

**BOROUGH OF NORTH EAST
ORDINANCE NO. 929**

**AN ORDINANCE OF THE BOROUGH OF NORTH EAST;
ERIE COUNTY, COMMONWEALTH OF PENNSYLVANIA
PROVIDING FOR THE USE
OF ADMINISTRATIVE SEARCH WARRANTS IN
BOROUGH ORDINANCE ENFORCEMENT**

WHEREAS, the Borough of North East is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania and,

WHEREAS, the Code Enforcement Department of the Borough of North East receives certain complaints from tenants, property owners and the public as to the health and safety of a particular building, structure, or property ("Property") that merits an interior investigation of a Property; and

WHEREAS, the Borough of North East is often unsuccessful in gaining entry into a Property in order to inspect the Property to ensure health and safety of Property, and desires to implement an administrative procedure for lawful entry into Property:

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the corporate authorities of Borough of North East; Erie County, Pennsylvania and, it is hereby enacted by the authority of the same as follows:

SECTION 1: Right of Entry- The Borough Code Officer or Deputy Code Official(s) and / or designee of the Borough may apply to a judge of the Magisterial District Court for an administrative search warrant to enter any Property to conduct an inspection required or authorized by law to determine compliance with the provisions of any Borough property ordinance, code and/or nuisance ordinance.

SECTION 2: Application for and Content of Warrant – The application for an administrative search warrant shall be in writing and sworn to by the applicant and shall particularly describe the place, structure, premises, building, etc., to be inspected and the nature, scope and purpose of the inspection to be performed by the applicant.

- A. Before filing an application for an administrative search warrant with a court, the Borough Code Officer and/or Deputy Borough Code Officer and/or the Borough designee shall obtain approval by the Borough Solicitor as it its legality in both form and substance under the standards and criteria of this section, and a statement to this effect shall be included in the application. A judge of the court referred to this section may issue the warrant on finding that:

1. The applicant has sought access to the Property for the purposes if making an inspection, and
 - a. After requesting, at a reasonable time, the owner, tenant, or other individual in charge of the Property to allow access, has been denied access to the Property; or
 - b. After making a reasonable effort, the applicant has been unable to locate any of the owner, tenants, or other individual in charge of the Property.
 2. The Borough Code Officer and/or the Borough designee is authorized by law to make an inspection of the Property for which the warrant is being sought.
 3. Probable cause for this issuance of the warrant has been demonstrated by the applicant by specific evidence of an existing violation or any provision of a Borough Code and/or Borough Ordinance or any rule, regulation and/or ordinance adopted under the Borough Code or by showing:
 - a. That a reasonable administrative inspection program exists regarding the condition of the Property; and
 - b. That the proposed inspection comes within that program.
- B. An administrative search warrant issued under this section shall specify the place, structure, premises, vehicle, or records to be inspected. The inspection conducted may not exceed the limits specified in the warrant.
- C. An administrative search warrant issued under this section authorizes the applicant and other officials or employees of the Borough to enter specified Property to perform the inspection, sampling and other functions authorized by law to determine compliance with provisions of the Borough Code and/or Borough Ordinances.
- D. An administrative search warrant issued under this section shall be executed and returned to the judge by whom it was issued within:
- a. The time specified in the warrant, not to exceed thirty (30) days; or
 - b. If no time period is specified in the warrant, fifteen (15) days from the date of its issuance.

SECTION 3: Severability - If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid in whole or in part, the effect of such decision shall be limited to those provisions expressly stated in the decision to be invalid, and all provisions of this Ordinance shall continue to be separately and fully effective.

SECTION 4: Effective Date - This Ordinance shall become effective immediately upon enactment hereof.

ENACTED INTO AN ORDINANCE THIS 3rd DAY OF JULY 2023.

BOROUGH OF NORTH EAST



DENISE MCCUMBER
President of Borough Council

ATTEST:


PATRICK J. GEHRLEIN
Borough Manager

APPROVED THIS 3rd DAY OF JULY 2023


Jon Triana
Mayor