

Right of Entry by County Code Enforcement

The Fourth Amendment of the United States Constitution states in part "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." As such, there are requirements to secure unauthorized access to property. The primary circumstances involving access to the subject property, collection of evidence and abatement include:

1. Exigent Circumstances – In summary, if the pertinent circumstances necessitate immediate action, the code enforcement officer has right of access. The exigent circumstances requiring an immediate inspection/investigation/action may also be subject to various summary abatement provisions in County Code and State Law. These include but are not limited to sections 12.25.025 and 1.18.200 of Lassen County Code.
2. Inspection with a Warrant (California Code of Civil Procedure Sections 1822.50-1822.60) – An inspection warrant is issued by a judge to order inspection of a property. Issuance of a warrant is based on “reasonable cause” rather than the higher standard of “probable cause” required for a criminal search warrant. If County Code or State Statute require inspection, refusal to allow the inspection may provide the reasonable cause required for issuance.
3. Abatement Warrant – An abatement warrant is similar to an inspection warrant. However, an abatement warrant is issued by a judge to allow the County onto the property to physically abate the identified code violation. This typically involve removal (demolition), but the warrant could also order the correction of a violation. Costs to abate would then become a lien against the property.
4. Plainly Visible - More often than not, code enforcement violations are clearly visible from property the code enforcement officer has legal right to be (such as public streets). Sufficient evidence can often be collected without having to physically go onto the property.
5. Visible from the Air - Evidence may be collected from an airplane or helicopter if the situation warrants such.

Right of entry is a case specific, fact driven topic, and the above is only a summary of some of the key concepts. Right of entry is also detailed in the various sections of County Code as well as section 1.8.5 of Part 2 of the California Building Standards Code (Title 24 of the California Code of Regulations).