
**CITY OF TEMPE
HEARING OFFICER**

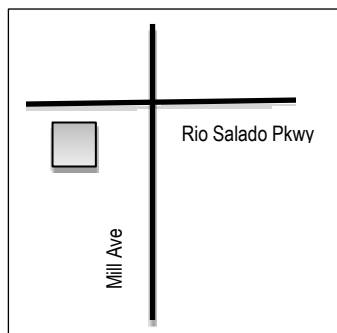
**Meeting Date: 12/19/2023
Agenda Item: 2**

ACTION: Request approval to abate public nuisance items at the Arizona Public Service (APS) Property located at 411 W. 1st St. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$410.00 for abatement request: Remove graffiti from site walls, pillars and poles.

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 ARIZONA PUBLIC SERVICE (APS) 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 CM231375: Removal of graffiti from site walls, pillars and poles



Property Owner
Applicant
Zoning District:
Code Compliance
Inspector:

Arizona Public Service (APS)
City of Tempe – Code Compliance
GID- General Industrial District
Michelle Van Etten

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Code Administrator (480-858-2190)

Department Director: Jeffrey Tamulevich, Department Director
Legal review by: N/A
Prepared by: Shawn Daffara, CPTED Coordinator
Reviewed by: Drew Yocom, Code Administrator

COMMENTS:

Code Compliance is requesting approval to abate the Arizona Public Service (APS) Property located 411 W. 1st St, in the GID General Industrial District. This case was initiated 06/16/2023, after which Code Compliance has attempted to obtain compliance through correspondence with the property owner regarding violations of the Tempe City Code.

Without the intervention of abatement, the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve a 180-day open abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

HISTORY & FACTS:

The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

ABATEMENT

Planning Application Submittal Form

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	Arizona Public Service Company, Property Abatement					EXISTING ZONING	GID	<input type="checkbox"/>		
PROJECT ADDRESS	411 W 1st St, Tempe, AZ 85281					SUITE(S)		<input type="checkbox"/>		
PROJECT DESCRIPTION	Abatement of CM231375 December 19, 2023					PARCEL No(s)	124-32-182	<input type="checkbox"/>		
PROPERTY OWNER INFORMATION – REQUIRED (EXCEPT PRELIMINARY SITE PLAN REVIEW & SIGN TYPE K)										
BUSINESS NAME	Arizona Public Service Company			ADDRESS	PO Box 53999 MS 9565					
CONTACT NAME		CITY	Phoenix	STATE	AZ	ZIP	85072			
EMAIL		PHONE 1		PHONE 2						
<i>I hereby authorize the applicant below to process this application with the City of Tempe.</i>										
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	Michelle Van Etten, Code Inspector			CITY	Tempe	STATE	AZ	ZIP	85281	
EMAIL	michelle_vanetten@tempe.gov			PHONE 1	480-350-2895		PHONE 2			
<i>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.</i>										
APPLICANT SIGNATURE					X	DATE			10/23/23	
<i>Michelle Van Etten</i>										
BUSINESS INFORMATION – REQUIRED FOR USE PERMITS & SIGN DPRs										
BUSINESS NAME				ADDRESS						
CONTACT NAME		CITY		STATE		ZIP				
TYPE OF BUSINESS		PHONE		EMAIL						
APPLICATION	QTY	SPECIFIC REQUEST				FOR CITY USE ONLY				
<i>(Check all that apply)</i>										
<i>(See Planning & Zoning Fee Schedule for types)</i>										
<i>(Planning record tracking numbers)</i>										
<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.	SUBDIVISION / CONDOMINIUM PLATS				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		
<input type="checkbox"/>	M.	SIGN TYPE K				GO		SE		
TOTAL NUMBER OF APPLICATIONS		0								
FOR CITY USE ONLY										
DS TRACKING #				FILE APPLICATION WITH	DATE RECEIVED (STAMP)		VALIDATION OF PAYMENT (STAMP)			
PL TRACKING #				CE / CM / IP TRACKING #						
SPR TRACKING #						TOTAL APPLICATION FEES				
<i>(if 2nd or 3rd submittal, please use Planning Resubmittal Form)</i>										
RECEIVED BY INTAKE STAFF (INITIALS)										

SEE REVERSE SIDE FOR REQUIRED PROJECT DATA



DATE: October 23, 2023
TO: Julie Scofield, Senior Code Inspector
FROM: Michelle Van Etten, Code Inspector
SUBJECT: CM231375, 411 W 1st St, Tempe - Abatement

LOCATION: 411 W 1st St, Tempe, AZ. 85281

PARCEL: 124-32-182

OWNER: Arizona Public Service Company
PO BOX 53999 MS 9565
Phoenix, AZ 85072

FINDINGS:

On 06/16/2023 I inspected the property located at 411 W 1st St. after receiving a complaint of graffiti on a brick / paver divider on the property. I found that there was spray paint graffiti on the divider and sent a correction notice to the owner.

I reinspected the property on 06/30/2023 and found the graffiti had not been covered or removed. I sent a final notice.

On 07/20/2023 I found that the graffiti remained on the pillar and there was additional graffiti on a pole on their property. I made contact with "APS" via phone and was told they would put in a work order.

I reinspected the property multiple times after that, and the graffiti remained. I phoned "APS" on 09/11/2023 and 09/12/2023 after attempting to speak to a supervisor. I was told the current wait time for any and all graffiti complaints was 12 to 18 months, and no exceptions would be made.

I reinspected the property on 09/28/2023 and found the graffiti remained. I sent an additional final notice to the owner which included the zoning code which would allow the City of Tempe to abate the violation on the commercial property, ZDC 1-201.A site and or building changes without city approval.

On 10/23/2023 I reinspected the property and found that the graffiti was not removed or covered. I mailed a notice of intent to abate to the owner.

RECOMMENDATIONS:

I recommend an abatement of the nuisance violations at the property at 411 W 1st St, Tempe due to property owner's failure to bring property into compliance with Tempe City Code 22-105 – Graffiti violation. The owner was given ample time to come into compliance and maintain the property, and I continue to receive complaints about this issue. There is no indication that the property will be brought into compliance in the near future. The property represents an eyesore to the community.

Without the intervention of abatement, the property will continue to deteriorate. I therefore make a request to the City of Tempe Community Development Hearing Officer for authorization to abate this public nuisance in accordance with section 21-53 of the Tempe City Code and authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Respectfully submitted,

Michelle Van Etten
Code Inspector

ACTION TAKEN: submitted
NAME Julius Scapellato
DATE: 10/23/23



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 10/23/2023
CASE # CM231375

**ARIZONA PUBLIC SERVICE COMPANY "A.P.S."
PO BOX 53999 MS 9565
PHOENIX, AZ 85072**

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

LOCATION: 411 W 1ST ST TEMPE, AZ 85281
PARCEL: 124-32-182

This office will submit this complaint to the Community Development Abatement Hearing Officer located at the Tempe City Council Chambers on 12/19/2023. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal and repair of:

Sec 22-105 All sidewalks, walls, buildings, fences, signs, and other structures of 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 GRAFFITI FROM PILLARS, WALLS, POLES, BUILDING, ETC. ON THE PROPERTY

Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be **\$410.00**. 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: Michelle Van Etten

Phone Number: 480-350-2895

E-mail: michelle_vanetten@tempe.gov



Artistic Land Management, Inc.

October 3, 2023

City of Tempe
Attn: Michelle Van Etten
Code Inspector

RE: Clean-Up at 411 W. 1st St.

Thank you for giving Artistic Land Management, Inc the opportunity to serve your landscaping needs. Below is our price to provide all labor, equipment, landfill fees, and supervision to perform the work listed at 411 W. 1st, Tempe, AZ. Please give us a call for any questions you may have at 480-821-4966.

Scope of Work

- Cover / Remove graffiti on the exterior walls, power pole, etc.

Total = \$410.00

Respectfully,

Jose Hernandez

Oct 28, 2023 at 7:46:56 AM



Oct 23, 2023 at 7:47:01 AM



105165705-74-200



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
CORRECTION NOTICE

06/16/2023

ARIZONA PUBLIC SERVICE COMPANY PROPERTY TAX DEPARTMENT
PO BOX 53999 MS 9565
PHOENIX, AZ 85072

Case #: CM231375
Site Address: 411 W 1ST ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 06/16/2023 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
Sec.22-105.	All sidewalks, walls, buildings, fences, signs, and other structures of surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property

**SITE REINSP
ON OR
AFTER**

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

Sec.22-105.	PLEASE COVER / REMOVE THE GRAFFITI ON THE BRICK "BENCH" ALONG W 1ST ST. YOU MAY ALSO SUBMIT THE ATTACHED FORM TO ME, AND THE CITY WILL DO SO ON YOUR BEHALF, AT NO COST TO YOU. THIS IS A CURRENT PROMOTION BY THE CITY. THANK YOU	6/30/2023
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Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Michelle Van Etten
Code Inspector

Direct: 480-350-2895
Code Compliance: 480-350-4311
Email:michelle_vanetten@tempe.gov

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$82.00 pursuant to City Code Section 21-51, subsection (b).
Civil and Criminal Penalties

City Code: Section 21-3, subsections (b) 1-8, 17-19 and 21; Sections 21-4; 21-13; Section 21-24; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation | Sections 21-31; 21-32; 21-33; 21-35; 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Section 21-3, subsections (b) 9-16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 per violation | The city has authority to abate the violation should the owner neglect, fail or refuse to correct the violation within 30 days and to assess a lien against the property for the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

07/06/2023

ARIZONA PUBLIC SERVICE
PO BOX 53940 BLK 700227536
PHOENIX, AZ 85072

Case #: CM231375
Site Address: 411 W 1ST ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 07/06/2023 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	
Sec.22-105.	All sidewalks, walls, buildings, fences, signs, and other structures of 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		SITE REINSP ON OR AFTER
Sec.22-105.	PLEASE COVER / REMOVE THE GRAFFITI ON THE BRICK "BENCH" ALONG W 1ST ST. THANK YOU	07/20/2023

CORRECTIVE ACTION MUST BE COMPLETED OR CITATIONS WILL BE ISSUED

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

Michelle Van Etten
Code Inspector

Direct: 480-350-2895
Code Compliance: 480-350-4311
Email:michelle_vanetten@tempe.gov

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COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

07/06/2023

ARIZONA PUBLIC SERVICE COMPANY PROPERTY TAX DEPARTMENT
PO BOX 53999 MS 9565
PHOENIX, AZ 85072

Case #: CM231375
Site Address: 411 W 1ST ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 07/06/2023 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	
Sec.22-105.	All sidewalks, walls, buildings, fences, signs, and other structures of 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		SITE REINSP ON OR AFTER
Sec.22-105.	PLEASE COVER / REMOVE THE GRAFFITI ON THE BRICK "BENCH" ALONG W 1ST ST. THANK YOU	07/20/2023

CORRECTIVE ACTION MUST BE COMPLETED OR CITATIONS WILL BE ISSUED

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

Michelle Van Etten
Code Inspector

Direct: 480-350-2895
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COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

09/28/2023

ARIZONA PUBLIC SERVICE
PO BOX 53940 BLK 700227536
PHOENIX, AZ 85072

Case #: CM231375
Site Address: 411 W 1ST ST, TEMPE, AZ 85281

This is a notice to inform you that this site was inspected on 09/14/2023 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
Sec.22-105.	All sidewalks, walls, buildings, fences, signs, and other structures of surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property
ZDC 1-201.A.	Site &/or building changes made without City approval

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION		SITE REINSP ON OR AFTER
Sec.22-105.	PLEASE COVER / REMOVE THE GRAFFITI ON THE BRICK "BENCH" ALONG W 1ST ST. YOU MAY ALSO SUBMIT THE ATTACHED FORM TO ME, AND THE CITY WILL DO SO ON YOUR BEHALF, AT NO COST TO YOU. THIS IS A CURRENT PROMOTION BY THE CITY. THANK YOU	10/12/2023
ZDC 1-201.A.	AS INDICATED ABOVE PLEASE REMOVE / COVER THE GRAFFITI ON YOUR PROPERTY.	10/12/2023

CORRECTIVE ACTION MUST BE COMPLETED OR CITATIONS WILL BE ISSUED AND / OR ABATEMENT PROCEEDINGS WILL BEGIN.

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

Michelle Van Etten
Code Inspector

Direct: 480-350-2895
Code Compliance: 480-350-4311
Email:michelle_vanetten@tempe.gov

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COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

09/28/2023

ARIZONA PUBLIC SERVICE COMPANY PROPERTY TAX DEPARTMENT
PO BOX 53999 MS 9565
PHOENIX, AZ 85072

Case #: CM231375
Site Address: 411 W 1ST ST, TEMPE, AZ 85281

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Section	Violation
Sec.22-105.	All sidewalks, walls, buildings, fences, signs, and other structures of surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property
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Michelle Van Etten
Code Inspector

Direct: 480-350-2895
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