

Staff Summary Report



Hearing Officer Hearing Date: October 2, 2007

Agenda Item Number: 9

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 **JOHNSON RESIDENCE** located at 336 East Fillmore Street.

DOCUMENT NAME: 20071002dsjc03

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 **JOHNSON RESIDENCE (PL070389/ABT07025)** (Terrance & Mimmie Johnson, property owners) Complaint CE070100 located at 336 East Fillmore Street in the R1-6, Single Family Residential District.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

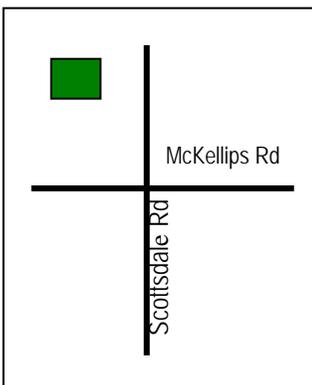
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

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 **JOHNSON RESIDENCE (PL070389/ABT07025)** (Terrance & Mimmie Johnson, property owners) Complaint CE070100 located at 336 East Fillmore Street in the R1-6, Single Family Residential District. 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(s)
2. Aerial Photo(s)
- 3-15. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **JOHNSON RESIDENCE (PL070389/ABT07025)** (Terrance & Mimmie Johnson, property owners) Complaint CE070100 located at 336 East Fillmore Street in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Andres Lara, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

Staff recommends the authorization of abatement of this property.

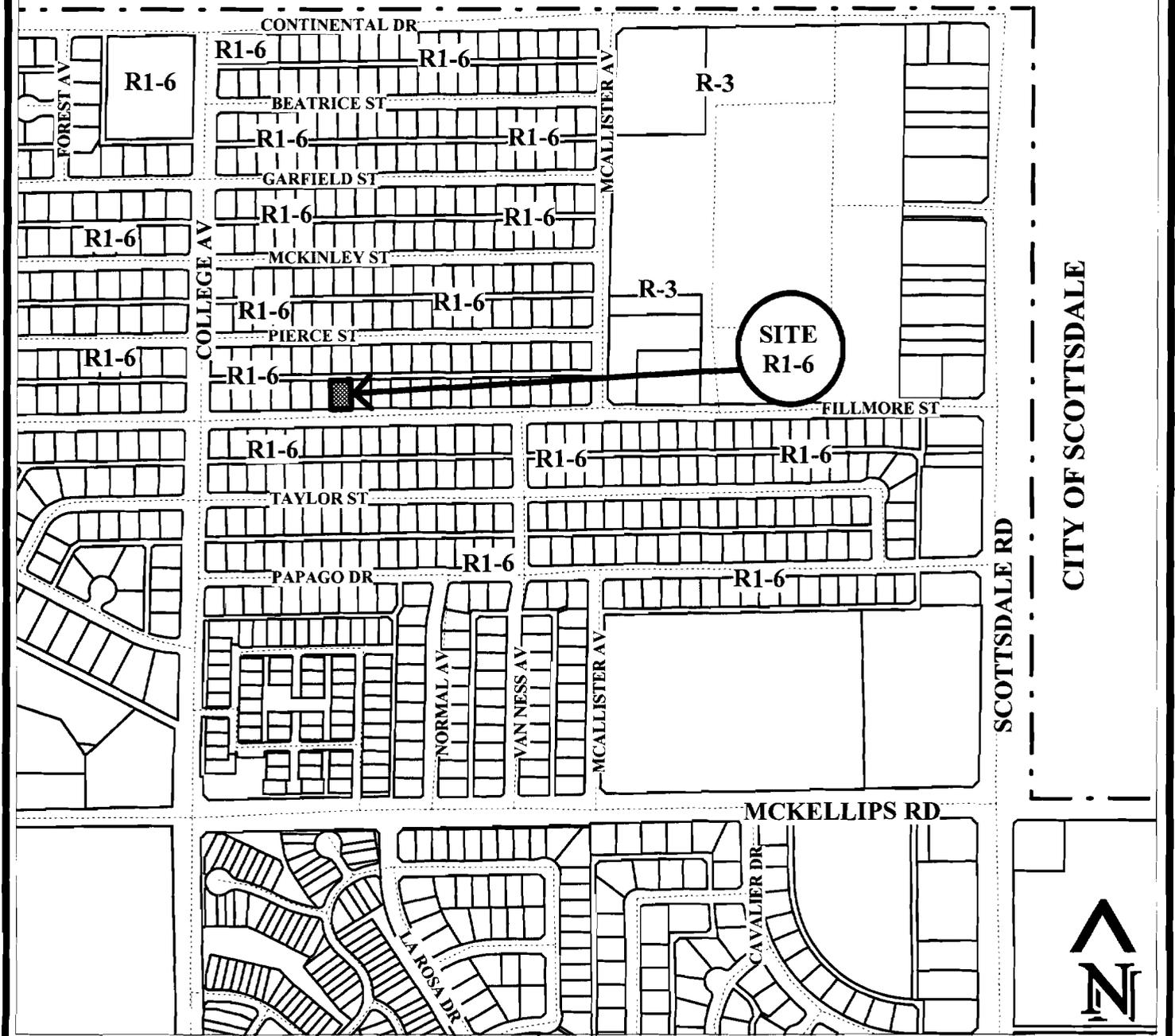
HISTORY & FACTS: See attached memo from the Neighborhood Enhancement Division.

DESCRIPTION: Owner – Terrance & Mimmie Johnson
Applicant – Andres Lara, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 6,441 s.f. / .14 acres
Building area – 1,318 s.f.
Year of construction – 1960

JOHNSON RESIDENCE

PL070389

CITY OF SCOTTSDALE





JOHNSON RESIDENCE (PL070389/ABT07025)

DATE: 08/23/2007
TO: Jan Koehn, Code Compliance Manager
FROM: Andres Lara
SUBJECT: Terrance and Mimmie Johnson Property Abatement

LOCATION: 336 E Fillmore St, Tempe, AZ 85281

LEGAL: Book 129, Map 15, Parcel 179, as recorded with the Maricopa County Assessor

OWNER: Terrance and Mimmie Johnson
336 E Fillmore St.
Tempe, AZ 85281

FINDINGS:

01/09/2007 Lawn parking on an unimproved surface (Dodge Ram2500), also junk and debris (Trane air conditioning unit) located behind Dodge vehicle next to the carport.

01/22/2007 Same conditions sent second notice.

02/05/2007 No change - sent 3rd notice.

02/20/2007 No change, citation issued for junk, debris and parking on an unimproved area.

3/12/2007 Citation status – failed to appear.

05/25/2007 Same conditions, some debris in and around carport

07/12/2007 Same conditions – truck still parked in an unimproved surface, air conditioning unit on ground behind truck.

08/08/2007 Observed trash, litter, debris, air conditioning unit next to the carport, boxes and debris in the carport. An inoperable or unregistered vehicle gray/brown Dodge ram pick-up truck with no license plate parked in an unimproved surface next to the driveway.

08/09/2007 Final notice to comply posted and mailed to the owner.

08/17/2007 Notice of abatement posted and mailed to the owner.

08/23/2007 Revised notice to abate posted for new hearing date.



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

Code Compliance Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: August 23, 2007

TO: Terrance & Mimmie Johnson
336 E Fillmore 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:

LEGAL: Book 129, Map 15, Parcel 179, as recorded with the Maricopa County Assessor.

LOCATION: 336 E Fillmore St Tempe, AZ 85281

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of October 2, 2007. 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:

Trash, litter & debris - air conditioning unit next to the carport, boxes & debris in the carport. Inoperable or unregistered vehicle gray/brown Dodge RAM pick-up truck no license plate lawn parked next to the driveway or any outdoor storage not enclosed by walls, doors, or windows of any building. (Ref – TCC 21-3-b 1, 3, 4)

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 \$392.50. 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: Andres Lara

Phone Number 480-858-2289

Bishop Inc.

6340 S. Rural Rd. #118-217
 Tempe AZ 85283
 PH: (602) 339-2082 Fax (480) 413-1691

#7889

Estimate

Name: City of Tempe
 Address: P.O. Box 5002
 City: Tempe, Az. 85281
 Attn: Berry

Date: 7/20/2007
 Order # _____
 Customer # _____
 Our Order # _____

Qty	Description
	Work done at: 336 E. Fillmore Street
	Scope of work:
1	Mow front yard grass, cut down tall weeds, clean up trash and debris in and beside driveway areas. Remove A/C unit laying on the ground in the side yard. (minimum charge)
2	Tow away disabled truck in driveway
	Off duty police officer to be on site during abatement (minimum 3 hours)
	Contract # T05-102-01

Unit Price	Total
\$150.00	\$150.00
\$100.00	\$100.00
\$47.50	\$142.50

Total: \$392.50

Disclaimer:

Prices may vary due to work completed by homeowner, and the time lapse between this estimate and the abatement date. This estimate is based on a visual inspection of the property due to no access to backyards, locked gates, occupied property, and obstructions to the visual inspection such as tarps, plywood covering, over growth of trees

CASE# CE070100



City of Tempe Code Enforcement Division
Courtesy Notice
We need your help to keep our City clean

Date: 01/09/2007

To:
Terry Johnson
336 E Fillmore St
Tempe Az 85281

This is a courtesy notice to inform you that on 01/08/2007, 336 E Fillmore St Tempe Az 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. If the property is brought into compliance with the code by 01/22/2007, you will not be subject to citations or fines for the violation(s). A re-inspection will be conducted on or after the date indicated to verify compliance. If the violations have not been corrected by this date and additional reinspections are necessary, you may be assessed a \$75.00 reinspection fee.

21-3 (b) (4) : To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use. An improved area shall:

- a. Be contiguous to, and share an access point with, the required driveway;
- b. Be no greater than Thirty-Five Percent (35%) of the front and side areas visible from the street;
- c. Be a minimum of three (3) inches in depth if gravel, crushed rock or other aggregate. If using materials other than asphalt or concrete, an improved surface containing material such as gravel or crushed rock must be contained within a permanent border, imbedded in the ground, delineating the improved area from the remainder of the yard; and
- d. Be maintained free of all vegetation, including, but not limited to grasses, trees, and bushes.

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.

Please take the following corrective action by 01/22/2007

1. No vehicle is allowed to park in the front yard. Please discontinue parking the Dodge Ram 2500 in the front yard or modifications are necessary to the lawn area to conform to code.
2. The Trane unit located behind the pick up truck must be removed from the front yard

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372 or visit our web site at www.tempe.gov/codee/ Failure to comply may result in civil citation, criminal charges or abatement of the violation

Code Inspector Bill Chesterfield

Phone Number 480-350-2888

CASE# CE070100



**City of Tempe Code Enforcement Division
Courtesy Notice
We need your help to keep our City clean**

Date: 01/22/2007

To:
Terry Johnson
336 E Fillmore St
Tempe Az 85281

This is a courtesy notice to inform you that on 01/22/2007, 336 E Fillmore St Tempe Az 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. If the property is brought into compliance with the code by 02/05/2007, you will not be subject to citations or fines for the violation(s). A re-inspection will be conducted on or after the date indicated to verify compliance. If the violations have not been corrected by this date and additional reinspections are necessary, you may be assessed a \$75.00 reinspection fee.

21-3 (b) (4) : To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use. An improved area shall:

- a. Be contiguous to, and share an access point with, the required driveway;
- b. Be no greater than Thirty-Five Percent (35%) of the front and side areas visible from the street;
- c. Be a minimum of three (3) inches in depth if gravel, crushed rock or other aggregate. If using materials other than asphalt or concrete, an improved surface containing material such as gravel or crushed rock must be contained within a permanent border, imbedded in the ground, delineating the improved area from the remainder of the yard; and
- d. Be maintained free of all vegetation, including, but not limited to grasses, trees, and bushes.

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.

Please take the following corrective action by 02/05/2007

1. No vehicle is allowed to park in the front yard. Please discontinue parking the Dodge Ram 2500 in the front yard or modifications are necessary to the lawn area to conform to code.
2. The Trane unit located behind the pick up truck must be removed from the front yard

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372 or visit our web site at www.tempe.gov/codee/ Failure to comply may result in civil citation, criminal charges or abatement of the violation

Code Inspector Bill Chesterfield

Phone Number 480-350-2888

CASE# CE070100



City of Tempe Code Enforcement Division
We need your help to keep our City clean

Date: 02/05/2007

To:
Terry Johnson
336 E Fillmore St
Tempe Az 85281

FINAL NOTICE

This is a courtesy notice to inform you that on 02/05/2007, 336 E Fillmore St Tempe Az 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. If the property is brought into compliance with the code by 02/19/2007, you will not be subject to citations or fines for the violation(s). A re-inspection will be conducted on or after the date indicated to verify compliance. If the violations have not been corrected by this date and additional reinspections are necessary, you may be assessed a \$75.00 reinspection fee.

Violation of the Tempe City Code, Chapter 21-3-b-4

To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use. An improved area shall:

- a. Be contiguous to, and share an access point with, the required driveway;
- b. Be no greater than Thirty-Five Percent (35%) of the front and side areas visible from the street;
- c. Be a minimum of three (3) inches in depth if gravel, crushed rock or other aggregate. If using materials other than asphalt or concrete, an improved surface containing material such as gravel or crushed rock must be contained within a permanent border, imbedded in the ground, delineating the improved area from the remainder of the yard; and
- d. Be maintained free of all vegetation, including, but not limited to grasses, trees, and bushes.

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.

Please take the following corrective action by 02/19/2007

1. No vehicle is allowed to park in the front yard. Please discontinue parking the Dodge Ram 2500 in the front yard or modifications are necessary to the lawn area to conform to code.
2. The Trane unit located behind the pick up truck must be removed from the front yard

PROPERTY ENHANCEMENT FINE SCHEDULE

21-3b1 thru 21-3b8 and 21-3b17 thru 21-3b19
(FIRST VIOLATION/\$100.00 FINE)
(SECOND VIOLATION/\$200.00 FINE)
(THIRD VIOLATION/\$300.00 FINE)

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372 or visit our web site at www.tempe.gov/codee/ Failure to comply may result in civil citation, criminal charges or abatement of the violation

Code Inspector Bill Chesterfield

Phone Number 480-350-2888



City of Tempe Code Compliance Division
Courtesy Notice

We need your help to keep our City clean

This is a courtesy notice to inform you that on **6/5/07 336 E Fillmore St** was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, of the Tempe City Code. A re-inspection will be conducted on or after the date indicated to verify compliance. If the property is brought into compliance with the code by **7/12/07** you will not be subject to citations or fines for the violation(s). We appreciate your cooperation in this matter. For questions or further information please contact the Neighborhood Enhancement Division at 480-350-8372.

Section 21-3 Enumerated Violations

- (a) It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance.
- (b) A nuisance includes any one or more of the following conditions:

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-4

To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use.. An improved area shall extend to the street and the total area including driveways shall not exceed fifty percent (50%) of the front and side area.

Violation of the Tempe City Code, Chapter 21-3-b-3

Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:

Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;

A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;

Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

Lawful commercial activities involving vehicles as allowed by the zoning ordinance; or

Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

Please take the following corrective action

1. Remove the Dodge Ram Pick Up truck from the unenclosed areas of this property.
2. Discontinue parking on the unimproved surface areas of your yard.
3. Remove the A/C unit and all debris from the unenclosed areas of your property.

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

Notice was mailed on 6/6/07 to

Terry Johnson
336 E Fillmore St
Tempe AZ 85281

Code Inspector: Barry Kissell

Phone Number 480-858-2087

CASE #CE070100



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

Mailed on Date: 08/08/07

**Terrance & Mimmie Johnson
336 E Fillmore St
Tempe, AZ 85281**

Failure to comply may result in civil citation, criminal charges or abatement of the violation.

This notice to comply is to inform you that on **08/08/07**, the property located at **336 E Fillmore St.** 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 **08/17/07** 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 area 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.

Violation of the Tempe City Code, Chapter 21-3-b-3

Any inoperable or unregistered vehicle, or parts thereof, outside of or under a roof area not enclosed by walls, doors or windows of any building on any lot, except the safe and neat keeping of:

- a. Substantially complete inoperable or unregistered vehicles with inflated tires under the roof area of any building;
- b. A vehicle undergoing repair, titled to the owner or resident of the property, provided that the repair is complete within fourteen (14) days after the repair was begun, provided that not more than three (3) such fourteen (14) day repairs will be permitted in any twelve (12) month period;
- c. Not more than two (2) ongoing restoration projects or inoperable or unregistered vehicles in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;
- d. Lawful commercial activities involving vehicles as allowed by the zoning ordinance; or
- e. Operable, off-road vehicles, under the roof area of any building, or in a backyard area, screened by a substantially opaque fence at a minimum height of five (5) feet or the height of the vehicles, whichever is more, provided that any fence constructed or modified pursuant to this subsection must meet any and all other requirements of the city code;

Inoperable vehicle means a vehicle that is physically incapable of its intended operation, or unable to be safely operated at that time, including but not limited to vehicles on blocks or similar devices, with tire or tires, or from which the engine, wheels or tires have been removed.

Off-road vehicle means a recreational vehicle designed for off-road use and not required to be licensed, including without limitation all-terrain vehicles, motocross cycles, sand rails and dune buggies.

Vehicle means a machine propelled by power other than human power designed to travel along the ground, water or air to transport persons, property or machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, boat or aircraft.

Violation of the Tempe City Code, Chapter 21-3-b-4

To leave or permit to remain outside of any single-family or multifamily dwelling or accessory building any camper, vehicle, or part thereof in any portion of the front or side area of the building visible from the street that is not on an improved area designed or intended for such use. An improved area shall:

- A. Be contiguous to, and share an access point with, the required driveway;
- B. Be no greater than Thirty-Five Percent (35%) of the front and side areas visible from the street;
- C. Be a minimum of three (3) inches in depth if gravel, crushed rock or other aggregate. If using materials other than asphalt or concrete, an improved surface containing material such as gravel or crushed rock must be contained within a permanent border, imbedded in the ground, delineating the improved area from the remainder of the yard; and
- D. Be maintained free of all vegetation, including, but not limited to grasses, trees, and bushes.

Please take the following corrective action by: 08/17/07

Required Correction(s):

Trash, litter and debris

Please remove all trash, litter and debris including air conditioning unit, boxes and pieces of wood located in the carport & next to the driveway.

Inoperable or unregistered vehicle(s)

Please obtain valid registration (tags) for the gray/brown Dodge RAM pick-up truck no license plate parked next to the driveway or move vehicle(s) to an enclosed area.

Lawn parking

Please cease all lawn parking until an improved parking area or surface has been created. See code 21-3-b-4 above.

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: 1st occurrence \$100 dollars per violation, 2nd occurrence \$200 dollars per violation, 3rd occurrence \$300 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence \$300 dollars per violation, 2nd occurrence \$600 dollars per violation, 3rd occurrence \$900 dollars 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 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: Andres Lara

Phone Number: 480-858-2289

E-mail: andres_lara-reyes@tempe.gov

