

# Staff Summary Report



Hearing Officer Hearing Date: October 20, 2009

Agenda Item Number: 5

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items located at the **ANDERSON RESIDENCE** located at 1123 East Palmcroft Drive.

**DOCUMENT NAME:** 20091020dssl01

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ANDERSON RESIDENCE (PL090275/ABT09017)** (Don Anderson, property owner) Complaint 092084 located at 1123 East Palmcroft Drive in the R1-6, Single Family Residential District.

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)

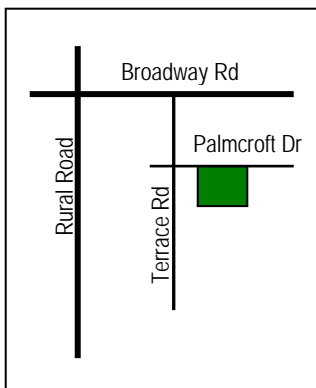
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval

**ADDITIONAL INFO:** The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **ANDERSON RESIDENCE (PL090275/ABT09017)** (Don Anderson, property owner) Complaint 092084 located at 1123 East Palmcroft Drive in the R1-6, Single Family Residential District. This residence is located south of Broadway Road and east of Terrace Road along Palmcroft Drive. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends the authorization of abatement of this property.



**PAGES:**

1. List of Attachments
2. Comments; History & Facts/Description

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-14. Neighborhood Enhancement Report

## COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **ANDERSON RESIDENCE (PL090275/ABT09017)** (Don Anderson, property owner) Complaint 092084 located at 1123 East Palmcroft Drive in the R1-6, Single Family Residential District. This residence is located south of Broadway Road and east of Terrace Road along Palmcroft Drive. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Julie Scofield, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

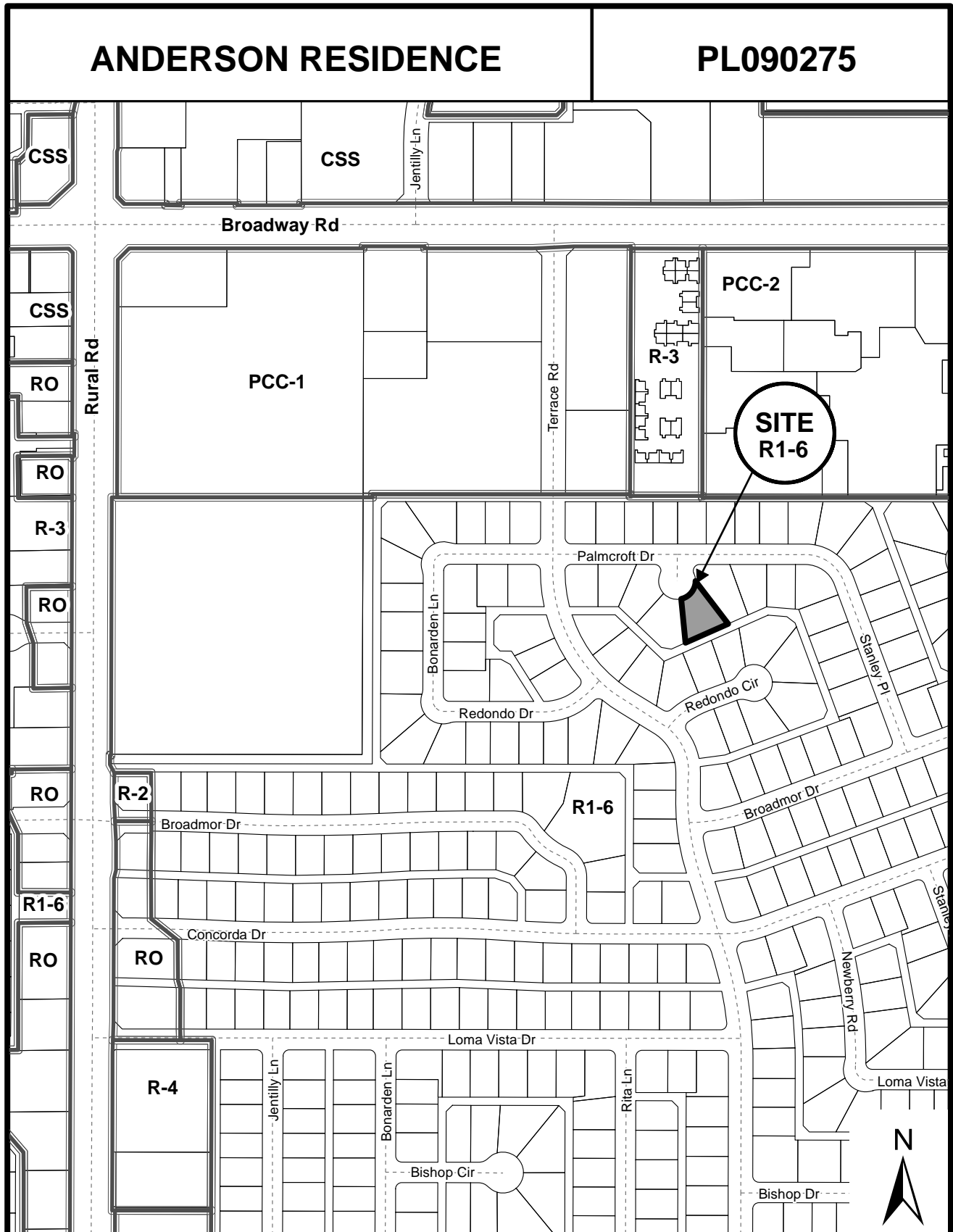
Staff recommends the authorization of abatement of this property.

**HISTORY & FACTS:** See attached memo from the Neighborhood Enhancement Division.

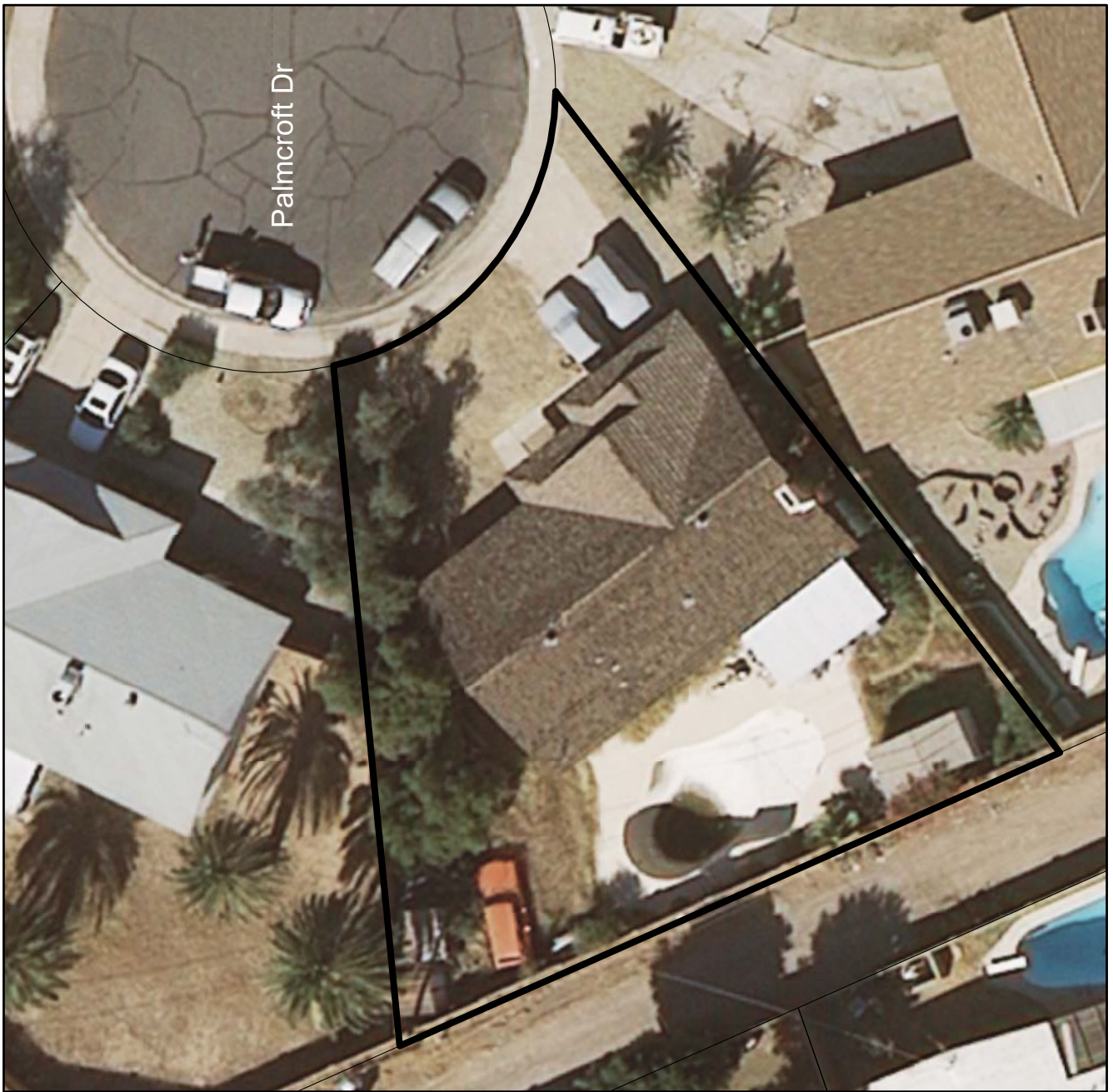
September 1, 2009 At the request of the property owner, the Hearing Officer continued abatement proceedings to October 6, 2009.

October 6, 2009 Abatement proceedings continued to the October 20, 2009 Hearing Officer hearing due to cancellation of the October 6, 2009 hearing.

**DESCRIPTION:** Owner – Don Anderson  
Applicant – Julie Scofield, COT Neighborhood Enhancement  
Existing zoning – R1-6, Single Family Residential District  
Lot area – 9,014 s.f. / .21 acres  
Building area – 1,674 s.f.  
Year of construction – 1966



**Location Map**



**ANDERSON RESIDENCE (PL090275)**

**DATE:** 07/29/09  
**TO:** Jan Koehn, Administrator  
**FROM:** Julie Scofield  
**SUBJECT:** Request to Authorize for Abatement– Reference Complaint #CE092084

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**LOCATION:** 1123 E. Palmcroft Dr. Tempe, AZ 85282  
**LEGAL:** Book 133, Map 56, Parcel 107, as recorded with the Maricopa County Assessor  
**OWNER:** Don L. Anderson  
1123 E. Palmcroft Dr.  
Tempe, AZ 85282

**FINDINGS:**

- 03/23/09 The Neighborhood Enhancement Department received a complaint on the above property for deteriorated landscaping, junk and debris, and inoperable vehicles.
- 03/24/09 The property was inspected. There is grass and weeds growing through the gravel landscaping and items in the front of the property. A notice to comply was mailed to the property owner, Don Anderson. Tried to call Don Anderson with a previous phone number, but it was out of service.
- 04/16/09 After talking to Mr. Anderson, we decided to see if he could qualify for the hardship program and or volunteers. The paperwork for the hardship program was posted on the front door of Mr. Andersons home.
- 04/20/09 The Neighborhood Enhancement department received a complaint for bees in the back of the property. Re-inspected the property. There has been no change to the condition of the front of the property. Mailed a final notice for the landscaping and added the bees to the violations that need to be corrected.
- 05/??/09 Mr. Anderson called and said he did not want help from volunteers or hardship program. He said he was going to do it himself.
- 06/02/09 Received another complaint for the bees, junk and debris and landscaping. Called and left a message for Mr. Anderson asking for an update and mentioned that if the violations were not corrected, citations were a possibility.
- 06/23/09 Re-inspected the property. The landscaping has been corrected, but the items are still in the front of the property.
- 06/24/09 Received another complaint for the bees and junk and debris in the front and back of the property. Called Mr. Anderson again and left a message that if the items in the front were not removed by 06/26/09, a citation would be issued. The bees were to be gone by Monday 6/29/09. A notice was mailed for the junk and debris and over height grass in the back of the property. The notice gave Mr. Anderson one (1) month to clean up the back of the property.
- 06/29/09 Re-inspected the property. A citation #1413542 was issued for the infestation of bees.

- 07/09/09 Meeting with Mr. Anderson in the office. He agreed to fax in a copy of receipt from bee service if we would dismiss the citation. Mr. Anderson said he was thinking of renting a storage unit for the items in the back yard. Another copy of the notice for the back of the property was given to him.
- 07/13/09 Received a copy of the receipt for the bee service.
- 07/27/09 Re-inspected the property. There has been no change to the condition of the back of the property.
- 07/28/09 Requested an estimate from Contractor Jack Harrington for the abatement of the back of the property for the over height grass and junk and debris.
- 07/29/09 Received the estimate for abatement in the amount of \$2208.00 Submitted the paperwork for the abatement hearing to be held on 9/1/09.

**PROPERTY HISTORY:**

- 06/06/03 Property was in violation of a green pool, trash and debris in back yard, and deteriorated landscape.
- 11/12/03 Property was in violation of a green pool and deteriorated landscape.
- 04/02/04 Property was in violation of deteriorated landscape.
- 02/11/05 Property was in violation of deteriorated landscape, unregistered vehicles and green pool.
- 04/13/06 Property was in violation of trash and debris in front yard, deteriorated landscape in back yard, deteriorated car covers and bee infestation.
- 07/03/06 Property was in violation of bee infestation.
- 11/13/06 Property was in violation of deteriorated landscape and unregistered vehicles.
- 08/27/07 Property was in violation of deteriorated landscape.
- 10/24/07 Citation was issued for deteriorated landscape.
- 02/12/08 Property was in violation of trash and debris in front yard, deteriorated landscape, and bee infestation.
- 03/26/08 Property was in violation of trash and debris in back yard,
- 09/02/08 Property was in violation of deteriorated landscape.

**RECOMMENDATIONS:**

I recommend approval for the abatement of 1123 E. Palmcroft Dr., which is owned by Mr. Don Anderson. Mr. Anderson has been given ample time and opportunities to bring his property into compliance. He has failed to take corrective action. Due to the history of this property, it is very clear that Mr. Anderson is unable to keep his property in compliance. There has been no indication in Mr. Anderson's actions that he plans to correct and maintain his property.

Respectfully submitted,  
Julie Scofield

ACTION TAKEN: Referred for Hearing  
NAME Jan Koehn  
DATE: 7/30/09





City of Tempe  
P. O. Box 5002  
Tempe, AZ 85280  
[www.tempe.gov](http://www.tempe.gov)  
(480) 350-8372  
(480) 858-2231 (fax)

Neighborhood Enhancement Department

## **NOTICE OF INTENT TO ABATE PUBLIC NUISANCE**

DATE: 07/29/09

TO: **Don Anderson**  
**1123 E. Palmcroft 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:

**LEGAL: Book 133, Map 56 Parcel 107, as recorded with the Maricopa County Assessor.**

**LOCATION: 1123 E. Palmcroft Dr. Tempe, AZ 85282**

**This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of 9/01/09. We are requesting Hearing Officer Authorization to abate this public nuisance codes in accordance with Section 21-53 of the Tempe City Code by cleaning up the landscaping and towing an unregistered vehicle. TCC 21-3-B-8 which prohibits landscaping that is dead, over height, damaged, or presents a deteriorated or slum-like appearance and TCC 21-3-B-1 which prohibits outside storage of items not intended for exterior use.**

**As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violation. If the violations have not been corrected within thirty days, our office will proceed with the abatement process. 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 \$2208.00 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) 350-8372.**

Code Enforcement Officer: Julie Scofield

Phone Number 480-350-8951

JACK HARRINGTON  
3831 W AVALON  
PHOENIX, AZ. 85019  
TEL: (602) 446-2630  
FAX: (602) 347-5487  
EMAIL: JACKHBOARDUPS@YAHOO.COM

THE FOLLOWING DOCUMENT IS FOR:

NAME: JULIE  
FIRM: CITY OF TEMPE CODE COMPLIANCE

DATE: 07-30-09      TIME: \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.

**PROPOSAL**

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE  
UNDER CONTRACT # TO8-092-02

ADDRESS: 1123 E PALMCROFT DR Tempe, AZ.

- |   |           |
|---|-----------|
| 1. CLEAN AND HUAL AWAY DEDRIS FROM BACK YARD AT 1123 E PALMCOFT |           |
| 64 MANHOURS HRS @ \$22./HR                                      | \$1408.00 |
| 2. TEMPE POLICE 2 DAY 16 MANHOURS @\$50.00/                     | 800.00    |

TOTAL	\$2208.00
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THANK YOU

ACCEPTANCE

JACK HARRINGTON

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**City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances**

Mailed on Date: 3/25/09

**DON ANDERSON  
1123 E. PALMCROFT DR.  
TEMPE, AZ 85282**

This notice to comply is to inform you that on 3/24/09, the property located at 1123 E. PALMCROFT DR. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 4/8/09 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

**Violation of the Tempe City Code, Chapter 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 the Tempe City Code, Chapter 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;

**Please take the following corrective action by: 4/8/09**

**Required Correction(s):**

1. PLEASE COMPLETELY REMOVE ALL GRASS AND WEEDS FROM THE GRAVEL LANDSCAPING.
2. PLEASE REMOVE AND OR DISCARD THE CONTAINERS, BOXES, TRASH, AND ANY OTHER MISCELLANEOUS ITEMS FROM THE FRONT OF THE PROPERTY.

***We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.***

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**Civil and Criminal Penalties**

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1<sup>st</sup> occurrence \$350 dollars per violation, 2<sup>nd</sup> occurrence \$650 dollars per violation, 3<sup>rd</sup> occurrence \$950 dollars per violation.

Section 21-4 (B), Habitual Offender: 1<sup>st</sup> occurrence \$500 dollars + sum of other fines, 2<sup>nd</sup> occurrence \$1000 dollars + sum of other fines, 3<sup>rd</sup> occurrence \$1,500 dollars + sum of other fines.

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 cost of abatement.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

**Code Inspector: JULIE SCOFIELD**

**Phone Number: 480-350-8951  
E-mail: JULIE\_SCOFIELD@TEMPE.GOV**



**City of Tempe Code Compliance Division  
Final Notice to Comply: Article I. Nuisances**

Mailed on Date: 4/21/09

**DON ANDERSON  
1123 E. PALMCROFT DR.  
TEMPE, AZ 85282**

This notice to comply is to inform you that on 4/20/09, the property located at 1123 E. PALMCROFT DR. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 5/5/09 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

**Violation of the Tempe City Code, Chapter 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 the Tempe City Code, Chapter 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 the Tempe City Code, Chapter 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 by: 5/5/09**

**Required Correction(s):**

1. PLEASE TAKE IMMEDIATE ACTION TO REMOVE AND ELIMINATE ANY BEES AND OR BEE HIVES THAT ARE LOCATED IN THE BACK YARD OF THE PROPERTY.
2. PLEASE COMPLETELY REMOVE ALL GRASS AND WEEDS FROM THE GRAVEL LANDSCAPING.
3. PLEASE REMOVE AND OR DISCARD THE CONTAINERS, BOXES, TRASH, AND ANY OTHER MISCELLANEOUS ITEMS FROM THE FRONT OF THE PROPERTY.

*We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.*

Civil and Criminal Penalties

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1<sup>st</sup> occurrence \$150 dollars per violation, 2<sup>nd</sup> occurrence \$250 dollars per violation, 3<sup>rd</sup> occurrence \$350 dollars per violation.

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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 cost of abatement.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

**Code Inspector: JULIE SCOFIELD**

**Phone Number: 480-350-8951**

**E-mail: JULIE\_SCOFIELD@TEMPE.GOV**



**City of Tempe Code Compliance Division  
Notice to Comply: Article I. Nuisances**

Mailed on Date: 6/24/09

**DON ANDERSON  
1123 E. PALMCROFT DR.  
TEMPE, AZ 85282**

This notice to comply is to inform you that on 6/23/09, the property located at 1123 E. PALMCROFT DR. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 7/27/09 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

**Violation of the Tempe City Code, Chapter 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;

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**Please take the following corrective action by: 7/27/09**

**Required Correction(s):**

- 1. PLEASE CUT ALL OVER HEIGHT GRASS AND OR WEEDS IN THE BACK OF THE PROPERTY.**
- 2. PLEASE REMOVE AND OR DISCARD THE CONTAINERS, BOXES, TRASH, HOUSEHOLD ITEMS, AND ANY OTHER MISCELLANEOUS ITEMS FROM THE BACK OF THE PROPERTY.**

***We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.***

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**Civil and Criminal Penalties**

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