

Using This Revisable PDF Form

1. Copies
 - a. Original – filed by judicial officer in the appropriate circuit court clerk's office.
 - b. First copy – attached to original of the FIRE INSPECTION WARRANT.
 - c. Second copy – attached to copy of the FIRE INSPECTION WARRANT to be left with the custodian of place searched.
 - d. Additional copies to others as dictated by local practice.
2. Prepared by affiant, acknowledged by magistrate or judge. Must be signed and sworn to by the affiant in person. If anyone brings in an affidavit signed by a third person, then the person bringing the affidavit should prepare his own affidavit, sign it and swear to it as the affiant.
3. Attachments
 - a. Form DC-339, FIRE INSPECTION WARRANT (*see* 1 above).
 - b. Additional descriptions for various data elements. *See* Using This Form, 4.e.
4. Preparation details
 - a. The judicial officer should not become involved in the preparation of this document. However, if the judicial officer believes that the affidavit does not show probable cause, he should return the affidavit and should tell the affiant that there is insufficient proof to constitute probable cause and what is generally needed in the case in question to constitute probable cause.
 - b. The judicial officer should not rely on additional oral information provided by the affiant. Instead, the judicial officer should insist that the affiant put this additional information into writing by including this information in the affidavit.
 - c. Local fire marshals should consult their local government attorney if assistance is needed in preparing this affidavit.
 - d. On front, if Data Element No. 2.a. is checked, then check and complete Data Element No. 3.a. If Data Element No. 2.b. is checked, then check and complete Data Element No. 3.b.
 - e. In completing certain data elements, additional sheets of paper may be needed to provide a complete response. When that situation arises, a copy of each additional sheet must be attached to each copy of the affidavit.
 - f. On front, use business address of applicant in Data Element No. 7 if applicant is a government employee.

AFFIDAVIT FOR FIRE INSPECTION WARRANT

VA. CODE § 27-98.2

The undersigned Applicant states under oath that:

1. To determine compliance with the Statewide Fire Prevention Code or regulations and standards adopted in pursuance thereof, an inspection warrant is requested for an inspection or reinspection of buildings, structures, property or premises subject to inspections pursuant to the Statewide Fire Inspection Code, as described below:

1

([] CONTINUED ON ATTACHED SHEET)

2. The purpose(s) for which the inspection, examination, testing or collection of samples for testing are to be made are described as follows:
 - a. [] to gather evidence of a particular suspected violation of the Statewide Fire Prevention Code or regulations and standards adopted in pursuant thereof (see 3.a. of this Affidavit)
 - b. [] to conduct a routine on-site inspection, examination, testing and collection of samples for testing in accordance with written standards and a written inspection procedure and site selection mechanism (see 3.b. of this Affidavit).

2

3. The material facts constituting probable cause that the search should be made that:
 - a. [] the inspection, examination, testing or collection of samples for testing are necessary to insure compliance with the Statewide Fire Prevention Code for the protection of life and property from the hazards of fire or explosion because of the following evidence of a violation of such Code:

3

([] CONTINUED ON ATTACHED SHEET)

- b. [] the inspection request is based on [] legislative or [] administrative standards for selecting buildings, structures, property or premises for inspections, the inspection program is based on reasonable standards, and the standards are being applied to a particular place in a neutral and fair manner, all as described below to perform a routine inspection.

CASE NO. **4**

AFFIDAVIT FOR FIRE INSPECTION WARRANT

APPLICANT:

5

NAME

6

TITLE (IF ANY)

7

ADDRESS

Certified to Clerk of

8

CITY OR COUNTY

Circuit Court

on

9

DATE

10

TITLE

11

SIGNATURE

Original Delivered [] in person [] by certified mail
12 [] by electronically transmitted facsimile
[] by use of filing/security procedures defined
in the Uniform Electronic Transactions Act

to Clerk of **13** Circuit Court
CITY OR COUNTY WHERE EXECUTED

on **14** DATE

15

TITLE

16

SIGNATURE

Complete only if different than above:

Copy Delivered [] in person [] by certified mail
17 [] by electronically transmitted facsimile
[] by use of filing/security procedures defined
in the Uniform Electronic Transactions Act

to Clerk of **18** Circuit Court
CITY OR COUNTY OF ISSUANCE

on **19** DATE

20

TITLE

21

SIGNATURE

Data Elements, *front*

1. Describe place to be inspected.
2. Check the applicable box regarding purpose of inspection. See Using This Form, 4.d.
3. Check the applicable box regarding type of probable cause, then complete the description of the facts showing probable cause. In subpart b., also check the appropriate box.
4. Court case number.
5. Name of applicant-affiant.
6. Title of applicant.
7. Address of applicant. See Using This Form, 4.f.
8. Name of circuit court to whose clerk this affidavit is certified.
9. Date on which this affidavit is certified with circuit court.
10. Title of person certifying this affidavit with circuit court (printed or typed).
11. Signature of person certifying this affidavit to circuit court.
12. Check the appropriate method of delivery.
13. Name of circuit court to whose clerk this affidavit was delivered.
14. Date on which this affidavit was delivered to circuit court identified in data element No. 13.
15. Title of person delivering this affidavit to the circuit court clerk's office identified in data element No. 13.
16. Signature of person delivering this affidavit to the circuit court clerk's office identified in data element No. 13.
17. Check the appropriate method of delivery, if this section is applicable.
18. Name of circuit court where the warrant is issued if different from data element No. 13.
19. Date on which a copy of the affidavit was delivered to circuit court identified in data element No. 18.
20. Title of person delivered a copy of the affidavit to the circuit court clerk's office identified in data element No. 18.
21. Signature of person who delivered this affidavit to the circuit court clerk's office identified in data element No. 18.

4. In addition to the above, one of the following situations exists:

Consent to inspect, examine, test or collect samples for testing has been sought and refused by

1

who is, on; or

Facts or circumstances exist which reasonably justify the failure to seek such consent in order to enforce effectively the fire safety laws, regulations or standards of the Commonwealth which authorize such inspections, examinations, testing or collection of samples for testing, namely

(CONTINUED ON ATTACHED SHEET)

5. I have personal knowledge of the facts set forth in this affidavit AND/OR

2

I was advised of the facts set forth in this affidavit, in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:

6. I request the following authority in the execution of the requested inspection warrant:

3

Execution in the absence of the owner, operator or agent in charge of the particular building, structure, property or premises is necessary to effect the purposes of because

STATUTE OR REGULATION

Forcible entry should be authorized because, based on the facts stated below:

there is a reasonable suspicion of an immediate threat to

an occupant of the place to be inspected

4 the general safety and welfare of the public

adjacent buildings, structures, properties or premises

reasonable attempts to serve a previous warrant have been unsuccessful

The facts supporting forcible entry are:

7. I request the issuance of a fire inspection warrant to be effective for days (not to exceed 7 days) because:

5

The statements above are true and accurate to the best of my knowledge and belief.

6

TITLE OF APPLICANT (IF ANY)

7

APPLICANT

Subscribed and sworn to before me this day.

8

DATE AND TIME

9

[] MAGISTRATE [] JUDGE

Data Elements, *reverse*

1. Check one of these boxes, then complete the remaining blanks. In the first check box description, show the name and title of the person who refused to consent to an inspection.
2. Check the appropriate box(es) and, if applicable, complete the lines below.
3. If the applicant seeks to inspect in the absence of the person in control of the place to be inspected, check this box and complete the blanks.
4. If forcible entry is sought, check this box, then check either the box preceding "there is reasonable suspicion..." (and one of the 3 boxes below it) or "reasonable attempts," then insert the appropriate factual description.
5. Insert the number of days for which the search warrant should be valid and describe why that particular length of time is required.
6. Official title of applicant-affiant.
7. Signature of applicant-affiant.
8. Date that this document is signed and sworn to.
9. Signature of person before whom the affidavit was sworn to. Check the appropriate title box below the signature line.