

INSPECTIONS & WARRANTS

The Code Enforcement Unit [CEU] is responsible for enforcing public nuisance statutes or ordinances which have been enacted by state and local legislative bodies. These statutes or ordinances exist to protect the health, safety and welfare of Humboldt County citizens and to contribute to neighborhood vitality by setting minimum standards for structures and surrounding property. CEU Investigators enforce these statutes or ordinances through onsite inspections, interviews and other means of investigation.

Properties are inspected as a result of citizen complaints, referrals from county or outside agencies, or as part of a systematic inspection program. CEU Investigators inspect the property for compliance with the statutes or ordinances and attempt to contact property owners, contractors, property managers, or occupants about apparent violations. The goal of the CEU is voluntary compliance; however it is sometimes necessary to inspect or abate public nuisances or dangerous conditions on private property without the consent of the owner or occupants. Emergency, or summary inspections and abatement are also sometimes necessary to protect the public's health or safety.

In order to protect the health and safety of the public in a way that is consistent with the rights of citizens to be free from unreasonable intrusion onto their private property, this section sets forth the policy for CEU inspections on private property.

A. Definitions:

1. *Cause*: Means that the Investigator has a reasonable basis for believing that violations of statutes or ordinances exist at the property based on an Investigator's knowledge and experience of, including but not limited to, prior complaints and inspections involving the same property, property owner, property occupant, property manager, and any other entity.
2. *Inspection*: Means all entries onto private property to inspect for violations of statutes or ordinances the CEU is charged with enforcing, including inspections for abating hazardous conditions.
3. *Inspection Warrant*: An order of a court of competent jurisdiction authorizing entry upon private property for purposes of inspection or abatement of nuisance.

4. *Occupied*: Means a yard area of or structure on a property that reasonably appears to be in the possession of and actively used by a person with apparent authority to allow entry onto the property.
5. *Person with Apparent Authority*: Means a person who reasonably appears to be either the owner or any other person to whom the owner has granted care, custody, and control over the property.
6. *Statute or Ordinance*: Means the Humboldt County Code, or State of California statutes, regulations, or rule.
7. *Unoccupied*: Means a yard area of or structure on a property which does not reasonably appear to be in possession of and actively used by a person with apparent authority to allow entry onto the property.
8. *Vacant*: Means a yard area of or structure on an occupied property where no occupants are present.

Except where otherwise specifically noted above, terms used in this policy will be interpreted according to the definitions in the Humboldt County Code. If not defined in those codes, these terms will be interpreted according to their ordinary and customary definition.

B. Inspections:

In order to carry out the purposes of the statutes or ordinances, CEU Investigators, upon identifying themselves, are authorized to enter without delay onto property and to inspect the property for compliance with those statutes or ordinances. Inspections of private property will generally be performed during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner. Inspections may be made on private property without a warrant in the following circumstances.

1. **Emergency Creates Immediate Hazards**: Where emergency circumstances are found such that prior application for a warrant is not possible without severe immediate danger to the health, safety, or welfare of the occupants, or that of the general public, an inspection or abatement may occur without a warrant.

Whenever it reasonably appears to an inspector that violations exist to the extent that a severe immediate danger is posed to the health, safety, or welfare of the occupants, or that of the general public, the inspector may enter onto property without a warrant to verify the nature, severity, and extent of the violations or to abate such conditions giving rise to the immediate severe hazards.

2. Permission: Investigators may enter the yards or structures of private property to make inspections when authorized by a person with apparent authority to allow entry onto the property. Permit inspections, tenant complaints concerning conditions in their dwelling or common areas, requested recheck inspections from a property owner, or occupant, or where consent has been requested and obtained, are some examples of inspections made with permission. Investigators who are uncertain about whether permission has been granted shall terminate the inspections and make a reasonable attempt to notify the owner or other persons having charge or control of the property and request entry. If at any time during an inspection it reasonably appears that a person with apparent authority to allow entry onto the property wishes the inspection to end, the Investigator shall terminate the inspection and leave the premises by the most direct route.

3. Areas Open to the General Public: Investigators may enter areas of private property if it reasonably appears that the area to be entered is open for use by the general public. Areas that may be considered open for use by the general public include, but are not limited to, driveways, vehicle parking areas, walkways leading up to the main entrance(s) of residential and commercial structures, and customer areas of retail businesses. The determination must be made on a case-by-case basis as to whether the occupant has a reasonable expectation that the area in question is private.

4. Entry into Unoccupied Structures: If structures on the property are unoccupied and secured, the Investigator shall first make a reasonable attempt to notify the owner or other persons having charge or control of the property and request entry to the structures. If entry is refused, or if a responsible party cannot be located, the Investigator will notify the Code Enforcement Attorney who will then determine whether to start the process for obtaining a inspection warrant or other appropriate legal order from a court of competent jurisdiction. If the structures are unoccupied and open, the Investigator may enter to determine if imminently hazardous conditions exist. If hazardous conditions exist, the Investigator shall notify the owner of the condition and order the premises immediately secured against the entry by unauthorized persons.

C. Warrants:

Except as described above, if an Investigator is denied access to a property for the purpose of an inspection or abatement on the premises, such inspection shall not be conducted without an administrative inspection warrant or without such other authority as a court may grant in an appropriate legal proceeding. If an Investigator is denied access to a property, he or she shall notify the Code Enforcement Attorney, who may then determine whether to start the process for obtaining an administrative inspection warrant or other appropriate legal order from a court of competent jurisdiction.

1. Issuance of Administrative Inspection Warrants: After approval of the Code Enforcement Attorney, the Investigator shall apply to the Presiding Judge of Superior Court for the issuance of administrative inspection warrants for inspections or nuisance abatements required or authorized by statutes or ordinances. The administrative inspection warrant is a court order authorizing the CEU to inspect or investigate at a designated property.

2. Applications for Issuance of Administrative Inspection Warrants; Requirements of Affidavit:

a. An application for an administrative inspection warrant shall be reviewed and approved by the Code Enforcement Attorney and shall be accompanied by a supporting affidavit particularly describing the following minimum elements: (1) the affiant's employment background and experience; (2) the statute or ordinance requiring or authorizing the inspection or nuisance abatement; (3) the address or other description of the property or structure to be inspected or at which the nuisance exists, which is sufficient to identify the property; and (4) the purpose for which the inspection or abatement is to be made. In addition, the affidavit shall contain either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the inspection or abatement might be frustrated if entry were sought without an administrative inspection warrant. Where the Investigator reasonably believes that facts or circumstances show that the purposes of the inspection or abatement might be frustrated if entry were sought without an administrative inspection warrant, such request shall first be reviewed and approved by the Code Enforcement Attorney, who shall review each such request on a case-by-case basis. The affidavit shall also describe, with reasonable particularity, the violations of statute or ordinance existing, or believed to exist, with respect to the particular property or structure, or that an inspection is reasonably believed to be necessary in order to determine or verify whether any such violations exist at the property or structure.

b. The application shall identify proposed restrictions upon the service of the warrant, including a request that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or if there are special circumstances preventing the effective execution between those hours, that it be executed at any additional or other time of the day or night.

c. Applications for administrative inspection warrants not involving abatements will request the warrant allow 14 days from its date for execution and return to the magistrate by whom it was issued, unless extended by the issuing judge. Applications for administrative inspection warrants involving abatements will request the warrant allow 21 days from its date for execution and return to the judge by whom it was issued unless extended by the issuing judge.

3. Execution of Administrative Inspection Warrants:

a. Except as provided in subsection (b) of this section, in executing an administrative inspection warrant, the person authorized by the judge to execute the warrant shall, before entry, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.

b. In executing an administrative inspection warrant, the person authorized to execute the warrant may promptly enter the designated property if it is or reasonably believed to be vacant or unoccupied. Such person need not inform anyone of the person's authority and purpose, as prescribed in subsection (a) of this section.

c. Peace officers and other persons deemed necessary by the Investigator may be requested to assist in the execution of the administrative inspection warrant. Such peace officers may assist the person authorized to execute the warrant, including using any reasonable force necessary, to enter the property.

d. After serving the warrant, the Investigator may make the authorized inspection.

e. For warrants involving abatements, the Return of Service will contain a description of the categories and quantity of items seized. The CEU will maintain photographs of items seized in an abatement for such length of time as required by law and will make them available for copying or review by the public.