around the front of the property.	02/15/2021
CC 21-3.b.8	Please trim all over height grass and weeds as well as remove all grass and weeds from any gravel landscaping areas.	02/15/2021
CC 21-3.b.8	Please remove the dead tree located in the front landscaping of the property.	02/15/2021

IF NOT IN COMPLIANCE BY 02/15/2021, A \$400 CITATION WILL BE ISSUED.

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

Ashley Nichols
Code Inspector

Direct: 480-858-2085
Code Compliance: 480-350-4311
Email: Ashley_Nichols@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



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

05/26/2021

KENTON R BROWN
1208 W MALIBU DR
TEMPE, AZ 85282

Case #: CE206334
Site Address: 1208 W MALIBU DR, TEMPE, AZ 85282

This is a notice to inform you that this site was inspected on 05/26/2021 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.
CC 21-3.b.8	Uncultivated weeds in gravel landscape, or a lawn higher than 12 inches.

**SITE REINSP
ON OR
AFTER**

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

CC 21-3.b.1	Please remove all of the junk, trash, and debris items that are located around the front of the property.	06/09/2021
CC 21-3.b.8	Please trim all over height grass and weeds as well as remove all grass and weeds from any gravel landscaping areas.	06/09/2021

IF NOT IN COMPLIANCE BY 06/09/2021, THE CITY OF TEMPE WILL BEGIN THE ABATEMENT PROCESS.

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

Ashley Nichols
Code Inspector

Direct: 480-858-2085
Code Compliance: 480-350-4311
Email: Ashley_Nichols@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.