

ORDINANCE NO. _____

ENTITLED: "AN ORDINANCE CREATING CHAPTER 1.28, ADMINISTRATIVE INSPECTION WARRANTS, ESTABLISHING AUTHORITY FOR THEIR ISSUANCE, AND AMENDING THE MUNICIPAL CODE OF THE CITY OF CHEYENNE, WYOMING, TO AUTHORIZE CERTAIN CITY OFFICIALS, AS SPECIFIED, TO APPLY FOR ADMINISTRATIVE INSPECTION WARRANTS."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That Chapter 1.28, Administrative Inspection Warrants, of Title 1, General Provisions, and Section 2.32.050 – Administrative Inspection Warrants—Fire Department Authority, of Chapter 2.32 – Fire Department, of Title 2 – Administration and Personnel, of the municipal code of the City of Cheyenne, Wyoming, are hereby created to read:

Chapter 1.28 – ADMINISTRATIVE INSPECTION WARRANTS

1.28.010 – Issuance of administrative inspection warrants.

A. A municipal judge may, upon proper application of a city official or a city employee so authorized, issue an administrative inspection warrant if such inspection is authorized, required, or reasonably necessary under any ordinance or other law of the City of Cheyenne or the State of Wyoming and the issuance of the warrant otherwise complies with the requirements imposed under this Chapter.

B. An administrative inspection warrant shall be in the form of a written order particularly describing the property or premises to be entered, the purpose and scope of the inspection, and the legal authority under which the warrant is issued.

C. The warrant shall authorize entry onto the designated property at reasonable times and in a reasonable manner for the purposes of conducting the inspection or investigation specified therein.

D. Nothing in this section shall be construed to authorize the issuance of an administrative inspection warrant in a manner inconsistent with the Constitution or laws of the United States or the State of Wyoming.

1.28.020 – Grounds for issuance.

A. An administrative inspection warrant shall be issued only upon cause, supported by affidavit or sworn statement made under oath or affirmation, particularly describing:

1. The applicant's authority and status in applying for the warrant;

2. The ordinance, statute or regulation requiring or authorizing the inspection or investigation;
 3. The premises to be inspected or investigated; and
 4. The purpose for the inspection or investigation, including the basis upon which cause exists to inspect or investigate.
- B. In addition to the requirements imposed under subsection (A) of this section, the affidavit or sworn statement shall include a declaration that entry has been sought and refused, that a reasonable attempt has been made to obtain consent and the attempt has been unsuccessful or facts demonstrating that the purpose of the inspection or investigation might be frustrated if prior consent were sought before application for a warrant.
- C. Cause shall be deemed to exist if:
1. Reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the particular premises;
 2. There is probable cause to believe that a condition of nonconformity, violation or other circumstance requiring corrective action exists with respect to the designated property; or
 3. An inspection or investigation is reasonably necessary to determine, discover or verify the condition of the property, structures or operations for compliance with applicable law or regulation.

1.28.030 – Procedure for issuance.

- A. Before issuing an administrative inspection warrant, the municipal judge may examine, under oath or affirmation, the applicant and any other witnesses the judge deems necessary and shall determine from the evidence presented whether sufficient grounds exist for granting the application.
- B. If the municipal judge finds that cause exists for the inspection or investigation and that all other requirements of this chapter have been satisfied, the judge shall issue the warrant. The warrant shall particularly describe the name and title of the person or persons authorized to execute it, the premises or property to be entered, and the purpose or purposes of the inspection and investigation.
- C. The warrant shall direct that it be executed only during reasonable hours and in a reasonable manner, except that where the municipal judge makes a specific finding that effective execution cannot be accomplished during those hours, the judge may authorize execution at such other times as the judge determines appropriate.

- D. The municipal judge shall retain the application, supporting affidavit or sworn statement, and a copy of the warrant as part of the official record of the proceeding.

1.28.040 – Execution of administrative inspection warrants.

- A. Except as provided in Section 1.28.020(B), in executing an administrative inspection warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present their credentials and state their authority and purpose to any occupant or person in possession of the premises designated in the warrant and shall, upon request, display a copy of the warrant.
- B. In executing an administrative inspection warrant, the person authorized to execute the warrant shall not be required to provide prior notice of authority or purpose as required in subsection (A) of this section if the premises are unoccupied, are not in the possession of any person, or are reasonably believed, at the time of entry, to be in such condition that providing prior notice would frustrate the purpose of the inspection or investigation.
- C. A peace officer or other law enforcement official may be requested to accompany or assist in the execution of an administrative inspection warrant when reasonably necessary to ensure the safety of personnel or the security of the premises.
- D. An administrative inspection warrant shall be executed and returned to the municipal judge within ten (10) days from its date of issuance, unless the judge, before the expiration of the ten (10) day period, extends the time for execution by written endorsement for an additional five (5) days. Any warrant not executed within the prescribed time shall be void.

2.32.050 - Administrative inspection warrants—Fire department authority.

The chief of the fire department, or an authorized designee, may request the issuance of administrative inspection warrants in accordance with Chapter 1.28 of the city code when necessary to enforce or ensure compliance with the International Fire Code adopted by Chapter 8.12 of the city code, the applicable provisions of Chapters 8.16, 8.20, 8.24, 8.32, and 8.40 of the city code, and Wyoming Statutes §§ 35-9-109, 35-9-111, 35-9-112, 35-9-116, and 35-9-156.

Section 2. That Section 2.36.010, Administration – Authority of staff, of Chapter 2.36, Building Safety Department, of Title 2, Administration and Personnel, of the City of Cheyenne, Wyoming, is hereby amended to read:

2.36.010 - Administration—Authority of staff.

- A. The city's chief building official is the chief administrative and enforcement officer of the building safety department. The chief building official, is the individual occupying the position of chief building official, also referred to as code official. The chief building official is hereby authorized and directed to interpret and enforce also referred to as the code official, is responsible for interpreting and enforcing the provisions of Chapters 15.04 through 15.48, and Chapter 5.44 of this code. The chief building official shall is hereby

authorized and directed to administer and enforce these provisions, to issue ~~necessary~~ any notices ~~and/or or~~ orders ~~necessary~~ to ensure compliance, ~~with this title~~, and to request the issuance of administrative inspection warrants as provided in Chapter 1.28 of this code, when such warrants are necessary to perform inspections or investigations authorized under this title.

- B. Building safety department staff, under the direction of the chief building official, will perform all plan review and building inspection functions including, but not limited to, issuing building, electrical, plumbing, mechanical and other permits pertinent to building construction, whether public or private buildings; compile affiliated building records, and ensure the collection of plan review, building permit, inspection and related fees.

Section 3. Sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or otherwise unlawful, such declaration shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases.

Section 4. This ordinance shall be in full force and effect upon approval and publication.

FIRST READING:

SECOND READING:

THIRD AND FINAL READING:

PATRICK COLLINS, MAYOR

(SEAL)

ATTEST:

KYLIE SODEN, CITY CLERK

Published: _____
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