

LOCAL LAW NO. 2 OF 2023

A LOCAL LAW TO AMEND LOCAL LAW NO. 5 OF 2022 ADOPTED PURSUANT TO PUBLIC OFFICERS § 103-a AUTHORIZING THE USE OF VIDEOCONFERENCING WITHIN THE CITY OF MOUNT VERNON, NEW YORK

WHEREAS, by letter dated December 8, 2022, the Clerk's office has requested legislation on behalf of Councilwoman Browne amending Local Law No. 5 of 2022,

A local law adopted pursuant to Public Officers Law § 103-a authorizing the use of videoconferencing within the City of Mount Vernon.

Section 1. Legislative Intent

It is the intent of this local law to authorize [require] all public bodies of the City of Mount Vernon, including committees and subcommittees to conduct meetings consistent with the videoconferencing provisions of Public Officers Law § 103-a and the videoconferencing policy and procedures as adopted by the City Council. It is also the intent of this local law to require all public bodies, including committees and subcommittees, to livestream meetings. Additionally, all public body meetings that allow for in person public comment or participation, shall provide the opportunity for members of the public to view and to participate via videoconferencing technology

Section 2. Authority

This local law is adopted pursuant to Public Officers Law § 103-a, which expressly authorizes the City Council to adopt local legislation, authorizing the use of videoconferencing.

Section 3. Videoconferencing for Public Meetings

The City Council of the City of Mount Vernon, County of Westchester, hereby authorizes all public bodies of the City of Mount Vernon, including committees and subcommittees to use videoconferencing when conducting its meetings subject to the following:

1. A quorum of the members of the public body are physically present at the meeting in one or more physical locations at which members of the public may attend the meeting.
2. Members of the public body are physically present at the meeting location(s) at which the public can attend in person unless the member of the public body is unable to be physically present due to extraordinary circumstances:
 - a. Extraordinary circumstances is defined to include any disability or illness, caregiving responsibilities, work conferences, or any significant or unexpected factor or event that precludes the public body's member's physical attendance at such meeting.
 - b. Extraordinary circumstances must be certified by email or other written means to the City Clerk by the member of the public body in accordance with the City's videoconferencing policies and procedures and not less than [72] 24 hours prior to any meeting or as soon as practicable.
3. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105, members of the public body must be able to be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.
4. The minutes of meetings involving videoconferencing must include which, if any, members of the public body participated using videoconferencing technologies.
 - a. Such minutes must be made available to the public pursuant to Public Officers Law § 106.
 - b. Any meeting that uses videoconferencing must be recorded and such

recordings must be posted to or linked on the City's website within five business days of the meeting. The recordings must remain available for a minimum of five years thereafter and recordings must be transcribed upon request subject to FOIL fees.

5. The public notice for any meeting involving videoconferencing must:
 - a. Inform the public that:
 - i. videoconferencing will be used,
 - ii. where members of the public can view and/or participate in such meeting via videoconference, and
 - iii. where required documents and records will be posted or available; and
 - b. Identify the physical location(s) where members of the public body will be physically present at the meeting and where members of the public can attend the meeting in person.

6. Members of the public are able to view the video broadcast of any meeting using videoconferencing simultaneously when the meeting is conducted. Additionally, at meetings where public comment or participation is authorized by the public body, members of the public are able to participate in the proceedings using videoconference technologies in real time and with the same opportunities for public participation or testimony as in-person participation or testimony.

7. The public body may conduct meetings entirely by videoconference, with no in-person requirement, provided that:

- a. A state of emergency is declared by the Governor of the State of New York pursuant to Executive Law § 28, or
- b. A local state of emergency is declared by the Chief Executive Officer of the City of Mount Vernon pursuant to Executive Law § 24, and the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting.

8. When the public body invokes the emergency exception as defined in paragraph 7 and takes action at such meeting without allowing members of the public to be physically present, the public body must acknowledge the previous meeting(s) and summarize any action(s) taken thereat at the next immediate meeting where the public is allowed to attend. The public body must produce minutes of such emergency meetings pursuant to the requirements of Public Officers Law § 106.

Section 4. Required Streaming

The City Council of the City of Mount Vernon, County of Westchester, hereby requires all public bodies, including committees and subcommittees, to livestream meetings. All public body meetings that allow for in person public comment or participation, shall provide the opportunity for members of the public to view and to participate via videoconferencing technology

Section 5. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.