

LOCAL LAW NO. __ OF 2025

**A LOCAL LAW OF THE CITY COUNCIL OF THE
CITY OF MOUNT VERNON, NY ESTABLISHING AN
ADMINISTRATIVE SEARCH WARRANT PROCEDURE
TO BE USED IN CONJUNCTION WITH LOCAL LAW
NO. 6 OF 2024, ENTITLED A LOCAL GOVERNMENT
CODE ENFORCEMENT PROGRAM**

Be it enacted by the City Council of the City of Mount Vernon, New York, in the County of Westchester, as follows:

SECTION 1. PURPOSE AND INTENT. This law intends to grant authority and to create procedures to be followed by any City of Mount Vernon official responsible for enforcing the zoning and/or land use local laws, ordinances, and regulations of the City of Mount Vernon and/or of any building or fire code applicable to the City of Mount Vernon to include but not limited to the Code Enforcement Officers of the City of Mount Vernon when applying for and executing administrative warrants.

SECTION 2. DEFINITIONS. In this local law, the following terms shall have the meanings shown in this Section:

Administrative Search Warrant. A written order of a Judge authorizing the inspection and/or search of any property, place, or thing, and the seizure, photographing, copying, or recording of property or physical conditions found thereon or therein, to determine or prove the existence of violations of any ordinance, local law, or applicable building or fire code of the City of Mount Vernon or applicable building or fire code of the City of Mount Vernon or applicable to the City of Mount Vernon relating or in any manner about zoning, land use, and/or building regulation.

SECTION 3. APPLICATION FOR WARRANT. Any City of Mount Vernon official responsible for enforcing the zoning and/or land use local laws, ordinances, and regulations of the City of Mount Vernon and/or of any building or fire code applicable to the City of Mount Vernon are authorized to apply to any court of competent jurisdiction for the issuance of an administrative search warrant to inspect any premises where the owner or occupant refuses or fails to allow access to and an inspection thereof, and where there is reasonable cause to believe that a violation of any ordinance, local law and/or building and fire prevention code of the City of Mount Vernon or applicable to the City of Mount Vernon has occurred.

SECTION 4. EXECUTION OF WARRANT. An administrative search warrant shall only be executed by a police officer, provided that one or more designated code enforcement officers of the City of Mount Vernon may accompany the officer.

SECTION 5. GENERAL PROVISIONS. Such an administrative search warrant shall be based on probable cause that a violation exists and shall be submitted on a search warrant application form generated by the Office of the Corporation Counsel of the City of Mount Vernon, which shall in all respects comply with the applicable laws of the State of New York and the United States.

SECTION 6. ADMINISTRATIVE SEARCH WARRANT PROCESS. Notwithstanding any other provisions of this Code that antedate the adoption and enactment of this Chapter to the Code, the following shall be the method by which all alleged violations of this Code shall be prosecuted.

(1) Inspections. Where a cognizant enforcement officer has reasonable suspicion to believe that a violation of a provision of this Code has occurred, he/she is hereby authorized and directed to make inspections to determine the existence of such a suspected violation of this Code.

(a) Private Property. In conducting such inspections, the cognizant enforcement may request, in writing, the consent of the property owner of the premises where a suspected offense is believed to have occurred. Said consent shall comply in format with the form that the Corporation Counsel or his designee has approved.

(b) Leased Property. For the cognizant enforcement officer to perform their duties, they are hereby authorized to enter such premises to conduct inspections at reasonable times upon the written consent of any party currently in possession. Said consent shall likewise comply in format with the form that the Corporation Counsel or his designee has approved.

[1] Those premises of leased property remaining exclusively under the control of the owner thereof may be inspected in like manner as premises as described above.

[2] Those areas of the premises used in common by the tenants, the occupants, or the landlord may be inspected without consent, provided the cognizant enforcement officer's presence upon such premises is lawful.

(c) If written consent to inspect is denied or access to the premises cannot be obtained, the cognizant enforcement officer, if he or she has a reason to suspect a violation of a provision of this Chapter, shall apply to a Justice of a court of competent jurisdiction, with the assistance of the Corporation Counsel's Office, upon an affidavit showing probable cause, for an administrative search warrant, granting access to said premises, for the purpose making such inspection. The affidavit will define, with particularity, the place to be inspected and the person (s) who own(s) such premises and, where applicable, identify those in possession.

(2) Notice. When, at the discretion of the cognizant, there is probable cause to allege a violation of any provision of this Code or any rule or regulation adopted, pursuant thereto, they shall, pursuant to the New York Criminal Procedure Law (CPL), §100.05, file with a court of competent jurisdiction an appearance ticket and the original accusatory. The cognizant enforcement officer shall cause the Corporation Counsel or their designee and the person suspected to be responsible for said violation to be served, by personal service, with copies of said accusatory instrument and appearance ticket, directing said person to appear before said Court. Such accusatory instruments shall comply with the requirements of CPL §100.15, 100.30, and 100.40 and inform the recipient thereof, who shall be denominated the "defendant," of the following:

- (a) The Court, wherein said matter shall be pending;
- (b) The accusation part thereof shall identify the Section of this Code or local law alleged to have been violated, to contain the Chapter, article, or Section thereof, as well as the verbatim language of this Code pertinent thereto;
- (c) The specific nature of the conduct of the defendant is alleged to constitute a violation of this Code or local law, and
- (d) The date, time, and location of the alleged violation;

(3) Appeals. Notwithstanding any other provisions of the Code that antedate the adoption and enactment of this Chapter to the Code, the following shall be the method by which all appeals concerning actions prosecuted hereunder shall be taken and perfected. The parties to an action commenced hereunder may institute appeals, according to New York Criminal Procedure Law, Articles 440-470 et seq.

SECTION 7. PARTIAL INVALIDITY. If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 8. EFFECTIVE DATE. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.