

ORDINANCE NO. O2025-028

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, violations of the Property Maintenance Code can create conditions that pose danger to life and property; and,

WHEREAS, citizens have the constitutional right to exclude the government from private property, unless the government obtains a court authorized warrant or there is an exigency; and,

WHEREAS, situations arise in which unsafe conditions raise concerns about the dangers to life or property, but the City is prohibited from accessing or inspecting the property by the owner or tenant; and,

WHEREAS, from time-to-time situations arise in which an inspection identifies unsafe conditions, but the property owner or tenant does not have the ability to, or refuses to remedy the danger; and,

WHEREAS, the current City Code lacks a process for entering private property when violations of the Property Maintenance Code pose a danger to life or property and the owner or tenant denies access or declines to remedy known dangers; and,

WHEREAS, an updated administrative warrant provision will provide the City with a pathway in exceptional circumstances where property conditions pose a danger to life or property, while also protecting citizens by requiring judicial oversight.

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

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

§ 134-05 Administrative warrants

- (A) 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 **pursuant to this section**, 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~~ **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.
- (B) **Any judge, upon proper oath or affirmation showing probable cause that a property or structure or components, poses a danger to human life or health, or to other structures and property, may issue warrants for the purposes of**

conducting administrative inspections and/or the seizure, removal, destruction, repair or alteration of the property or structure or components. For purposes of the issuance of administrative warrants pursuant to this section, probable cause exists upon showing the existence of a condition in violation of the Property Maintenance Code, as adopted by Yuma City Code § 150-090, in conjunction with evidence of reasonable attempts to notify and contact the property owner regarding the danger, or reasonable attempts to gain compliance from the property owner, sufficient to justify administrative inspection of the area, premises, building, structure, property, or conveyance and/or the seizure, removal, destruction, repair, or alteration of the property or structure or components to remedy dangerous condition(s).

~~(B)~~(C) 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, **repaired** or altered, and the purpose of the authorized actions.

~~(C)~~(D) 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, **repaired** or altered, a receipt or detail of the action taken shall be provided along with the copy of the warrant.

~~(D)~~(E) An administrative warrant issued pursuant to this section shall be executed within five days of issuance and returned within three 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, **repaired** or altered.

~~(E)~~(F) 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:

(1) After notice of the city employee's presence, purpose and authority, there is no response within a reasonable period of time.

(2) After notice of the city employee's presence, purpose and authority, entry is refused.

~~(F)~~(G) 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.

(H) **Failure to abide by an administrative warrant may result in a finding of civil contempt, or a criminal conviction for contempt or interfering with judicial proceedings, pursuant to Arizona Revised Statutes.**

SECTION 2: Penalty.

- (A) A responsible party cited for a violation of any provision of this ordinance shall be subject to a civil sanction and shall be fined an amount not more than \$500 per day.
- (B) Each day a violation continues shall constitute a separate offense.
- (C) The City shall provide for payment by mail of fines imposed under this section.
- (D) The imposition of a penalty under the provisions of this section shall not waive any and all other legal remedies available to the city.

Adopted this _____ day of _____ 2025.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

APPROVED AS TO FORM:

Lynda L. Bushong
City Clerk

Richard W. Files
City Attorney