

City of Mount Vernon, New York

1 ROOSEVELT SQ. RM. 104
CITY HALL, MOUNT VERNON, NEW YORK 10550
& VIA FACEBOOK.COM/MOUNTVERNONNY



Referral Packet - Final

Tuesday, June 3, 2025

5:00 PM

CITY COUNCIL CHAMBERS - ROOM 206

City Council Special Meeting

**A SPECIAL MEETING OF THE CITY OF THE MOUNT VERNON CITY COUNCIL
HELD ON TUESDAY, JUNE 3 2025.**

Scheduled for 5:00 pm in the City Council Chambers, City Hall, Mount Vernon, New York.

**** This meeting was held in the City Council Chambers, with virtual participation via ZOOM and CMVNY Facebook. The meeting was not closed to the public.****

PRESIDING: Danielle Browne, President

OTHERS: Nicole Bonilla, City Clerk, Jordan A. Riullano, Deputy City Clerk; Antoinette Anderson, Legislative Aide; Johan Powell, Asst. Corporation Counsel

CALL TO ORDER / PLEDGE OF ALLEGIANCE

Council President Danielle Browne called the meeting to order and provided general house-keeping rules, including encouraging citizens to share the meeting on social media and what to do “in case of emergency”.

REFERRAL SESSION

Roll Call administered by City Clerk Nicole Bonilla

REPORTS OF STANDING COMMITTEES AND ACTION THEREON

To the Council:

PUBLIC SAFETY AND CODES

1. City Council: Resolution for Home Rule Request in Support of the State Senate Assembly - An Act to Amend the Vehicle and Traffic Law and the Public Officers Law, in Relation to Authorizing the City of Mount Vernon to Establish a School Speed Zone Demonstration Program; and Providing for the Repeal of such Provisions upon Expiration Thereof

Code: PSC

To the Council:

FINANCE AND PLANNING

2. City Council: Resolution for Home Rule Request in Support of the State Senate Assembly - An Act to Amend the Tax Law, in Relation to Authorizing the City of Mount Vernon to Impose a Hotel and Motel Tax, and Providing for the Repeal of such Provisions upon Expiration Thereof

Code: FP

OTHER BUSINESS/CLOSING COMMENTS



City of Mount Vernon, New York

Staff Report

1 ROOSEVELT SQ. RM.
104
CITY HALL, MOUNT
VERNON, NEW YORK
10550
& VIA
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File #: TMP -1442

Agenda Date: 6/3/2025

Agenda #: 1.

City Council:

RESOLUTION FOR HOME RULE REQUEST IN SUPPORT OF THE STATE SENATE ASSEMBLY BILL NO. A8446A AND BILL NO. S05646-A

AN ACT TO AMEND THE VEHICLE AND TRAFFIC LAW AND THE PUBLIC OFFICERS LAW, IN RELATION TO AUTHORIZING THE CITY OF MOUNT VERNON TO ESTABLISH A SCHOOL SPEED ZONE DEMONSTRATION PROGRAM; AND PROVIDING FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF

Whereas, the City of Mount Vernon is hereby authorized to establish a school speed zone demonstration program; authorized to install in no more than twenty school speed zones in such city; and

Whereas, the People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The vehicle and traffic law are amended by adding a new section 1180-h to read as follows:

§ 1180-h. Owner liability for failure of operator to comply with certain posted maximum speed limits; Mt. Vernon.

(a) 1. Notwithstanding any other provision of law, the city of Mt. Vernon is hereby authorized to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Mt. Vernon to install photo speed violation monitoring systems within no more than twenty school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (iv) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school

days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. In selecting a school speed zone in which to install and operate a photo speed violation monitoring system, the city shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such school speed zone.

2. No photo speed violation monitoring system shall be used in a 12-school speed zone unless (i) on the day it is to be used, it has successfully passed a self-test of its functions; and (ii) it has undergone an annual calibration check performed pursuant to paragraph four of this subdivision. The city shall install signs giving notice that a photo speed violation monitoring system is in use to be mounted on advance warning signs notifying motor vehicle operators of such upcoming school speed zone and/or on speed limit signs applicable within such school speed zone, in conformance with standards established in the MUTCD.

3. Operators of photo speed violation monitoring systems shall have completed training in the procedures for setting up, testing, and operating such systems. Each such operator shall complete and sign a daily set-up log for each such system that such operator operates that (i) states the date and time when, and the location where, the system was set up that day, and (ii) states that such operator successfully performed, and the system passed, the self-tests of such system before producing a recorded image that day. The city shall retain each such daily log until the later of the date on which the photo speed violation monitoring system to which it applies has been permanently removed from use or the final resolution of all cases involving notices of liability issued based on photographs, microphotographs, videotape or other recorded images produced by such system.

4. Each photo speed violation monitoring system shall undergo an annual calibration check performed by an independent calibration laboratory, which shall issue a signed certificate of calibration. The city shall keep each such annual certificate of calibration on file until the final resolution of all cases involving a notice of liability issued during such year, which were based on photographs, microphotographs, videotape, or other recorded images produced by such photo speed violation monitoring system.

5.(i) Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape, or other recorded images produced by such photo speed violation monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because such a photograph, microphotograph, videotape or other recorded image allows for the identification of the driver, the passengers, or the contents of vehicles where the city shows that it made reasonable efforts to comply with the provisions of this paragraph in such case.

(ii) Photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall be for the exclusive use of the city for the purpose of the adjudication of liability imposed pursuant to this section and of the owner receiving a notice of liability pursuant to this section, and shall be destroyed by the city upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images relate, or one year following the date of issuance of such notice of liability, whichever is later. Notwithstanding the provisions of any other law, rule or regulation to the contrary, photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall not be open to the

public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of liability issued pursuant to this section, and no public entity or employee, officer or agent thereof shall disclose such information, except that such photographs, microphotographs, videotape or any other recorded images from such systems:

(A) shall be available for inspection and copying, and use by the motor vehicle owner and operator for so long as such photographs, microphotographs, videotape or other recorded images are required to be maintained or are maintained by such public entity, employee, officer or agent; and

(B)(1) shall be furnished when described in a search warrant issued 20 by a court authorized to issue such a search warrant pursuant to article six hundred ninety of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state, provided, however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony against the laws of this state; and

(2) shall be furnished in response to a subpoena duces tecum signed by a judge of competent jurisdiction and issued pursuant to article six hundred ten of the criminal procedure law or a judge or magistrate of a federal court authorized to issue such a subpoena duces tecum under federal law, where the judge finds and the subpoena states that there is reasonable cause to believe such information is relevant and material to the prosecution, or the defense, or the investigation by an authorized law enforcement official, of the alleged commission of a misdemeanor or felony in this state or another state, provided, however, that if such offense was against the laws of another state, such judge or magistrate shall only issue such subpoena if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony in this state; and

(3) may, if lawfully obtained pursuant to this clause and clause (A) of this subparagraph and otherwise admissible, be used in such criminal action or proceeding.

(b) If the city of Mt. Vernon establishes a demonstration program pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, within a school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such school speed zone, and such violation is evidenced by information obtained from a photo speed violation monitoring system; provided however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section, where the operator of such vehicle has been convicted of the underlying violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article.

(c) For purposes of this section, the following terms shall have the following meanings:

1. “manual on uniform traffic control devices” or “MUTCD” shall mean the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of this chapter;

2. “owner” shall have the meaning provided in article two-B of this chapter;

3. “photo speed violation monitoring system” shall mean a vehicle sensor installed to work in conjunction with a speed measuring device which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in a school speed zone in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article in accordance with the provisions of this section; and

4. “school speed zone” shall mean a distance not to exceed one thousand three hundred twenty feet on a highway passing a school building, entrance or exit of a school abutting on the highway.

(d) A certificate, sworn to or affirmed by a technician employed by the city of Mt. Vernon, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo speed violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall include at least two date and time-stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle and shall be available for inspection reasonably in advance of and at any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of subdivision (b), (c), (d), (f), or (g) of section eleven hundred eighty of this article pursuant to a demonstration program established pursuant to this section, shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be promulgated by the parking violations bureau of the city of Mt. Vernon. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such parking violations bureau may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability under the demonstration program established pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. A notice of liability shall be sent by first-class mail to each person alleged to be liable as an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, within fourteen business days if such owner is a resident of this state and within forty-five business days if such owner is a non-resident. Personal delivery to the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged

to be liable as an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, the identification number of the camera which recorded the violation or other document locator number, at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle, and the certificate charging the liability.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which such person may contest the liability alleged in the notice. Such notice of liability shall also contain a prominent warning to advise the person charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the city of Mt. Vernon, or by any other entity authorized by the city to prepare and mail such notice of liability.

(h) Adjudication of the liability imposed upon owners by this section shall be by the city of Mt. Vernon Parking Violations Bureau.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle or the number plate or plates of such vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section that the vehicle or the number plate or plates of such vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision, it shall be sufficient that a certified copy of the police report on the stolen vehicle or number plate or plates of such vehicle be sent by first-class mail to the city of Mt. Vernon parking violations bureau or by any other entity authorized by the city to prepare and mail such notice of liability.

(j) 1. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, provided that:

(i) prior to the violation, the lessor has filed with such parking violations bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(ii) within thirty-seven days after receiving notice from such bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to such bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by such bureau pursuant to regulations that may be promulgated for such purpose.

2. Failure to comply with subparagraph (ii) of paragraph one of this subdivision shall render the owner liable for the penalty prescribed in this section.

3. Where the lessor complies with the provisions of paragraph one of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of subdivision (c) or (d) of section eleven hundred eighty of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator operated such vehicle in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator operated such vehicle in violation of subdivision (b), (c), (d), (f) (g) of section eleven hundred eighty of this article.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (c) or (d) of section eleven hundred eighty of this article.

(m) If the city adopts a demonstration program pursuant to subdivision (a) of this section it shall conduct a study and submit an annual report on the results of the use of photo devices to the governor, the temporary president of the senate, and the speaker of the assembly on or before the first day of June next succeeding the effective date of this section and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include:

1. the locations where and dates when photo speed violation monitoring systems were used;

2. the aggregate number, type, and severity of crashes, fatalities, injuries, and property damage reported within all school speed zones within the city, to the extent that the information is maintained by the Department of Motor Vehicles of this state;

3. the aggregate number, type, and severity of crashes, fatalities, injuries and property damage reported within school speed zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the Department of motor vehicles of this state;

4. the number of violations recorded within all school speed zones within the city, in the aggregate on a daily, weekly, and monthly basis;

5. the number of violations recorded within each school speed zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

6. the number of violations recorded within all school speed zones within the city that were:

limit;

(i) more than ten but not more than twenty miles per hour over the posted speed

speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted

limit; and

(iii) more than thirty but not more than forty miles per hour over the posted speed

(iv) more than forty miles per hour over the posted speed limit;

7. The number of violations recorded within each school speed zone where a photo speed violation monitoring system is used that were:

speed limit;

(i) more than ten but not more than twenty miles per hour over the posted

speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted

limit; and

(iii) more than thirty but not more than forty miles per hour over the posted speed

(iv) more than forty miles per hour over the posted speed limit;

8. the total number of notices of liability issued for violations recorded by such systems;

9. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

11. the total amount of revenue realized by the city in connection with the program;

12. the expenses incurred by the city in connection with the program; and

13. the quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section that such photo speed

violation monitoring system was malfunctioning at the time of the alleged violation.

§ 2. Subdivision 2 of section 87 of the Public Officers Law is amended by adding a new paragraph (v) to read as follows:

(v) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-h of the Vehicle and Traffic Law.

§ 3. The purchase or lease of equipment for a demonstration program established pursuant to section 1180-h of the Vehicle and Traffic Law, as added by section one of this act, shall be subject to the provisions of section 103 of the General Municipal Law.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, 2031, when upon such date the provisions of this act shall be deemed repealed. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

EXPLANATION

Matter in italics (underscored) is new

Matter in brackets [] is old law to be omitted



City of Mount Vernon, New York

Staff Report

1 ROOSEVELT SQ. RM.
104
CITY HALL, MOUNT
VERNON, NEW YORK
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File #: TMP -1441

Agenda Date: 6/3/2025

Agenda #: 2.

City Council:

RESOLUTION FOR HOME RULE REQUEST IN SUPPORT OF THE STATE SENATE ASSEMBLY BILL NO. A7341-C AND BILL NO. S07321-B

AN ACT TO AMEND THE TAX LAW, IN RELATION TO AUTHORIZING THE CITY OF MOUNT VERNON TO IMPOSE A HOTEL AND MOTEL TAX, AND PROVIDING FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF

Whereas, the city of Mount Vernon is hereby authorized to impose a hotel and motel tax of 5.875%; and

Whereas, the People of the State of New York, represented in Senate and Assembly, do enact as follows:

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The tax law is amended by adding a new section 1202-kkk to read as follows:

§1202-kkk. Hotel or motel taxes in the city of Mount Vernon.

(1) Notwithstanding any other provision of law to the contrary, the city of Mount Vernon, Westchester county, is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax, in addition to any other tax authorized and imposed pursuant to this article, such as the legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms in such city. For the purposes of this section, the term "hotel" or "motel" shall mean and include, but not be limited to, hotels, motels, tourist homes, motel courts, bed-and-breakfast establishments, short-term rentals, vacation rentals, airbnbs, clubs or similar facilities, whether or not meals are served to guests or residents thereof, and/or a location that is otherwise made available for transient lodging accommodation for rent directly by the owner or through an agent, operator or company. The rates of such tax shall not exceed five and eight hundred seventy-five thousandths percent of the per diem rental rate for each room, provided, however, that such tax shall not be applicable to a permanent resident of a hotel or motel.

For the purposes of this section, the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel for at least thirty consecutive days.

(2) Such tax may be collected and administered by the chief fiscal officer of the city of Mount

Vernon by such means and in such manner as other taxes, which are now collected and administered by such officer, or as otherwise may be provided by such local law.

(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the city of Mount Vernon imposing the tax and that such owner or person is entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local law, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

(4) Such local laws may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time.

(5) This section shall not authorize the imposition of such tax upon any transaction, by or with any of the following in accordance with section twelve hundred thirty of this article:

(a) The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district, or other political subdivision of the state;

(b) The United States of America, insofar as it is immune from taxation; and

(c) Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholders or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence the legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

(6) Any final determination of the amount of any tax payable pursuant to this section shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the Supreme Court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless:

(a) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of financial services of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

(b) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests, and penalties stated in such determination, plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

(7) Where any tax imposed pursuant to this section shall have been erroneously, illegally, or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(8) Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than two years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(9) All revenues resulting from the imposition of the tax under the local laws shall be paid into the treasury of the city of Mount Vernon and shall be credited to and deposited in the general fund of the city. Such revenues shall be retained to defer the expense of the city in administering the tax pursuant to this section, and the balance of such revenues shall be used within the city of Mount Vernon as so determined by the city of Mount Vernon city council.

(10) If any provision of this section or the application thereof to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.

(11) Each enactment of such local law may provide for the imposition of a hotel or motel tax for a period of time no longer than two years from the effective date of its enactment. Nothing in this section shall prohibit the adoption and enactment of local laws, pursuant to the provisions of this section, upon the expiration of any other local law adopted pursuant to this section.

§ 2. This act shall take effect immediately and shall apply to contracts entered into on or after such date, provided, however, that the provisions of this act shall expire and be deemed repealed on December 31, 2027.

EXPLANATION:

Matter in italics (underscored) is new;

Matter in brackets [] is old law to be omitted

LBD10934-06-5

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