

## ORDINANCE NO. O2021-017

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING TITLE 13, CHAPTER 134, OF THE YUMA CITY CODE REGULATING NUISANCES WITHIN THE CITY

WHEREAS, public nuisances are dangerous to people and property; and,

WHEREAS, there are owners of properties within the City of Yuma for whom the City has no contact information or outdated contact information, from whom the City otherwise receives no response to multiple contact attempts, or who are otherwise uncooperative with attempts to remedy a public nuisance; and,

WHEREAS, the City desires to keep its citizens safe and maintain quality of life; and,

WHEREAS, the current City Code lacks a detailed process for remedying public nuisances when owners are unable to do so or unable to be contacted; and,

WHEREAS, an updated administrative warrant provision will provide the City with a remedy in exceptional public nuisance circumstances.

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

SECTION 1: That the Yuma City Code, Title 13, Chapter 134, “Nuisances” be amended as shown where strikethrough text represents deletions and bolded text represents additions:

#### ~~§ 134-05 Right to Enter Premises for Inspection or Abatement.~~

~~—If an enforcement authority or the city's Environmental Program Coordinator deems it necessary to enter a building or structure within city jurisdiction for the purpose of examining, removing or preventing a public nuisance and is refused entrance, any of the enforcement authorities listed in § 134-06 may make a complaint under oath to a municipal judge. The judge shall issue a warrant directing the Police Department accompanied by and under the direction of at least one designated enforcement authority to examine, remove or prevent the public nuisance.~~

#### **§134-05 Administrative Warrants**

1. Any judge, upon proper oath or affirmation showing probable cause, may issue warrants for the purposes of conducting administrative inspections and the seizure, removal, destruction, or alteration of property in order to remedy a public nuisance. For purposes of the issuance of administrative warrants, probable cause exists upon showing the existence of a public nuisance as defined in this Chapter, in conjunction with evidence of reasonable attempts to notify and contact the property owner regarding the public nuisance, sufficient to justify administrative inspection of the area, premises, building, structure, property, or conveyance and/or the seizure, removal, destruction, or alteration of property in order to remedy a public nuisance.

2. An administrative warrant shall issue only upon presentation of a written affidavit of a peace officer, code enforcement officer, or other City employee having personal knowledge of the facts alleged, sworn to a judge and establishing the grounds for issuing the warrant. If the judge is satisfied probable cause exists, such judge shall issue a written warrant identifying the area, premises, building, structure, property, or conveyance to be inspected, identify the property that may be seized, removed, destroyed or altered, and the purpose of the authorized actions.
3. Administrative warrants shall be served and executed during daylight hours, unless otherwise authorized in the warrant. A copy shall be provided to the property owner. In the event the property owner is not physically present, a copy shall be left at the property in a visible and safe location. In the event no location exists that is visible and will sufficiently protect the documentation from harm or destruction, a copy may be mailed to the owner's last known address. If property is seized, removed, destroyed or altered, a receipt or detail of the action taken shall be provided along with the copy of the warrant.
4. An administrative warrant issued pursuant to this section shall be executed within five (5) days of issuance and returned within three (3) days of its execution to the court unless, upon a showing of a need for additional time, the court orders otherwise. The return of the warrant shall be made promptly, accompanied by a written inventory of any property seized, removed, destroyed or altered.
5. Individuals executing an administrative warrant may damage property if necessary and reasonable to gain access to the area, premises, building, structure, property, or conveyance that is the subject of the warrant, if either of the following are true:
  - a. After notice of the City employee's presence, purpose and authority, there is no response within a reasonable period of time.
  - b. After notice of the City employee's presence, purpose and authority, entry is refused.
6. The affiant shall maintain a fully executed copy of the affidavit, warrant, return, and any receipts or inventory lists in compliance with State and Court retention schedules.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

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Richard W. Files  
City Attorney