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August 4, 2025

Honorable Members of the City Council
Through the Office of the Mayor
City Hall – Roosevelt Square
Mount Vernon, New York 10550

RE: Request for the adoption of a local law establishing an administrative search warrant procedure

Dear Honorable City Council Members,

This letter respectfully requests the City Council's consideration and adoption of a local law establishing a formal procedure for obtaining administrative search warrants within our municipality. This measure is essential to ensure that our city agencies can effectively perform their vital duties in enforcing local laws related to public health, safety, and welfare, all while upholding the constitutional rights of our citizens.

As you know, the Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures, including those conducted for administrative purposes. The Supreme Court has affirmed that administrative inspections to enforce building or safety codes require either the owner's consent or a warrant if access is denied.

Our City personnel have always attempted to safeguard against potential constitutional issues. Our city agencies face increasing challenges when property owners or occupants refuse entry for necessary inspections to investigate possible violations of local codes related to health, safety, and building regulations. To complement the City's compliance efforts with constitutional law, we recommend that the City Council adopt the attached local law to establish a clear and established legal procedure for obtaining administrative search warrants. The City currently faces difficulties in enforcing such rules and is potentially exposed to legal challenges.

Establishing a local law outlining an administrative search warrant procedure offers several key benefits:

- **Legal Clarity:** Provides a clearly defined legal pathway for code enforcers to follow when faced with denied access to properties for inspections, ensuring due process is followed.
- **Protection of Rights:** Establishes a process that respects and safeguards the constitutional rights of property owners and occupants, as the warrant would be issued by a neutral magistrate based on probable cause.
- **Effective Enforcement:** Enables efficient and effective enforcement of essential health, safety, and building codes, promoting the well-being of the entire community.
- **Reduced Litigation Risk:** Minimizes the potential for legal disputes and costly litigation arising from warrantless inspections.

Similar procedures have been adopted by many municipalities in New York State and across the nation, demonstrating their necessity and effectiveness. The proposed local law would:

- Authorize city department heads or their designees, such as the Corporation Counsel, to apply for administrative search warrants when there is reasonable cause to believe a violation of a local law exists and access has been denied.
- Ensure that such applications are made to a court of competent jurisdiction and supported by an affidavit detailing the grounds for the request.
- Clarify that the warrant should be based on a showing of probable cause, which in this context means a reasonable public interest justifying the inspection and a relationship between the ordinance and the property to be searched.
- Stipulate that the warrant must particularly describe the place to be searched and the purpose of the inspection.

The Corporation Counsel's office is prepared to work closely with the city departments to reinforce the City's code enforcement training, ensuring that the City's code enforcement efforts align with the specific needs of the City while ensuring full compliance with constitutional and statutory requirements. This proactive measure will serve the best interests of the community by balancing the need for effective code enforcement with the protection of individual rights.

Thank you for your time and attention to this critical matter and your support for establishing an administrative search warrant procedure to be used in conjunction with the City's code enforcement program.

Respectfully submitted,

Brian G. Johnson
Corporation Counsel
City of Mount Vernon