

Special Inspection Warrants

Effective Date: January 7, 1997

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Background

Wis. Stats. § 98.26(1)(a) prohibits any person from hindering or obstructing a sealer or inspector. Special Inspection Warrants are issued only upon a showing that a consent to enter for inspection purposes has been denied. Where the owner or person in charge of the premises gives consent or permission to the inspection, no Special Inspection Warrant is needed. It is only in cases where the inspector is refused permission or consent to inspect the premises that a Special Inspection Warrant should be considered.

Wis. Stats. 66.0119(1)(b) - "Peace officer" means a state, county, city, village, town, town sanitary district or public inland lake protection and rehabilitation district officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, including buildings, building premises and building contents.

Wis. Stats. 66.0119(2) – “A peace officer may apply for, obtain and execute a special inspection warrant issued under this section

The instructions and materials presented herewith are applicable only to routine situations. If an emergency or unusual situation presents itself and the inspector is in doubt as to what action to take, the inspector should contact their supervisor for instructions.

Note: City operated departments may require other procedures. City sealers should consult with their supervisor and/or legal counsel for instructions.

Procedure

1. When refused the right to inspect, as soon as practical document the refusal on the field test report. Include in this documentation the name of the person refusing the inspection and if possible quote the person's refusal (e.g., "Get the hell off my property").
2. Report the incident to the supervisor. Application for a Special Inspection Warrant is made through the county district attorney. The supervisor will follow procedures to confirm and authorize contacting the district attorney. The supervisor will clear the action with the bureau director before proceeding.
3. Prepare the AFFIDAVIT but do not sign it (Appendix A). To obtain a Special Inspection Warrant, the inspector must show that he/she has legal authority to inspect specified premises, and that access for inspection has been denied. The inspector is not required to show any other evidence that a law violation has occurred.

 [Wis. Stat. 98.05\(2\)](#)
 [Wis. Stat. 98.26\(1\)\(a\)](#)
 [Wis. Stat. 66.0119\(1\)\(b\)](#)
& [66.0119\(2\)](#)

4. Make an appointment with a judge through the district attorney's office. Deliver the prepared AFFIDAVIT, SPECIAL INSPECTION WARRANT (Appendix B), and RETURN OF OFFICER (Appendix C) forms to the district attorney's office.
5. Each county has their own way of processing writs. However, generally the district attorney or an assistant will help you through the process. Someone in the district attorney's office will usually witness your signing of the AFFIDAVIT, but any Notary can also do this.
6. Take the signed AFFIDAVIT and the other two forms to the judge for review. The AFFIDAVIT should contain sufficient grounds for issuance of the warrant by the court. However, the judge may require you to testify and answer questions about your request under oath. The judge will sign the SPECIAL INSPECTION WARRANT and return it to you for service.
7. It is recommended to have a local law enforcement officer accompany you on the inspection and serve the warrant. However, if after consulting with the regional supervisor it is determined that assistance by local law enforcement is unnecessary, the inspector may execute the warrant without assistance. One copy of the warrant should be served on the representative in charge and proceed with the inspection.*
8. Complete the RETURN OF OFFICER form. This form should contain the results of your inspection, including any violations detected. Date and sign this form and return it along with the 2nd copy of the warrant to the clerk of courts.

*Any person still refusing to permit an inspection upon service of a Special Inspection Warrant could be found in contempt of court. Contact the field supervisor immediately if this occurs.

Wis. Stats. § 66.0119 Special inspection warrants.

66.0119(1)(a) "Inspection purposes" include such purposes as building, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, waterways, use of water, food, zoning, property assessment, meter and obtaining data required to be submitted in an initial site report or feasibility report under subch. III of Ch. 289 or s. 291.23, 291.25, 291.29 or 291.31 or an environmental impact statement related to one of those reports.

66.0119(1)(b) "Peace officer" means a state, county, city, village, town, town sanitary district or public inland lake protection and rehabilitation district officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, including buildings, building premises and building contents.

66.0119(2) A peace officer may apply for, obtain and execute a special inspection warrant issued under this section. Except in cases of emergency where no special inspection warrant is required, special inspection warrants shall be issued for inspection of personal or real properties which are not public buildings or for inspection of portions of public buildings which are not open to the public only upon showing that consent to entry for inspection purposes has been refused.

66.0119(3) The following forms for use under this section are illustrative and not mandatory:

Affidavit

STATE OF WISCONSIN

_____ County

In the ... court of the _____ of _____ ,

A. F., being duly sworn, says that on the day of, (year), in said county, in and upon certain premises in the (city, town or village) of and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section of the Wisconsin statutes) or (section of ordinances of said municipality) or both. The facts tending to establish the grounds for issuing a special inspection warrant are as follows: (set forth a brief statement of reasons for inspection, frequency and approximate date of last inspection, if any, which shall be deemed probable cause for issuance of warrant). Wherefore, the said A. F. prays that a special inspection warrant be issued to search such premises for said purpose.

...(Signed) A. F.

Subscribed and sworn to before me this day of, (year)

.... Judge of the Court.

Special Inspection Warrant

STATE OF WISCONSIN

.... County

In the court of the of

The State of Wisconsin, To the sheriff or any constable or any peace officer of said county:

Whereas, A. B. has this day complained (in writing) to the said court upon oath that on the day of, (year), in said county, in and upon certain premises in the (city, town or village) of and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section of the Wisconsin statutes) or (section of ordinances of said municipality) or both and prayed that a special inspection warrant be issued to search said premises.

Now, therefore, in the name of the state of Wisconsin you are commanded forthwith to search the said premises for said purposes.

Dated this day of, (year),

.... Judge of the Court.

Indorsement on Warrant

Received by me, (year), at o'clock M.

.... Sheriff (or peace officer).

Return of Officer

STATE OF WISCONSIN

.... Court

.... County.

I hereby certify that by virtue of the within warrant I searched the named premises and found the following things (describe findings).

Dated this day of, (year)

.... Sheriff (or peace officer).