

LOCAL LAW NO. __ OF 2025

**A LOCAL LAW 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 establishes procedures to be followed by City of Mount Vernon officials 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. In addition to other contexts, this Local Law applies to administrative searches performed by Code Enforcement Officers (“CEO”) of the City of Mount Vernon, and establishes procedures to be used when applying for and executing administrative warrants.

SECTION 2. DEFINITIONS

As used in this local law, the term “administrative search warrant” shall mean: A written order of a Judge authorizing the entry, inspection and/or search of any property, place, or thing, and/or 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 relating in any manner to zoning, land use, and/or building regulation.

SECTION 3. APPLICATION FOR AN ADMINISTRATIVE SEARCH WARRANT

1. 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 any building or fire code applicable to the City of Mount Vernon, , including but not limited to a CEO, fire marshal, fire department employee, police department employee, or any other duly-appointed or elected city or state official is authorized to apply to any court of competent jurisdiction for the issuance of an administrative search warrant, upon a showing that 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.

2. The application for an administrative search warrant authorized by this Section shall be based on reasonable cause to believe that a violation of the applicable ordinance, code, regulation or law 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 and constitutions of the state of New York and of the United States. The application shall be supported by an affidavit defining, with particularity the place to be inspected and the person or entity that owns premises and, where applicable, shall identify those in possession.

3. The application for an administrative search warrant authorized by this Section shall be filed with reasonable prior notice to the property owner and/or the tenant of the location to be searched sufficient to provide the owner and/or tenant an opportunity to be heard and to contest the issuance of the warrant.

SECTION 4. EXECUTION OF AN ADMINISTRATIVE SEARCH WARRANT

An administrative search warrant authorized by this Local Law shall only be executed by a police officer, provided, however, that one or more designated City of Mount Vernon CEOs or other duly-authorized city or state employees may accompany the police officer(s) during the execution of the warrant.

SECTION 5 BUILDING AND FIRE CODE ENFORCEMENT

Notwithstanding any other provisions of this Local Law, the following shall be the method by which all alleged violations of any building or fire code codes applicable to the City of Mount Vernon shall be prosecuted.

1. Inspections

(a) Where a CEO has reasonable cause to believe that a violation of a provision of any applicable building or fire code has occurred, he/she is hereby authorized and directed to make inspections to determine whether a suspected violation has occurred.

(b) Inspections may only be made on consent of the property owner, a tenant, and/or anyone with apparent authority to consent to a search.

Consent shall be documented in writing upon a form approved by the Corporation Counsel or his designee.

(c) If written consent to inspect is denied or access to the premises cannot otherwise lawfully be obtained, then an inspection shall be performed only upon the issuance and execution of an administrative search warrant according to the procedures set forth in this Local Law.

2. Violations

(a) When reasonable cause to charge a violation of any applicable building or fire code rule and/or regulation exists, the CEO or other duly authorized city or state employee shall, pursuant to the New York Criminal Procedure Law (CPL) §100.05, file with a court of competent jurisdiction an appearance ticket and an original accusatory instrument. The applicant shall then request the Corporation Counsel, or his designee, to serve the person, entity or corporation responsible for said violation by personal service where possible, and where not possible in accordance with CPL Section 600.10, with copies of said accusatory instrument and appearance ticket, directing said person to appear before said Court.

(b) 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: (i) the Court wherein said matter shall be pending; (ii) 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; (iii) the specific nature of the conduct of the defendant that is alleged to constitute a violation of this Code or local law, and (iv) the date, time, and location of the alleged violation. All such accusatory instruments shall contain the signature of the CEO or other duly authorized city or state employee.