



Administrative Inspection Warrant Issues

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Administrative Inspection Warrant Issues	3
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Reference Number: MTAS-1088

What if the property owner or others interfere with inspection?

The statute anticipates potential interference with the inspection, and provides that persons who interfere with the inspection once a warrant is received commit a Class C misdemeanor. Tennessee Code Annotated § 68-120-117(g) states: "Any person who willfully refuses to permit inspection, obstructs inspection or aids in the obstruction of an inspection of property described in an administrative inspection warrant commits a Class C misdemeanor."

What if the warrant is sought for purposes other than code enforcement?

The last two paragraphs of the law state that if an inspection is unlawful, presumably because no probable cause exists or if the city acted arbitrarily, then all evidence found in the inspection will be suppressed.

(h) Any person aggrieved by an unlawful inspection of premises named in an administrative inspection warrant may, in any judicial or administrative proceeding, move to suppress any evidence or information received by the agency pursuant to the inspection.

(i) If the court or the administrative agency finds that the inspection was unlawful, such evidence and information shall be suppressed and not considered in the proceeding. Tennessee Code Annotated § 68-120-117.

This language was added to the statute to provide reassurance that the process cannot be used for purposes of a criminal prosecution, but only for a codes enforcement action. Any drugs or illegal contraband discovered as a result of a search conducted under an administrative inspection warrant will be suppressed if the court finds that the warrant was sought in order to avoid the criminal probable cause requirement for obtaining a criminal search warrant. Such a misuse of this statute results in an "unlawful" search under subparagraph (i), and all evidence will be suppressed upon such finding. The judge may make such a finding with or without a complaint being made by the property owner or resident.

Law enforcement officers are advised by MTAS that administrative inspection warrants are only to be used for code enforcement purposes. MTAS further advises that if illegal activity is discovered in the course of executing an administrative inspection warrant, the search must immediately cease, and law enforcement must seek a warrant from criminal court in order to obtain or use such evidence in a criminal prosecution. Failure to do so will result in suppression of such evidence for any purposes.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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