

ORDINANCE NO.2026-08 (1293)

**AN ORDINANCE TO AMEND CHAPTER 21 OF THE CODE OF THE BOROUGH OF
LAVALLETTE, “COURT, MUNICIPAL,” TO PROVIDE FOR THE ISSUANCE OF
ADMINISTRATIVE SEARCH WARRANTS**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and,

WHEREAS, the Borough of Lavallette is required to conduct municipal inspections of private property to ensure compliance with applicable provisions of New Jersey law and the Code of the Borough of Lavallette, so as to promote the health, safety and general welfare of the community; and,

WHEREAS, in certain circumstances, an administrative search warrant may be required in order to obtain access to private property for the purposes of inspecting same and/or addressing violations of New Jersey law and/or the Code of the Borough of Lavallette, more specifically, when consent cannot be obtained and no exception to allow a warrantless inspection applies; and,

WHEREAS, the Mayor and Council of the Borough of Lavallette believe it is necessary and appropriate to formally establish the authority to seek administrative search warrants through the Municipal Court and to prescribe an appropriate penalty for failure to comply with a properly issued administrative search warrant; and

WHEREAS, the Borough of Lavallette has an obligation to protect the health, safety and welfare of its residents and visitors, and the inability to gain access to private property for inspection purposes can impede the Borough’s ability to identify and remediate unsafe structures, dangerous conditions, and code violations that pose a direct threat to public safety, including but not limited to structural deficiencies, fire hazards, electrical dangers, inadequate egress, unsanitary conditions, uninhabitable structures, and other violations of the Uniform Construction Code, the Uniform Fire Code, and applicable provisions of the Code of the Borough of Lavallette, and the availability of administrative search warrants is essential to ensure that such hazardous conditions do not persist to the detriment of the occupants of the property, neighboring properties, and the community at large.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Lavallette, County of Ocean, State of New Jersey, as follows:

Section 1. Amendment.

Chapter 21 of the Code of the Borough of Lavallette, entitled “Court, Municipal,” is hereby amended to add the following new sections:

§ 21-19 Administrative Search Warrants.

If access to a private property within the Borough of Lavallette cannot be obtained voluntarily and no other exception to authorize access to the property applies, an authorized Borough official or duly appointed inspector may seek an administrative (noncriminal) search warrant from the Lavallette Municipal Court. Such application shall be made by affidavit setting forth factually the conditions and circumstances that provide a reasonable basis for believing that a nuisance, a violation of state law or regulation, or a violation of a municipal ordinance or code, or a dangerous condition exists on the premises. If a Judge of the Municipal Court is satisfied as to the matter set forth in the affidavit, he or she shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance, violation or dangerous condition may exist.

§ 21-20 Penalties for Refusal to Comply with Administrative Search Warrant.

Where any authorized Borough official or duly appointed inspector possessing a duly authorized administrative search warrant for a private property is refused entry or access or is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, in addition to any other penalties that may be available under law, such person shall be in violation of this Code and, upon conviction thereof, shall be subject to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof, as the Municipal Court in its discretion may impose. Each day that such violation shall continue shall constitute a separate offense.

The Municipal Court, Police Department, Construction Official, Code Enforcement Officer, and/or any other authorized Borough official or duly appointed inspector are hereby empowered to take any and all actions incident and necessary to give effect to this Ordinance.

Section 2. Remaining Provisions.

All other provisions of Chapter 21 of the Code of the Borough of Lavallette shall remain unchanged.

Section 3. Repeal of Inconsistent Provisions.

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same be in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 4. Severability.

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification.

This Ordinance shall be a part of the Code of the Borough of Lavallette as though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of Lavallette in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 6. Effective Date.

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

NOTICE

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NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on the April 6, 2026. It will be further considered for second reading and final passage at a meeting of the Borough Council held on the 20th day of April 2026 at 7:00 pm at the Council Chambers in the Municipal Building Complex located at 1306 Grand Central Avenue, Lavallette, New Jersey at which time and place persons desiring to be heard upon the same were given the opportunity to be heard.

Donnelly Amico
Municipal Clerk