



INSTITUTE FOR JUSTICE

February 9, 2026

Via Electronic Mail

Kylie Soden, City Clerk
City of Cheyenne
City Hall
2101 O'Neil Avenue
Cheyenne, Wyoming 82001
ksoden@cheyennecity.org

Re: Proposed Residential Rental Inspection Ordinance

Dear Members of the Cheyenne City Council:

We are attorneys at the Institute for Justice, a nationwide public interest law firm that litigates to protect constitutional rights, including property and privacy rights secured by state constitutions. Our cases frequently challenge unreasonable administrative searches under both the Fourth Amendment and independent state constitutional provisions.

We write regarding Cheyenne's proposed residential inspection ordinance. We urge the Council not to adopt the ordinance as written, or at a minimum to remove the provisions discussed below. Although the proposal purports to require a warrant for non-consensual searches, it authorizes administrative search warrants to issue on the basis of legislative standards rather than individualized probable cause. That defect violates Article I, Section 4 of the Wyoming Constitution and jeopardizes the privacy and property rights of Cheyenne's residents.

Section 1.28.020 of the proposed ordinance provides that “[c]ause shall be deemed to exist” for such a warrant if legislative standards for periodic or area inspections are followed. Legislative standards alone, however, do not constitute the individualized probable cause required by Article I, Section 4 of the Wyoming Constitution. Although the City Council has amended the proposed ordinance in the face of criticism that it invades property and privacy

rights, the current language continues to authorize warrants without the constitutional requirement of individualized, factual probable cause and therefore does little to address the concerns of Cheyenne’s residents.

While the U.S. Supreme Court has held that neutral legislative standards may satisfy the Fourth Amendment in the context of code inspections,¹ the Wyoming Supreme Court has long interpreted Article I, § 4 to provide greater protection. Specifically, Wyoming’s Affidavit Clause places heightened emphasis on written assertions of fact establishing probable cause. *Smith v. State*, 311 P.3d 132, 136 (Wyo. 2013) (“[T]he word ‘affidavit’ . . . rather than . . . ‘oath or affirmation’ means that the [Wyoming Constitution] provides greater protection than the [Fourth Amendment].”). Accordingly, warrants may issue only upon individual, factual probable cause that a search will uncover an existing violation. This understanding accords with historical foundations of state constitutional search-and-seizure protections. *See* Pa. Const. art. X (1776); N.C. Const. art. XI (1776); Va. Decl. of Rights, § 10 (1776); Ohio Const. art. VIII, § 5 (1802).

By authorizing warrants to issue absent individualized evidence of wrongdoing—and instead permitting searches based on generalized legislative criteria—the ordinance effectively reads the affidavit requirement *out* of the Wyoming Constitution. The result is predictable: searches conducted under such warrants would invite constitutional challenges and could expose the City to liability. The City has a lawful alternative. It may inspect properties through a complaint-based system and seek warrants supported by sworn affidavits establishing probable cause of an existing violation at the specific property to be searched.

Inspection regimes that authorize warrants without individualized probable cause have already produced serious and well-documented invasions of privacy. [In a recent Institute for Justice case](#), litigated over nearly a decade, city officials in Pottstown, Pennsylvania relied on a similar ordinance to obtain administrative warrants and conduct intrusive, room-by-room searches of occupied homes without evidence of any specific code violation. Inspectors entered bedrooms, opened private containers, and observed sensitive personal, medical, and religious information—sometimes while children were present—based solely on legislative inspection criteria. Residents who objected were threatened with court action, and inspections were carried out

¹ *Camara v. Municipal Court*, 387 U.S. 523, 538–39 (1967).

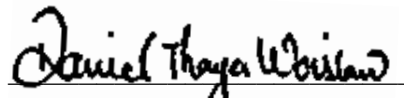
with police involvement, resulting in arrests. A Pennsylvania appellate court ultimately held that this regime violated the state constitution. See [*Rivera v. Municipal Court*](#), ___ A.3d ___, 2025 WL 3522304 (Pa. Commw. Ct. Dec. 9, 2025). That case illustrates how inspection schemes untethered from individualized probable cause lead inexorably to sweeping intrusions on the privacy of the home.

The Ohio Supreme Court is now considering the same constitutional question. See *Dep't of Dev. Servs. for the City of North Canton v. CF Homes, LLC*, No. 2025-0458 (pending).

For these reasons, the Council should decline to adopt the ordinance as written, or at the very least revise it to require individualized probable cause supported by a factual affidavit, consistent with the Wyoming Constitution.

Please feel free to contact us if you have any questions or would like to discuss these issues further.

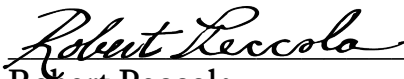
Respectfully,



Daniel T. Woslaw

Attorney

INSTITUTE FOR JUSTICE



Robert Peccola

Attorney

INSTITUTE FOR JUSTICE