

ORDINANCE NO. O2017-006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING YUMA CITY CODE CHAPTER 39 TO ESTABLISH THE POSITION OF COURT OFFICER WITHIN THE CITY OF YUMA POLICE DEPARTMENT TO SERVE THE MUNICIPAL COURT OF THE CITY OF YUMA, YUMA COUNTY, STATE OF ARIZONA

WHEREAS, pursuant to Article III, Section 1 of the Yuma City Charter, the City of Yuma (City) “shall have all the powers granted to municipal corporations and cities by the Constitution and laws of the State of Arizona and by this Charter, together with all the implied powers necessary to carry into execution all the powers granted”; and,

WHEREAS, Article III, Section 1 of the Yuma City Charter further grants the City, “unless the exercise of such powers is contrary to the provisions of this Charter; to exercise all other needful powers for the efficient administration of the municipal government, or for the welfare of the City or its habitants, whether such powers are herein expressly enumerated or not; and to enact appropriate legislation, and do or perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City or of any of the provisions of this Charter”; and,

WHEREAS, Article XI, Section 5 of the Yuma City Charter, which was changed in the Special Election of December 7, 1993, requires that “The City shall make available necessary personnel for attendance at said court to preserve order therein and to enforce its orders and serve its process”; and,

WHEREAS, prior to the December 7, 1993 Yuma City Charter change, Article XI, Section 5 stated that, “The City shall assign a *police officer* for attendance at said court to preserve order therein and to enforce its orders and serve its process.” (emphasis added); and,

WHEREAS, this 1993 Yuma City Charter change shows that a *police officer* was no longer an intended requirement for attendance at court, preserving order in the court, and serving Court process; and,

WHEREAS, Article XI, Section 6, of the Yuma City Charter which has not been amended since the General Election of December 6, 1977, states that the “*police* of the City of Yuma are hereby authorized and directed to execute and serve any and all writs and processes issued out of said municipal court by said judge, and proper return shall be made by such officer to the same extent as is required of constables and sheriffs in the service and execution of similar papers” (emphasis added); and,

WHEREAS, Rule 3.4 of the Arizona Rules of Criminal Procedure allows the service of a summons to “be served in the same manner as the summons in a civil action, except that service may not be by publication”; and,

WHEREAS, it is the City Council’s legislative determination that the intent of the Yuma City Charter is not to restrict the phrase “*police* of the City of Yuma” to require that only a sworn *police officer* may serve writs and processes issued out of municipal court by a municipal court judge as such a construction would unduly restrict what is permitted under state law and run contrary to the December 7, 1993 Yuma City Charter change; and,

WHEREAS, Article III, Section 18, of the Yuma City Charter further enumerates that “This granting of power to the City of Yuma is to be liberally construed for the purpose of securing the well-being of the municipality and its inhabitants and in the absence of any procedure for carrying out or effectuating any granted or implied power or authority, the general law of this State, where applicable and where not inconsistent with any express provision of this Charter, may be followed.”

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma as follows:

SECTION 1: To make efficient use of the resources of the City of Yuma, the Yuma Police Department and the City of Yuma Municipal Court, Court Officers are designated employees of the Yuma Police Department, assigned to and under the direction of the Presiding Municipal Judge, and may execute and serve any and all writs and processes issued by the Municipal Court or any Municipal Court Judge, transport persons as required for Municipal Court proceedings, and attend and perform such other duties as directed by the Presiding Municipal Court Judge.

SECTION 2: Court Officers shall perform all assigned duties in accordance with the Yuma City Charter, the Yuma City Code, the laws of the state of Arizona and the United States of America.

SECTION 3: Court Officers shall be entitled to all immunities permitted by law, shall take and subscribe to any oath required by law, but shall not be subject to or acquire any rights under the Police Pension Fund Act of this state.

SECTION 4: Yuma City Code **§ 39-02 Definitions** is amended to add the following definition:

COURT OFFICER. An employee of the Yuma Police Department appointed to serve the Municipal Court as prescribed by the Yuma City Charter with all of the powers and duties within the City of Yuma municipal boundaries as authorized by the Yuma City Charter, the state of Arizona, as directed or ordered by the Presiding Judge of the Municipal Court or any Municipal Court Judge.

SECTION 5: That Chapter 39 of the Yuma City Code is amended to add the following section:

§ 39-30 Court Officer Training.

The Municipal Court Presiding Judge and Chief of Yuma Police shall develop a mandatory course of training for all Court Officers which shall include recurrent training. All Court Officers shall attend such training and records shall be maintained documenting the training. Such training shall be no less than the training described by Arizona Revised Statutes § 22-137(E) for Arizona constables.

Adopted this _____ day of _____, 2017.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Richard W. Files
Deputy City Attorney