

ATTACHMENT 1

Administrative Warrants Research

Clack Co v. Other Municipalities

Clackamas County:

The Board of County Commissioners has made a policy decision to allow staff to seek, obtain, and execute administrative warrants in Circuit Court when there is a reasonable suspicion to believe that a violation of the Clackamas County Code is occurring, and it is necessary to investigate and/or inspect premises despite the owner(s) and/or occupant(s) refusing to allow inspection. In order to obtain an administrative warrant, the County will proceed as follows:

1. Prepare an affidavit in support of request for administrative warrant. The affidavit should describe the purpose for the inspection or search and explain why the warrant is necessary. The warrant should describe the property to be inspected, the manner of the inspection, and the timeframe for conducting the inspection.
2. Present the reviewing Circuit Court judge with the affidavit and warrant.
3. If the judge signs the warrant, make a copy and take both the original and copy of the warrant to the property to be entered to execute the warrant.
4. County representatives shall be accompanied by a sworn member of the Sheriff's Office during warrant execution.
5. Upon arrival at the premises to be inspected, the County representative authorized to execute the warrant should tell the resident or person in apparent control their identity, authority, and purpose for being there.
6. The person executing the warrant should read the warrant out loud and give a copy of the warrant to the person in apparent control of the property. On the original warrant, note the date and time of entry onto the property and sign.
7. If the property is unoccupied or there is no one in apparent control, the person executing the warrant should post a copy of the warrant on the property, note on the posted warrant the date and time of entry, and sign the note.
8. Make copies of the original executed warrant for the County's file.
9. After execution, **return the original warrant** to the issuing judge along with a Return of Administrative Warrant.

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City of Beaverton:

2.04.102 Administrative warrants.

A. **Procedure:** IF an authorized officer or employee of the city is refused access to a property for the purpose of making an inspection etc.—the officer/employee shall not inspect the premises until the officer/employee has obtained an administrative warrant for the inspection from the municipal or other authorized judge.

D. Execution:

1. Person authorized to execute the warrant shall, before entry, make reasonable effort, to present owner or occupant with warrant and serve the person with a copy
2. Any items seized must be documented and list must be left in conspicuous place
3. Peace officer may be requested
4. Forcible entry not allowed UNLESS:
 - a. Probable violation of any provisions of which present immediate threat to health/safety
 - b. Prior attempts to serve have been met with refusal
 - c. Where reasonable attempts have been made to secure the cooperation, property is unoccupied or cannot be entered without cooperation/force and such cooperation has been refused or unobtainable after reasonable efforts

E. Return of Warrant:

1. Must be executed and returned to issuing judge within 14 days of date of issuance—after which warrant is void unless executed.
2. Return shall certify day and time of execution; name of city official conducting inspection; list of items seized, if any.

City of Beaverton:

Issuance: Signed affidavit, describing:

1. applicant's status in applying,
2. code provision or regulation requiring inspection;
3. premises to be inspected; purpose for which inspection is to be made AND basis upon which cause exists to inspect;
4. a statement that entry has been sought and refused, property is unoccupied or reasonably believed to be, or facts or circumstance reasonably shown that the purposes might be frustrated if entry were sought w/o warrant
5. judge must be satisfied that cause for inspection exists

Warrant: *shall* include:

6. description of place to be inspected
7. designation of purpose and limitations of inspection
8. directive that warrant must be executed any day of the week between 8AM-6PM, or upon special showing that it cannot occur between those hours, that it be executed at any additional time
9. *Shall* be effective for the time specified therein, but in NO event for a period of more than 14 days unless extended or renewed by original signing judge upon a showing of good cause why

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Corvallis:

Chapter 1.15 – Administrative Search Warrants

A. The Municipal Judge is authorized to issue administrative search warrants upon application by the City Attorney, Building Official or Fire Chief, or their duly authorized representatives, acting in the course of their official duties.

B. **Execution** – in executing a search warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show the warrant or a copy thereof upon request.

2) In executing a search warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection 1) of this Section, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition.

3) A peace officer may be requested to assist in the execution of the warrant.

4) A warrant must be executed and **returned** to the Municipal Judge by whom it was issued within 10 days from its date, unless such Municipal Judge before the expiration of such time, by endorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

Corvallis:

Chapter 1.15: Administrative Warrants

Issuance: upon supporting affidavit describing:

1. Applicant's status applying for the warrant
2. Ordinance or regulation requiring or authorizing the inspection or investigation
3. Location to be inspected and purpose for inspection and CAUSE for inspection/investigation
4. Statement that entry has been sought and refused OR facts/circumstances reasonably show that the purposes of the inspection may be frustrated without a warrant

Procedure for Issuance – Municipal Court Judge

(1) Before issuing any search warrant, the Municipal Judge shall examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

(2) If the Municipal Judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied, the Municipal Judge may issue the warrant

(3) Warrant describing:

1. the name and title of the person or persons authorized to execute the warrant
2. the place to be entered and the purpose of the inspection or investigation.
3. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the Municipal Judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

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King City:

2.42.115 - Entry onto private property—Search warrant—Interference with CE officer.

The CE officer may, at all reasonable times, enter private property and examine it for violations of the city code. Before entering any private property, the officer shall obtain either consent of the occupant and/or owner thereof or obtain an administrative search warrant **from a court of competent jurisdiction** (including the municipal court) authorizing the entry.

No warrant shall be issued until an affidavit has been filed setting out the facts necessary to show probable cause for the inspection, stating the purpose and extent of the inspection and citing the provision(s) of the city code allegedly violated and such other information as the court may deem necessary for issuance of the warrant.

No person shall attempt to, interfere with or prevent the CE officer or any other person from entering private property when the officer exhibits a warrant authorizing entry of either the officer or any person authorized to accompany him/her.

King City:

2.42.115 [\(link\)](#)

Affidavit that has been filed must set out the facts necessary to show probable cause for the inspection, stating the purpose and extent of the inspection and citing the provision(s) of the city code allegedly violated and such other information as the court may deem necessary for issuance of the warrant.

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<u>Tualatin</u>	<u>Tualatin</u>
<p>TMC 6-15-070 – Inspection of Premises; Administrative Warrant</p> <p>When necessary to inspect the premises to investigate or enforce code, City Manager may, with permission enter premises at reasonable times to inspect or perform the duties or must otherwise seek an administrative warrant.</p> <p>Process—</p> <ol style="list-style-type: none">(1) If the single-family dwelling or premises are occupied, the City Manager must present credentials to the occupant and request permission to enter.(2) If the single-family dwelling or premises are unoccupied, the City Manager must make a reasonable effort to locate the owner/keeper and request permission to enter.(3) If entry is refused or the dwelling unit or premises are unoccupied, the City Manager must obtain an administrative warrant before entry or inspection of the premises.	

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<u>Tigard</u>	<u>Tigard</u>
<p>A. <u>Right of Entry</u> – The City manager or designee may enter property, including interior, at all reasonable times whenever inspection is necessary to enforce or whenever there is reasonable cause to believe any condition which constitutes a violation of code.</p> <p>If the property areas are plainly enclosed to create privacy –</p> <p>(1) The code enforcement officer shall first make reasonable attempts to locate owners and present proper credentials and request entry.</p> <p>(2) If entry is refused, or the owner cannot be located, the code enforcement officer may obtain a warrant.</p> <p>B. <u>Grounds for Issuing Warrant</u> – issued upon cause, supported by affidavit, particularly describing:</p> <ol style="list-style-type: none">1. The applicant's status in applying for the warrant;2. The statute, ordinance or regulation requiring or authorizing the inspection or investigation or the removal and abatement of the violation;3. The building or property to be inspected, investigated or entered;4. The purpose for which the inspection, investigation, removal or abatement is to be made;5. The basis upon which cause exists to inspect, investigate, remove or abate the violation; and6. In the case of removal or abatement, a statement of the general types and estimated quantity of the items to be removed or conditions abated. <p>B. Cause shall be deemed to exist if:</p>	<p><u>§ 2.16.050. Powers of Municipal Judges.</u></p> <p>The Presiding Judge exercises general supervision over the judicial functions of the Municipal Court and its judges and has authority over the dockets and assignment of cases. Municipal Judges have all the inherent and statutory powers of a Justice of the Peace and such additional powers as may be specifically conferred by the Tigard Municipal Code, including the power to issue search warrants and warrants to enter property and abate civil infractions.</p> <p><u>§ 2.16.070. Warrants</u></p> <p>A warrant may be issued if the Municipal Judge is satisfied that there are facts and circumstances tending to show that in the case of a warrant to enter property and abate a civil infraction, that the infraction exists.</p> <p>Request for warrants should normally be supported by affidavits, however, when circumstances make it impractical for the warrant to be obtained in person it may be granted by telephone based on oral statements made under oath. The oral statement will be recorded and transmitted and retained as a part of the record of the proceeding.</p> <p><u>§ 1.16.112 Procedure for Issuance of Warrant</u></p> <p>A. Before issuing a warrant, a judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.</p> <p>B. If the judge is satisfied that cause for the inspection, investigation, removal or abatement of any infraction exists and that other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing:</p> <ol style="list-style-type: none">1. The person or persons authorized to execute the warrant;2. The property to be entered; and

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1. Reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection or for removing and abating violations are satisfied with respect to any building or upon any property; or

2. An investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with regulations; or

3. There is cause to believe that a violation exists for which removal or abatement is required or authorized by this chapter.

C. Execution of Warrant & Disposal of Seized Property

(1) In executing a warrant on occupied property the person authorized to execute the warrant shall, before entry into the occupied premises, 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.

(2) In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection A above, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted on the property.

(3) A warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time

3. The purpose of the inspection or investigation or a statement of the general types and estimated quantity of the items to be removed or conditions abated.

C. The warrant shall contain a direction that it be executed on any day of the week between the hours of eight a.m. and six p.m., or where the judge has specifically determined, upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

D. In issuing a warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the city in any way necessary to enter the property and complete the investigation or remove and abate the infraction.

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<p>prescribed by this subsection, the warrant unless executed is void.</p> <p>(4) The City manager or designee may cause any items removed pursuant to an abatement warrant to be disposed of in an approved manner whenever in the City Manager's discretion, finds that all fair and reasonable value of the items at resale would be less than the cost of storing and selling the items.</p>	
<p><u>Washington County</u></p> <p>Inspection & Right of Entry – whenever an enforcement officer has probable cause to believe a County Code infraction has occurred, officer may enter for the purpose of investigation subject to the below requirements:</p> <ul style="list-style-type: none">(1) Consent from owner or “actual authority” who can legally give consent to investigate(2) If consent cannot be obtained, the enforcement officer must first obtain an administrative warrant. <p>Authority to Request:</p> <p>If denied access, an officer that has probably cause may seek an administrative warrant authorizing search and seizure of any of the following:</p> <ul style="list-style-type: none">(a) Evidence related to civil infraction(b) Any animal where the animal is the subject of a civil infraction	<p><u>Washington County</u></p> <p><u>1.12.050 – 1.12.070 (link)</u></p> <p><u>Affidavit Requirements:</u></p> <p><u>Applications for Issuance of Administrative Search Warrants; Requirements of Affidavit:</u></p> <p>An application for an administrative search warrant shall be accompanied by a supporting affidavit particularly describing the following minimum elements:</p> <ul style="list-style-type: none">1. The affiant's employment background and experience;2. The statute or ordinance requiring or authorizing the inspection or abatement;3. The address or other description of the property or structure to be inspected, searched, or seized, which is sufficient to identify the property;4. The purpose for which the inspection is to be made;5. Either a statement that entry has been sought and refused, or facts or circumstances reasonably showing that the purposes of the

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(c) Any animal where there is probable cause for abuse or neglect

(d) Any animal that has bitten a person and subject to quarantine

Procedure to Obtain:

If denied access, officer must

- (1) notify county counsel who may then obtain an admin warrant or other appropriate legal order.
- (2) The enforcement officer must apply to the Justice Court Judge or Circuit Court Judge
- (3) Warrant will only be issued upon cause supported by affidavit.
- (4) Cause shall be deemed to exist if there is probable cause that a civil infraction has occurred, or if a statute, regulation, or if an outside ordinance authorizes the entry, inspection, search or seizure.

Execution of Warrant:

1. Before entry, the authorized officer must make a reasonable effort to present credentials, authority, and purpose to the occupant and, upon request, show the warrant or a copy—unless the property is believed to be vacant or unoccupied.
2. If the property is vacant or unoccupied, the authorized officer may enter promptly without prior notice to anyone.
3. A peace officer may assist in executing the warrant, including using reasonable force if the warrant specifically authorizes it.
4. After serving the warrant, the officer may conduct the inspection or seizure, but must leave immediately and seek assistance if their health or safety is threatened.

inspection or abatement might be frustrated if entry were sought without an administrative search warrant;

6. A description, with reasonable particularity, of 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.
7. Identification of 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 other time of the day or night; and
8. Any information known to the affiant which could indicate that probable cause may not exist, or which is relevant to the judge's decision to decline to issue the administrative warrant.

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West Linn

Abatement of Nuisances – Administrative Warrant

1. If a nuisance has not been abated within time allowed, and/or the person responsible should not be afforded the opportunity to abate, the City may cause the nuisance to be abated
2. The City officer charged with abatement shall have the right to reasonably enter into or upon property to investigate or remove the nuisance. However—before entering on private property, the City officer shall obtain consent or a warrant of the Municipal Court authorizing entry
3. No warrant shall be issued until an affidavit has been filed with the Municipal Court, showing probable cause for entry.
4. No person shall interfere with City Officer's entrance or the inspection/removal of the nuisance when an emergency exists or if the Officer has a warrant.
5. The City Manager shall keep an accurate record of the expense incurred by the City in declaring and abating the nuisance and shall include therein any administrative overhead charges.

West Linn

5.510 – Abatement – By the City

Affidavit Includes:

Probable cause basis for entry

Purpose and extent of proposed entry, citing Sections 5.400 to 5.527 as the basis for the entry into or upon private property

All relevant facts to support the issuance of the warrant to enter, inspect and abate.