

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.
5. SEARCH AND SEIZURE.
6. MUNICIPAL ADMINISTRATIVE HEARING OFFICER.

**CHAPTER 1**

**CITY JUDGE**

**SECTION**

3-101. City judge.

**3-101. City judge.** The city judge and such other officer as may be designated to handle judicial matters within the municipality shall preside over the city court, and shall be known as the city judge. (1971 Code, § 1-801)

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<sup>1</sup>Charter reference  
Municipal court: art. 8.

## CHAPTER 2

### COURT ADMINISTRATION<sup>1</sup>

#### SECTION

3-201. Imposition of fines, penalties, and costs.

3-202. Disturbance of proceedings.

3-203. Trial and disposition of cases.

3-204. In session.

3-205. Collection of fines, costs and litigation taxes.

**3-201. Imposition of fines, penalties, and costs.** All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court. (1971 Code, § 1-808)

**3-202. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1971 Code, § 1-811)

**3-203. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1971 Code, § 1-806)

**3-204. In session.** The municipal court shall be convened at such times as are designated by the city judge so as to guarantee every defendant a fair and speedy trial. (1971 Code, § 1-802)

**3-205. Collection of fines, costs and litigation taxes.** (1) Manner of collection. Unless discharged by payment or service of imprisonment in default of a fine, costs, penalties and litigation taxes due may be collected in the same manner as a judgment in a civil action, but shall not be deemed part of the penalty, and no person shall be imprisoned for being in default solely of payment of costs and/or litigation taxes.

(2) Methods of collection. The city attorney, may, in such person's discretion, and shall, upon order of the court, institute proceedings to collect the

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<sup>1</sup>Ordinance #15-348 (which is of record in the recorder's office) sets court costs and litigation taxes.

debt as a civil judgment. In addition to all other remedies for collecting amounts owed to the city, the city recorder is authorized to employ the services of a collection agency to collect amounts owed to the city court. The contract between the municipality and the collection agency must be in writing and can utilize an existing written contract awarded under the city's procurement procedures. The written contract shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

(a) If an amount owed to the city is not paid in full within sixty (60) days of the date on which the amount becomes due, the clerk shall send written notice, by regular or certified mail return receipt requested, to the debtor at the debtor's last known address according to the city's records. The notice shall state the amount owed in fines, costs and litigation taxes, if any.

(b) If the amount owed to the city is not paid in full within thirty (30) days of the date of the notice or the date stated in the request for additional time, the city may refer the debt to a collection agency to collect the outstanding amount owed to the city and the collection agency services fee.

(c) The collection agency may be paid an amount not exceeding forty percent (40%) of the sums collected as consideration for collecting the fines and costs, pursuant to Tennessee Code Annotated, § 40-24-105(d)(2). (as added by Ord. #07-148, Nov. 2007)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants and mittimuses.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants and mittimuses.**<sup>1</sup> The city judge shall have the power to issue warrants and mittimuses for the arrest of persons charged with violating municipal ordinances. (1971 Code, § 1-803)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1971 Code, § 1-804)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1971 Code, § 1-805)

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1971 Code, § 1-807)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup> (1971 Code, § 1-809)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1971 Code, § 1-810)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

## CHAPTER 5

### SEARCH AND SEIZURE

#### SECTION

- 3-501. Authority to issue search warrants.
- 3-502. Reasons and procedure for issuing search warrants.
- 3-503. Form of search warrants.
- 3-504. Return day.
- 3-505. Execution of search warrants.
- 3-506. Seizure of property.
- 3-507. Hearings.
- 3-508. Code violation enforcement.

**3-501. Authority to issue search warrants.** The city judge, the assistant city judge, or the city judge pro tem shall have the same authority to issue search warrants as is provided by the laws of the State of Tennessee for the issuance of search warrants by Magistrates or Judges of Courts of General Sessions in the State of Tennessee. (1971 Code, § 1-701)

**3-502. Reasons and procedure for issuing search warrants.**

(1) A search warrant may be issued upon any grounds provided by the general laws of the State of Tennessee.

(2) A search warrant may only be issued upon probable cause supported by affidavit naming or describing the property and the place to be searched.

(3) The city judge, before issuing the warrant, shall examine on oath the complainant and any witnesses he may produce and take their affidavits in writing and cause them to be subscribed by the persons making them; the affidavits shall set forth facts tending to establish the grounds of the application or probable cause for believing that they exist.

(4) If the city judge is satisfied of the existence of the grounds for the application or that there is probable grounds to believe their existence, he shall issue a search warrant signed by him directed to any police officer or other lawful officer, commanding him forthwith to search the person or place named for the property specified and to bring it forthwith before the city judge.

(5) The city judge shall prepare an original of said search warrant and two exact copies of the same, one of which is to be kept by him as a part of his official records and one of which shall be left with the person or persons on whom said warrant is served. The original search warrant shall be served and returned as provided by law. The city judge shall endorse the warrants showing the hour, date and the name of the officer to whom the warrants were delivered for execution and the exact copy of such warrant and the endorsement thereof shall be admissible in evidence in the courts.

(6) Failure to comply with subsection (5) of this section shall make any search conducted under said warrant an illegal search or seizure. (1971 Code, § 1-702)

**3-503. Form of search warrants.** The search warrant may be issued in substantially the same form as that provided by State Courts. (1971 Code, § 1-703)

**3-504. Return day.** A search warrant issued under this chapter shall be executed and returned to the city judge within five days after its date, after which time unless executed it is void. (1971 Code, § 1-704)

**3-505. Execution of search warrants.** The search warrant may be executed by any officer of the city or any other person to whom it is directed or by any person in aid of such officers.

In order to execute said warrant, any officer may break open any door or window of a house or any part of a house and anything therein if after notice of his authority and purpose, he is refused admittance. (1971 Code, § 1-705)

**3-506. Seizure of property.** (1) When any officer takes property under a search warrant, he shall, if required, give a receipt to the person from whom it was taken or in whose possession it was found.

(2) The officer shall make a proper return of the search warrant to the city judge and shall specify with particularity the property taken.

(3) When property is taken under a search warrant and delivered to the city judge, he shall, if it was stolen or embezzled, cause it to be delivered to the owner on satisfactory proof of his title; but if the warrant was issued on the grounds specified in § 3-502(1), (2), (3), (4), or (5), he shall retain the property in his possession subject to the order of the court to which he is required to return the property or of the court in which the offense is triable. (1971 Code, § 1-706)

**3-507. Hearings.** (1) If the grounds on which the search warrant was issued be controverted, the city judge shall proceed to hear the testimony which must be reduced to writing and authenticated in the manner prescribed in § 3-502(4).

(2) If it shall appear that the property is not the same as described in the warrant or that there is no probable cause for believing the existence of the grounds for which the warrant is issued, the city judge shall direct it to be restored to the person from whom it was taken.

(3) The city judge shall, if the property is not directed to be restored under the provisions of subsection (2) of this section, annex together the search warrant, the return, and the affidavits and return them to the court having

power to inquire into the offense in respect to which the search warrant was issued.

(4) If upon the hearing it appears that there was no probable cause for suing out the warrant, the whole cost may be taxed against the complainant and execution awarded. (1971 Code, § 1-707)

**3-508. Code violation enforcement.** Administrative inspection warrants; definitions; penalties.

(1) (a) "Issuing officer," as used in this section, means:

(i) Any official authorized by law to issue search warrants;

(ii) Any court of record in the county of residence of the agency making application for an administrative inspection warrant; or

(iii) Any municipal court having jurisdiction over the agency making application for an administrative inspection warrant, provided that the judge of the court is licensed to practice law in the State of Tennessee.

(b) "Building official," as used in this section, means any local government building official certified pursuant to § 68-120-113; provided, that such official is acting in their capacity as an official of a municipality or county, and provided that the official is seeking to enforce the ordinances or codes of such local government; and

(c) "Agency," as used in this section, means any county, city, or town employing a building official certified pursuant to § 68-120-113.

(2) In the event that a building official is denied permission to make an inspection and a warrant is required by the Constitution of the United States or the State of Tennessee to perform such inspection, a building official may obtain an administrative inspection warrant in accordance with the procedures outlined in this section. The provisions of title 40, chapter 6, part 1, shall not apply to warrants issued pursuant to this section.

(3) The issuing officer is authorized to issue administrative inspection warrants authorizing a building official to inspect named premises. In so doing, the issuing officer must determine from the affidavits filed by the building official, acting as an officer of the agency requesting the warrant, that:

(a) The agency has the statutory authority to conduct the inspection;

(b) Probable cause exists to believe that a violation of law has occurred or is occurring. For the purposes of this section, probable cause is not the same standard as used in obtaining criminal search warrants. In addition to a showing of specific evidence of an existing violation, probable cause can be found upon a showing of facts justifying further inquiry, by inspection, to determine whether a violation of any state law

or local building, fire, or life safety code is occurring. This finding can be based upon a showing that:

(i) Previous inspections have shown violations of law and the present inspection is necessary to determine whether those violations have been abated;

(ii) Complaints have been received by the agency and presented to the issuing officer, from persons who by status or position have personal knowledge of violations of law occurring on the named premises;

(iii) The inspection of the premises in question was to be made pursuant to an administrative plan containing neutral criteria supporting the need for the inspection; or

(iv) Any other showing consistent with constitutional standards for probable cause in administrative inspections;

(c) The inspection is reasonable and not intended to arbitrarily harass the persons or business involved;

(d) The areas and items to be inspected are accurately described and are consistent with the statutory inspection authority; and

(e) The purpose of the inspection is not criminal in nature and the agency is not seeking sanctions against the person or business for refusing entry.

(4) The issuing officer shall immediately make a finding as to whether an administrative inspection warrant should be issued and if the issuing officer so determines, issue such warrant. No notice shall be required prior to the issuance of the warrant.

(5) All warrants shall include at least the following:

(a) The name of the agency and building official requesting the warrant;

(b) The statutory or regulatory authority for the inspection;

(c) The names of the building official or officials authorized to conduct the administrative inspection;

(d) A reasonable description of the property and items to be inspected;

(e) A brief description of the purposes of the inspection; and

(f) Any other requirements or particularity required by the Constitutions of the United States and the State of Tennessee regarding administrative inspections.

(6) All warrants shall be executed within ten (10) days of issuance.

(7) 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.

(8) 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 such inspection.

(9) 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. (as added by Ord. #06-105, Dec. 2006)

## CHAPTER 6

### MUNICIPAL ADMINISTRATIVE HEARING OFFICER

#### SECTION

3-601. Municipal administrative hearing officer.

3-602. Jurisdiction and procedure before the administrative hearing officer.

3-603. Judicial review of final order.

**3-601. Municipal administrative hearing officer.** (1) In accordance with Tennessee Code Annotated, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the Municipal Code of the City of Alcoa relating to building and property maintenance, including:

(a) Building codes found at title 12, chapter 1, §§ 12-101 through 12-104;

(b) Residential codes found at title 12, chapter 2, §§ 12-201 through 12-203;

(c) Plumbing codes found at title 12, chapter 3, §§ 12-301 through 12-304;

(d) Electrical codes found at title 12, chapter 4, §§ 12-401 through 12-406;

(e) Gas codes found at title 12, chapter 5, §§ 12-501 through 12-503;

(f) Mechanical codes found at title 12, chapter 7, §§ 12-701 through 12-704;

(g) Energy codes (not adopted);

(h) Property maintenance codes found at title 12, chapter 6, §§ 12-601 through 603; and

(i) All ordinances regulating any subject matter commonly found in the above-described codes.

(2) There is hereby created the position of administrative hearing officer to be appointed pursuant to Tennessee Code Annotated, title 6, chapter 54, section 1006.

(3) The amount of compensation for the administrative hearing officer shall be approved by the board of commissioners.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city manager.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in Tennessee Code Annotated, title 6, chapter 54, sections 1001, et seq. (as added by Ord. #11-273, Oct. 2011)

**3-602. Jurisdiction and procedure before the administrative hearing officer.** The administrative hearing officer's jurisdiction shall be as

set out in Tennessee Code Annotated, title 6, section 54, section 1002, and all matters before the administrative hearing officer shall be conducted in accordance with the provisions of Tennessee Code Annotated, title 6, section 54, sections 1001, et seq., which provisions are adopted and incorporated herein by reference. (as added by Ord. #11-273, Oct. 2011)

**3-603. Judicial review of final order.** A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to Tennessee Code Annotated, title 6, chapter 54, part 10, which shall be the only available method of judicial review. (as added by Ord. #11-273, Oct. 2011)