# The Nassau County Administrative Code

# December 31, 2006

## Warning:

The annexed is an unofficial copy of the Nassau County Administrative Code which has been reviewed and edited through December 31, 2006. This is not an official copy of the Administrative Code and it may contain errors or omissions. Users are advised to use caution and to ascertain whether the text is correct. Text should be compared for verification to the enacting and amending legislation prior to use. Local laws amending the Administrative Code are annotated throughout, and the text can be obtained from the Office of the Clerk of the Legislature.

Users should also be aware that, in addition to the Administrative Code, local laws enacted by the County Legislature are codified in the Nassau County Charter and the Miscellaneous Laws of Nassau County. The Charter and Miscellaneous Law are also available on the County website.

The County Legislature also acts by Ordinance and Resolution. Ordinances and Resolutions are not codified, but the proceedings of the Legislature are available through the office of the Clerk of the Legislature and, for recent years, at:
http://www.mccinnovations.com/weblink/Browse.aspx

# Nassau County Administrative Code

## Laws 1939, Chapter 272

AN ACT to provide an administrative code for Nassau County in harmony with and supplemental to the County Government Law of Nassau County.

Became a law April 12, 1939, with the approval of the Governor Passed, on county message, three-fifths being present.

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

CHAPTER

I. THE BOARD OF SUPERVISORS

(So in original. See Local Law, No. 11-1994, in effect January 1, 1996, which provided for the County LEGISLATURE in place of said board.)

Title A. In General. (§ 1-1.0 to 1-6.0).

(So in original, should read. (§ 1-1.0 to 1-6.1).

Title B. Commission on Governmental Revision. (§ 1-7.0 to 1-8.0).

I-a. LOCAL LAWS

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III. BUDGET

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IV COMPTROLLER

Title A. In General. (§ 4-1.0 to 4-1.1).

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V. COUNTY TREASURER

Title A. In General. (§ 5-1.0 to 5-1.2).

Title B. Collection of Taxes.

Article 1. Collection of Taxes by Town Receiver (§ 5-2.0 to 5-23.1).

Article 2. Enforcement of Collection of Taxes by County Treasurer. (§ 5-24.0 to 5-140).

(So in original. Should read. (§ 5-24.0 to 5-78.0).

Article 3. Entertainment Surcharge (§ 5-79.0 to 5-84.0)

Article 3a. Entertainment Surcharge Regulations (§ 5-90.0 to 5-107.0)

VI. DEPARTMENT OF ASSESSMENT

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Title B. Transmissions From Automatic Alarm System. (§ 8-40.0 to 8-40.10).

Title C. Solicitation by Law Enforcement Affiliated Organization. (§ 8-50.0 to 8.50.8).

Title D. Screening and Fingerprinting of Bus Drivers and Aides. (§ 8-60.0 to 8-60.5) (So in original. Should read 8-60.0 to 8-60.6; Added by Local Law No 4-1985).

Title E. Alteration or Removal of Marine Motor, Marine Equipment or Boat Identification or Serial Numbers. (§ 8-70.0 to 8-70.4: Added by Local Law No. 7-1985).

Title F. Screening and Fingerprinting of Auxiliary Police Applicants. (§ 8-80.0 to 8.80.3).

Title G. Volunteer Program for Handicapped Parking Enforcement. (§ 8-90.0 to 8-90.4).

Title H. Screening and fingerprinting of applicants to the Nassau County Society for the Prevention of Cruelty to Animals, Division of Law Enforcement. (§ 8-100.0 to 8-100.4)

Title H. Enhanced Emergency Telephone System Surcharge. (§ 8-100.0 to 8-100.5)

Title H-I. Wireless Communications Services Surcharges. (§ 8-105.0 to 8-105.6)

Title I. Impoundment and Storage of Vessels. (§ 8-110.0 to 8-110.3)

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IX-a. Mosquito Extermination Commission. Repealed.

Title B. Nursing Homes. (§ 9-16.0 to 9-19.0).
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Title C. In General. (§ 9-20.0).

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Title E. Sale of Drug Paraphernalia. (§ 9-22.0 to 9-22.4: Added by Local Law No. 4-1981).

Title F. Charitable Medical Care (§ 9-23.0 to 9-23.7: Added by Local Law No. 1-2003, amended Local Law 7-2005).

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Title E. Waterways. (§12.21.0).

Title F. Mosquito Extermination. (§12.22.0 to 12-29.0).

XIII. DEPARTMENT OF CIVIL SERVICE (§13.1.0).

XIV. FRANCHISES

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Title C.2. Unlawful Discriminatory Practices (§ 21-9.8 to 21.9.9-b) (Amended by Local Law No. 7-2004).

Title C.3. Domestic Workers and Household Employees (§ 21-9.10.1 to 21-9.10.5) (Added by Local Law No. 8- 2006).

Title D. Consumer Affairs. (§ 21-10.0 to 21-10.2).

Title D-1. Licenses. (§ 21-11.0 to 21-11.16). (Amended by Local Law No. 3-1987; Local Law No. 18-1990: Local Law No. 12-1992).

Title D-2. Privilege Tax on Coin Operated Amusement Devices. (§ 21-12.0 to 21-12.18) (REPEALED by Local Law No. 20-2003, in effect December 31, 2003.)

Title D-3. Sale of Water Contaminated Gasoline. (§ 21-13.0 to 21-13.5).

Title D-4. Fuel Delivery Vehicle Identification. (§ 21-14.0 to 21-14.4).

Title D-5. Sale of Adulterated Motor Fuel. (§ 21-15.0 to 21-15.5) (Added by Local Law No. 9-1985).

Title D-6. Licensing of School Bus Companies. (§ 21-16.0 to 21-16.13) (Added by Local Law No. 4-1987); REPEALED by operation of law. See: Board of Education of the Farmingdale UFSC, et al. v. County of Nassau, et al, 157 A.D.2d 642 (1990).

Title D-7. Required Posting of Tax-Exempt Foods and Drugs. (§ 21- 1 7.0 to 21-17.7) (Added by Local Law No. 5-1989).

Title D-8. Item Pricing and Pricing Accuracy. (§ 21-18.0 to 21-18.6) (Added by Local Law No. 11-1991).

Title D-8*. Tax Assessment Reduction Services. (§ 21.18.0 to 21-18.6) (Added by Local Law No. 4-1995).

("So in original. Probably should read Title D-9: § 21-19.0 to 21-19.6).

Title D-10. Disclosure Requirements for Refund Anticipation Loans. (§ 21-20.0 to 21-20.7) (Added by Local Law No. 6-2004, in effect May 6, 2004).

Title D-12. Automated Teller Machine Safety (§ 21-22.0 to 21-22.13)

Title D-13. Selling, loaning or distributing video games. (§21-23.1 to 21-23.4)

Title E. Nassau County Traffic Safety Board. (§ 21-50.0 to 21-50.3).

Title F. Environmental Management Council. (§ 21-60.0 to 21-60.5).

Title G. Control and Regulation of Waste Oil Disposition (§ 21-70.0 to 21-70.8). (REPEALED by Local Law No. 7, 1982, adopted September 13, 1982, due to preemption by an amendment to Article 23 of the Environmental Conservation Law of the State of New York).

Title H. Advisory Council For Senior Citizen Affairs. (§ 21-80.0).

Title I. Nassau County Water Resources Board. (§ 21-90.0 to 21-90.4).

Title II.* Nassau County Cultural Development Board. (§ 21-100.0 to 21-100.4).

("So in original; probably should be "J"; added by Local Law No. 5-1978, in effect September 25, 1978; repealed by Local Law No. 43-2000, in effect December 28, 2000.)

Title K. Nassau County Public Utility Agency. (§ 21-110.0 to 21-110.6).

Title L. Nassau County Department of Probation (§ 21-120.0).

Title M. Nassau County Recycling Board. (§ 21-130.0 to 21-130.6). (Added by Local Law No. 2, 1989: in effect June 5, 1989).

XXII. GENERAL PROVISIONS

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XXII-A. ABATEMENT OF PUBLIC NUISANCES

(Adopted by Local Law No. 7.1989, in effect September 25, 1989).

XXIII. ELECTIONS

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Title A. Nassau County Traffic and Parking Violations Agency (§ 24-1 0 to 24-1 4) (Added by Local Law No. 1-1991).

XXVI. TRANSITORY PROVISIONS

Title A. Savings Clauses. (§ 26-1.0 to 26-4.0).

Title B. Temporary Provisions.

Article 1. Taxes. (§ 26-5.0).

Article 2. Roads and Parkways. (§ 26-6.0 to 26-7.0).

Article 3. Board of Statutory Consolidation and Revision. (§ 26-8.0 to 26-14.0).

# CHAPTER I
# THE BOARD OF SUPERVISORS*

## Title A. In General


| | | |
|---|---|---|
| Section | 1-1.0 | The County. |
| | 1-2.0 | County device of arms. |
| | 1-3.0 | County seal. |
| | 1-4.0 | County flag. |
| | 1-4.1 | Closing hours of county offices. |
| | 1-4.2 | Petty cash funds. |
| | 1-5.0 | Action by Board of Supervisors. |
| | 1-6.0 | Regulating and licensing powers concerning use and operation of steam bolters and hoisting and contractors' machinery in the County. |
| | 1-6.1 | Regulating and licensing powers concerning transactions by second hand dealers. |

Title B. Commission of Governmental Revision

| | | |
|---|---|---|
| | 1-7.0 | Commission: organization; powers. |
| | 1-8.0 | Employees of commission. |


*See Local Law No. 11-1994 in effect January 1, 1996 which provided for THE COUNTY LEGISLATURE in place of said board.

## Title A
## In General

§ 1-1.0 **The County.** The County of Nassau as now existing shall continue with the boundaries, powers, rights and property and subject to the obligations and liabilities which exist at the time when this code shall take effect.

§ 1-2.0 County device of arms. The following is hereby adopted as a device of arms of the County of Nassau and is hereby declared to be clearly described as follows: Arms, azure, lion rampant or between seven billets or.

§ 1-3.0 **County Seal**

a. The seal of the County of Nassau shall be of metal two and one-eighth inches In diameter engraven with the coat of arms of the County and surrounded with the legend "NASSAU COUNTY, STATE OF NEW YORK."

b. The following design is hereby adopted as the official and standard design of such corporate seal.

c. A duplicate of the County seal shall be procured and kept at the Office of the Clerk of the Board of Supervisors and such seal may be affixed by the Clerk of the Board of Supervisors to contracts, leases, and deeds executed by the County Executive on behalf of the County and for such purpose the Clerk of the Board of Supervisors shall also be a Deputy County Clerk.
(Subdiv. c added by L. 1942 Ch. 266, In effect April 1, 1942.)

§ 1-4.0 **County flag.** The flag of the County of Nassau is hereby adopted and declared to be orange, charged with the arms of the County of Nassau.

§ 1-4.1 **Closing hours of county offices.** Notwithstanding any inconsistent provision of law, general, special or local, the offices of the clerks of the courts of record, the County Clerk and register of deeds, the motor vehicle bureau and all county offices shall be kept open for the transaction of business every day in the year, except Sundays and other days and half-days declared by law to be holidays or half-holidays, from nine o'clock in the forenoon to such hour in the afternoon as the Board of Supervisors may fix by ordinance: provided, however, that the Board of Supervisors may provide that such offices shall remain closed Saturdays.

Whenever the last day on which any paper shall be filed or act done or performed expires on any Saturday during such period of Saturday closing as herein provided, the time therefore is hereby extended to and including the next business day.
(New section added by L. 1945 Ch. 24 § 1, in effect February 26, 1945.)

§ 1-4.2 **Petty Cash funds.** The Board of Supervisors may authorize the County Treasurer to furnish any officer or department of the County with a petty cash fund, in such amount as the Board of Supervisors may specify by resolution. Expenditures from such a fund shall be covered by itemized vouchers or claims in the name of the fund, verified by the oath of the officer or head of the department for whom the fund was established. Upon audit of such vouchers or claims and by means of a warrant drawn on the County Treasurer, signed by the Comptroller, the County Treasurer shall reimburse to such a petty cash fund the amount so audited and allowed.
(Added by Local Law No. 2. 1945; amended by Local Law No. 4, 1954; amended by Local Law No. 18, 1965, in effect December 1, 1965.)

§ 1-5.0 **Action by Board of Supervisors.** Except as otherwise provided, the Board of Supervisors shall act by ordinance or resolution pursuant to the provisions of the charter in the performance of the powers and duties conferred or imposed thereon by this code.

§ 1-6.0 **Regulating and licensing powers concerning use and operation of steam boilers and hoisting and contractors' machinery in the County.**

a. The Board of Supervisors, by local law, ordinance or resolution, may regulate the operation and use within the County of steam boilers carrying over fifteen pounds of steam and over ten horse-power, except such boilers used for heating purposes in private dwellings or by or for a person or corporation operating an agency for public service and subject to the jurisdiction, supervision and regulations prescribed by or pursuant to the public service law.

b. The Board of Supervisors, in like manner, may also prohibit the pursuit or exercise in the County without a license of

1. The occupation of running or operating any such steam boilers.
2. Running or operating any machinery used for hoisting purposes or cableways, irrespective of motive power, or for construction or excavation work.

c. The Board of Supervisors shall have authority to provide penalties for the violation of any local law, ordinance, or resolution adopted pursuant to the provisions of this section, and in addition thereto, may provide a fine of not more than fifty dollars or imprisonment for not more than thirty days, or both. Any such local law, ordinance, or resolution shall have the force and effect of law.

d. Such a local law, ordinance or resolution shall not, however, apply to or become operative in any city or village in the County until and unless the consent and approval of the city or village thereto shall have been first given in the same manner as required for the

enactment of a local ordinance therein and a certified copy thereof shall have been filed with the Board of Supervisors, and any such city or village is hereby specifically empowered to give such consent and approval.

§ 1-6.1 **Regulating and licensing powers concerning transactions by second hand dealers.** The Board of Supervisors, by local law or ordinance, may prescribe rules and regulations in respect to transactions within the County by second hand dealers involving automobiles, jewelry, clothing and precision Instruments and may require second hand dealers to obtain a license to engage in such transactions. Such local law or ordinance may also delegate to a designated county official or employee the power to issue such licenses and may provide penalties for the violation of such local law or ordinance and in addition thereto, may provide a fine of not more than fifty dollars or imprisonment for not more than thirty days for a violation thereof.
Added by L. 1948 Ch. 524, in effect March 21, 1948.)

Title B
Commission on Governmental Revision

§ 1-7.0 **Commission; organization; powers.**

a. The executive, subject to confirmation by the Board of Supervisors, shall have the power to appoint, from time to time, a commission of taxpayers of Nassau County, not exceeding seventeen in number, who shall serve without compensation.

Such commission shall, by majority vote, designate a chairman.

b. Such commission may:

1 Examine the different laws of the state applicable to the government of the County, towns and other municipalities and political subdivisions in such county, and determine the advisability of changing the forms or methods of government of such county, towns or other political subdivisions;

2. Examine the form of government of other counties or cities within or without the State of New York, and that method used in the administrative, judicial, economic and other branches of such municipalities: for the purpose of recommending an improvement In the government of such County and its political subdivisions and from such examinations and investigations to determine what form of government is best suited to meet the needs of the residents of Nassau County.

c. Such commission shall report its findings and recommendations to the Board of Supervisors.

§ 1-8.0. **Employees of Commission.** Such commission shall have power by majority vote to employ necessary experts, clerks and assistants.

CHAPTER I-a
LOCAL LAWS

CHAPTER II
EXECUTIVE

CHAPTER III
BUDGET

Title A In General


| | | |
|---|---|---|
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| | 3-2.0 | Cash basis fund. |
| | 3-2.1 | Funds for reserves for uncollected taxes. |
| | 3-3.0 | Payment of bills of district superintendents. |
| | 3-4.0 | Appropriation for the advancement of aviation. |
| | 3-4.1 | Appropriation for the observance of Memorial Day. |


Title A
In General

§ 3-1.0 **Fiscal year.**

a. The fiscal year of the County shall commence on the first day of January in each year and shall terminate at midnight on the ensuing thirty-first day of December except that the fiscal year commencing on January 1, 1995 shall terminate on September 30, 1995.

b. Pursuant to section 302-a of chapter 879 of the laws of 1936 providing for an alternative form of government for certain counties, the County shall have an extended tax year commencing October 1, 1995 and ending December 31, 1996. Thereafter beginning January 1, 1997 the fiscal year of the County shall begin on January 1, 1991 and ending on December 31, 1997 and run from January first to December thirty-first thereafter. All such powers normally granted to various county departments regarding the County budget and funds including but not limited to the treasurer's ability to transfer monies from fund to fund during the period October 1 1995 through December 31, 1996 shall remain in effect subject to review and approval at the discretion of the Board of Supervisors. Any transfers of funds approved by the Board of Supervisors In the period October 1, 1995 through December 31, 1996 shall not be restricted to months indicated in subdivision c of section 3-2.0 of this code. All other provisions of such section 3-2.0 shall be in full force and effect during the period October 1, 1995 through December 31, 1996 and shall remain in effect fully thereafter beginning the next ensuing county fiscal year starting January 1, 1991.
(Amended by L. 1995 Ch. 14, in effect March 16, 1995.)

§ 3-2.0 **Cash basis fund.**

a. The "cash basis fund" heretofore established for the purpose of enabling the County to

finance its current expenditures prior to the receipt of taxes and other revenues authorized to be levied or raised therefore, is hereby continued.

b. The moneys held in such fund shall be segregated from all other moneys of the County and may be deposited as in the case of other county funds. Such moneys shall not be invested or used for any purpose except as hereinafter provided.

c. The County Treasurer shall have power, from time to time, to advance from the moneys held in such fund, to any other fund, moneys required for purposes to which the taxes contained in the taxes levied for the fiscal year in which such advances are made may lawfully be applied. Any such advance shall be evidenced by tax anticipation notes, and such notes shall be held by the County Treasurer until such advance is repaid. No moneys shall, however, be advanced from such fund unless such advance shall be authorized by resolution adopted by the Board of Supervisors. Any such resolution shall specify the amount to be advanced and the date or dates of maturity of the notes to be issued therefore. All such advances made during any fiscal year shall be restored to such fund and made available for use In making advances in the next succeeding fiscal year in such manner that not less than one-fifth of the aggregate amount of such fund shall be available for such advances in each of the months of January, February, March, April and May of such succeeding fiscal year.

(Amended by L. 1943 Ch. 710 § 107, as last amended by L. 1945 Ch. 338 In effect September 2, 1945, amendment required .by Local Finance Law Sec. 2400 and 30.00: Amended by Laws of the State of New York, Chapter 14-1995, in effect March 16, 1995 in order to prepare to commence the special fiscal period on October 1, 1995 to conclude on December 31, 1995 and the 1996 fiscal year to commence on January 1, 1996.)

d. The County Treasurer shall advance from the moneys held in said fund such portion thereof as the Board of Supervisors may determine to include as part of the estimated cash balance which is stated in any annual budget hereafter adopted, and is applicable to meet expenditures provided for by said budget, and the moneys so advanced shall be used to meet such expenditures. So much of such advance as is specifically applied to the payment of county bonds, notes or certificates of indebtedness shall not be required to be restored to the fund.

(Subd. d added by L. 1941 Ch. 912 § 1, in effect April 30, 1941.)

§ 3-2.1 **Fund, for reserves, for uncollected taxes.** The County Treasurer shall establish a fund or funds for reserves for uncollected taxes including school district taxes, when directed so to do by ordinance of the Board of Supervisors and in such amount or amounts as such ordinance shall direct. The balance remaining in any such fund at the end of a fiscal year shall not lapse.

(Added by L. 1945 CH. 393 § 1, in effect April 12, 1945.)

§ 3-2.2. **Capital funds for building consolidation and open space acquisition.**

a. Definitions: For purposes of this section:

(i) "Natural or scenic resources" shall mean open areas and shall include but not be limited to, agricultural lands, including lands employed for the raising of livestock, defined as open lands actually used in bona fide agricultural production.

(ii) "Open space" or "open area" or "open land" shall, as set forth in section two hundred seventy-four of the general municipal law, mean any space or area (1) characterized by natural scenic beauty or, (2) where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

(iii) "Open space purposes" means purposes or projects that involve one or more of the following: (a) the creation or establishment of parks, nature preserves, or recreation areas; (b) the creation or preservation of open space, including agricultural lands and lands used for livestock, animal husbandry, grazing, or care of animals; (c) preservation of lands of exceptional scenic value; (d) preservation of fresh and saltwater marshes or other wetlands; (e) preservation of aquifer recharge areas; (f) preservation of undeveloped beachlands or shoreline; (g) creation or establishment of wildlife refuges for the purpose of maintaining native animal species, including the protection of habitat essential to the recovery of rare, threatened or endangered species; (h) preservation of pine barrens consisting of such biota as pitch pine, and scrub oak; (i) preservation of unique or threatened ecological areas; (j) preservation of rivers and river areas in a natural, free-flowing condition; (k) creation or preservation of forested land; (l) preservation of public access to lands for public use including stream rights and waterways; and (m) undertaking any of the aforementioned in furtherance of the establishment of a greenbelt.

(iv) "Real property" shall have the meaning set forth in section 11-6.0 of this code.

b. Notwithstanding the provisions of section 11-59.0 of this code, the Treasurer shall receive all moneys resulting from the sale of real property owned by the County and shall allocate and deposit such moneys as follows:

(i) Five percent of the moneys resulting from the sale of real property owned by the County shall be deposited into an account to be established for the acquisition, rehabilitation and maintenance of property to be used for open space purposes. Such fund shall also include any moneys received from grants or other federal, state, county or private sources for such acquisition, rehabilitation and maintenance. The moneys held in such fund shall not be used for any purpose except as provided pursuant to this subdivision for the acquisition of properties devoted to open space purposes. The Treasurer shall provide a report to the County Executive, the County Legislature, the Planning Department and the Open Space and Parks Advisory Committee annually on or before the first day of July. Such report shall contain an accounting of the balance of the fund, the source of each credit to the fund, interest earned by the fund and any debits to the fund.

(ii) Ninety-five percent of the moneys received from the sale of county real property shall be allocated to and deposited into the building consolidation project in the capital plan annually approved by the Legislature pursuant to section three hundred ten of the charter; provided, however, that the allocations from such sale shall not exceed the amount approved by the Legislature for such project. The moneys held in such fund shall not be used for any purpose except as provided pursuant to this subdivision for such capital project.

(Added by Local Law No. 7-2003, in effect May 28, 2003)

§ 3-3.0 **Payment of bill, of district superintendents.** The Board of Supervisors, subject to such conditions as it may prescribe, may provide for the payment of properly itemized and verified bills of the district superintendents of schools of the County, for furniture, telephone service, equipment and office rent.

§ 3-4.0 **Appropriation for the advancement of aviation.** The Board of Supervisors may

appropriate annually and provide for the expenditure of such sums as it may deem proper not to exceed the sum of five thousand dollars for the purpose of furnishing suitable and proper comfort and care of persons who, in the interest and promotion of aviation and the public welfare, may depart from or arrive at any flying field located within the County.

§ 3-4.1 **Appropriation for the observance of Memorial Day.** The Board of Supervisors may appropriate annually and provide for the expenditure of such sums as it may deem proper, not to exceed the sum of three hundred dollars, for the purpose of defraying the expense of the proper observance of Memorial or Decoration Day at the Long Island National Cemetery, Pinelawn, New York.

(Added by Local Law No. 5-1965, in effect May 12, 1965.)

# CHAPTER IV
# COMPTROLLER

## Title A. In General


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| | 4-1. | Deductions from salaries of County employees. |


## Title 8. Harness Horse Race Admissions Tax


| | | |
|---|---|---|
| Section | 4-2.0 | Definitions. |
| | 4-2.1 | Imposition of tax. |
| | 4-2.2 | Payment of tax. |
| | 4-2.3 | Records and audits. |
| | 4-2.4 | Determination of tax. |
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| | 4-2.7 | Remedies exclusive. |
| | 4-2.8 | Proceedings to recover tax. |
| | 4-2.9 | General powers of the Comptroller. |
| | 4-2.10 | Administration of oaths and compelling testimony. |
| | 4-2.11 | Penalties and interest. |
| | 4-2.12 | Notices and limitations of time. |
| | 4-2.13 | Disposition of revenues. |
| | 4-2.14 | Separability. |


(Not so in original: Table of Contents added for easy reference.)

## Title A
## In General

§ 4-1.0 **Delegation of powers and duties.** The Comptroller, after entering upon the duties of his office, may delegate to one or more of the assistants or clerk in his office specific powers and duties of the Comptroller. Such delegations shall be in writing signed by the Comptroller and shall set forth the specific power or powers, duty or duties so delegated and shall be filed with the County Clerk. The acts so performed by such assistants or clerks shall have the same effect in law as If performed by the Comptroller.
(Added by L. 1942 Ch. 179 §, in effect March 25, 1942.)

§ 4-1.1 **Deduction, from salaries of county employees.** The Comptroller is hereby authorized to deduct from the wages or salary of an employee of the County any amount that such employee may specify in writing filed with the Comptroller for payments to or deposits in credit unions or county employees and to transmit the sum so deducted to the said credit unions. Any such written authorization may be withdrawn by such employee at any time by filing written notice of such withdrawal with the Comptroller.
(Added By Local Law No. 6-1965, in effect May 12, 1965.)

Title B
Harness Horse Race Admissions Tax

§ 4-2.0 **Definitions.** As used In this title:

1. The term "racing corporation or association" means a racing corporation or association or other person owning or operating race meeting grounds or enclosures located within the County of Nassau, or a racing corporation or association or other person conducting race meetings at such grounds or enclosures.

2. The term “person" means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, retiree, or any other person acting In a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

3. The term "admissions" means admissions as defined in chapter one hundred forty-eight of the laws of nineteen hundred fifty-two.
(Amended by Local Law No. 1-1954, § 2, in effect April 19, 1954.)

§ 4-2.1 **Imposition of tax.** A tax is hereby imposed on all admissions to harness horse race meetings conducted at race meeting ground or enclosures located within the County of Nassau at the rate of thirty per centum of the admission price. The racing association or corporation conducting a harness horse race meeting shall, in addition to the admissions price, collect such tax on all tickets sold or otherwise disposed of to patrons for admission with the sole exception of those issued free passes, cards or badges In accordance with the specific authority of the laws of the State of New York, in case of failure to collect such tax the tax shall be imposed on the racing corporation or association conducting such meeting.
(Amended by Local Law No. 1-1954, § 2; Local Law No. 1- 1956 in effect April 16, 1956.)

§ 4-2.2 **Payment of the tax.**

a. Every racing corporation or association shall file with the Comptroller at such regular intervals as the Comptroller may require and upon such forms as shall be prescribed by the Comptroller a return showing the taxes collected pursuant to this title and the number of persons admitted to meetings conducted by the racing corporation or association during the periods covered by the return, together with any and all other information which the Comptroller shall require to be included and reported in such return. The Comptroller may require at any time supplemental or amended returns of such additional information or data as he may specify.

b. Every return required hereunder shall have annexed thereto an affidavit of an officer of the racing corporation or association to the effect that the statements contained therein are true.

c. The tax imposed by this title shall be paid by the racing corporation or association to the Comptroller at such regular intervals as the Comptroller may require in no event later than ten days after the close of the race meeting.

d. The amount of the tax paid on admissions pursuant to this title shall be the property of the County of Nassau and shall be held by the racing corporation or association as trustee for and on account of the County of Nassau and the racing corporation or association shall be liable for the tax. Officers of the racing corporation or association shall be personally liable for the tax collected or required to be collected hereunder

e. Every racing corporation or association conducting harness horse race meetings at race meeting grounds or enclosures located within title County of Nassau shall, on or before the

effective date of this local law and annually thereafter before the opening of any race meeting in each year execute and file with the Comptroller a bond Issue by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility in an amount sufficient to secure the payment of the taxes and penalties and interest due or which may become due hereunder, to be fixed by the Comptroller

§ 4-2.3 **Record and audits.** Every racing corporation or association shall keep such records as may be prescribed by the Comptroller, of all admissions and taxes collected pursuant to this title. Such records shall be available for inspection and examination at any time upon demand by the Comptroller or his duly authorized agents or employees, and such records shall be preserved for a penned of three years, except that the Comptroller may consent to their destruction within that period, and may require that they be kept longer than three years.

§ 4-2.4 **Determination of tax.** If a return required by this title is not filed, or if a return when filed is incorrect or insufficient the amount of tax due shall be determined by the Comptroller from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of race meetings held, admissions, paid attendance, or other factors. Notice of such determination shall be given to the person liable for the collection and payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days after giving the notice of such determination, shall apply to the Comptroller for a hearing, or unless the Comptroller of his own motion shall redetermine the same. After such hearing the Comptroller shall give notice of his determination to the person liable for the tax. The determination of the Comptroller shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice act if application therefore is made to the supreme court within ninety days after the giving of the notice of such determination. A proceeding under article seventy-eight of the civil practice act shall not be instituted unless the amount of any tax sought to be reviewed with interest and penalties thereof, if any, shall be first deposited with the County Treasurer and there shall be filed with the Comptroller an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance 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 the proceeding, or at the option of the applicant such undertaking filed with the Comptroller may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the application. The Comptroller shall notify the treasurer of all final determinations.

§ 4-2.5 **Refunds.**

a. In the manner provided in this section the Treasurer upon the order of the Comptroller shall refund or credit, without interest, any tax, penalty or Interest erroneously, illegally, or unconstitutionally collected or paid if application to the Comptroller for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the treasurer upon the order of the Comptroller, the Comptroller shall state his reason therefore in writing. The Treasurer may, in lieu of any refund required to be made, allow credit therefore on payments due from the applicant.

b. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Comptroller may receive evidence with respect thereto. After making his determination the Comptroller shall give

notice thereof to the person interested who shall be entitled to review such determination by a proceeding pursuant to article seventy-eight of the civil practice act, provided such proceeding is instituted within ninety days after the giving of the notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Comptroller in such amount and with such sureties as a justice of the supreme court shall approve to the effect that at 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.

c. A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which has been determined to be due pursuant to the provisions of section 4-2.4 of this title where he has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Comptroller made pursuant to section 4.2.4 of this title unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper, by the Comptroller after a hearing or of his own motion, or in a proceeding under article seventy-eight of the civil practice act, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

§ 4-2. 6 **Reserves.** In cases where a person has applied for a refund and has instituted a proceeding under article seventy-eight *of* the civil practice act to review a determination adverse to him on his application for refund, the Comptroller shall set up appropriate reserves to meet any decision adverse to the County.

§ 4-2.7 **Remedies, exclusive.** The remedies provided by sections 4-2.4 and 4-2.5 of this title shall be exclusive remedies available to any person for the review of tax liability imposed by this title, and no determination or proposed determination *of* tax liability Imposed by this title, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding In the nature of a certain proceeding under article seventy-eight *of* the civil practice act: provided, however. That such person may proceed by declaratory judgment if he Institutes suit within ninety days after a deficiency assessment is made and pays the amount of deficiency assessment to the treasurer prior to the Institution of such suit and posts a bond *for* costs as provided in section 4-2.4 of this title.

§ 4-2.8 **Proceedings to recover tax.**

a. Whenever any racing corporation or association or any of its officers or any other person shall fail to collect and pay over any tax or to pay any tax, penalty or interest imposed by this title as therein provided, the County Attorney shall, upon the request of the Comptroller bring or cause to be brought an action to enforce the payment *of* the same on behalf of the County of Nassau in any court of the State of New York or of any other state or of the United States. If, however, the Comptroller in his discretion believes that a person subject to the provisions of this title is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

b. As an additional or alternate remedy, the Comptroller may issue a warrant, directed to the County sheriff commanding him to levy upon and sell the real and personal property of the racing corporation or association or its officers or any other person which may be found within

the County, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the treasurer and to pay to him the money collected by virtue thereof, within sixty days after the receipt of such warrant. The County Sheriff shall within five days after the receipt of the warrant file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest In real and, personal property of the person against whom the warrant is issued. The County Sheriff shall then proceed upon the warrant in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrants he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Comptroller a warrant of like terms, force and effect may be issued and directed to any officer or employee of such Comptroller's office, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Comptroller may from time to time Issue new warrants and shall also have the same remedies to enforce the amount due hereunder as if the County had recovered judgment therefore and execution thereon had been returned unsatisfied.

c. Whenever a corporation or association shall make a sale, transfer or assignment in bulk of any part or the whole of its race meeting grounds or enclosures and the building and structures thereon, or its lease, license or other agreement or right to possess or operate such race meeting grounds or enclosures or of the equipment, machinery, fixtures or supplies, or of the said race meeting grounds or enclosures and the building and structures thereon, or lease, license or other agreement or right to possess or operate such race meeting grounds or enclosures, and the equipment, machinery, fixtures or supplies pertaining to the conduct or the operation of the said race meeting grounds or enclosures, otherwise than in the ordinary course of trade and in the regular prosecution of said business, the purchaser, transferee or assignee shall at least ten days before taking possession of such race meeting grounds or enclosures and the building and structures thereon, or lease, license or other agreement or right to possess or operate such race meeting grounds or enclosures or the equipment, machinery fixtures or supplies, or of the said race meeting grounds or enclosures and the building and structures thereon, or lease, license or other agreement or right to possess or operate such race meeting grounds or enclosures, and the equipment, machinery, fixtures or supplies or paying therefor, notify the Comptroller by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to, or informed the purchaser, transferee or assignee that it owes any tax pursuant to this title and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing.

Whenever the purchaser, transferee or assignee shall fail to give notice to the Comptroller as required by the preceding paragraph, or whenever the Comptroller shall inform the purchaser, transferee or assignee that a possible claim for such a tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee in addition to being subject to the liabilities and remedies imposed under the provisions of section forty-four of the personal

property law, shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferee or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this title.

§ 4-2.9 **General powers of the Comptroller.** In addition to the powers granted to the Comptroller in this title, he is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this title and the purposes thereof;

2. To extend, for cause shown, the time of filing any returns for a period not exceeding thirty days, in which case he shall notify the treasurer thereof; and for cause shown, to remit penalties but not Interest computed at the rate of six per centum per annum: and to compromise disputed claims in connection with the taxes hereby imposed;

3. To delegate his functions hereunder in the manner prescribed by section 4-1.0 of the code;

4. To prescribe methods for determining the amount of the admission and for determining title tax.
(Amended by Local Law No. 1-1954, § 3, in effect April 19, 1954.)

5. To require racing corporations or associations to keep detailed records of all race meetings and all attendance thereat, and to furnish such information upon request to the Comptroller.

6. To require that the amount of the tax be printed, separate from the price of admission, on tickets of admission.

§ 4-2.10 **Administration of oaths and compelling testimony.**

a. The Comptroller or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding In the exercise of their powers and duties under this title. The Comptroller shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this title and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

b. A justice of the supreme court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Comptroller under this title.

c. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Comptroller under this title shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

d. The officers who serve the Comptroller's summons or subpoena and witnesses attending In response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers

shall be the County sheriff and his duly appointed deputies, or officers or employees of the office of the Comptroller designated to serve such process.

§ 4-2.11 **Penalties and interest.**

a. Any person failing to file a return or to pay over or pay any tax to the Comptroller as required by this title shall be subject to a penalty of five percent of the amount of tax due, plus interest at the rate of one per cent of such tax for each month after such return was required to be filed or such tax became due, but the Comptroller, if satisfied that the delay was excusable, may remit all or any part of such penalty, but not interest at the rate of six per cent per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this title. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this title.

b. Any racing corporation or association and any officer thereof failing to file a return required by this title, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this title which is willfully false, and any racing corporation or association and any officer thereof willfully failing to file a bond required to be filed pursuant to this title or failing to file such data as the Comptroller may by regulation or otherwise require pursuant to the provisions of this title, or willfully failing or refusing to collect or pay such tax, and any racing corporation or association and any officer thereof failing to keep the records required by this title shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a racing corporation or association shall be personally liable for the tax collected or required to be collected under this title, and subject to the penalties hereinabove imposed.

c. The certificate of the Comptroller to the effect that a tax has not been paid, that a return or bond has not been filed or that information has not been supplied pursuant to the provisions of this title, shall be presumptive evidence thereof.

§ 4-2.12 **Notices and limitation of time.**

a. Any notice authorized or required under the provisions of this title may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given In the last return filed by him pursuant to the provisions of this title or in any application made by him or if no rectum has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this title by the giving of notice shall commence to run from the date of mailing of such notice.

b. The provisions of the civil practice act or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this title. However, 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 three years from the date of the filing of a return, provided, that where no return has been filed as provided by law the tax may be assessed at any time.

c. Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a person has consented in writing that such period be extended, the amount of

such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made, before the expiration of the extended period.

§ 4-2.13 **Disposition of revenues.** All revenues resulting from the imposition of the tax under this title shall be paid by the Comptroller to the County Treasurer and credited and deposited In the general fund of the County.

§ 4-2.14 **Separability**. If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of this title, and the application of such provisions to other persons or circumstances shall not be affected thereby.
(Title B consisting of § § 4-2.0 to 4-2.14, added by Local Law No. 1-1952, in effect May 19, 1952.)

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## Title A
## In General

§ 5-1.0 **Banks of deposit.** The Board of Supervisors at any time may designate by written resolution duly adopted and filed as provided in the County law one or more good and solvent banks, trust companies, bankers or banking associations within the city of New York, for the deposit of any moneys received by the County Treasurer which it may deem expedient and proper to deposit therein, and agree with any such designated bank, trust company, banker or banking association upon the rate of interest, if any, to be paid on the moneys so deposited. The provisions of the County law shall apply to proceedings pursuant to this section, except

insofar as they may be inconsistent with this section. Any such bank, trust company, banker or banking association so designated shall secure such county In the manner prescribed by the County law.
(Amended by L 1951 Ch. 513, in effect April 3, 1951.)

§ 5-1.1 **Money found upon dead bodies.**
(Repealed by Local Law No. 11-1965, § 2, in effect July 28, 1965; see § 125-c of the Surrogate's Court Act.)

§ 5-1.2 **Payment over and distribution of mortgage taxes.**

a. Notwithstanding the provisions of any general, special or local law to the contrary, upon the first day of each month the County Clerk of the County of Nassau shall pay over to the County Treasurer all moneys received during the preceding month on account of taxes paid to him in pursuance of the provisions of article eleven of the tax law, after deducting the necessary expenses of his office, as provided in such law, except taxes paid upon mortgages which, under the provisions of article eleven of the tax law, are to be apportioned by the state tax commission, and such taxes and money shall be paid over by the County Clerk as provided by the determination of said tax commission.

b. On or before the fifteenth day of January, April, July and October in each fiscal year the County Treasurer and the County Clerk shall prepare a joint report showing the net amount to be credited to each tax district in the County of the moneys collected in pursuance of article eleven of the tax law during the three preceding calendar months. The amounts set forth in such report shall be credited according to the location of real property covered by the respective mortgages upon which a tax was collected. Such report shall be made in duplicate in accordance with the rules and regulations of the state tax commission and filed with the clerk of the Board of Supervisors and the state tax commission. The Board of Supervisors, on or before the fifteenth day of February, May and August in each fiscal year following the filing of the reports as aforesaid, shall issue its warrant for the payment to the respective tax districts of seventy-five percent of the amounts so credited in such report, except that where a town contains within its limits an incorporated village, or apportion thereof, the Board of Supervisors shall apportion to the village or villages so much of the seventy, five percent share credited to the town as the assessed value of said village, or portion thereof, bears to twice the total assessed valuation of the town. Such warrant of the Board of Supervisors shall direct payment to the city treasurer of a city within the County of the amount due the city, to the town supervisor, or if such town has a presiding supervisor, then to such presiding supervisor, of the amount due to the town and to the village treasurer of the amount to which the village shall be entitled.
(Amended by L 1995 Ch. 14, in effect March 16, 1995.)

c. On the fifteenth day of November of each fiscal year the said Board of Supervisors shall issue its warrant to the respective tax districts as provided in this section, but such warrant shall be based upon the entire amount, less expenses, collected for such mortgage tax during the preceding year ended September thirtieth. The Board of Supervisors shall then make a final apportionment between the towns find villages based upon such figures as if one distribution were being made during such tax period and for the purposes of such apportionments shall use the assessment role then in force. All amounts theretofore paid to the various supervisors and treasurers during the tax period covered by such warrant shall be deducted from the final figures as determined by the Board of Supervisors and the warrant to be issued shall direct payment of the net amount due to the supervisors and to the city and village treasurers in the same manner as heretofore provided in this section. In no event shall the said warrant direct payment for a greater amount than that remaining in the hands of the County Treasurer at the time of the issuance of the warrant.

(Amended by L. 1995 Ch. 14, in effect March 16, 1995.)

d. For purposes of this section the term "tax district" shall mean a town or City within the County of Nassau.
(Added by L. 1962 Ch. 956, in effect October 1, 1962.)

## Title B
## Collection of Taxes

### Article 1 COLLECTION OF TAXES BY TOWN RECEIVER

§ 5-2.0 **Definitions.** As used in this article:

1. The term "tax" when used alone or as a part of another term, includes assessments for benefit other than those assessments for benefit levied pursuant to title 8 of chapter eleven of the code.

2. The term "assessment," unless the context requires otherwise, means an assessment, for benefit levied by the County pursuant to title 8 of chapter eleven of the code.

3. The term "receiver" or "receiver of taxes" means the town or City receiver of taxes.

4. The term "town receiver" or "town receiver of taxes" means the town receiver of taxes.

5. The term "city receiver" or "city receiver of taxes" means the city receiver of taxes.

6. The term "consolidated tax warrant" "'means the tax warrant delivered pursuant to section six hundred seven of the charter to the town receiver of the taxes for the collection of state, county, town and special distinct taxes or to the city receiver for the collection of county and state taxes. Such warrant only for the period October, 1995 through December 31, 1996, may be in two parts to reflect the fact of an extended fiscal year of the County. There shall be one warrant for the period October 31, 1995 through December 31, 1995 and another warrant for January 1, 1996 through December 31, 1996 payable as indicated herein.
(Amended by L. 1995 Ch. 14, in effect March 16, 1995.)

7. The term "consolidated tax warrants," unless the context requires otherwise, means the tax warrants deliverer to the town and city receivers of taxes pursuant to section six hundred seven of the charter except as indicated in the preceding subdivision.
(Amended by L. 1995 Ch 14, in effect March 16, 1995.)

8. The term "school district" means every school district in the County except those school districts coterminous with the limits of an incorporated city or village.
(Amended by L. 1951 Ch. 741 § 1, in effect April 11, 1951; for construction and transitory effect see § 11 of such chapter.)

9. The term "school district tax warrant" means the warrant delivered to the town receiver pursuant to section 5-11 of the code for the collection of school distinct taxes.
(Amended by L. 1939 Ch. 845 § 3, in effect June 9, 1939.)

§ 5-3.0 **Definition of tax roll.** Whenever the term "tax roll" is referred to in any general or special law applicable to the County or to the receiver of taxes, it shall mean a copy of that portion of the "county" or "school district assessment roll," as such terms are defined in section 6-1.0 of the code, containing the properties situated in a town or city with a warrant attached to such copy for the collection of taxes in such town or city.
(Amended by L. 1939 Ch 845 § 3, in effect June 9, 1939.)

§ 5-4.0 **Town receiver of taxes; election; term of office.** The receiver of taxes in each town of the County now in office shall so continue until the expiration of his term. There shall be elected in each town, at the biennial town election held therein in the year nineteen hundred thirty nine, a receiver of taxes who shall hold office for a term of four years from the first day of January, nineteen hundred forty. Thereafter, at each biennial town election preceding the expiration of the term of office of such receiver of taxes, a successor to such officer shall be elected for a full term of four years.
(Amended by L. 1939 Ch. 845 § 4, in effect June 9, 1939.)

§ 5-4.1 **City receiver of taxes; designation.**

a. Each city in the County shall be the agent of the County for the collection of county and state taxes within the territorial limits of such city. The Commissioner of finance, treasurer or other fiscal officer of such city who collects taxes for such City shall be the city receiver of taxes. The city receiver of taxes shall collect for the County the state and county taxes on real property subject to taxation within such city.

b. Notwithstanding any provision in any other law, the city receiver shall not receive any remuneration from the County nor any fees, charges or commissions on any state or county taxes collected by him pursuant to the code.
(New section added by L. 1939 Ch. 845 § 5, in effect June 9, 1939.)

§ 5-5.0 **Receiver; bond and oath required.**

a. The receiver of taxes of each town:

1. Before entering upon the performance of his duties, and within thirty days after the shall have been notified of his election, shall take and subscribe before an officer authorized by law to administer oaths in his county, the constitutional oath of office and such other oath as may be required by law, which shall be administered and certified by the officer taking same without compensation, and within eight days be filed in the office of the County Clerk.

2. Before entering upon the performance of his duties, shall execute and file in the office of the County Clerk an official undertaking, payable to such town and the County, conditioned upon the faithful performance of his duties.

b. The form and amount of such undertaking and the sureties thereon shall be approved by the town board of each town and such town board or the members thereof shall indorse their approval upon such undertaking. The undertaking of the receiver of taxes shall be further conditioned that he will well and truly keep, pay over and account for all moneys and property coming Into his hands as such receiver of taxes, including all school district taxes. Such undertaking shall be in lieu of any other bond or undertaking otherwise required by law in the collection of such school district taxes and the proper accounting therefore, and the trustees or Board of Education, as the case may be, of every school district for which such receiver of taxes shall act as collector shall have and may exercise the same powers and remedies with respect to such undertakings as is given them with respect to the official bond of the collector by the provisions of article nine of the education law or by the provisions of any other law. The town board at any time may require such receiver of taxes to file a new undertaking for such sum and with such sureties as the Board shall approve. In addition, the town board may require the receiver of taxes to file a depository bond indemnifying the town against any loss arising out of deposits made pursuant to section 5-9.0 of the code. The town board may by resolution determine that such undertaking or bond shall be executed by a surety company authorized to

transact business in the State of New York and the expense thereof shall be a charge against the town. The County Clerk shall notify the town board in writing of the expiration of the undertaking filed in his office pursuant to this section at least thirty and not more than sixty days prior to the time of expiration thereof.

c. The filing of such undertaking and oath shall be deemed an acceptance of office by the receiver of taxes. Neglect or omission to take and file such oath, or neglect to take and file within the time required by law such undertaking, shall be deemed a refusal to serve and the office may be filled as in the case of a vacancy.

d. The receiver of taxes of each city before entering upon the performance of his duties shall execute and file an undertaking for the faithful performance of his duties as city receiver Such undertaking shall be payable to such city and the County. The Board of Supervisors shall prescribe the amount, terms, conditions, and manner of execution of the undertaking. The expense of such undertaking shall be a county charge. Such undertaking shall be in addition to any undertaking otherwise required by law of such city receiver in his capacity as collector of city taxes.
(Two former sections each bearing number 5-5.0 consolidated and amended by L. 1943 Ch. 58, in effect March 4, 1943.)

e. Notwithstanding the foregoing provisions of this section, the County Clerk may obtain a position undertaking, renewable on a year-to-year basis for the receiver of taxes of any town or city within the County of Nassau and such undertaking shall comply with the form, sufficiency and filing requirements specified in the foregoing provisions of this section. The cost of such position undertaking shall be a county charge only with respect to the receiver of taxes in any City within the County of Nassau.
(Section e added by L. 1976 Ch. 360, in effect January 1, 1977.)

§ 5-6.0. **School district or special district funds.** Each town, after the filing of the undertaking of the receiver of taxes, shall be responsible for the payment to each school district or special district in such town, of the amount collected by the receiver of taxes for such school district or special district. For the purposes of this section, the city school district of the City of Long Beach shall be deemed a school district in the Town of Hempstead.
(Amended by L. 1951 Ch. 741 § 2, in effect April 11, 1951.)

§ 5-7.0 **Receiver of taxes to have an office.**

a. The town board of each town shall provide a suitable office for the receiver of taxes with the necessary furniture and fixtures. The receiver of taxes, unless otherwise directed by the town board, shall attend at such office where he is to collect and receive taxes each day of the year except Sundays and holidays, from nine o'clock in the morning until four o'clock in the afternoon, and one-half day each Saturday. However, the receiver of taxes may sit, from time to time, at such other times and places, within the town, as he may be directed by the town board. The expense of maintaining such office shall be a town charge.

b. Each city receiver at the expense of the city, shall maintain an office at such place as the Council of his city shall provide and designate. Such office shall remain open each day in the year from nine o'clock in the morning until four o’clock in the afternoon except on Sundays and legal holidays and except between the hours of twelve and one o’clock. Such office shall also remain open at such other hours as the Council may from time to time direct.
(Amended by L. 1939 Ch. 845 § 8, in effect June 9, 1939.)

§ 5-8.0. **Audit of receiver's accounts.** The town board of each town, the city council of each city or the Comptroller of the County, at any time in its or his discretion, may cause the

accounts of the receiver of taxes of such town or city to be audited and the expense thereof shall be a town, city or county charge, as the case may be.
(Amended by L. 1939 Ch. 845 §, in effect June 9, 1939.)

§ 5-9.0 **Duties of Receiver of Taxes.**

a. It shall be the duty of the receiver of taxes of each town to collect all state, county, town. school district and special district taxes levied or assessed upon any property subject to taxation within such town for the state, county, town, school or special district or parts thereof in such town.

b. For the purpose of the collection of school district taxes, all the property within the city school district of the city of Long Beach shall be deemed property subject to taxation within the Town of Hempstead.
(Subd. a and b amended by L. 1951 Ch. 741 § 3, in effect April 11, 1951.)

c. It shall be the duty of the receiver of taxes of each city or town to:

1. Deposit such taxes daily in such bank or banks as the town board or city council, as the case may be, may designate for such purpose, to remain therein for the time before payment as prescribed in his warrant at such rate of interest as banks pay on such deposits, which interest shall be paid to the supervisor of the town for general town purposes or into the treasury of the city for general City purposes, upon the date for the return of unpaid taxes.

2. Perform all other duties required of the town collectors or receivers of taxes under the tax law.

d. The town receiver of taxes of each town, with the approval of the town board, may appoint, and at pleasure remove, such clerks as may be necessary to assist him in the performance of his duties. Such clerk shall receive such pay or salaries as the Town Board may prescribe.

e. The receiver of taxes of each city may appoint, and at pleasure remove, such clerks as may be necessary to assist him in the performance of his duties. If, under the charter of such city or any other law, the city receiver, in his capacity as the treasurer or county finance or fiscal officer of the city for the collection of city taxes, appoints his subordinates subject to the approval of the mayor, city council or other appointing body or officer, such clerks shall be likewise appointed and removed subject to the approval of such appointing body or officer.
(Amended by L. 1939 Ch. 845 § 9, in effect June 9, 1939.)

§ 5-10.0 **Assessment roll and town receiver's warrant.**

a. The consolidated tax warrant, delivered to the town receiver of taxes pursuant to section six hundred seven of the charter, shall command the receiver of taxes of each town to whom the same shall be directed, to collect from the several persons and on the properties named and described in the assessment roll, the several sums mentioned therein for state, county, town and special district purposes, including unpaid water charges and assessments for the construction and repair of sidewalks shown in the statements transmitted by the supervisors of the towns to respective names of properties. Such warrant also shall command him to pay over from time to time until the return of unpaid taxes to the County Treasurer as required by section 5.23.0 of the code all moneys so collected appearing on such roll as follows:

1. To the supervisor of the town, an amount equal to the total of one-half such sum as

shall have been levied for the support of the highways and bridges therein, one-half such sum as shall have been levied therein for special district purposes, all unpaid water charges and assessments for the construction and repair of sidewalks levied for such town, and one-half of all the moneys levied therein to defray any other town expenses or charges.

2. To the treasurer of the County, one-half of the sum levied for state and county purposes.

3. After the foregoing payments and installments are made the receiver of taxes shall pay to the supervisor the remaining one-half of taxes levied for all town and special district purposes and thereafter the residue of taxes collected for county and state purposes shall be paid to the County Treasurer.

(Subd. a amended by L. 1944 Ch. 174; L. 1958 Ch. 516; par, 2 of subd. a. amend., by L. 1960 Ch. 813, in effect April 25, 1960.)

b. The receiver of taxes shall pay to the respective fiscal authorities either the full amount of the taxes levied or the first installment due within thirty days after the taxes become a lien pursuant to section 5-15.0 of the code or, if he has not sufficient funds on hand for this purpose, he shall on Monday of each week after the expiration of such thirty days pay to such fiscal authorities in the order provided in this section such sums as he receives from time to time from the collection of such taxes.

c. If it shall be required by law that the taxes levied for any locality for a special purpose are to be paid to any person or officer other than such person or officer named in this section the warrant shall be varied so as to conform to such direction.

§ 5-10.1 **Assessment roll and city receiver's warrant.** The consolidated tax warrant delivered to the city receiver of taxes pursuant to section six hundred seven of the charter, shall command the receiver of taxes of each city to whom the same shall be directed:

1. To collect from the several persons and on the properties named and described in the assessment roll, the several sums mentioned therein for state and county taxes.

2. To pay over to the County Treasurer on the fifteenth day of each month all county and state taxes that he has collected prior to the first day of that month.

(Added by L. 1939 Ch. 845 § 11, in effect June 9, 1939.)

§ 5-11.0 **School district assessment roll and receiver's warrant.**

a. On or before the fourth monday of September in each year there shall be delivered to each town receiver of taxes a copy of that portion of the school district assessment roll which contains the properties situated in the town of which he or she is receiver, together with a warrant for the collection of such taxes which warrant shall be annexed by the clerk of the Board of Supervisors to such copy at the end thereof. The town receivers of taxes shall attend at the meeting of the Board of Supervisors at which the taxes are levied pursuant to section 6-22.0 of the code to receive the warrants so annexed. The warrant shall be sealed with the seal of the County and shall be signed by the County Executive, or in his or her absence or inability to act, by the vice-chairman of the Board of Supervisors and by the clerk of the Board of Supervisors. The warrant shall command the receiver of taxes of each town to whom the same shall be directed to collect from the several persons and on the properties named and described in such school district assessment roll, the sum set opposite the respective names or properties. The warrant also shall command the town receiver of taxes to pay over:

1. To the treasurer or fiscal officer of each school district on the first day of the month or, in such receiver's discretion, at more frequent intervals until the first day of June in the year following the year in which the warrant was Issued, all moneys collected by the receiver of taxes for each school district on such roll.
2. To the County Treasurer, after the first day of June in the year following the year In which the warrant was issued, all moneys collected by the receiver of taxes for each school district on such roll.

(Amended by L. 1951 Ch. 741, § 4 L. 1953 Ch 828. § 1 in effect April 18, 1953; L.. 1980 Ch. 586, in effect June 26, 1980; Subdiv. a amended by L. 1995, Ch. 561, in effect August 8, 1995 in order to prepare to commence the special fiscal period on October 1, 1995 to conclude on December 31, 1996.)

b. For the purpose of this section all property located in the city school district of the City of Long Beach shall be deemed property situated in the Town of Hempstead.

(Amended by L. 1951 Ch. 741 in effect April 11, 1951.)

§ 5-12.0 **Advertising of collection of taxes.**

a. Within seven days after the receipt of the consolidated tax warrant or any authorized part thereof from the Board of Supervisors, the receiver of taxes shall advertise the collection of such taxes by causing notice of the reception of such warrant to be published once in such newspaper or newspapers, as the town board or city council, as the case may be, may direct. Such notice shall also contain a statement of the penalties for deferred payment of the taxes as provided in section 5-11.0 of the code. The cost of publishing such notice shall be a town or city charge as the case may be.

(Amended by L. 1995 Ch. 14, in effect March 16, 1995.)

b. Upon receipt of the school district tax warrant, the town receiver of taxes shall forthwith advertise the collection of school district taxes in the manner provided by subdivision a of this section.

(Amended by L. 1939 Ch. 845. § 13; L. 19s. Ch. 581, in effect April 8, 1954.)

§ 5-13.0 **Notice of collection of taxes.**

a. Any person or corporation, who is the owner of or in whose name any interest in real property within any town or city is assessed for value may file with the receiver of taxes of such town or city a notice containing a description of such real property with its number or other designation on the tax map as it has been completed, and in the case of a person, his name, residence and post-office address, or in the case of a corporation, the name of such corporation and the post-office address of its principal office. Such notice shall be valid and continue in effect until cancelled by such person or corporation.

b. For the purpose of filing such notice with respect to school district taxes of the city school district of the City of Long Beach, all the property located in such school district shall be deemed property within the Town of Hempstead.

c. Such receiver of taxes, within ten days after receiving any consolidated tax warrant or school district tax warrant, shall mail to each person or corporation filing such notice at the post office address therein stated, a duplicate tax bill for all such taxes upon such real property Included In such warrant. The receiver of taxes shall add to the amount of such taxes the sum of ten cents for each such duplicate tax bill for the expense of stationery and postage, which sum shall be collected with such taxes. The failure of such receiver of taxes to mail such duplicate bill shall not invalidate such taxes or prevent the accrual of any interest or penalty

imposed for the nonpayment of taxes, or prevent the sale of tax liens on such property for the nonpayment of taxes. No further notice than that herein required shall be deemed necessary. However, the town board or the city council, as the case may be, may direct the receiver of taxes to mail to each taxpayer in such town or city whose address is known to such receiver a tax bill for all taxes, the expense thereof to be a town or city charge, as the case may be.

d. The receiver of taxes shall not be liable for any omission or error in any tax bill delivered or mailed to any person or corporation pursuant to this section.
(Subd. a and former b amended by L. 1939 Ch. 845, in effect June 9, 1938; new b added and band c relettered to be c and d by L. 1951 Ch. 141, in effect April 11, 1951; former subd. c and d by L. 1943 Ch. 45, in effect July 1, 1943)

§ 5-14.0 **Bill of taxes to show arrears.** There shall be a ruled column for arrears in every tax bill rendered for taxes on real property on which arrears may be due, or may have been sold and are still redeemable. In such tax bill there shall be written opposite the entry of the description of any such lot or parcel of land the word "arrears." The word "arrears" on the tax bill may indicate that the tax lien has been sold, or is to be sold for tax arrears. The failure to insert in such column the word "arrears" in a proper case shall not:

1. Give rise to a presumption that there are no arrears and shall not Invalidate any tax or stop the County from enforcing the same by sale or otherwise, as provided by law.

2. Cause the receiver of taxes to be personally liable at the suit of a person who may claim to have suffered damage by reason of the failure to make such insertion.
(Amended by L. 1939 Ch. 703 § 1, in effect June 5, 1939.)

§ 5-15.0 **Taxes, except school district taxes; when due and payable.**

a. 1. In any fiscal year for which the County budget shall have been finally adopted by September 15, 1995 for the extended 1996 fiscal year and as of the preceding October 30 for ensuing fiscal years, one-half of all taxes upon real estate. Except school district taxes, shall be due and payable on the first day of January, and the remaining and final one-half at such taxes on real estate shall be due and payable on the first day of July, and one-half of all school district taxes shall be due and payable on the first day at October, and the remaining and final one-half of such taxes shall be due and payable on the first day of April. Payment of county taxes for the period October 1, 1995 through December 31, 1995 shall be due November 10, 1995, payable December 10, 1995.

2. Beginning in the 1997 fiscal year and all fiscal years thereafter, for the County and county special district real property taxes in any fiscal year for which county budget shall not have been finally adopted by the preceding October 30, the amount due and payable on the first day of January shall be equal to fifty percent of the amount extended by the Board at Assessors upon the levy at exigency tax. The amount due and payable on the first day of July shall be as fallows: (1) if a budget has been adopted on or before July 1, the amount extended by the Board at Assessors shall be equal to the sum of fifty percent of the amount extended by the Board of Assessors upon the levy of the exigency tax and the amount extended by the Board of Assessors upon the levy of the residual tax; or (2) in the event the budget has not been adopted prior to July 1, the amount extended by the Board of Assessors shall be equal to fifty percent of the amount extended by the Board at Assessors upon the levy of the exigency tax. For the purposes of this section, the terms "exigency tax" and "residual tax" shall be defined as provided in section 306 of the County Government Law of Nassau County (Nassau County Charter).

2-a. Any exigency tax for the extended period October 1, 1995 through December 31, 1996 shall be calculated by multiplying the amount extended by the Board of Assessors for the nine (9) month 1995 fiscal year budget by one hundred sixty-six and seven-tenths percent. For the extended fiscal year October 1, 1995 through December 31, 1996, if the budget shall not have been finally adopted by September 15, 1995 then the County and county special district property taxes in said extended year shall be based for the period October 1, 1995 through December 31, 1995 upon thirty-three and one-third percent of the exigency tax so calculated and for January 1, 1996 through December 31, 1996, one-hundred thirty-three and one-third percent of the amount of the exigency tax so calculated.

3. All such taxes shall be and become liens on the real estate affected thereby and shall be construed and deemed to be charged thereon on the respective days when they become due and payable and shall remain such liens until paid.

b. In any fiscal year for which the County budget shall nave been finally adopted by September 15, 1995 for the extended October 1, 1995 through December 31, 1996 fiscal year and as of the preceding October 30 for any ensuing fiscal year, the second half of such tax on real estate which is due on the first day of July as provided in paragraph 1 of subdivision a of this section, may be paid on the first day of January, the date when the first half becomes due and payable, or at any time thereafter. The second half may be thus paid if the first half shall have been paid or shall be paid at the same time. A discount of one per centum shall be allowed on those payments of the second half which are made on or before February tenth. Such discounts shall be a town or city charge as the case may be. For purposes of the extended tax year, October 31, 1995 through December 31, 1996, payments made in January and July will be considered first and second half payments for the purpose of this section only.

c. In the event such discounts allowed by a city receiver on the state and county taxes of a given taxable year shall exceed fifty per centum of the amount of penalties and interest collected by such city receiver on the state and county taxes of such taxable year during the time he has had in his possession the consolidated tax warrant for such taxable year and the portion of the assessment roll annexed thereto containing the real property within such city, the County shall reimburse such city for such excess of such discounts.

*e. For the nine month fiscal year commencing on January 1, 1995 and ending on September 30, 1995, one-half of all town and town special district taxes upon real estate shall be due and payable on the first day of January, and the remaining and final one-half of such town and town special district taxes on real estate shall be due and payable on the first day of July. Two-thirds of all county and county special district taxes upon real estate (six months taxes) shall be due and payable on the first day of January, and the remaining and final one third of such taxes (three months taxes) shall be due and payable on the first day of July.

(Subd. a. amended by L 1992 Ch. 717 §17, in effect July 31,1992; Subd. b. amended by L. 1943 Ch. 182 Sec. 1, in effect March 30, 1943; L. 1992 Ch. 717 §17, in effect July 31,1992: Subd. c. added by L. 1939 Ch. 845 §5, in effect June 9, 1939: subd. c repealed and subd. d re-lettered by L. 1995 Ch. 14.)

*Subd. e (So In original; probably should read d) added by Local Law No. 1.1995, In effect January 1, 1995: Subd. a, b and c amended and subd. 2-a added by L. 1995 Ch. 14, in effect March 16, 1995: Subd. 2 and 2-a amended by L. 1995 Ch. 561, in effect August 8, 1995.)

§ 5-16.0 **School district taxes; when due and payable.**

a. One-half of all school taxes upon real estate shall be due and payable on the first day of October and the remaining and final one-half of such taxes on real estate shall be due and payable on the first day of the following April. All such taxes shall be and become liens on the real estate affected thereby and shall be construed and deemed to be charged thereon on the

respective days when they become due and payable and shall remain such liens until paid.

b. The second half of such tax on real estate which is due on the first day of April as provided in subdivision a of this section, may be paid on the first day of October, the date when the first half becomes due and payable, or at any time thereafter. The second half may be thus paid if the first half shall have been paid or shall be paid at the same time. A discount of one per centum shall be allowed on those payments of the second half which are made on or before November tenth. Such discounts shall be a town charge.

(Subd. b amended by L. 1943 Ch. 182 § 2, in effect March 30 , 1943; Subd. a & b amended by L. 1995, ch. 14, in effect March 16, 1995, in order prepare to commence the special fiscal period on October 1, 1995 to conclude on December 31, 1995 and the 1996 fiscal year to commence on January 1, 1996.)

§ 5-17.0 **Penalties and interest for nonpayment of taxes other than school district taxes.** The following scale of penalties is hereby prescribed for neglect to pay the state, county, town and special district taxes after the levy thereof:

1. Penalties on taxes due January first; if paid on or before February tenth, no interest or penalty; if paid on or before August thirty-first, no penalty; if paid after February tenth, interest shall be added at the rate of one per centum per month to be calculated from the day on which such taxes or part thereof became due and payable as provided by section 5-15.0 of the code, to the first day of the month following the date of payment or time of sale of such unpaid taxes as provided by Section 5-39.0 of the code. Such interest shall be charged on the full amount of such taxes and any penalty. Such interest shall be compounded on the first day of each month, beginning on the first day of September. If taxes are paid after August thirty-first, there shall be added a penalty fee of five per centum.

2. Penalties on taxes due July first, if paid on or before August tenth, no interest penalty; if paid on or before August thirty-first, no penalty; if paid after August tenth, interest shall be added at the rate of one per centum per month to be calculated from the day on which such taxes or part thereof became due and payable as provided by section 5-15.0 the code, to the first day of the month following the date of payment or time of sale of such unpaid taxes as provided by section 5-39.0 of the code. Such interest shall be charged on the full amount of such taxes and any penalty. Such interest shall be compounded on the first day of each month, beginning on the first day of September. If taxes are paid after August thirty-first, there shall be added a penalty fee of five per centum.

3. Whenever the last day to pay taxes without interest or penalties, as hereinbefore provided, falls on Sunday or legal holiday, such taxes may be paid without interest or penalties, as the case may be, upon the next business day.

(Subd. 3. repealed by L. 1995 Ch. 14, in effect March 16, 1995; amended by Local Law 10-2000, effective March 24, 2000; amended by Local Law 12-2000, repealing Local Law 10-2000, effective May 10, 2000.)

§ 5-18.0 **Penalties and interest for nonpayment of school district taxes.** The following scale of penalties is hereby prescribed for neglect to pay school district taxes after the levy thereof:

1. Penalties on taxes due October first: if paid on or before November tenth of the current year, no interest or penalty; if paid on or before May thirty-first of the following year, no penalty; if paid after November tenth of the current year, interest shall be added at the rate of one per centum per month to be calculated from the day on which such taxes or part thereof became due and payable as provided by section 5-16.0 of the code, to the first day of the month following the date of payment or time of sale of such unpaid taxes as provided by section 5-39.0 of the code. Such interest shall be charged on the full amount

of such taxes and any penalty. Such interest shall be compounded on the first day of each month, beginning on the first day of June of the following year. If taxes are paid after May thirty-first of the following year, there shall be added a penalty fee of five per centum.

2. Penalties on taxes due April first: if paid on or before May tenth, no interest or penalty; if paid on or before May thirty-first, no penalty; if paid after May tenth, interest shall be added at the rate of one per centum per month to be calculated from the day on which such taxes or part thereof became due and payable as provided by section 5-16.0 of the code, to the first day of the month following the date of payment or time of sale of such unpaid taxes as provided by section 5-39.0 of the code. Such interest shall be charged on the full amount of such taxes and any penalty. Such interest shall be compounded on the first day of each month, beginning on the first day of June. If taxes are paid after May thirty-first, there shall be added a penalty fee of five per centum.

3. Whenever the last day to pay taxes without interest or penalties, as hereinbefore provided, falls on Sunday or legal holiday, such taxes may be paid without interest or penalties, as the case may be, upon the next business day.

(Subd. 3 added by L. 1941 Ch. 193 §, in effect March 28, 1941; Subd. 1, 2 & 3 amended by L. 1995 Ch 14, in effect January 1, 1995, pursuant to L, 1995 Ch, 561 §3; amended by Local Law 10-2000, effective March 24, 2000; amended by Local Law 12-2000 and repealing Local Law 10-2000, effective May 10, 2000.)

**§ 5-19.0 Receipt for taxes.**

a. Every receiver of taxes shall deliver a receipt to each person paying any state, town or special district tax, specifying:

1. The date of such payment.
2. The name of such person.
3. A description of the property as shown on the County assessment roll.
4. The assessed valuation of such property.

(Subd. a amended by L. 1939 Ch. 845 §6, in effect June 9, 1939.)

b. In the case of any special franchise tax, the receipt shall also specify:

1. The amount thereof.
2. The name of the person to whom the same is assessed.
3. The amount of such tax.
4. The date of the delivery to the receiver of taxes of the assessment roll on account of which such tax is paid.

c. The receiver of taxes shall furnish with each such receipt, or at any time upon request, a summary of the general tax rates and the rate for each district for which such taxes are separately raised The town board shall prescribe the form of receipts to be issued by the town receiver. Such receipts shall be furnished to the town receiver by the town at the expense of the town. The County Treasurer shall prescribe the form of receipts to be issued by the City receiver. Such receipts shall be furnished to the city receiver of taxes by the city at the expense of the city.

(Subd. c amended L. 1944 Ch. 305, in effect September 1, 1944)

d. So far as practicable, the provisions of this section shall apply to receipts for school district taxes.

§ 5-20.0 **Disposition of penalties and interest.** Penalties and interest which have been collected by the receiver shall be disposed of as follows:

1. The town receiver shall pay such penalties and interest to the supervisor of the town to be applicable to general town purposes.

2. The city receiver shall pay such penalties and interest into the city treasury to be applicable to general city purposes.
(New § 20.0 added and former § 20.0 as amended by L. 1939 Ch. 845, repealed, by L. 1944 Ch 711, in effect January 1, 1945.)

§ 5-21.0 **Payment by receiver.** Every receiver of taxes, in the same manner as required under section eighty-four of the tax law, shall pay to the officers and persons specified in the consolidated tax warrant or in the school district tax warrant, as the case may be, the sums required in such warrant to be paid to such officers and persons. Such payment shall be made at the time prescribed in his warrants.
(Amended by L. 1939 Ch. 845 §8, in effect June, 9, 1939: L 1995 Ch. 14, in effect March 16, 1995.)

§ 5-22.0 **Certification of unpaid school district taxes.**
(Repealed by L 1942 Ch. 144, in effect March 20, 1942)

§ 5-23.0 **Return, by receivers of taxes.**

a. The town receiver of taxes, and the City receiver of taxes shall make his return of unpaid taxes, excepting school district taxes, to the County Treasurer on or before the first day of September of the calendar year following the delivery to him of his warrant. The town receiver of taxes shall make his return of unpaid school district taxes to the County Treasurer on or before the first day of June of the calendar year following the delivery to him of his warrant.
(Amended By L. 1944 Ch. 717, in effect January 1 1945 L. 1995 Ch. 14, In effect March 16, 1995.)

b. When the receiver of taxes makes such returns, he shall forward to the County Treasurer the copies of those portions of the County assessment roll and the school district assessment roll containing the properties in the town or city of which he is receiver. Such returns shall be made in the manner provided by section eighty-two of the tax law, except that such receiver shall not add the five per centum penalty as provided by such section and he shall not be required to state in his return the reason for not collecting any tax.
(Amended by L. 1942 Ch. 404, in effect April 11, 1942.)

c. For the County tax for the period October 1, 1995 through December 31, 1996, the town receivers of taxes and the city receivers of taxes shall make their returns of unpaid taxes to the County Treasurer on January 2, 1996. Said returns shall be identified, by the various receivers on January 2, 1996 as "First Portion 1996 County Tax Returns for Period October 1, 1995 through December 31, 1995."

d. For county taxes returned to the County Treasurer by said receivers on January 2, 1996 for the period October 1, 1995 through December 31, 1995, only the County Treasurer shall be allowed to collect unpaid county taxes for the period from January 2, 1996 through August 31, 1996, otherwise in accordance with law together with any appropriate fees or interest thereon.

e. Any unpaid county tax for the period October 1, 1995 through December 31, 1995 will not be merged or added as subsequent taxes with any previously unpaid taxes until September 1, 1996 when unpaid county tax for said paned will merge with or be added as subsequent

unpaid taxes as applicable.

f. After August 31, 1996, all unpaid county taxes for the period October 1, 1995 to December 31, 1995 are merged into the remaining unpaid 1996 general tax.
(Subd. c. d. e. &. f added by Local Law No. 1-1998, in effect January 2, 1998.)

§ 5-23.1 **Record of tax arrears to be kept by receiver.** The receiver of taxes shall keep a record of all taxes returned to the County Treasurer as unpaid. For the purpose of maintaining an accurate record of arrears of taxes, the receiver shall enter in such record information furnished to him by the County Treasurer pursuant to section 5-30.0 of the code.
(Added by L. 1940 Ch. 222 §, in effect March 21, 1940.)

Article 2 ENFORCEMENT OF COLLECTION OF TAXES BY COUNTY TREASURER

§ 5-24.0 **Definitions.**

1. The term "receiver" or "receiver of taxes" means the town or city receiver of taxes.

2. The term "tax" when used alone or as a part of another term, unless the context requires otherwise, includes taxes and assessments for benefit levied by or for school or special districts, towns the County or the State, other than those assessments for benefit levied pursuant to title 8 of chapter eleven of the code.

3. The term "assessment" or "assessment for benefit" unless the context requires otherwise, means an assessment for benefit levied by the County pursuant to title 8 of chapter eleven of the code.

4. The term “tax lien” includes:

(a) The right of the County to collect taxes, penalties, interest and other charges on the real property affected by such taxes for failure to pay such taxes, and

(b) The lien against such real property for all the aforementioned items.

5. The term "sale of taxes" or "sale of a tax lien" means the sale by the County of a lien on real property as defined in subdivision 4 (b) of this section.

6. The term 'certificate of sale" or "certificate of sale of a tax lien" means the instrument by which the County transfers a tax lien.

7. The term "holder", "holder of a tax lien" or "holder of a certificate of sale of a tax lien" means the purchaser of a tax lien or if the purchaser has transferred the certificate of sale, a person in lawful possession of such certificate of sale who claims title through the purchaser of such certificate of sale. The term "person" as used in this definition includes the County.

8. The term "actual residence" shall mean the principal dwelling place of the individual owner In fee of record of a lot or parcel classified as class one and the principal dwelling place of the individual owner of record of a condominium classified as class two, pursuant to section 802 of the Real Property Tax Law of the State of New York.
(Amended by Local Law No. 21-1990, effective November 26, 1990.)

9. The term "person" shall mean any natural person, receiver, trustee, conservator, referee or any other individual acting in a fiduciary or representative capacity, whether appointed by a court or otherwise or any combination of such individuals.
(Subd. 1 added and the Subdivision renumbered by L. 1939 Ch. 845 § 21, in effect June 9,1939. Subdivisions 5, 6 and 7 amended by Local Law No. 1, 1984, in effect January 4, 1984; Subdivisions 8 and 9 added by Local Law No.

13-1986, in effect November 17, 1986.)

§ 5-25.0 **Delinquent tax collection.** (a) In accordance with § 6 of Chapter 602 of the Laws of 1993 which authorize the continuation of the collection of taxes In accordance with delinquent tax collection in effect in a county on January 1, 1993 pursuant to an administrative code and authorizes in such instance, the continued collection of such delinquent taxes pursuant to said code, the County of Nassau shall continue to enforce the collection of delinquent taxes pursuant to, and in the manner provided in said code as the same, from time to time, may be amended. (b) Pursuant to said section 6 of Chapter 602 of the Laws of 1993, Article 11 of the Real Property Tax Law of the State of New York, as amended, shall have no application to the County of Nassau delinquent tax collection.
(Repealed by L. 1939 Ch. 704 § 2, in effect June 5, 1939; New § 5-25.0 added by Local Law No. 1-1994, in effect February 15, 1994.)

§ 5-26.0 **Bill, of arrears of taxes, and assessments to be furnished when requested.**

a. The County Treasurer, upon the requisition of the owner, the proposed vendee under a contract of sale, a mortgagee, any person having a vested or contingent interest in any real property, or the duly authorized agent of any of the aforementioned persons, shall furnish a bill of all arrears of taxes and assessments. Such bill shall be called a bill of arrears of taxes and assessments. Such bill shall contain a statement of the taxes and assessments which appear on the records of the County Treasurer. Such bill of arrears shall not contain village or City taxes and assessments for benefit. Upon the payment of such bill, the receipt of the County Treasurer thereon shall be conclusive evidence of such payment. The County Treasurer shall cause to be kept a duplicate account of amounts so collected.

b. The certificate of the County Treasurer that there are no tax liens on such real property for such taxes and assessments shall forever free such real property from all liens of taxes and assessments which appear or which should appear, pursuant to law, on the records of the County Treasurer, but shall not free such real property from the lien of any county tax lien duly sold, or from the lien of any City or village tax and assessments for benefit.

c. Such bills of arrears of taxes and assessments shall include fees for searches made by the County Treasurer in his office pursuant to such request. The County Treasurer shall also charge fees for issuing certificates relating to real property on which there may be no arrears when the searches are required. Such fees shall be regulated by the Board of Supervisors and shall be paid into the County treasury.
(Amended by L. 1939 Ch. 704 § 4, in effect June 5, 1939.)

§ 5-26.1 **Errors in tax bill; County Treasurer not liable.** The County Treasurer shall not be liable for any omission or error in any tax bill or statement *of* arrears of taxes and assessments which is not issued upon a requisition therefore duly made pursuant to section 5-26.0 of the code.
(Added by L. 1939 Ch 704 §, in effect June 5, 1939.)

§ 5-27.0 **Payment by County Treasurer to school districts.**
a. On or before the fifteenth day of June, the County Treasurer shall pay over to the fiscal officers of each school district an amount of money equal to:

1. The taxes which have remained unpaid from the last preceding school tax levy in his school district on the first day of June next succeeding the levy of the taxes, less
2. Any sums deductible under section 6-26.0 of the code.

(Subd. amended by L 1942 Ch. 834, in effect May 14, 1942.)

b. Such payment shall be made by the County Treasurer out of any moneys which he may have available therefore, whether from the collection of school district taxes or from the moneys raised for uncollected school district taxes, or in the event there be no such moneys available, the County may borrow moneys therefore pursuant to the local finance law.
(Amended by L. 1945 Ch. 392 §, in effect April 2, 1945.)

§ 5-28.0 **Power of board of education to borrow not to be affected.** Nothing contained In this article shall prevent the Boards of education or trustees *of* school districts from borrowing money in anticipation *of* taxes or on account of unpaid taxes as authorized by law.

§ 5-29.0 **School district taxes; when deemed received by the County.**
a. School taxes shall only be deemed to nave been collected and received by the County:

1. When the cash for such taxes has been paid to the County:
2. If such tax liens have been sold, when the proceeds of such sale have been paid to and received by the County Treasurer; or
3. In those cases in which the County itself has acquired title to the property affected by such tax liens as a result of having been compelled to purchase such tax liens, when the County has received cash from the proceeds of the sale of such property in an amount equal to the amount of the tax.

(Subd. b. Repealed by L. 1943 Ch. 712 § 3, as last amended by L. 1945 Ch 339, in effect September, 1945.)

§ 5-30.0 **County Treasurer to furnish receivers with information concerning arrears.** The County Treasurer shall furnish to each receiver.

1. A record of every payment made to the County Treasurer of arrears of taxes on real property situated within the City or town of which he is receiver. Such record shall specify by reference to the return of the receiver the real property and the arrears thereon so paid and the date of payment thereof.
(Subd. amended by L.1943 Ch. 38 § 1, in effect February 27, 1943.)

2. Records of cancellations of certificates of sale of tax liens on real property situated in such city or town.

3. Records of deeds given by the County Treasurer pursuant to section 5-53.0 of the code holders of tax liens on real property situated In such city or town

4. Records of resolutions of the Board of Supervisors canceling taxes on real property situated in such city or town.
(Amended by L. 1940 Ch. 222, in effect March 21.1940.)

§ 5-31.0 **Bureau of arrears.**

a. The bureau of arrears in the department of the County Treasurer is hereby abolished and all of the functions, powers and duties of such bureau shall be continued by the County Treasurer. The sums heretofore determined by the County Treasurer to be due in connection with the collection of arrears of taxes shall be a charge upon each parcel or lot of land affected by such arrears of taxes returned to the County Treasurer on or before the first day of September, nineteen hundred forty-five as provided by this section before the effective date of this act but shall not bear any interest.

b. Any surplus heretofore accrued or which, from time to time, may accrue, in connection with the collection of arrears of taxes, shall be paid into the County treasury.
(Amended by L. 1948 Ch. 821, in effect October 31, 1948.)

c. All employees of the bureau of arrears holding positions on a permanent basis shall be continued in such positions in the department of County Treasurer without further examination or qualification and they shall retain their respective civil service classification and status in respect to grade, pension, promotion, rank, salary and seniority.
(Section amended and subd. c. added by L. 1948 Ch. 821, in effect December 31, 1948.)

§ 5-32.0 **Actions to recover unpaid taxes.**

a. After the lapse of thirty days from the return of the receiver of taxes as provided by section 5-23.0 of the code, an action may be maintained by the County Treasurer, as upon contract, to recover the amount of an unpaid tax, penalties, and interest thereon, together with five per centum thereof, and interest from the time of such return at the rate of ten per centum per annum. A judgment in such action for any amount, when docketed in the office of the County Clerk, shall be a lien upon the real property of the defendant, and such lien shall have the same priority as the taxes upon which a recovery was had in such action. An execution upon the judgment may be issued and enforced against the real property of the defendant regardless of the amount of such judgment. Supplementary proceedings may also be taken for such tax in accordance With the provisions of the tax law, regardless of the amount of such judgment. The amount collected by any such action or proceeding shall be used and applied by the County Treasurer in the same manner as if the same had been collected by the sale of the tax lien under the provisions of this article.
(Subd. a amended by L. 1939 Ch. 845 § 4, in effect June, 9, 1939.)

b. The warrant delivered to the receiver of taxes shall be presumptive evidence that all previous proceedings including the assessing and levying of a tax, were regular and according to law. A judgment in such action In favor of the County Treasurer shall not release or in any manner affect the lien of any tax until satisfied. Nothing in such action shall be construed or held to repeal or abridge any other remedy or power given to the County for the collection of taxes on behalf of the County.

§ 5-33.0 **Collection of taxes by sale of tax liens.**

a. The collection of every tax upon real estate, including a school district tax returned by the receivers of taxes as unpaid, with the interest and additions thereon, shall be enforced by a sale of the tax lien thereof unless the County Treasurer shall have brought an action pursuant to section 5-32.0 of the code. In such event, he nevertheless may sell the tax lien. Such sale shall commence on the third Tuesday of February in each year following the year for which the tax lien was obtained and shall continue until the tax lien is sold.
(Subd. a amended by Local Law No. 1-1965, in effect January 7, 1965; Local Law No. 11-1971, in effect October 27, 1971; L. 1995 Ch. 14, in effect March 16, 1996.)

b. The County Treasurer shall include in the sale of the tax lien the unpaid school district taxes and the unpaid state, county, town and special district taxes returned on or about the first day of May next succeeding the return of unpaid school district taxes. He shall designate In separate items the amounts of unpaid school district taxes.
(Amended by L. 1944 Ch. 718, in effect January 1, 1945: L. 1995 Ch. 14, in effect March 16, 1995.)

§ 5-34.0 **Collection of assessments by sale of the lien.**

a. The County Treasurer may enforce the collection of assessments for benefit by the sale of the lien of any such assessment for benefit or installment thereof which has remained unpaid for nine months from the time such assessment or installment became a lien. All the provisions of law relating to the collection of delinquent taxes by sale shall be applicable, as far as practicable, to the sale of delinquent assessments in so far as such provisions are not inconsistent with the provisions of title B of chapter eleven of the code.
(Subd. a amended by 1944 Ch. 718, in effect January 1, 1945.)

b. All the moneys collected upon an assessment for benefit, pursuant to this article, shall be deposited by the County Treasurer to the credit of the appropriate improvement fund.

§ 5-35.0 **Using of real estate for tax sale: additional charges**

a. Immediately after the tax sale has been completed the County Treasurer shall list in the books prepared for that purpose all the real estate on which tax liens have been sold. These books shall be called sales books and shall contain:

1. An accurate description of each parcel of real estate upon which taxes have been returned as unpaid.
2. The amount of such taxes.
3. The interest charges on such taxes up to the date of sale.
4. The name of the owner or occupant of or party in interest in each piece of real estate either as it appears on the assessment role of the year in which such unpaid taxes were levied or upon the records of the Receivers of Taxes at the times of returns of unpaid taxes pursuant to Section 5-23.0 of the Code.

In a separate column in the sales books opposite each such parcel the County Treasurer shall add to such unpaid taxes an amount sufficient in his judgment to cover the expenses of listing such real estate and of advertising the notice of sale of the tax liens on the real estate so listed. The County Treasurer may at any time prior to the actual sale of such property raise or lower such amount as In his judgment may be expedient.
(Subd. a amended by Local Law No. 1-1965, in effect January 7, 1965; amended by Local Law No. 1-1981, in effect March 30, 1981.)

b. Any deficiency in the amount of such expenses may be paid out of any other fees, penalties or charges added to such taxes. Any surplus accruing in the amount of such estimated expenses shall be paid into the County treasury. The total of such taxes, interest, penalties, charges and expenses shall thereafter be a lien upon the real estate affected. The County Treasurer is empowered to accept payment of an amount less than the total of the aforementioned taxes, interest, penalties, charges and expenses if the amount tendered at least equals the amount of the assessed taxes outstanding. The amount of interest penalties, charges and expenses not paid shall be the amount required to be paid as taxes before the sale of such tax lien.

If the sale of such tax lien be postponed beyond the date up to which interest on the unpaid taxes is computed, additional interest upon the entire sum then due, at the rate of twelve per centum per annum, from such date to the date of the sale of such property, shall thereafter be added to and collected with such unpaid taxes.
(Subd. b amended by Local Law No. 1-1981, in effect March 30, 1981.)

c. There shall also be a column in such sales books in which the treasurer shall enter the

name of the purchaser and the assignee of the purchaser, if any, of any tax lien, when the same shall have been sold. There shall be another column in which the treasurer shall enter the interest and penalty at which the purchaser shall have agreed to take the tax lien at the tax sale.

d. The County Treasurer shall prescribe the general form of such sales books and shall place therein such other columns and spaces and information as he may deem expedient and useful.

e. When real property on which taxes have been returned as unpaid has been listed in the additional columns in the assessment roll provided for pursuant to section 6-7.0 of the code, such assessment rolls may thereafter also be the tax sales books.

§ 5-36.0 **Advertisement of notice to taxpayers.**

a. Immediately after completion of the lists made pursuant to subdivision e of section 5-35.0 of the code, the County Treasurer shall publish a notice in two consecutive issues of every newspaper published in each town and city of the County; provided, however, such notice shall be published only in newspapers which have a bona fide circulation of five hundred or more during the two years preceding the publication of such advertisement. The County Treasurer shall likewise publish such notice in two newspapers published in the borough of Brooklyn, two newspapers published in the borough of Queens and in two newspapers published in the borough of Manhattan, City of New York.
(Subd. a amended by L 1944 Ch. 718 §, in effect January 1, 1945.)

b. Such notice shall be published in such newspapers in a conspicuous place mainly in agate type or in the next larger available size, but payment for such publication, shall be the same as if agate type were used. Such notice shall specify the date on which the tax lien on such property will be sold and copies thereof shall be posted in the Nassau County court house and in the building of the Nassau County bar association on or before the day of its first publication.
(Amended by L. 1948 Ch. 181, in effect March 10, 1948.)

c. Such notice shall be substantially as follows:

Notice to taxpayers is hereby given that the lists of unpaid taxes have been made. Unless such taxes with interest and accrued penalties be paid on or before the (here insert date of third Monday) day of December, the tax lien on the said property against which such taxes are levied will be advertised and on the……day of February thereafter sold. The lists shall remain open for examination in the County Treasurer's office at Mineola until the……(here insert date of third Monday) day of December. Any taxpayer Interested may send a brief description of the property to the County Treasurer and a statement of the amount of unpaid tax, if any, will be forwarded to him.

County Treasurer

Failure to make or publish such notice shall not invalidate or affect the validity of any sale of the tax liens on property mentioned or described in such lists.
(Subd. c amended by Local Law No. 1-1965, in effect January 7, 1965.)

§ 5-37.0 **Advertisement of notice of sale**.

a. Once within each of the three successive calendar weeks, immediately preceding the third Tuesday in February, the County Treasurer shall publish in each town and city, in a newspaper published in such town or city, as the case may be, and printed in the County, and at least once within the month of February prior to the lien sale in other publications, a list of real estate, located wholly or partly in such town or city, as the case may be, on which real estate

the tax liens are liable to be sold. The County Legislature shall designate the newspaper or other publication in which the listing or listings shall be made. Such other publication or publications in order to be considered for designation must contain news, articles of opinion (as editorials), features, advertising, or other matters regarded as of current interest and must have been printed and distributed no less than one year prior to being designated as qualified to receive notices required by law provided that such other publication or publications distributed or made available primarily for advertising purposes to the public generally without consideration being paid therefore shall not be deemed suitable for the purpose of publication or advertisement of notice required by law. Such list shall contain:

1. The name of the owner or occupant of or party in interest in each piece of real estate either as it appears on the assessment roll of the year in which such unpaid taxes were levied or upon the records of the receivers of taxes at the times of unpaid taxes pursuant to Section 5-23.0 of the Code.
2. A brief description of such real estate.
3. The total amount of such unpaid taxes.

b. As used in this section and in section 5-39.0 of the code, the term "total amount of such unpaid taxes" shall include all taxes for the year or years advertised, the interest and penalty on such taxes to the date of the sale and other expenses and charges against the property.

c. By such advertisement the owner or owners of such land and tenements, respectively, shall be required to pay to the County Treasurer the total amount of such unpaid taxes. Notices shall also be given by such advertisement that if default shall be made in such payment, the tax lien on such lands and tenements will be sold at the lowest rate of interest, not exceeding ten per centum per six months' period, for which any person or persons shall offer to take the total amount of such unpaid taxes which are then alien on such property. The tax lien shall be sold at public auction at a public building designated by the County treasurer on the third Tuesday in February specified in such notice and the succeeding days.

d. The County Treasurer shall also, prior to the commencement of publication required by subdivision a of this section, cause notice of such tax lien to be sent by first class mail to the name and address of the record owner or occupant and mortgagee, as shown on the assessment records or on the records kept by the receiver of taxes for the town or city in which the property is located, of each tax lien to be sold. Such notice shall contain a brief description of such parcel and tax lien, the aggregate amount due on such tax lien at the time of such sale, and a statement that unless such amount is paid prior to the commencement of tax lien sale proceedings, the tax lien will be sold. The expense of mailing such notice shall be an additional expense chargeable against the total unpaid tax lien or liens.

(Subd. a and c amended by Local Law No. 1-1965, Subds. a. b, and c amended by Local Law No. 5-1970, in effect August 25, 1970. Subd. d added by Local Law No. 1-1988, In effect January 25, 1988. Amended by Local Law No. 34-2000, effective November 10, 2000. Amended by Local Law No. 42-2000, effective January 1, 2001 so as to be applicable to the listings advertised for the 1999/2000 school taxes and the 2000 state, county, town and other taxes.)

§ 5-38.0. **Copies of notice of sale, to be furnished County Treasurer.** Each paper advertising such notice of sale shall furnish and deliver, without additional charge, to the County Treasurer not less than five hundred copies of the notice of sale containing the complete list of real estate advertised in such paper. The County Treasurer shall distribute such copies of the notice of sale to all applicants therefore without charge.

§ 5-39.0 **Sale of tax liens.**

a. If the owner, mortgagee, occupant of or any other party in interest in such real estate does not pay the total amount of such unpaid taxes within the period stated in such advertisement, then without further notice, on the day set for the sale, the County Treasurer shall commence the sale of the manner set forth in the advertisement referred to in section 5-37.0 of the code, and shall continue the sale from day to day until the tax lien on every such lot or parcel is sold.

b. The rate of interest and penalty at which any person or persons purchase the tax lien shall be established by his bid. This rate thus established shall be the rate of interest and penalty to which the bidder shall be entitled for a period of two years from the date of such sale or if the lien is discharged prior to such time, then up to the time of such discharge and provided further that for all tax liens sold on lots or parcels classified as class one or as residential condominiums classified as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York on or after the effective date herein indicated as well as for any tax lien sold on class one lots or parcels or on residential condominiums classified as class two to which title has not been conveyed to the tax lien purchaser or the assignee of such purchaser prior to such effective date provided that in such instance twenty-four months have not elapsed from the sale of the tax lien and where in either instance a hardship designation has been granted the rate of interest and penalty shall be for a period of three years from the date of such sale or if the lien is discharged prior to such time, then up to the time of discharge. The rate of interest and penalty on a tax lien for a class one lot or parcel or for a residential condominium classified as class two bearing a hardship designation shall be fixed by bid for the rust two years and in the third year fixed by subdivisions five and six of section 5-40.0 of this code. Notwithstanding the foregoing, for tax liens purchased in 2001 and thereafter, the rate of interest payable by the property owner for such respective periods shall be the maximum rate as set forth in § 5-40.0.

c. Tax Liens, on any real property on which the County holds a certificate of sale shall be excluded from any subsequent tax lien sale. Such tax liens shall automatically merge with tax liens previously sold to the County and shall bear maximum interest and penalties as set forth in section 5-40.0 and from the dates specified in sections 5-11.0 and 5-23.0 of this chapter.
(Subd. c. added by L. 1941 Ch. 203 1, in effect March 28, 1941, and amended by Local Law No. 8, 1982, in effect January 1,1983. Amended by Local Law 34-2000, effective November 10, 2000.)

§ 5-40.0 **Interest on tax liens; how computed.** The maximum interest and penalties which a tax lien may carry and bear are the following:

1. If satisfied within six months of the date of sale, ten per centum on the purchase price.
2. If satisfied after the expiration of six months and within twelve months of the date of sale, an additional ten per centum on the purchase price.
3. If satisfied after the expiration of twelve months and within a period of eighteen months of the date of sale, an additional ten per centum on the purchase price.
4. If satisfied after the expiration of eighteen months and within a period of twenty-four months of the date of sale, an additional ten per centum on the purchase price.
5. If satisfied after the expiration of twenty-four months and within a period of thirty months of the date of sale, an additional five per centum on the purchase price.
6. If satisfied after the expiration of thirty months and within a period of thirty-six months of the date or sale, an additional five per centum on the purchase price. However, with respect to tax liens sold before 2001, if the rate of interest at which the tax lien was

purchased is less than the maximum interest rate, the tax lien shall carry and bear such lower interest rate. Tax liens sold in 2001 or thereafter shall carry and bear interest at the maximum rate.

(Subds. 5 and 6 added by Local Law No. 13-1988, In effect November 17, 1988. Amended by Local Law 34-2000, effective November 10, 2000.)

§ 5-41.0 **Deposit; content of certificate of sale of tax lien.** Each purchaser at a sale of tax liens shall pay to the County Treasurer ten per centum of the amount of the tax lien immediately after such sale, and the remaining ninety per centum of such tax lien within thirty days after such sale. Thereupon the County Treasurer shall execute to each purchaser, including the County, a certificate in writing which shall contain:

1. A description of the real property affected by the tax lien which description shall refer to the designation of such property on the tax map, if such map has been completed.

2. The name of the owner of the real property as it appears on the tax books.

3. The interest and penalty at which such tax lien was purchased.

4. The date of the sale.

5. A statement that the tax lien was sold for unpaid school district, special district, town, county or state taxes, as the case may be.

6. The amount paid for the tax lien.

7. Such other Information as the County Treasurer shall deem expedient.

(Amended by Local Law 9 -2005.)

§ 5-42.0 **Liens on one or more separate and distinct parcels of real estate may be included in on, certificate.** If the tax liens on separate and distinct lots or parcels of real estate are offered-separately at a public tax sale, the County Treasurer may include such tax liens In one certificate of sale.

§ 5-43.0 **The County may purchases tax liens at tax sale.**

a. The County is empowered to purchase the tax liens on such lots or parcels of land at such tax sale at the maximum penalty, and is further empowered to accept deeds and to foreclose the certificates of sale and perform all other ads to perfect title to real property thus acquired. The County Treasurer shall annually furnish the Board of Supervisors with a report of the tax liens acquired by the County at such sales, which remain unredeemed and to which the County is entitled to a deed or upon which foreclosure proceedings may be commenced.

b. The County Attorney or special counsel to the County shall conduct all foreclosure proceedings and, under the supervision of the Board of Supervisors, shall perform all necessary legal work on behalf of the County in connection therewith. The Board of Supervisors may release or sell the real property thus acquired and by ordinance may prescribe the terms and conditions therefor. Such board may provide in such terms and conditions for public sale, the taking back of purchase money mortgages by the County, installment contract sales and other means of selling and financing the sale of such real property. Such ordinance shall provide that the real property shall be offered for release or sale at public auction before any other method of release or sale may be used. However, this section shall not prevent the sale or release of such real property before public auction if the consideration is not less than the amount of taxes thereon, together with interest, penalties and all charges and expenses through the date of such

release or sale including the expenses of such release or sale.

c. The Board of Supervisors may cause to be transferred or conveyed any interest In such land necessary to facilitate the perfection of the title thereto.
(Subd. b and c. amended by L. 1939 Ch. 70. § 6, in effect June 5, 1939.)

§ 5-44.0 – **Registration Fee**. The County Treasurer shall charge a registration fee of $100.00 per day to each person who shall seek to bid at the public auction required by section 5-33.0 of the code and shall include a statement informing potential bidders of such fee in the advertisement required by section 5-37.0 of the code.
(Prior §5-44.0 entitled "Financing the purchase of tax liens by the County" repealed by L. 1939 Ch. 70. § 5, in effect June 5, 1939; current § 5-44.0 added by Local Law 9-2000, effective March 24, 2000.)

§ 5-45.0. **Assignment of tax liens**.

a) The County Legislature may approve by resolution the assignment, sale or transfer of any certificate of sale held by the County pursuant to such agreements, as the County Treasurer shall deem necessary or appropriate.

b) Certificates of sale held by the County shall be assigned, sold or transferred upon payment to the County of an amount of cash sufficient to pay the taxes for which such sale shall have been made with interest thereon to the time of sale, and all costs, expenses and charges accrued thereon; provided, however, that certificates of sale held by the County may be assigned, sold or transferred for consideration less than the full amount of such unpaid taxes, interest, penalties and expenses and/or for consideration other than cash, including but not limited to notes, obligations or any combination thereof, whenever it is in the best interests of the County; provided further, that no such assignment, sale or transfer for less than the full amount of such unpaid taxes, interest, penalties and expenses or for consideration other than cash shall be made to any owner of the affected property or any person having an interest therein or any related person.

c) A holder of a certificate of sale of a tax lien or liens, other than the County, may transfer and assign such certificate of sale as to any or all tax liens included therein by a written instrument for that purpose which instrument shall be filed with the County treasurer. The County treasurer shall collect such fees for filing of each such instrument provided for in this subdivision as shall be provided by ordinance of the County Legislature.

d) Any agreement entered into by the County treasurer for the transfer or assignment of a certificate of sale held by the County may provide for the terms and conditions under which the purchaser shall be liable to the County for a default under such agreement, the manner of determining damages, the remedies available to the County, including without limitation the forfeiture of any deposit, partial payment or other security or consideration and the reversion of tax liens to the County treasurer.

e) The County treasurer shall collect a fee for the filing of an affidavit in lieu of a lost certificate of sale of a tax lien or liens by other than the County, as shall be provided by ordinance of the County Legislature.
(Subds. b and c of § 5-45.0; Local Law No. 8-1980, in effect August 11, 1980; subdivisions c & d added by Local Law 17-2000, effective June 1, 2000; Amended by Local Law 17-2000, effective June 1, 2000.)

§ 5-46.0 **Failure of purchaser to complete purchase.** In case the purchaser at a tax sale shall fall to pay the remaining ninety per centum due on his purchase within ten days after he

has been notified by the County Treasurer that the certificates of sale are ready for delivery, the ten per centum paid by him to the County Treasurer upon the sale, without any notice or demand, shall be irrevocably forfeited by the purchaser and shall be retained by the County Treasurer as liquidated damages. Thereupon the agreement to purchase shall be of no further effect. The tax lien shall be transferred to the County and all rights shall accrue and be vested in the County In the same manner as though the County had purchased the tax lien at the original tax sale.

(Amended by Local Law No. 1-1965, in effect January 7, 1965.)

§ 5-47.0 **Advertisement of resale of tax liens.**

(Repealed by Local Law No. 1. 1965, in effect January 7, 1965.)

§ 5-48.0 **Rights of purchasers.**

a. There shall be due and payable to a holder of a tax lien twenty-four months from the date of sale of such lien:

1. The amount paid for the lien.
2. The interest and penalty thereon at the rate for which he purchased the lien.
3. The cost and expenses which have accrued against the property affected by the lien, as provided in this article.

b. Regardless of whether the property owner or oilier person interested in or having a lien upon such property shall pay such amounts to the holder of the tax lien, the excess, if any, of the interest and penalty borne at the maximum rate over the interest and penalty borne at the rate at which such holder purchased the lien shall remain a lien on the real property and shall be payable to the County.

(Amended by L. 1941 Ch. 679 § 3, in effect April 22, 1941; amended by Local Law 34-2000, effective November 10, 2000.)

§ 5-49.0 **Payment by holder of certificate of sale; penalties thereon.**

a. The holder of a certificate of sale of tax liens, at any time after the annual return of taxes to the County Treasurer by the receiver of taxes, may pay to the County treasurer any taxes on such return and any older' taxes that are a lien on such property.

b. The holder of such certificate making payment of such taxes shall emitted to and shall receive the full amount of the taxes thus paid with interest and penalties thereon from the date of payment at the same rate and payable in the same manner as the interest and penalties at which he purchased such tax lien.

c. The taxes, so paid by the holder of the certificate of sale of the tax lien, plus the interest and penalty at the maximum rate determined pursuant to § 5-40, shall become a lien on the property and shall be payable at the time of the discharge of the certificate or sale of the tax lien or at the time of completion of foreclosure proceedings out of the proceeds realized at such sale of the property.

(Amended by Local Law 34-2000, effective November 10, 2000.)

§ 5-50.0 **When tax lien may be discharged.**

a. The owner of, or any person interested in, or having a lien upon any real estate on which the tax lien has been sold may satisfy the same, at any time before the delivery of the County Treasurer's deed or the sale in an action to foreclose the tax lien, upon the following terms:

1. To satisfy the tax lien prior to the service of the notice to satisfy provided for in section 5-51.0 of the code, he shall pay to the County Treasurer.

   (a) The sum for which the tax lien was purchased.

   (b) The subsequent taxes paid by the purchaser on the property affected by the tax lien; or in the event that the County is the holder of the certificate of sale, the taxes which remain unpaid on the books of the County Treasurer pursuant to subdivision c of section 5-39.0 of the code.

(Subd. a-1 (b) amended by L. 1939 Ch. 706 §, in effect June 9, 1939. Amended by Local Law 34-2000, effective November 10, 2000.)

   (c) Interest and penalties on the amounts of the tax lien and the subsequent taxes, calculated as provided in section 5-40.0 of the code.

2. To satisfy the tax lien after the service of the notice to satisfy provided for in section 5-51.0 of the code he shall pay to the County Treasurer, in addition to the sums aforementioned, a further sum which shall be the actual costs of the title and tax search and of serving such notices. Such sum shall be payable only if proof of service of such notice or notices and the expense thereby incurred shall have been filed with the County Treasurer.

3. To satisfy the tax lien after the commencement of the foreclosure proceedings, the person satisfying the same shall pay in addition to the aforementioned sums the bill of costs as prescribed in section 5.65.0 of the code. The expenses allowed for title and tax searching in this section shall be part of the foreclosure disbursements and not in addition thereto.

b. The County Treasurer shall continue to receive and allow satisfactions of the tax lien in the manner set forth in subdivision a of this section and on the terms provided until the delivery of the County Treasurer's deed or until a notice of election to foreclose the tax lien is filed with him by the holder thereof together with proof by affidavit or certificate that a summons, complaint and notice of tendency of action in an action to foreclose the lien shall have been duly filed in the office of the County clerk. The County Treasurer shall not thereafter allow satisfactions or receive payments therefore except on order of the court duly made in the action.

c. A payment made pursuant to this section, to satisfy a tax lien shall be received by the County treasurer on behalf of the holder of the tax lien to the extent of the amount owed to the holder. Upon the receipt of such payment, the County treasurer shall give notice thereof to the holder of such tax lien by mail, addressed to such address as may have been furnished to the County treasurer. Upon receiving the surrender of the certificate of sale of the tax lien, the County treasurer shall pay to the holder the amount owed to him as holder of the tax lien. The County treasurer, upon receipt of the satisfaction money, as above provided or upon the surrender of the certificate of sale of the tax lien, shall cancel and discharge the tax upon record. Any such moneys remaining on deposit for more than five years after the date of redemption shall be paid over and credited to the general fund of the County. After a deposit shall have been so transferred, the holder or his successor in interest may obtain payment upon surrender of the certificate and proof of the title to such deposit, satisfactory to the Treasurer, but the claim to such deposit must be filed with the County Treasurer prior to the expiration of twenty years from the day the deposit was transferred to the County general fund.

(Subd. c amended by Local Law No. 1, 1959, in effect June 22, 1959. Amended by Local Law 34-2000, effective November 10, 2000.)

§ 5-51.0 **Notice to owner by holder.**

a. The holder of any tax lien which is not satisfied, shall give notice to the occupant, owner in fee, trustee, mortgagee, judgment creditor or purchaser at any other county tax sale of a tax lien affecting the same property, and the heirs, legal representatives and assigns of any or either of them, the guardian of any Infants having any Interest therein, and any other person having a lien, claim or Interest appearing of record on the premises affected by such sale. The words "appearing on record" shall be construed to refer to any person on whom a notice is hereby required to be served, the nature and degree of whose Interest appears from the records kept by the County Clerk, County Treasurer, Surrogate of the County and receiver of taxes for the town or city in which the property is located.
(Amended by L. 1952 Ch. 514, in effect May 1, 1952.)

b. Such notice may be given at any time after the expiration of twenty-one months from the date of the sale of the tax lien. Such notice shall be printed in a clear and coherent manner using words with common and everyday meanings on the form prescribed by the County Treasurer for such purpose and shall state briefly:

1. The lot or lots or parcel or parcels of land or condominium affected by the tax lien.
2. The lien date of the tax for which the tax lien was sold and the month and year at which the tax lien was sold and the other tax years which may have been paid by the holder pursuant to section 5-49.0 of this code.
3. The expense of making searches thereon and serving the notice.
4. The first day upon which the holder of the tax lien may elect to accept a deed of conveyance of such property or to call his money and foreclose his tax lien as the case may be, which day shall not be less than three months from the day of service of the same if the copy of the notice and affidavit be filed pursuant to subdivision e of this section on the same date. If the copy of the notice and the affidavit be filed subsequent to the date of service, the first day upon which the holder of the tax lien may make his election shall not be less than three months from the date of such filing.
5. The right of the owner in fee appearing of record of a class one lot or parcel or of a residential condominium classified as class two that serves as the actual residence of such owner to make an application to the Board of Hardship Review for a one year extension of time to redeem such lot or parcel or condominium and the time period In which such an application is to be made.
6. The notice shall further state that the satisfaction is to be made at the office of the County Treasurer at Mineola, and that in the event that such notice, the holder may elect to accept a deed of conveyance of such property or to call his money and foreclose his tax lien as the case may be.

(Subdivision 6 amended by Local Law No. 13-1986, in effect November 17, 1986; subdivision, part 1 and part 5, amended by Local Law No. 21-1990, effective November 26, 1990; subdivision b. part 6, added by Local Law No. 21-1990, effective November 26, 1990.)

c. A holder of a tax lien shall serve notice on the owner in fee as appearing of record for said premises classified as class one or of a residential condominium classified as class two by personal service, as defined in the Civil Practice Law and Rules of the State of New York when

said owner is a resident of Nassau County; notice shall be served on a non-resident owner as appearing of record of class one lot or parcel and/or of a class two residential condominium and owners appearing of record of other lots and parcels and other parties in interest as specified in subdivision a of section 5-51.0 of this code by certified mail, postage paid, return receipt requested, showing address where delivered, and addressed to such person's last known address. The receipt of the postmaster for such certified mail and the return card by the post office and the affidavit of the person mailing it, setting forth the means by which the last known address was ascertained, shall be sufficient evidence of the service of the notice. Where certified mail is not available registered mail may be substituted for service of notice.
(Amended by Local Law No. 13-1986, in effect November 17, 1986; amended by Local Law No. 21-1990, effective November 26, 1990.)

d. If no information can be obtained as the last reputed place of residence of the parties in interest or any of them, the County Treasurer, upon the payment of a fee of fifty cents, shall issue a certificate to the holder of the certificate of sale of the tax lien that no taxes have been paid on the property within the last five years, by the person sought or if so paid that no address is disclosed by such payment. Upon the issuance of such certificates, service by certified mail shall be dispensed with.

e. The County Treasurer, upon receiving a copy of such notice, together with an affidavit by the holder or his attorney or agent that service has been properly made pursuant to this section and stating the expense incurred for searches and serving the notice, shall make an appointee notation of such service and expense in his records. Such expense must not exceed two hundred fifty dollars and shall be collected by the County Treasurer at the time of satisfaction of the tax lien as provided in Section 5-50.0 of the Code. Such searches may be made by an attorney or title company, or title searcher, and in the event of the foreclosure of the tax lien shall be allowed in the bill of costs. Not more than one notice, however, may be served by any purchaser of tax liens where the certificates of sale of tax liens cover lots of identical title which are contiguous. However, as many certificates of sale as the holder may wish may be included in one notice, without respect to difference in ownership, in which event the cost shall be equally apportioned by lot.
(Subdivision c amended by Local Law No. 14-1990, in effect October 15, 1990.)

f. If such notice is not served by the holder of the certificate of sale before commencing an action to foreclose, he shall be entitled to disbursements only as provided by the civil practice act, and not to costs, provided the defendant offers to pay the penalties allowed by law at any time before final judgment is entered.

g. The validity of any deed issued by the County Treasurer, pursuant to section 5-53.0 of the code, and the regularity of any proceedings prior to its delivery shall not be affected or impaired by failure to give the notice provided for by this section, but such deed shall be as valid and served. If a notice is served upon a person after the time it should property have been served, the person so served, or his successor In Interest, at any time prior to the expiration of three months from the date of service of such notice, may satisfy the tax lien upon the terms provided in section 5-50.0 of the code as if the treasurer's deed had not been issued. Similarly, any person who should have been served and was not so served or the successor in Interest of such person, may, in the same manner satisfy the tax lien prior to the granting of a judgment in the action instituted pursuant to section 5-57.1 of the code. Every such satisfaction shall be as effectual as if made before the delivery of the treasurer's deed.

h. An application for the County Treasurer's deed must be made, or an action to foreclose the tax lien commenced within fifteen years of the first day on which a notice to redeem pursuant to this section could first be served. Unless such application is made or action commenced within the time limited hereby, all nights of the holders of such tax lien to enforce it

shall terminate and the tax lien shall cease to be a lien upon the real property described therein and the County Treasurer shall mark his records accordingly.

i. If a tax sale certificate shall have been assigned pursuant to sections 5-45.0 of this Code subsequent to the serving of a notice to redeem pursuant to this section, such notice shall be deemed cancelled and the assignee shall be required to serve a new notice upon which the name of the assignee shall be endorsed.

j. If subsequent to the services of a notice to redeem as provided by this section, the holder of the certificate of sale, or the assignee of such certificate, shall pay any further taxes, in pursuance of section 5-49.0 of this code, which are not set forth in the notice to redeem served in accordance with this section, then such notice shall be deemed cancelled and the holder of the certificate, or the assignee thereof, shall be required to serve a new notice to redeem in which such taxes shall be set forth together with such other information as shall be required by this code.

(Para. 2 of subd. b amended by L. 1950 Ch. 543 and L. 1959 Ch. 144, part 4 of subd. b amended by L. 1943 Ch. 71 and L. 1959 Ch. 144; Subd. L. amended by Local law No. 16-1967, in effect October 1, 1967, and Local Law No. 8-1979, in effect July 9, 1979, and by Local Law No. 8-1982, in effect January 1, 1983; subd. d amended by Local Law No. 8-1979, in effect July 9, 1979; Subd. e amended by local law No. 8-1979, in effect July 9, 1979; Subd. g added by l. 1939 Ch. 704; Subd. h added by L. 1948 Ch. 188 and amended by L. 1959 Ch. 139: Subd. i added by L. 1959 Ch. 140: Subd. j added by L. 1961 Ch. 853, in effect May 7, 1961.)

§ 5-52.0 **Possession of real estate affected by tax Use; when obtained by holder.**

a. In the event that the tax lien has not been satisfied as provided in section 5-50.0 of the code, the holder of the tax lien may obtain actual possession of the premises after title to such premises has been conveyed to him pursuant to this article.

b. Such actual occupation may be obtained by an action at law or by causing the occupant of such real property to be removed, therefrom, and the possession thereof to be delivered to the holder of the tax lien in the same manner, and in the same proceedings, and before the same officers as In the case of a tenant holding over after the expiration of his term without the permission of his landlord. If the owner of such real property, and not a tenant thereon, is in actual occupation of such real property at the time an action is brought pursuant to this section, and if such owner has not been given notice pursuant to section 5-51.0 of the code, then the holder of the tax lien shall not be entitled to actual occupation of the premises until after three months from the service of notice in such an action.

(Amended by L. 1939 Ch. 704 § 8, in effect June 5, 1939.)

§ 5-53.0 **Conveyance by the County when tax lien is not satisfied.** If such tax lien is not satisfied, the County Treasurer shall prepare and execute to the holder of such certificate of sale of the tax lien a conveyance of the real estate on which the tax lien has been sold. This conveyance shall vest in the grantee an absolute estate in fee, subject to any claims which the County may have thereon for tax or other hens or encumbrances. Upon preparation and execution of such conveyance, the County Treasurer shall cause such conveyance to be filed with the office of the County Clerk and the grantee shall, at the time of execution of such conveyance, pay to the County Treasurer an amount equal to the fee charged by the County Clerk for such filing. Such conveyance shall be executed only upon:

1. Performance by such purchaser of the condition which he is required to perform pursuant to this article.

2. Surrender of such certificate of sale.

3. The taking and paying for by the holder of an assignment of all outstanding prior tax

liens held by the County upon the premises.

4. The filing of proof of service of notice upon owners and other interested persons as provided by section 5-510 of the code.
(Amended by L. 1941 Ch. 635 § 1 in effect April 21, 1941 and by Local Law No. 8-1979, in effect July 9,1979.)

§5-54.0 **Effect of conveyance by the County.**

a. The County Treasurer may demand and receive from such grantee for the use of the County the sum of twenty five dollars for each tax parcel conveyed, with the maximum number of parcels on a single tax deed not to exceed ten (10).
(Amended by Local Law No. 15-1990, in effect October 15, 1990.)

b. Every such conveyance shall be attested by the County Treasurer and the seal of the County Treasurer shall be attached thereto. When so executed, the conveyance shall be presumptive evidence that:

1. The sale of the tax lien was regular.
2. All proceedings prior to such sale, including the assessing of the lands affected by such tax lien were regular.
3. All notices required by section 5-51.0 of the code to be given previous to the expiration of the time allowed by that section for the satisfaction of the tax lien, were given and were regular and according to law. After six years from the date of record of any such conveyance In the County Clerk's office, such presumption shall be conclusive.

c. Two or more lots or parcels of real estate may be included in the same deed of conveyance if the tax liens on such lots or parcels were sold to the same person.
(Subd. a amended by Local Law No. 8-1919, in effect July 9, 1919, and amended by Local Law No. 8-1982, in effect January 1, 1983.)

§ 5-55.0 **Conveyances may be obtained until foreclosure is instituted.** Notwithstanding any provisions in the tax law, the holder of any certificate of sale of a tax lien may apply for and obtain a conveyance of the land affected by such certificate of sate, after complying with section 5-53.0 of the code and at any time prior to bringing action for foreclosure.

§ 5-56.0 **Record of conveyance; cancellation thereof.** Every certificate of sale of a tax lien and every conveyance by the Treasurer executed as provided by section 5-53.0 of the code may be recorded as other conveyances of land under the laws of this state. Such conveyance, if not recorded in the office of the County Clerk may be returned to the County Treasurer and cancelled at any time. Such cancellation shall terminate all nights hereunder of the grantee.

§ 5-57.0 **Removal of property from real estate when deed of county is invalid.** If a person enters into possession of real property under such conveyance and erects or places any building, building materials or other property on such real property, and thereafter is ousted by another person claiming adversely to such deed, the person so ousted shall have the right to remove such building, building materials or other property within three months after trial, judgment, ouster or ejectment.

§ 5-57.1 **Action to establish the regularity of a tax sale and the title to real estate resulting therefrom.**

a. The owner, including the County, of any specific real property in the County or of any

undivided interest therein in fee, or for life or for a term of years not less than ten, whose ownership or interest originated in or is founded upon a deed of conveyance executed by the County Treasurer pursuant to section 5-53.0 of the code, may maintain in the supreme court or in the County court of the County an action to compel the determination of any claim which any person makes or which, as appears, from the public records, any person might make to any legal or equitable estate or interest in such real property. Jurisdiction of such action and of all the issues raised therein is hereby conferred upon the County court of the County.

b. All of the provisions of article fifteen of the real property law shall apply to such an action, except that:

1. The plaintiff shall not be required to allege or prove that either he or his predecessor in title is or ever has been in possession of such real property.
2. The action may be maintained notwithstanding the fact that the real property is vacant and unoccupied.

c. So much of article fifteen of the real property law, however, as limits such an action to the determination of adverse claims, liens or encumbrances of a value not less than two hundred fifty dollars shall not apply to such an action, but such an action may be maintained whatever the value of the claim, lien or encumbrance sought to be determined may be; nor shall it be necessary for the complaint to set forth fads showing whether any defendant is known or unknown, and whether any defendant is or might be an infant, an idiot, a lunatic, or a habitual drunkard. Provided, however, that before the plaintiff obtains judgment, he shall be required to inform the court, by affidavit, of those facts within his knowledge that might show a defendant to be an infant, an idiot, a lunatic or a habitual drunkard.

d. But any defendant shall have the right, and the plaintiff must in such action specially plead that he extends such right to such defendant to set aside the deed of the County Treasurer and to satisfy the tax lien on which such deed was based by making a satisfaction pursuant to the terms of section 5-50.0 of the code as if no deed had been issued. In addition, such defendant shall pay to the plaintiff such actual disbursements as in the judgment of the court shall be fairly attributable to such lots or parcels, the tax lien on which has been thus satisfied. Such right of satisfaction shall terminate and cease upon the granting of final judgment. If the satisfaction be made by a municipal corporation, it may at its option, obtain an assignment of the plaintiff's title, and continue the action in its own name, as plaintiff. If the plaintiff so desires, the final judgment may be recorded as a deed in the office of the County Clerk upon the payment of the recording fees The County Clerk shall index the same as if the defendant were grantor and the plaintiff grantee.

e. So much of section two hundred seventeen of the civil practice act or of article fifteen of the real property law as require! or permits the court to allow a defendant to defend an action after final judgment shall not apply to such an action.
(Added by L. 1939 Ch. 704 § 9, in effect June 5, 1939.)

§ 5-57.2 **Service of summons by publication in an action provided for in section 5-57.1.**

a. The summons may be served on the defendant by publication pursuant to an order of the court in which the action is pending, or a judge thereof. The order must be founded upon a verified complaint showing the cause of action against the defendant to be served and proof by affidavit as hereinafter required in this section.

b. Such affidavits shall show:

1. That the deponent is qualified to make personal service of the summons within the state.
2. That the deponent has been employed by the plaintiff's attorney to serve the summons on the defendant.
3. That the deponent has searched and inspected the records in the offices of the County Clerk, the County Treasurer, the surrogate of the County and the receiver of taxes for the town or City in which the property is located, for the purpose of making such service and ascertaining places where such defendant resides or could be found or would be likely to receive matter transmitted to him through the mail.
4. The last address of the defendant ascertained by, or otherwise known to the deponent, to the best of his knowledge and belief and a statement that his knowledge has been acquired from and his belief is founded upon his searches, and inspection of the records in the offices of such clerk, treasurer, surrogate and receiver of taxes.
5. Whether the real property affected by the action is improved or vacant, occupied or unoccupied, and if occupied, the name of the occupant, if the deponent has been able to learn such name.

(Subd. g. amended by L. 1952 Ch. 514, in effect May 1, 1952.)

c. The order for service of the summons by publication:

1. Shall direct that such service be made by publication thereof in two newspapers published in the County, designated in the order as most likely to give notice to the defendant to be served, for a specified time, not less than once in each of two successive weeks.
2. Shall contain either a direction that on or before the day of the first publication the plaintiff deposit in a post office, or in any post office box regularly maintained by the government of the United States, one or more sets of copies of the summons, complaint and order, and of the notice required by rule fifty-two of the rules of civil practice, each set property enclosed in a postpaid wrapper addressed to the defendant to be served, at his last known address as stated in such order, and If the defendant be an infant, addressed to his father, mother or guardian or a person having the care or control of him or with whom he resides, at a place or the places where such defendant or any such person probably would receive matter transmit through the post office, dispenses with the deposit of any papers therein.

(Added by L 1939 Ch. 704 § 10, in effect June 5, 1939.)

§ 5-58.0 **Action by purchaser.** The holder of any certificate of sale of a tax lien, instead of taking a conveyance of the property, may at his option recover the amount paid for such certificate at the tax sale, with all interest, penalties, additions and expenses allowed by law In the foreclosure of the tax lien as provided in this article. For that purpose such holder may maintain an action in the supreme court or in the County court of Nassau County to sell such property. Jurisdiction of such action is hereby conferred upon such county court.

§ 5-59.0 **Parties to the action.**

a. The plaintiff in such action shall include and join therein and may likewise recover upon all prior and subsequent certificates of sale of tax liens, held by him, and such other taxes which he has paid and which relate to the same property in whole or in part. If the County is the

plaintiff, it shall include and recover upon taxes which remain unpaid on the books of the County Treasurer pursuant to subdivision c of section 5-30.0 of the code. The plaintiff may include and join In one action all certificates of sale relating to two or more separate and distinct parcels of real property belonging to the same person or to two or more persons or corporations. However, all lots or parcels belonging to separate persons shall be distinctly set forth in separate paragraphs of the complaint and shall be sold under such proceedings separately.

b. In any action to foreclose a tax lien, the plaintiff shall make a party to such action any person who has or may have, or any person that the plaintiff has reason to believe has or may have an interest in, or a claim upon the real property affected by such tax lien. The people of the State of New York, the County of Nassau, any municipal corporation or district may be made a party in the same manner as a natural person, but in such event the complaint shall set forth, in addition to the other matters required by law, detailed facts showing the particular nature of the interest in or the lien on such real property of such party; provided, however, that the plaintiff shall not be required to state the amount of such interest or lien.
(Amended by L. 1939 Ch. 707 § 1, in effect June 5, 1939.)

§ 5-60.0 **When foreclosure action may be commenced.** The action provided for in section 5-58.0 of the code may be commenced at any time after twenty-four months from the date of sale mentioned in the certificate of sale. All the provisions of the civil practice act and all other provisions of law and the rules of practice relating to actions for the foreclosure of mortgages shall apply to the action hereby authorized so far as applicable except as otherwise provided in this article. It shall be sufficient for the plaintiff to set forth in his complaint in such action:

1. A copy of or the substance of his certificate of sale of the tax lien, and the amount of interest, additions and expenses claimed by him.

2. A statement that the tax lien has not been satisfied pursuant to section 5-50.0 of the code or that the real property affected by such tax lien and the Interest, penalties, additions and expenses thereon.

3. A statement that the plaintiff elects to recover the amount of the tax lien and the Interest, penalties, additions and expenses thereon.

4. A statement that the defendants have or may have some interest In or lien upon the property affected by the action.
(Amended by L. 1941 Ch. 679 § 5, in effect April 22, 1941 )
(Section 6 of L. 1941 Ch. 679 provides: “All rights and remedies provided for the enforcement of tax liens and the redemption of real property affected by a tax lien sold at a sale of tax liens held prior to the first day of April, nineteen hundred forty-one shall continue in respect to such tax liens and such real property in the same manner as though this chapter had not been enacted.)

§ 5-61.0 **Pleadings and proof required in action of foreclosure.** In such proceedings to recover the amount due the holder of such certificate of sale of the tax lien. It shall not be necessary to plead or prove any action, proceedings, or right of action, preceding the delivery of such certificate by the County Treasurer, or to establish the validity of the tax lien transferred by such certificate.

§ 5-62.0 **Court to determine and enforce all rights of parties to such action.**

a. The court shall have full power:

1. To determine and enforce in all respects the rights, claims and demands of the several parties to such action, including the rights, claims and demands of the defendants as between themselves.

2. To direct a sale of such real property:

3. To direct the distribution or other disposition of the proceeds of such sale.

b. Any party to the action may become the purchaser at any such sale.
(Subd. d amended by L. 1939 Ch. 707 § 2, in effect June 5, 1939.)

§ 5-63.0 **Distribution of proceeds of sale; pleadings of holders of certificates of sale who are defendants.** The parties in such action shall be paid from the proceeds of sale the several amounts found to be due to them by the judgment so far as such proceeds shall suffice to pay the same, in the order of the lawful priority of the liens and the interest of the respective parties in and against the premises as the same may be determined in this action. It shall be sufficient for any defendant who is a holder of a certificate of sale to set forth in his answer his certificate of sale or the substance thereof with the other allegations as provided in this article with regard to the complaint in the action. A defendant alleging irregularity or invalidity in the assessing for the assessment roll of the real property affected by the tax lien, the levying of the taxes on such property or the sale of the tax lien thereon shall particularly specify in his answer such irregularity or invalidity.
(Amended by L. 1939 Ch. 107 § 3, in effect June 5, 1939)

§ 5-64.0 **Conveyance vests absolute fee in purchaser.**

a. The conveyance made pursuant to a judgment In any such action shall vest in the purchaser all right, title, interest, estate, claim lien and equity of redemption in and against the premises sold:

1. Of all the parties to the action;

2. Of each person claiming from, through or under such parties by title accruing after the filing of notice of tendency of the action; or

3. Of persons whose conveyance or encumbrance is subsequent or is subsequently recorded.

b. All such parties and persons shall be barred and forever foreclosed by the judgment in such action of all right, title, interest, estate, claim, lien and equity of redemption in and to the premises sold or any part thereof. The judgment in any such action may direct the cancellation or satisfaction of record of taxes, assessments or other claims of any of the parties to the action.

c. Such conveyance shall not affect:

1. Subsequent taxes and assessments, and sales on account thereof, and

2. Taxes and assessments which have become liens subsequent to the tax lien which was sold by the County to the plaintiff and which is being foreclosed by the plaintiff in an action in which the County is not the plaintiff, and sales on account of such subsequent taxes and assessments.
(Subd. e amended by L. 1939 Ch. 707 § 4, in effect June 5, 1939.)

§ 5-65.0 **Costs and allowances.**

a. The court, in its discretion, may designate the sheriff as the officer to make the sale of real property in any such action or proceeding. Unless the judgment otherwise directs, the officer making the sale must first pay, out of the proceeds, as a part of the expenses of the sale

all taxes and assessments which are liens upon the property sold and which have become such prior to or subsequent to the filing of notice of tendency of the action. In addition, he must satisfy any tax lien on such real property which tax lien has been sold subsequent to the filing of such notice of tendency of action.

b. The plaintiff's cost and allowances, exclusive of disbursements, shall be the same as the costs and allowances provided by the civil practice act in the case of foreclosure of mortgages on real estate by action, except that there shall be no allowances by statute or by the court unless the amount recovered is in excess of five hundred dollars.

c. In any action to foreclose a tax lien sold on lots or parcels classified as class one or on lots or parcels that are residential condominiums classified as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York on or after the effective date herein indicated or on such other lot or parcel classified as class one or on such other lot or parcel that is a residential condominium classified as a class two to which title has not been conveyed to the tax lien purchaser or the assignee of such purchaser tax deed prior to such effective date the plaintiff shall be entitled to an additional allowance for reasonable counsel fees to be fixed by the court provided the amount recovered in the action to foreclose is in excess of five hundred dollars.

(Subdivision c of Section 5-65.0 added by Local Law No. 13-1986, in effect November 17, 1986: amended by Local Law No. 21-1990, effective November 26, 1990.)

§ 5-66.0 **Notice of foreclosure to County Treasurer.** Any party to an action to foreclose a certificate of sale of a tax lien, or any purchaser of the real property or any party in interest may give notice of such foreclosure to the County Treasurer after the sale of such property pursuant to a judgment under such proceeding. After such notice has been duly served, the items which constituted the tax lien thus foreclosed shall not be entered by the County Treasurer or the town receiver of taxes on any will or by the Board of Assessors in any assessment roll, so long as the judgment of foreclosure of such lien remains in force.

§ 5-67.0 **Remedy of action for foreclosure is additional.** The remedy for the recovery of the amount due the purchaser by action and foreclosure shall be in addition to all other remedies allowed by law with regard to certificates of sale, and shall not be dependent upon them, or any of them.

§ 5-68.0 **Reimbursement for invalid or irregular certificates of sale.**

a. When any holder of tax liens shall be unable to recover or retain possession of any real estate affected by the tax lien, by reason of any irregularity or error in:

1. The assessment of real property;
2. The levying of any tax thereon; or
3. The proceedings for the collection of any tax, the County Treasurer, with the approval of the County Comptroller, shall reimburse such holder. Such reimbursement shall be for the money paid for the tax lien, with interest from the time of its payment, at the rate of either four per centum per annum or the rate of interest bid on the lien, whichever is lower, but not to exceed two years less any payments made toward satisfying the tax lien or amounts collected as interest on the tax lien.

(Amended by L. 1950 Ch. 80, in effect March 7, 1950.)

b. If the irregularity or error is only in the proceedings for the collection of any tax, the County Treasurer upon the cancellation of the sale shall reinstate the tax upon the assessment

roll.

c. In any event the Board of Supervisors upon such cancellation, may if it shall deem advisable, order a relevy and reimposition upon the same real property of any amount or sum so paid by the County. Such sum for all the purposes of the code shall be deemed, and taken to be, an original general county tax as of the date of such relevy and reimposition.
(Amended by L. 1941 Ch. 181 § 1, in effect March 21, 1941.)

§ 5-68.1 **Agreements between the County and municipal corporation, or districts therein for the collection of taxes.**

a. The County, by resolution of the Board of Supervisors, may enter into an agreement with any municipal corporation or district therein with respect to any parcel of real property on which each of the parties has tax liens. The resolutions of the governing bodies of the parties to the agreement authorizing such parties to enter into the agreement may also provide for the satisfaction and discharge of such tax liens of record although the amount realized from the sale or other disposition of the property pursuant to the agreement is insufficient to pay the full amount of the tax liens of the parties to the agreement.

b. The agreement shall provide that such real property shall be released to one of the parties for a valuable consideration or shall be sold pursuant to foreclosure proceedings or shall be sold pursuant to section 5-43.0 of the code. At a sale pursuant to such an agreement, such real property may be sold free and clear of all tax liens of municipal corporations or districts which are parties to the agreement and tax liens which have been returned to the County Treasurer as unpaid. If the proceeds of such sale after paying the costs and expenses thereof are insufficient to pay in full the tax liens of the parties to the agreement, such proceeds shall be divided, among the parties pursuant to the terms of the agreement.

c. In the event such an agreement is entered into and foreclosure proceedings are brought thereunder, the affidavit of regularity shall so state and a copy of such agreement shall be attached thereto. Thereupon, notwithstanding anything to the contrary in the code or in any other general or special law, the judgment shall refer to such agreement and shall provide for the distribution of the proceeds pursuant to the agreement.

d. Such an agreement may also be made between the County and any person having any tax lien on or any other right, title, interest or equity of redemption in such property. However, such agreement shall not authorize the County to release the property to such person.

e. When authorized by resolution of the Board of Supervisors, the County may protect any tax lien owned by it by bidding for and purchasing the real property affected by such tax lien at a judicial sale of such real property in any action for the foreclosure of a lien for unpaid county, municipal corporation or district taxes or assessments for benefit or local improvements.

f. The term "tax lien," as used in this section, shall include liens for taxes, and assessments for benefit or local improvements, whether or not:

1. Such taxes or assessments have been relevied as a part of any annual tax;
2. Any of such liens have been sold and certificates of sale issued therefore;
3. Deeds or conveyances have been issued by a treasurer or similar fiscal officer base upon such certificate of sale; or
4. Deeds or conveyances have been issued pursuant to a judgment foreclosing any such lien.

(Added by L. 1939 Ch. 708 § 2, in effect June 5, 1939.)

§ 5-69.0 **Record of certificates of sale.** The County Treasurer shall enter and record in his office his proceedings upon all tax sales, and all certificates of sale granted by him, and all assignments of such certificates, and discharges of certificates of sale, and all satisfactions and all proceedings whereby sales of tax liens are defeated or tax liens are discharged.

§ 5-70.0 **Notices and affidavits of publication of such notices to be preserved.** It shall be the duty of the County Treasurer to procure, preserve and register in his office, affidavits of the publication of all the notices required to be published by this article, together with such notices. Such affidavits must be made by the County Treasurer or the publisher of the newspaper or newspapers in which such notices were published. Such affidavits shall be presumptive proof of such publication in all the courts of this state.

§ 5-71.0 **Reissue of certificate of sale.** If a certificate of sale of a tax lien shall have been lost or destroyed, the County Treasurer, upon submission to him of satisfactory evidence of such loss or destruction, shall issue a duplicate of the original certificate. The evidence of loss or destruction must be in writing, proved by the oath of one or more persons to the satisfaction of the treasurer, who shall preserve the same in his office.

§ 5-72.0 **Cancellation of taxes imposed on wrong parcel.** If it shall appear to the Board of Supervisors from a certificate of error issued by the Board of Assessors that a parcel of real property, separately assessed, upon which taxes have been duly paid, has been erroneously included in the description or assessment of a larger tract or parcel of real property upon which taxes have not been paid for one or more years, the Board of Supervisors may authorize the cancellation of any such unpaid tax, upon the records of the County, in so far as it applies to or constitutes a lien upon the smaller parcel of real property so erroneously included and upon which taxes have been duly paid.
(Amended by L. 1941 Ch. 205 § 1, in effect March 28, 1941.)

§ 5-72.1 **Seal of County Treasurer; when used.** Any certificate, deed, instrument or document which the County Treasurer is required to execute pursuant to this article shall be executed under the seal of his office.
(Added by L. 1939 Ch. 704 § 11, in effect June 5, 1939.)

§ 5-73.0 **Presumption of validity of taxes and of assessing for assessment roll.**

a. It shall be presumed that every assessment of real property for the assessment roll and every tax levied is valid and regular, and that all the steps and proceedings required by law were taken and had, until the contrary shall be made to appear. Any action or proceeding, commenced by any person or persons to test the validity or regularity of any assessment for the assessment roll or of any tax levied, shall be commenced within one year from the first publication of the notice that the receiver of taxes has received the warrant from the Board of Supervisors, and that such tax is ready for collection, as provided by section 5-12.0 of the code.
(Subd. a amended by L.1939 Ch. 845 § 30, 31, 32, in effect June 9, 1939.)

b. The invalidity or irregularity of any tax or assessment for the assessment roll shall not be available as a defense:

1. To any action or proceeding commenced after the expiration of one year from the delivery of such warrant; or
2. To the enforcement of any right or title, by virtue of any sale under warrant, unless an action or proceeding to test the validity or regularity of such tax or assessment shall

have been commenced within the time limited in subdivision a of this section for commencing the same, and shall be still pending, or such tax or assessment shall have been adjudged to be irregular and invalid.

§ 5-74.0 **Claims barred by lapse of time not to be revived.** Nothing in this article shall be held to revive or validate any claim or demand, the enforcement of which otherwise is barred by lapse of time.

§ 5-75.0 **Transitional Provisions.** The provisions of article 2 that relate to the conveyance by tax deed as authorized by section 5-53.0 of this code shall not be applicable to any lot or parcel designated as class one or to any lot or parcel that is a residential condominium classified as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York on which a tax lien has been sold and title not conveyed by tax deed to the tax lien purchaser or the assignee of such purchaser prior to the effective date as hereinafter indicated and on any tax lien sold on any class one lot or parcel and on any residential condominium classified as a class two lot or parcel on or after such effective date. The remedy for the recovery of the amount due the purchaser of such a tax lien on class one lots or parcels and on residential condominiums classified as class two lots or parcels on which title has not been conveyed to the tax lien purchaser or the assignee of such purchaser by tax deed prior to the effective date hereinafter indicated and on all other tax liens on class one lots or parcels and on residential condominiums classified as class two lots or parcels sold on or after such effective date shall be limited to an action to foreclose the tax lien. A notice shall be sent in the manner presented by section 5-51.0 of this code to the owner in fee appearing of record and other parties in interest as therein specified at any time after the expiration of twenty-one months from the date of the sale of the tax lien. Such notice shall state the first day on which an action to foreclose may be commenced and the other information specified in subdivision b of section 5-51.0 of this code.

(Section 5-75.0 added by Local Law No. 13-1986, in effect November 17, 1986; amended by Local Law No 21-1990, effective November 26, 1990.)

§ 5-76.0 **Hardship Review Board.**

a. There is hereby created a hardship review board consisting of three members to decide applications for hardship designation. Such a determination shall be made by first ascertaining the ability to pay real estate taxes of the owner in fee of record for a lot or parcel classified as class cine or for a residential condominium classified as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York and serving as the actual residence of such owner and then determining whether a one year extension of time to pay back taxes is warranted under the circumstances of the application. The members of the Board of Hardship Review shall be appointed by the Board of Supervisors and shall serve without compensation, but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties. Of the three members first appointed, one shall be appointed for a term of three years, one for a term of two years and one for a term of one year. All other appointments shall be for a term of three years.

(Section a amended by Local Law No. 21-1990, effective November 28, 1990.)

b. In addition to the powers and duties elsewhere presented in this section or as may be further prescribed by ordinance, the Board of Hardship Review shall have the power to adopt after a public hearing such rules and regulations as may be necessary to effectuate the purposes of this section including regulations relating to procedure, the form and content of applications to be used and any other matters incidental or appropriate to the powers and duties of the Board of Hardship Review and enforcement of the provisions of this section as well as to amend or repeat any of such rules and regulations. At least seven days prior notice of such

public hearing shall be published in the official newspaper of the County. A copy of the rules and regulations adopted hereunder and any amendments thereto shall be filed in the office of the clerk of the Board of Supervisors.

c. The owner in fee of record of a lot or parcel classified as class one or of a residential condominium classified as class two or any person on behalf of such owner may apply to the Board of Hardship Review for a hardship designation provided such lot or parcel or residential condominium is the actual residence of such owner a designation of hardship shall entitle the owner in fee of record to a one year extension of time to pay back taxes, interest, penalties and other charges commencing from the twenty, fourth monthly following the sale of the tax lien. An application for a hardship designation shall be on forms designed, by the Board of Hardship Review for such purpose. Any application shall be made after the sate of the tax lien and prior to the expiration of twenty-four months from the date of such sale. During the tendency of the application, an action to foreclose the tax lien may not be commenced.
(Section c amended by Local Law No. 21-1990, effective November 26, 1990.)

d. Whenever the Board of Hardship Review shall consider an application for hardship designation, the applicant shall notify in writing the holder of the certificate of sale of the time, date and place of the hearing by registered or certified mail, return receipt requested at least ten days prior to the scheduled hearing on such application. All interested parties shall have the right to be heard prior to any final action on the application by the Board of Hardship Review in reaching a decision, the Board of Hardship Review shall consider all relevant factors including, but not limited to the age, financial circumstances as well as the physical and mental condition of the owner in fee of record. The Board of Hardship Review shall furnish a written report of its findings and decision on each application to the applicant, the owner in fee of record if not the applicant, the holder of the certificate of sale and the County Treasurer. A copy of such written report shall be filed with the clerk of the Board of Supervisors.

e. No meeting of the Board of Hardship Review convened to transact business day be held unless all the members of the Board of Hardship Review receive actual written notice of such meeting specifying the meeting time and place at least five days in advance. This requirement is waived if all members attend the meeting.

f. The provisions of this section shall be applicable to any lot or parcel serving as the actual residence of the owner and designated as class one or a residential condominium designated as class two pursuant to section 1802 of the Real Property Tax Law of the State of New York on which a tax lien is sold on or after the effective date for the establishment of a hardship review board as well as to any class one lot or parcel or any residential condominium designated as class two serving as the actual residence of the owner on which a tax lien has previously been sold and to which title has not been conveyed by tax deed to the tax lien purchaser or the assignee of such purchaser prior to the effective date for the establishment of the hardship review board provided twenty-four months have not elapsed since the sale of such tax lien.
(Paragraph f amended by Local Law No. 21-1990, effective November 26, 1990.)
(§ 5-76.0 added by Local Law No. 13-1988, in effect November 17, 1986.)

§ 5-77.0 **Separability.** If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect. impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy In which judgment shall have been rendered.
(§ 5-77.0 added by Local Law No. 13-1988, in effect November 17, 1986; amended by Local Law No. 2-1990, effective November 26, 1990.)

§ 5-78.0 **Homestead Tax lien Redemption Period Extension.**

a. Any/all other provisions of article 2 that relate to the foreclosure of a tax lien on an actual residence, as defined hereinabove in section 5-24.0, subdivision 8, notwithstanding, there is hereby granted for all said existing tax liens created before July 1, 1994, on the property owner's actual residence a homestead tax lien redemption period extension, for an additional twenty-four months, commencing with the date of sale of any/all said liens on said class one and class two residential condominium parcels, in addition to the twenty-four month period provided in section 5-51-0 hereinabove, prior to the conclusion of an action to foreclose a tax lien, under the following provisions: first, the submission by the parcel owner to the hardship review board, prior to the conclusion of a foreclosure proceeding, of an affidavit stating that the parcel in question is his/her actual residence as defined hereinabove, together with a statement and explanation that said owner is experiencing financial difficulty, a copy of said owner's latest federal and state income tax returns and such other documentation as the hardship review board may reasonably require: second, the parcel owner shall notify the tax lien holder and the County Treasurer in writing of said application by certified malt, return receipt requested, and, when scheduled, of the time, date, and place that the hardship review board schedules a hearing on such application in writing, by certified mail, return receipt requested, at least ten days before said hearing; third, all interested parties shall have the right to be heard prior to any final action on the application by the hardship review board; fourth, the hardship review board shall follow its procedures as authorized and defined in section 5-76.0 hereinabove; and, fifth, during the pendency of the application an action to foreclose the tax lien may not be commenced, and, if previously commenced, is stayed pending the determination of the hardship review board.

b. Once the homestead tax lien redemption period extension is granted by the hardship review board, the tax lien holder may not serve (or reserve, as the case may be) the notice to redeem described in action 5-51.0 hereinabove until forty-five months from the date of the initial sale of the tax lien, and, thereafter, shall not commence an action to foreclose said tax lien until three months from the date of said service and the filing of the notice of said service, as provided in section 5-51.0 hereinabove.

c. A tax lien on a parcel granted the homestead tax lien redemption period extension shall earn interest at the maximum rate of eight per centum per six month period or the interest bid at the tax lien sale, whichever is lower, for each of four six month periods during the extension period, the first period for months twenty-five through thirty from the date of the tax lien sale, the second period for months thirty-one through thirty-six from the date of the tax lien sale, the third period for months thirty-seven through forty-two from the date of the tax lien sale, and the fourth period for months forty-three through forty-eight from the date of the tax lien sale, unless paid prior thereto.

d. The right to a homestead tax lien redemption period extension created herein is apart from and in addition to any/all other rights to which a parcel owner is entitled under article 2. including but not limited to the right to a hardship designation, which may be applied for at any time prior to the commencement of a foreclosure action, whether or not the owner/applicant has benefited from the homestead tax lien redemption period extension created herein.

e. Owner-occupants of said class one and class two residential condominium parcels wherein the subject parcels are their actual residence, as defined hereinabove in section 5-24.0, subdivision 8, may make partial payments on tax arrearages for outstanding liens on said subject parcels under rules and regulations promulgated by the County Treasurer.

f. Notwithstanding any/all other provisions of article 2, and specifically sections 5-370(c), 539.0(b), and 5-40.0, the maximum amount of interest a tax lien on a class one and/or a class two residential condominium parcel may carry and bear, if sold on and after February 1, 1992, is eight per centum of the purchase price, for each six month period, for a maximum of four six month periods, unless said parcel is granted the homestead tax lien redemption period described hereinabove.

g. Section 5-78.0 shall expire and be of no force and effect for any/all otherwise applicable tax liens initially offered for sale by the County Treasurer on and after July 1, 1994.
(Added by Local Law No. 1-1992, in effect January 28, 1992.)

## ARTICLE 3 ENTERTAINMENT SURCHARGE

§ 5-79.0 **Definitions.** When used in this article the following words shall have the meanings herein indicated:

1. "Comptroller." The Comptroller of the County.

2. "County." The County of Nassau.

3. "Entertainment." All forms of commercial and/or professional entertainment, including, but not limited to, concerts, professional athletic events, theatrical or operatic performances, and trade shows.

4. "Event." Any discrete event of entertainment for which a ticket is required for admission or attendance, including, but not limited to the following: a concert, professional athletic game, contest, meet or event, theatrical, dramatic musical, comedy or operatic performance, play, ballet, dance show, dance contest, musical competition, monologue, dialogue, debate, talk show, lecture, mime show, comedy show, vaudeville show, circus, carnival, demonstration, happening, performance event, light show, planetarium, star show, home improvement show, horse race, dog race, livestock show, air show, automobile show, boat show, computer show, garden show, horse show, dog show, cat show, pet show, gem show, trade show or other like or different entertainment event. Any event which requires a separate fee or charge for admission to or attendance at different of separate performances or times shall be taxed as a separate event for each separate fee or charge.

5. "Facility." Any area or facility or other place of entertainment with a permanent seating capacity in excess of two thousand, five hundred individuals, located in the County, excepting only (i) any such facility located at a college or university; and (ii) any such facility owned or operated by an off-track betting corporation or a non-profit racing association. The open space adjacent to a facility which is not within the physical structure of the facility itself shall not be deemed to be a facility for events which have occurred prior to the effective date of this legislation and occur thereafter.

6. "Operator." Any person having the right, as owner, tenant or otherwise, to operate a facility and sell tickets for events held at such facility or otherwise to collect the revenues derived therefrom. A facility may have more than one operator to the extent that more than one person has the right to derive revenues from ticket sales.

7. "Person." Any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

8. "Ticket." The right of admission to or attendance at an event for an individual, whether or not such right is evidenced by a ticket. Tickets entitling more than one individual to be admitted or to attend an event shall be counted as one ticket for each individual. Season tickets or other tickets permitting admission to or attendance at more than one event shall be counted as one ticket for each such event. Tickets permitting admission to or attendance at a single event lasting longer than twenty-four consecutive hours shall be counted as one ticket for each day or portion thereof during which attendance is permitted.

9. "Treasurer." The treasurer of the County.

§ 5-80.0 **Imposition of tax**.

a. A tax, to be known as an entertainment surcharge, is hereby imposed on the operator of every facility at the rate of one dollar and fifty cents on every ticket.

b. The tax imposed hereunder shall not apply to events sponsored by colleges or universities or to amateur athletic competitions.

c. The tax imposed hereunder shall be in addition to any and all other taxes. It shall be imposed only once per ticket.

d. It is intended that the liability for the tax shall be upon the operator. The operator shall have the right to add the amount of the entertainment surcharge to and collect the same as part of the sales price of any ticket, but failure to do so shall not excuse payment of the tax. It shall be presumed that all tickets are subject to tax until the contrary is established, and the burden of proof that a ticket is taxable hereunder shall be upon the operator

§ 5-81.0 **Regulations.**

a. The Treasurer shall prepare regulations as he shall deem appropriate for the administration, collection and enforcement of the entertainment surcharge. The regulations and any amendments thereto prepared by the Treasurer shall be submitted to the County Legislature and shall take effect when approved by local law, resolution or ordinance.

b. The regulations shall conform to the provisions of this article. The regulations may contain any provision for the administration, collection and enforcement of the entertainment surcharge, including, without limitation, the identification of or means of identifying facilities, events and operators, the methods of calculation of the tax, the payment of the tax, exemptions and exclusions from the tax, the forms of any tax returns and other required information, the due dates of returns and payments, the determination of who must file returns, refunds for overpayments, procedures for the collection and enforcement of and challenges to the tax, including judicial review, record keeping requirements for affected persons, interest and penalties for unpaid taxes and other violations, and powers of investigation, audit and enforcement.

c. The Treasurer is hereby authorized and empowered (i) to delegate his functions hereunder to a deputy treasurer or other employee or employees of his department, and, with consent of the County Comptroller, to the County Comptroller or any of his employees; (ii) to retain consultants, agents and counsel to assist in his duties hereunder; and (iii) subject to the approval of the County Legislature, to promulgate regulations for the interpretation, administration and enforcement of this article as provided in this section.

§ 5-82.0 **Disposition of revenues.** All revenues resulting from the imposition of the tax under this article shall be paid to the Treasurer and shall be credit to and deposited in the general fund of the County. Notwithstanding the foregoing, the Treasurer may apply the revenues derived from the entertainment surcharge tax to costs and expenses incurred in connection with the administration collection and enforcement of the entertainment surcharge to the extent funds have not been appropriated for such purposes.

§ 5-83.0 **Construction and enforcement.** This article shall be construed and enforced in conformity with section two of chapter one hundred seventy-nine of the laws of two thousand, pursuant to which it is enacted, and shall expire and be deemed repealed upon the expiration of such section.

(Amended by Local Law 2-2006, signed on March 7, 2006, with effective date as follows: “This local law shall become effective immediately and shall be deemed to have been in full force and effect on and after January 1, 2006.”)

§ 5-84.0 **Effective dates of entertainment surcharge.** The entertainment surcharge shall be applicable to sales occurring on or after September 15, 2000 or tickets for events scheduled to occur or occurring on or after October 1, 2000.

(Title 3 added by Local Law 28-2000, effective July 31, 2000; amended by Local Law 33-2000, effective September 12, 2000, and by Local Law 3-2001, effective September 6, 2000 for sales and effective on October 1, 2000 for all events.)

## ARTICLE 3a ENTERTAINMENT SURCHARGE REGULATIONS

§ 5-90.0 **Authorization.** These regulations are promulgated pursuant to Chapter 179 of the Laws of 2000, effective July 19, 2000, codified at New York State Tax Law Section 1202(d), and Local Law 28-2000, effective July 31, 2000 authorizing Nassau County to impose an entertainment surcharge (the "Local Law"). These regulations are not all inclusive, but are an adjunct to and must be read in conjunction with Article 29 of the New York State Tax Law, including Section 1202(d), and Local Law 28-2000.

§ 5-91.0 **Definitions.** When used in these regulations the following words shall have the meanings herein indicated:

1. “Comptroller." The Comptroller of the County.

2. "County." The County of Nassau.

3. "Entertainment." All forms of commercial or professional entertainment, including, but not limited to, concerts, professional athletic events, theatrical for operatic

performances, and trade shows.

4. "Event." Any discrete event of entertainment for which a ticket is required for admission or attendance, including, but not limited to the following: a concert, professional athletic game, contest, meet or event, theatrical, dramatic, musical, comedy or operatic performance, play, ballet, dance show, dance contest, musical competition, monologue, dialogue, debate, talk show, lecture, mime show, comedy show, vaudeville show, circus, carnival, demonstration, happening, performance event, light show, planetarium, star show, home improvement show, horse race, dog race, livestock show, air show, automobile show, boat show, computer show, garden show, horse show, dog show, cat show, pet show, gem show, trade show or other like or different entertainment event. Any event which requires a separate fee or charge for admission to or attendance at different or separate performances or times shall be taxed as a separate event for each separate fee or charge.

5. "Facility." Any arena or facility, or other place of entertainment with a permanent seating capacity in excess of two thousand five hundred individuals, located in the County, excepting only (i) any such facility located at a college or university and (ii) any such facility owned or operated by an off-track betting corporation or a non-profit racing association. Facilities must have a permanent seating capacity in excess of two thousand five hundred individuals in one room or open space and shall not include facilities where the seating capacity exceeds two thousand five hundred in the aggregate for two or more rooms or open space areas.

6. "Operator." Any person having the right, as owner, tenant or otherwise, to operate a facility and sell tickets for events held at such facility or otherwise to collect the revenues derived therefrom. A facility may have more than one operator to the extent that more than one person has the right to derive revenues from ticket sales. The owner of the facility will be presumed to be the operator of the facility and therefore responsible for filing the necessary returns and paying the taxes due unless such owner registers a statement with the Treasurer on a form to be prescribed by the Treasurer indicating the identity of the party or parties who will be treated as an operator of the facility for purposes of this tax and providing a signed agreement by such other party or parties to be treated as such. Operators of a facility so designated by the owner thereof will be permitted to also register a statement with the Treasurer indicating the identity of any other party or parties who will also be treated as an operator of the facility and providing a signed agreement by such other party or parties to be treated as such.

7. "Person." Any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

8. "Ticket." The right of admission to or attendance at an event for an individual, whether or not such right is evidenced by a ticket. Tickets entitling more than one individual to be admitted or to attend an event shall be counted as one ticket for each individual. Season tickets or other tickets permitting admission to or attendance at more than one event shall be counted as one ticket for each such event. Tickets permitting admission to or attendance at a single event lasting longer than twenty-four consecutive hours shall be counted as one ticket for each day or portion thereof during which attendance is permitted. To be considered a ticket, the right of admission to or attendance at an event must be obtained by a person in exchange for consideration, which includes monetary consideration, exchange, barter, the rendering of any service or any agreement therefore.

9. "Treasurer." The treasurer of the County or any duly authorized representative of the treasurer.

§ 5-92.0 **Imposition or tax.**

a. A tax, to be known as an entertainment surcharge, is hereby imposed on every facility at the rate of one dollar and fifty cents on every ticket.

b. The tax imposed hereunder shall not apply to events sponsored by colleges or universities or to amateur athletic competitions, provided that no event otherwise taxable shall be exempted from the entertainment surcharge solely because of the inclusion in such event of an amateur athletic contest and/or the participation with others by a college or university in the sponsorship of such event.

c. The tax imposed hereunder shall be in addition to any and all other taxes. It shall be imposed only once on each ticket.

d. It is intended that the liability for the tax shall be upon the operator. The operator shall have the right to add the amount of the entertainment surcharge to and collect the same as part of the sales price of any ticket, but failure to do so shall not excuse payment of the tax. It shall be presumed that all tickets are subject to tax until the contrary is established, and the burden of proof that a ticket is not taxable hereunder shall be upon the operator.

§ 5-93.0 **Exemptions.** The following organizations are exempt from the entertainment surcharge:

a. The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer;

b. The United States of America, and any of its agencies and instrumentalities insofar as it is immune from taxation where it is the purchaser, user or consumer;

c. The United Nations or other international organizations of which the United States of America is a member; and

d. 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 shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided however, that this subdivision shall not apply to 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 subdivision.

§ 5-94.0 **Returns and payments; overpayments and underpayments.**

a. Every operator of an event whose receipts from the sale of tickets total $300,000 or more in any quarter of the preceding four quarters must file with the Treasurer, on or before the 20th day of each month, a return showing the amount of all sales of tickets during the preceding month.

b. Every other operator shall file with the Treasurer, on a quarterly basis, a return showing the amount of sales of tickets during the preceding calendar quarter. A quarterly return shall be

filed on or before the 20th day of the month following the end of the calendar quarter.

c. For the period through September 30, 2001, operators will determine their reporting cycle (monthly or quarterly) based on receipts from the sale of tickets for periods prior to the effective date of the entertainment surcharge as if the entertainment surcharge had been in effect.

d. Each return must be accompanied by the amount of tax, payable to the Treasurer, which is due with respect to sales of tickets occurring during the month or calendar quarter covered by the return.

e. The Treasurer will prescribe the form of the return and accompanying instructions. The return must show:

1. the name, address, federal employer identification number, and type of business of the operator;

2. for each event: the date, the number of tickets sold, the turnstile attendance, the name and location of the facility, the gross receipts from the sale of tickets, and the amount of tax due;

3. any credits claimed for tickets that are refunded;

4. for any event or sale of tickets that are exempt from tax: the date of the event, the number of tickets sold that are exempt, and the basis for the exemption;

5. penalties and interest, if any, and total amount due;

6. the signature of the operator or officer or employee of the operator signing the return and the individual's title;

7. the signature and address of the preparer, if other than the operator; and

8. the date prepared.

f. If the amount of tax required to be reported and paid is later determined to be greater or less than the amount actually reported and paid, the Treasurer shall:

1. Charge and collect from the operator the additional tax determined to be due, with interest and penalties, if any, thereon until paid; or

2. Refund any overpayment to the person entitled thereto pursuant to the regulations, without interest.

§ 5-95.0 **Records to be kept; examination.**

a. All operators and all other vendors of tickets and sponsors of events held within the County shall maintain and keep for a period of three years such records of tickets received, sold, collected, canceled or delivered as may be required by the Treasurer.

b. The Treasurer and the Comptroller are hereby authorized to examine the books, papers, invoices and other records of any operator or other vendor of tickets or sponsor of events held within the County. To verify the accuracy of the tax imposed and assessed by Local Law, each such person is hereby directed and required to give to the Treasurer and the Comptroller, the means, facilities and opportunity for such examinations as are herein provided for and required.

c. The Treasurer shall investigate any failure to pay the tax required by Local Law or any other failure to comply with Local Law or the rules or regulations promulgated hereunder, and shall take the necessary steps to enforce compliance therewith.

§ 5-96.0 **General powers of the Treasurer.** In addition to the powers granted to the Treasurer in Article 29 of the New York State Tax Law, he is authorized and empowered pursuant to Local Law:

1. To delegate his functions hereunder to a deputy treasurer or other employee or employees of his department, and, with the consent of the Comptroller, to the Comptroller or any of his employees;
2. To promulgate rules and regulations for the interpretation, administration and enforcement of this article;
3. To extend, for cause shown, the time of filing any return for a period not exceeding thirty days; and
4. To retain consultants, agents and counsel to assist in his duties hereunder;

§ 5-97.0 **Administration of oaths and compelling testimony.**

a. The Treasurer and the employees or agents duly designated and authorized by the Treasurer shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under Local Law and these regulations. The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of the duties of the Treasurer hereunder and of the enforcement of Local Law and these regulations, and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state, or unable to attend before the Treasurer, or excused from attendance.

b. A justice of the supreme court, either in court or in chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer.

c. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any matter pending before the Treasurer hereunder shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

d. The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County sheriff and the County sheriff's duly appointed deputies.

§ 5-98.0 **Determination of tax.** If any person fails to pay the tax, or to file a return required by Local Law and these regulations, or if a return, when filed, is insufficient and the maker fails

to file a corrected or sufficient return within ten days after, the same may be required by notice from the Treasurer. The Treasurer shall determine the amount of tax due from such information as may be obtainable or on the basis of external indices, such as the number of tickets purchased, sold, collected, canceled or on hand, the volume of attendance at similar events and/or other factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within thirty days of the giving or such notice, apply to the Treasurer for a hearing on such determination, or unless the Treasurer shall of his own motion redetermine such tax. After such hearing the Treasurer shall give notice of his decision to the person liable for the tax.

§ 5-99.0 **Judicial review.** Any final determination of the amount of any tax payable pursuant to Local Law 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 therefore is made to the supreme court within four months 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 by a taxpayer unless (I) the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, ordinance, resolution 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 insurance 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 taxpayer will pay all costs and charges which may accrue in the prosecution of such proceeding or (II) at the option of the taxpayer, such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination, plus the costs and charges which may accrue against such taxpayer shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

§ 5-100.0 **Refunds.** The Treasurer shall refund any tax, interest or penalty erroneously, illegally or unconstitutionally collected or paid. No refund shall be granted unless application to the Treasurer therefore is made within one hundred eighty days from the payment thereof. Whenever a refund is authorized by the Treasurer and made by the Treasurer, on the Treasurer's own initiative or after a hearing by the Treasurer, the Treasurer shall state his reasons for the refund in writing. A person shall not be entitled to a hearing in connection with such application for a refund if he has already had a hearing or had been given the opportunity of a hearing as provided in these regulations. No refund shall be made of a tax, interest or penalty paid pursuant to a determination of the Treasurer, unless the Treasurer, after a hearing as in the above section provided on forms on motion, shall have reduced the tax or penalty, or it shall have been established in a proceeding, pursuant to article seventy-eight of the Civil Practice Law and Rules, that such determination was erroneous, illegal, unconstitutional or otherwise improper, in which event a refund without interest shall be made as provided upon the determination of such proceeding. An application to the Treasurer for a refund made as herein provided shall be deemed an application for a revision of any tax, interest or penalty complained of and the Treasurer shall receive evidence with respect thereto. After making his determination the Treasurer shall give notice thereof to the person interested who shall be entitled to maintain a proceeding under article seventy-eight of the Civil Practice Law and Rules in accordance with section 5-99.0, Judicial Review.

§ 5-101.0 **Remedies; exclusive.** The remedies provided by these regulations shall be the exclusive remedies available to any person for the review of tax liability imposed by Local Law and no determination or proposed determination of tax or determination on an application for

refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received, or by any legal or equitable action or proceeding other than a proceeding under article seventy-eight of the Civil Practice Law and Rules.

§ 5-102.0 **Proceeding to recover tax.** Whenever any operator shall fail to pay any tax penalty or interest imposed by Local Law as herein provided the County Attorney shall, upon the request of the Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the County in any court of the State of New York or of any other state or of the United States.

§ 5-103.0 **Notices and limitations of timing.**

a. Any notice authorized or required under the provisions of these regulations may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of these regulations or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of the regulation by the giving of notice shall commence to run from the date of mailing of such notice.

b. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax, interest or penalty provided by this article. However, 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 three years from the date of the filing of a return, provided, that where no return has been filed as provided by law, the tax may be assessed at any time.

c. Where, before the expiration of the period prescribed herein for the assessment of any additional tax, a person has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period extended may be further extended by subsequent consents in writing made before the expiration the extended period.

§ 5-104.0 **Penalties and interest.**

a. Any person failing to pay a tax payable under this article when due shall be subject to a penalty of fifty per centum of the amount of tax due. Such penalty shall be paid and disposed of in the same manner as other revenues under Local Law. Unpaid penalties may be enforced in the same manner as the tax imposed by Local law.

b. If any amount of tax is not paid on or before the last date prescribed for payment, without regard to any extension of time granted for payment, interest on such amount and on the penalty at the rate of nine percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. The interest imposed by this subdivision shall be paid and disposed of in the same manner as otherwise required from this article. Unpaid interest may be enforced in the same manner as proposed by Local law.

§ 5-105.0 **Disposition of revenues.** All revenues resulting from the imposition of the tax under Local Law shall be paid to the Treasurer and shall be credited to and deposited in the general fund of the County.

§ 5-106.0 **Construction and enforcement.** These regulations shall be construed and enforced in conformity with chapter five, article 3, of the administrative code of the County of Nassau, pursuant to which they are promulgated.

§ 5-107.0 **Effective data of entertainment surcharge.** The entertainment surcharge shall be applicable to sales occurring on or after September 15, 2000, of tickets for events scheduled to occur or occurring on or after October 1, 2000.
(Amended by Local Law 31-2000, effective September 12, 2000.)

# CHAPTER VI
# DEPARTMENT OF ASSESSMENT

## Title A. In General


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Title A
In General

§ 6-1.0 **Definitions.** As used in this title:

1. The term "Board of Assessors" means the County Board of Assessors.

2. The term "school district" means every school district in the County except those school districts coterminous with the limits of an incorporated city or village.
(Amended by L. 1951 Ch. 741 § 8.)

3. The term "assessment" means the valuation of real property on the assessment roll either before or subsequent to the correction of the assessment roll.

4. The term "assessment roll" or "County assessment roll" means the assessment roll prepared by the Board of Assessors, pursuant to article six of the charter and title A of chapter six of the code, for the state, county, towns and special districts, either prior or subsequent to the correction of such roll.

5. The term "school district assessment roll" means the assessment roll prepared by the County Board of Assessors for the collection of the taxes of the school district.

§ 6-2.0 **County to be tax district.** Notwithstanding the definition of the term "tax district" in section two of the tax law, that term means the County whenever referred to in any general or special law relating to the preparing, correcting and verifying of the assessment roll or relating in any manner whatsoever to the assessing of real property in the County for the assessment roll.

§ 6-2.1 **Taxable status of real property.**

a. Notwithstanding the provisions of section three hundred one and three hundred two of the Real Property Tax Law, and except as otherwise provided by section 6-24.1 of this title, the Board of Assessors shall determine the taxable status and classification of all real property for state, county, town, special and school district taxes for the second succeeding fiscal year according to its condition, ownership and use as of the second day of January in each year. “Classification” shall mean the termination made pursuant to section eighteen hundred two of the Real Property Tax Law.

b. Nothing in this section or in section 6-24.1 of this title shall preclude the assessment review commission from accepting and considering evidence that the value of a parcel has been affected by a change of conditions occurring after the taxable status date applicable to an assessment for which an application for correction has been filed on or before the taxable status date applicable to the assessment for the following year.
(Amended by L. 1944 Ch. 716, in effect January 1, 1945: L. 1995 Ch. 561, in effect August 8, 1995. Subdivision a amended and subdivision b added by Chapter 401 of the Laws of 2002.)

§ 6-2.2 **Real property taxation exemption for certain persons with limited income.**

a) Real property in the County owned by one or more persons, each of whom is sixty-five years of age or over, or real property owned by husband and wife or by siblings, one of which is sixty-five years or over shall be exempt from taxation by the County to the extent set forth in the following Schedule A:

SCHEDULE A

| ANNUAL INCOME | PERCENTAGE ASSESSED VALUATION EXEMPTION FROM TAXATION |
|---|---|
| Up to and including $26,000 | 50 per centum |
| More than $26,000 but less than $27,000 | 45 per centum |
| At least $27,000 but less than $28,000 | 40 per centum |
| At least $28,000 but less than $29,000 | 35 per centum |
| At least $29,000 but less than $29,900 | 30 per centum |
| At least $29,900 but less than $30,800 | 25 per centum |
| At least $30,800 but less than $31,700 | 20 per centum |
| At least $31,700 but less than $32,600 | 15 per centum |
| At least $32,600 but less than $33,500 | 10 per centum |
| At least $33,500 but less than $34,400 | 5 per centum |

Schedule A shall apply to assessment rolls for the 2007-08 real property tax year; and for application to assessment rolls for the 2008-09 real property tax year, each income amount in Schedule A shall increase by $1,000, and such amounts shall continue to increase yearly by an additional $1000 for the 2009-10 and 2010-11 real property tax years.

(Amended by Local Law No. 9-1991, in effect September 23, 1991 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1992; Local Law No. 13-1992, in effect August 11, 1992 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1993; Local Law No. 10-1994, in effect August 15, 1994 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1995; Local Law No. 9-1995, in effect October 2, 1995; applies to assessment rolls prepared on the basis of taxation status dates occurring on or after January 1, 1996; Local law No. 7-1996, in effect October 1, 1996 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1991; Local Law No. 3-1999, in effect May 11, 1999 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 2000; Local Law No. 32-2000 effective September 27, 2000 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 1, 2001; Local Law No. 27-2002, effective December 31, 2002 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2003; amended by Local Law No. 18-2003, in effect December 3, 2003 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2004.; amended by Local Law No. 15-2006, passed on November 13, 2006 and signed on Dec. 11, 2006)

b) For the purposes of this section, sibling shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

(Added by Local Law 32-2000, effective September 27, 2000 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 1, 2001; amended by Local Law No. 27-2002, effective December 31, 2002 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2003; amended by Local Law No. 18-2003, in effect December 3, 2003 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2004.)
(Editor's note- Subdivision b was added by Local Law 32-2000, but the existing subdivision b was not reordered.)

b) No exemption shall be granted:

(1) unless annual application is made therefore in accordance with the provisions of subdivision (c) of this section;

(2) if the income of the owner or the combined income of the owners of the property: exceeds the sum of thirty-four thousand three hundred ninety-nine dollars and ninety-nine cents for the income tax year ending December 31, 2005; exceeds the sum of thirty-five thousand three hundred ninety-nine dollars and ninety-nine cents for the income tax year ending December 31, 2006; exceeds the sum of thirty-six thousand three hundred ninety-nine dollars and ninety-nine cents for the income tax year ending December 31, 2007; and exceeds the sum of thirty-seven thousand three hundred ninety-nine dollars and ninety-nine cents for the income tax year ending December 31, 2008. Income tax year shall mean the twelve month period for which the owner or owners filed a personal federal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in section 467(3)(d)(ii) of the Real Property Tax law of New York State, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances, payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286, monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance or veterans disability compensation, as defined in Title 38 of the United States Code. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

(Amended by Local Law No. 9-1991, in effect September 23, 1991 and shall apply to assessment rolls prepared on the basis of taxicab status dates occurring on or after January 1, 1992; Local Law No. 13-1992, in effect August 11, 1992 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1993; Local Law No. 10-1994, in effect August 15, 1994 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1995; Local Law No. 9-1995, In effect October 2, 1995; applies to assessment rolls prepared on the basis of taxation status dates occurring on or after January 1, 1996, Local Law No. 7, 1996, in effect October 1, 1996 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1997; Local Law No. 13-1996, in effect December 12, 1996 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1997; Local Law 4-1997, in effect November 5, 1997 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1998; Local Law No. 3-1999, in effect May 11, 1999 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 2000; Local Law 32-2000, effective September 27, 2000 and applicable to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 2001; Local Law No. 27-2002 effective December 31, 2002 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2003; amended by Local Law No. 18-2003, in effect December 3, 2003 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2004; amended by Local Law No. 15-2006, passed on November 13, 2006 and signed on December 11, 2006.)

(3) unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twenty-four consecutive months prior to the date of making application for exemption, provided however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested

at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months provided further, that in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four consecutive months and provided further that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and further provided that where a residence is sold and replaced with another within one year and is in the same assessment unit, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section;

(Paragraph 2 of subdivision b and subdivision f of § 6-22; Local Law No. 6-1980, in effect July 21, 1980; subdivision a and paragraph 2 of subdivision b amended by Local Law No. 8-1983, in effect September 26, 1983; subdivision a and paragraph 2 of subdivision b amended by Local Law No. 15-1988, in effect November 11, 1986; subdivision a and paragraph 2 of subdivision b amended by Local Law No. 2-1990, in effect January 22, 1990; subdivision a and paragraph 2 of subdivision b amended by Local Law No. 6-1910, in effect July 2, 1990 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1990.)

(4) unless the property is used exclusively for residential purposes;

(5) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

(c) (1) A verified application for the annual exemption shall be made by the owner, or all of the owners, of the property on forms prescribed by the State Board of Equalization and Assessment to be furnished by the Board of Assessors office. Any person otherwise qualifying under this section shall not be denied the exemption if he becomes sixty-five years of age after the appropriate tax status date and before December thirty-first of the same year.

(Subdivision (c) paragraph 1 amended by Local Law No. 2-1990, in effect January 22, 1990 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1990.)

(2) The owner, or all of the owners, shall file any supporting documents the Board of Assessors deems necessary.

(3) The application and the supporting documents shall be filed in the Board of Assessors office on or before December thirty-first in each year.

(4) The Board of Assessors office shall accept applications and supporting documents only from September first to and including December thirty-first. Income included with the application shall be based upon the preceding calendar year's income and said exemption if applicable will apply to the immediate ensuing assessment roll.

(Subdivisions 3 & 4 amended by L. 1995 Ch. 561, in effect August 5, 1995.)

(d) The Board of Assessors shall not amend the assessment rolls to reflect any exemptions authorized by section four hundred sixty-seven of the Real Property Tax Law until a certified copy of the local law, ordinance or resolution providing for such exemption is filed with the

Board of Assessors. Applications and supporting documents for exemptions from town or school district taxes shall be filed with the Board of Assessors together with supporting documents in the same manner and within the time specified by subdivision (c).

(e) At least sixty days prior to the first of May in each year, the Board of Assessors shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before such first day of May and be approved in order for the exemption to be granted. Failure to mail any such application form and notice or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

(f) Notwithstanding subdivision e hereof, for the year nineteen hundred eighty-two, the following procedures shall be applicable:

1. The Board of Assessors shall within five days after the effective date of this local law prepare forms for an exemption pursuant to this section. Such forms shall be mailed to each person who is granted an exemption pursuant to this section on the latest completed assessment roll and which exemption was not renewed for the tax year nineteen hundred eighty-two - eighty-three;
2. Applicants may file for such exemption on such forms until the final completion of the assessment roll as provided in section 6-13.0 of the Nassau County Administrative Code;
3. Applicants who file such form on or before such final completion of the assessment roll shall be granted the exemption pursuant to this section;
4 Upon the effective date of this local law the Board of Supervisors of the County of Nassau shall notify the Nassau County Department of Senior Citizen Affairs of its action; and
5. The Nassau County Department of Senior Citizen Affairs shall cause notice of the adoption of this local law to be disseminated by news media and other means to senior citizens in the County of Nassau.

(Paragraph 2 of subdivision b and subdivision f of § 6-22: Local Law No. 6-1980, in effect July 21, 1980; Subdivision a and paragraph 2 of subdivision b amended by Local Law No. 8-1983, in effect September 26, 1983.)

§ 6-2.3 **Real property taxation exemption for certain improvements to real property by persons who are disabled.**

(a) An improvement to any real property used solely for residential purposes as a one, two or three family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owner's household who is physically disabled, if such member resides in the real property.

(b) The exemption shall apply to improvements constructed in accordance with (a) above notwithstanding the date of construction.

(c) To qualify as physically disabled for the purposes of this section, an individual shall submit to the Board of Assessors a certified statement from a physician licensed to practice in the State of New York on a form prescribed and made available by the State Board of Equalization and Assessment which states that the individual has a permanent physical

impairment which substantially limits one or more of such individual's major life activities, except that an individual who has obtained a certificate from the State Commission for the Blind and Visually Handicapped stating that such individual is legally blind may submit such certificate in lieu of a physician's certified statement.

(d) Such exemption shall be granted only upon application by the owner or all of the owners of the real property on a form prescribed and made available by the State Board of Equalization and Assessment. The applicant shall furnish such information as the State Board of Equalization and Assessment shall require. The application shall be filed together with the appropriate certified statement of physical disability or certificate of blindness with the Board of Assessors on or before the first day of May.

(e) If the Board of Assessors is satisfied that the improvement is necessary to facilitate and accommodate the use and accessibility by a resident who is physically disabled and that the applicant is entitled to an exemption pursuant to this section, it shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted pursuant to this section on the assessment roll with the taxable property, with the amount of the exemption as determined pursuant to this section in a separate column.

(f) Once granted, the exemption shall continue on the real property until the improvement ceases to be necessary to facilitate and accommodate the use and accessibility of the property by the resident who is physically disabled.
(Local Law No. 9-1983, in effect December 1, 1983.)

§ 6-2.4 **Partial exemption from taxation to persons with disabilities who have limited incomes.**

(a) Real property located in Nassau County owned by one or more persons with disabilities, or real property owned by husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by Nassau County to the extent set forth in the following schedule:

| ANNUAL INCOME | PERCENTAGE ASSESSED VALUATION EXEMPTION FROM TAXATION |
|---|---|
| Less than $24,000 | 50 % |
| At least $24,000 but less than $25,000 | 45 % |
| At least $25,000 but less than 26,000 | 40 % |
| At least $26,000 but less than $27,000 | 35 % |
| At least $27,000 but less than $27,900 | 30 % |
| At least $27,900 but less than $28,800 | 25 % |
| At least $28,800 but less than $29,700 | 20 % |
| At least $29,700 but less than $30,600 | 15 % |
| At least $30,600 but less than $31,500 | 10% |
| At least $31,500 but less than $32,400 | 5 % |

(b) For the purposes of this section the following definitions apply:

(A) "Sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

(B) "A person with a disability" is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (I) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act, or (II) is certified to receive railroad retirement disability benefits under the federal railroad retirement act, or (III) has received a certificate from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind.

(C) "Proof of Disability" shall be an award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the State Commission for the Blind and Visually Handicapped.

(c) No exemption shall be granted:

(1) Unless annual application is made therefore in accordance with the provisions of subdivision (e) of this section.

(2) If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of thirty-two thousand three hundred ninety-nine dollars and ninety-nine cents. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

(3) Unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section.

(4) Unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

(5) In the case of real property where a child resides if such child attends a public school of elementary or secondary education, no school tax should be exempted.

(d) This exemption shall apply to real property owned by a cooperative apartment corporation. Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his share or shares of stock in such corporation is determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property, the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

(e) Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the State Board, and shall be filed in such assessor's office on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.

(f) At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted an exemption pursuant to this section on the latest completed assessment roll an application form and notice that an application must be filed on or before taxable status date and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

(g) Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

(h) Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed, provided, however, that no parcel may receive an exemption for the same municipal tax purpose pursuant to both this section and section four hundred sixty-seven of this title.

(Added by Local Law No. 4-1998, in effect June 26, 1998; amended by Local Law No. 28-2002, in effect December 31, 2002; amended by Local Law No. 17-2003, in effect December 3, 2003 and shall apply to assessment rolls prepared on the basis of taxable status on or after January 2, 2004).

§ 6-2.5 **Real property tax exemption for Gold Star Parents.**

(a) As used in this section, "Gold Star Parent" shall mean the parent of a child who died in the line of duty while serving in the United States armed forces during a period of war as defined in section 1458-a(1)(a) of the New York State Real Property Tax Law.

(b) As used in this section, "qualifying residential real property" shall mean property owned by a Gold Star Parent which is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to normal taxation and the remaining portion only shall be entitled to the exemption provided by this section. Such property must be the primary residence of the Gold Star Parent or the remarried surviving spouse of the Gold Star Parent, unless the Gold Star Parent or unremarried spouse is absent from the property due to medical reasons or institutionalization.

(c) As provided in § 1458-a(2)(a) of the New York State Real Property Tax Law (veterans alternative exemption), qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property; provided, however, that such exemption shall not exceed twelve thousand dollars or the product of twelve thousand dollars multiplied by the latest state equalization rate as defined in § 1458-a(1)(f) of the New York State Real Property Tax Law for the assessing to, or in the case of a special assessing unit, the latest class ratio as defined in § 1458-a(1)(g) of the New York State Real Property Tax Law, whichever is less.

(d) The additional exemptions provided for in § 1458-a(2)(c) of the New York State Real Property Tax Law shall not apply to real property owned by a Gold Star Parent.

(Added by Local Law 36-2000, effective November 29, 2000 and applicable to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 2001.)

§ 6-2.5*

a) The property of a senior citizen that qualifies for and receives the enhanced exemption pursuant to subdivision four of section four hundred twenty-five of the Real Property Tax Law shall be eligible to receive an abatement of county taxes equal to one hundred percent of the general tax rate increases for the roll finally completed in the year two thousand two as compared to the tax rate applicable to the assessment roll finally completed in calendar year two thousand one. This abatement shall not limit increases in tax that result from changes to the full taxable value of property or from subsequent tax rate increases or from increases in taxes other than the general county tax.

b) No separate application shall be required for the abatement authorized by subdivision a of this section. The Assessor of Nassau County shall compute and apply the abatement when extending the tax on eligible property. Eligibility for such abatement shall be determined annually provided that a property that becomes eligible for a year subsequent to the initial year in which such abatement is authorized shall receive the abatement for such subsequent year and for each year thereafter while it remains eligible and until the authorization for the abatement expires. If the enhanced extension granted pursuant to subdivision four of section four hundred twenty-five of the Real Property Tax Law is later discontinued or revoked, the

abatement granted pursuant to this section shall likewise be discontinued or revoked. If eligibility for the abatement or the amount of the abatement changes after the extension of taxes, the Assessor shall notify the official responsible for the collection or refund of taxes, who shall calculate and impose or refund the difference in taxes accordingly.

c) The general county tax extended on an eligible parcel shall be abated by the abatement amount, which shall be calculated by multiplying the taxable assessed valuation, after application of all exemptions for which such parcel is eligible for general county tax purposes, by the abatement tax rate determined pursuant to this section, provided that the abatement shall not exceed the general county tax otherwise chargeable to such eligible parcel. The legislature shall determine separate abatement tax rates for each class of property, each roll year and each portion of the County for which a general county tax is determined. The abatement rate shall be the base abatement tax rate calculated pursuant to this subdivision multiplied by the abatement ratio. The abatement ratio shall be set forth in the local law, as it may be amended from time to time, which adopts the abatement authorized by this section. Such ratio shall be one-half if no other ratio is specified in the local law. In no event shall the abatement ratio be greater than one.

(d) For the general county tax levied on the assessment roll finally completed in calendar year two thousand two, the base abatement tax rate for a class shall be the general county tax rate, for such class applicable to such assessment roll less the tax rate for such class for the roll finally completed in calendar year two thousand one.

(e) In each subsequent year, the base abatement tax rate shall be adjusted to account for changes in the level of assessment by multiplying the base abatement tax rate calculated pursuant to paragraph (e) of this subdivision by the ratio between the class equalization rate for such class for the roll completed in calendar year two thousand two and the class equalization rate for such class for the assessment roll for such subsequent year.

(f) If the equalized tax rate for a class in any year is less than the equalized tax rate for the roll finally completed in calendar year two thousand two but more than the rate for the roll completed in calendar year two thousand one, the base abatement tax rate shall be recalculated by dividing the difference between such equalized tax rates by the class equalization ratio for the roll year of the taxes to be abated.

(g) If the equalized tax rate for a class and roll year after calendar year two thousand two is less than the equalized tax rate for the roll completed in calendar year two thousand one, no abatement shall be granted for property in such class for such roll year.

(h) For purposes of this section, "class" shall have the meaning provided by section eighteen hundred two of this chapter and "class equalization rate" shall have the meaning provided by section twelve hundred two of this chapter. The term "equalized tax rate" shall mean:

i) The general county tax rate for a class and roll year multiplied by the class equalization rate for such class and year.

ii) The abatement authorized by this section shall apply to taxes on real property owned by a cooperative corporation and to trailers and mobile homes to the extent such taxes are attributable to the property of eligible shareholders or owners and shall be credited against the taxes or rent otherwise payable by or chargeable to such eligible individuals in the same manner as if provided within the exemption granted by section four hundred twenty-five of the Real Property Tax Law.

(*Note: There are two sections 6-2.5.)

(Section added by Local Law 17-2002, effective Nov. 15, 2002 with abatement remaining in effect through and including the roll finally completed in the year two thousand fifteen.)

§6-2.6* **Partial Exemption from Taxation for Volunteer Firefighters and Volunteer Ambulance Services**

(1) Real property owned by an enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service or such enrolled member and spouse shall be exempt from taxation to the extent of ten percent of its assessed value for Nassau County taxes.

(2) Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or an incorporated ambulance service unless:

(a) the applicant resides in the city, town or village which is served by such an incorporated volunteer fire company, fire department or an incorporated ambulance service;

(b) the property is wholly or partially occupied by the applicant;

(c) the property is used exclusively for residential purposes; provided however, that in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section; and

(d) the applicant has been certified by the Board of Directors of the incorporated volunteer fire company, fire department or incorporated ambulance service as an enrolled member of such organization, and has served in good standing for a minimum of five years.

(3) Application for such exemption shall be filed with the assessor on or before tax status day on a form as prescribed by the County Department of Assessment.

(4) An enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who accrues more than twenty years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, shall be granted the ten percent exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within Nassau County.

(*Note: There are two sections 6-2.6.)

(Added by Local Law 24-2002 effective December 17, 2002, amended by Local Law 1-2005)

§6-2.6. **Adjustment of veterans' exemption.**

(a) Recomputation. In the event of a revaluation or update of assessments, where an exemption pursuant to section four hundred fifty-eight of the Real Property Tax Law has been granted the amount of such exemption shall be recomputed pursuant to the provisions of paragraph a of subdivision five of section four hundred fifty-eight of the Real Property Tax Law.

(b) Notice of adjusted exemption. If at the time of providing an assessment disclosure notice pursuant to section five hundred eleven of the Real Property Tax Law or publication of the tentative assessment roll, the change in the level of assessment has not been certified pursuant to the rules of the State Board of Real Property Services, the Board of Assessors may estimate the exemption as recomputed in accordance with the provisions of subdivision (a) of this section for purposes of such disclosure notice or tentative roll.

(Added by Local Law 18-2002 effective November 15, 2002)

§ 6-3.0 **Name of owners on assessment roll.** The Board of Assessors shall make diligent effort to ascertain the true name and address of the owner of each parcel of land assessed and charge the land to such owner on the assessment roll.

§ 6-4.0 **Special franchise assessment.** When a town or city clerk shall have received from the state tax commission the statement of the equalized valuation of a special franchise as fixed by the state tax commission in accordance with the provisions of the tax law, he shall deliver a copy of such statement to the chairman of the Board of Assessors within five days after such receipt by him. As required by the tax law, the Board of Assessors shall proceed to apportion the valuation of the special franchise among the several school and special districts according to their best judgment, and shall indicate such apportioned valuations upon the assessment roll.

§ 6-5.0 **Assessment of property in separate districts to be apportioned**. The Board of Assessors, in addition to the requirements contained in section 6-4.0 of this code, shall, whenever necessary, make an apportionment of the assessment of the real property among the several school and special districts in which such real property is located.

§ 6-6.0 **Assessment of exempt property; assessment of property of non-residents.** The property of non-residents shall be assessed in the same manner as the property of residents. All real estate exempt from taxation shall be assessed in the same manner as property subject to taxation.

§ 6-7.0 **Form of assessment roll.**

a. The chairman of the Board of Assessors shall be responsible for the preparation of the assessment roll with the assistance of the deputy assessors. In the preparation of the assessment roll, columns or books may be provided, in addition to those required by the tax law, for the designation of:

1. The assessment of property exempt from taxation.
2. Property situated in school districts.

b. Additional columns may also be provided for the purpose of listing all real estate, on which taxes and assessments have been levied and returned to the County Treasurer as unpaid.

c. The Board of Assessors by its rules and regulations may provide for the convenient grouping, assessing and taxation of lots or subdivided real property which are under the same ownership.

d. All property assessed shall be designated or described in the same manner as such property is designated or described on the tax maps of the County when the same shall have been completed pursuant to section six hundred three of the charter.

e. When the tentative assessment roll has been prepared, the Board of Assessors, or at least a majority of such Board of Assessors, shall severally appear before any officer of the County authorized by law to administer oaths and shall severally make and subscribe before such officer an oath in the following form: “We, the undersigned, do severally depose and swear that, to the best of our knowledge and belief, we have set forth in the tentative assessment roll attached hereto or filed herewith all the real property situated in the assessing unit in which we are assessors and, with the exception of assessments made by the State Board of Equalization and Assessment, we have estimated the value of such real property at the sums which we have determined to be in accordance with the provisions of section three hundred five of the Real Property Tax Law," which oath shall be set forth on such tentative assessment roll and signed and verified by the assessors.

(Old subdivision e renumbered to be d by L. 1939 Ch. 702 § 3, in effect June 5, 1939: new subdivision e added by Local Law No. 3-1983, in effect April 25, 1983.)

§ 6-8.0 **Board of Assessors to correct assessment roll in accordance with list.** In the

preparation of the assessment roll the Board of Assessors shall give effect to such relative information as may appear from the lists furnished to it pursuant to section six hundred four of the charter.

§ 6-9.0 **Completion of assessment roll.** Notwithstanding the provisions of article five of the Real Property Tax Law, the Board of assessors shall complete the assessment roll on or before the first business day of January.
(Amended by L. 1944 Ch. 716, in effect January 1, 1945; Local Law 11-1995, in effect December 13, 1995. Amended by Chapter 401 of the Laws of 2002.)

§ 6-9.1 **Resolution of completion of assessment roll to be published.** The resolution required to be published in the official newspapers pursuant to section six hundred six of the charter, shall also be published in such other newspapers as the Board of Supervisors may designate.
(Added by L. 1939 Ch. 702, in effect June 5, 1939.)

§ 6-10.0 **Notice of publication of assessment roll to non-residents and to corporations.** Between the first and fifth days of May, the Board of Assessors shall mail a copy of the resolution and notice specified in section six hundred six of the charter to each corporation and person non-resident in the County who has filed a written demand therefore with the chairman of the Board of Assessors on or before the fifteenth day of the preceding March. Such notice also shall specify each parcel of land assessed to such non-resident corporation or person and the assessed valuation thereof.
(Amended by L. 1944 Ch. 716, in effect January 1, 1945.)

§ 6-11.0 **Hearing of complaints.**

a. Complainants shall file with the Board of Assessors a statement, under oath, specifying the respect in which the assessment complained of is incorrect. Such statement must be verified by the person assessed or whose property is assessed, or by some person authorized to make the statement, and who has knowledge of the facts stated therein.

b. The member of the Board of Assessors or the deputy assessor designated by the chairman of the Board of Assessors pursuant to section six hundred seven of the charter to sit and hear complaints may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, such member of the Board of Assessors or deputy assessor may require the person assessed, or his agent or representative, or any other person, to appear before him and be examined under oath concerning such complaint, and to produce any papers relating to such assessment with respect to his property or his residence.
(Subdivision b amended by L. 1943 Ch. 59 § 1, in effect March 4, 1943.)

c. If any such person, or his agent or representative, shall willfully neglect or refuse to attend to be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his assessment. Minutes of the examination of every person examined by any such assessor upon the hearing of any such complaint shall be taken and filed in the office of the Board of Assessors.

§ 6-11.1 **Hearing of complaints on assessment roll to include hearing on school district assessment roll.** The hearing of grievances provided for by section six hundred six of the charter, in relation to the assessment roll, shall include and be deemed a hearing of grievances in relation to the school district assessment roll. There shall be included in the resolution, required to be adopted and published pursuant to section six hundred six of the

charter, a statement to that effect.
(Added by L. 1940 Ch. 318, In effect April 9, 1940.)

§ 6-12.0 **Exclusion of property from assessment roll.**

a. The Board of Supervisors, on or before the first day of August of each year, shall exclude from the assessment roll those parcels of real property that have been struck down to the County at a tax sale, and have not been redeemed as provided in section 5-50.0 of the code and the time to so redeem has expired. The County Treasurer shall annually, on or before the first day of July in each year, prepare and submit to the Board of Supervisors a list of all parcels to be excluded pursuant to this section.
(Subdivision a amended by L. 1940 Ch. 234 § 1, in effect March 24, 1940.)

b. No such property shall be so excluded from such assessment roll except by a resolution of such board adopted at a regular meeting, or special meeting, after due notice to each member of the object of such meeting. Whenever such real property is so excluded from the assessment roll by the Board, the total assessed valuation of the real estate, as the same appears on the completed assessment roll, shall be the correct valuation of the real estate in the County subject to taxation.

§ 6-13.0 **Final completion.** Notwithstanding the provisions of article five of the Real Property Tax Law, the tentative assessment roll shall be completed and verified as the final assessment roll on or before the first business day of April in the year following its initial publication.
(Amended by Chapter 401 of the Laws of 2002)

§ 6-14.0 **Verification of assessment roll.**

a. When the tentative assessment roll has been finalized after the hearing and determination of all complaints as provided in sections five hundred twelve and fifteen hundred twenty-four of the Real Property Tax Law, the Board of Assessors or a majority of them, shall severally appear before any officer of the County authorized by law to administer oaths and shall severally make and subscribe before such officer an oath in the following form: “We, the undersigned, do severally depose and swear that, to the best of our knowledge and belief, the foregoing final assessment roll conforms in all respects to the tentative assessment roll with the exception of changes made by the Board of Assessment Review and assessments made by the State Board of Equalization and Assessment," which oath shall be set forth on such final assessment roll and signed and verified by the assessors.

b. Such oaths shall be written or printed on the assessment roll, signed by the members of the Board of Assessors and certified by the officer.
(Subdivision a amended by Local Law No. 9-1972, in effect August 29, 1972. Local Law No. 3-1983, in effect April 25, 1983.)

§ 6-15.0 **County assessment roll official for county, towns, special districts.** The assessment roll prepared by the Board of Assessors shall be the official assessment roll for the County, each town and special district therein.

§ 6-16.0 **Change of record ownership.** Real property which has been properly charged to one person upon the assessment roll for any assessment year shall not be transferred afterwards on the assessment roll to another person within that assessment year.

§ 6-17.0 **Assessment roll; filing of.** The Board of Assessors shall on the first business day of April in each year file and thereafter keep on file in its office a certified copy of the completed and verified county final assessment roll. It shall not be necessary for the Board of Assessors to file a copy of the County or school district assessment roll in the office of the clerks of the towns or cities, notwithstanding the provisions of any general or special law requiring such filing.
(Amended by L. 1940 Ch. 458 § 1, in effect April 13, 1940; amended by Chapter 401 of the Laws of 2002.)

§ 6-17.1 **Notice of filing of assessment roll.** When the completed County assessment roll shall have been filed as provided by section 6-17.0 of the administrative code, the assessors shall forthwith cause to be posted conspicuously in at least three public places in such city and township in the County and to be published in the official newspapers of the County, a notice that such assessment roll has been finally completed and stating that such certified copy has been filed in the office of the Board of Assessors and will be open to public inspection for a period of fifteen days. Failure to publish such notice shall not, however, invalidate or affect the validity of any assessment on such assessment roll.
(Added by L. 1940 Ch. 458 § 2, in effect April 13, 1940.)

§ 6-17.2 **Proceedings to review assessments.** An assessment on the County assessment roll shall be reviewed in the manner provided by the general tax law of the State of New York, except as provided in section 6-17.3 of the administrative code.
(Added by L. 1940 Ch. 458 § 2, in effect April 13, 1940.)

§ 6-17.3. **Time for beginning and service of papers in proceedings for review of assessment.** The petition and notice for the review of an assessment on the County assessment roll as provided for in section 6-17.2 of the administrative code must be served within thirty days after the filing of the certified copy of the completed and verified County assessment roll in the office of the Board of Assessors as required by section 6-17.0 of the administrative code. In any proceeding to review an assessment on the County assessment roll, three copies of the petition, notice and any other papers in connection therewith must be served upon the chairman of the Board of Assessors or upon the chief clerk of the Board of Assessors, Notwithstanding the provisions of any other general or special law to the contrary it shall not be necessary to deliver a copy of said petition or notice to the clerk of any school district.
(Amended by L. 1951 Ch. 295, in effect May 1, 1951.)

§ 6-18.0 **School district assessment roll.** The assessment roll annually made and completed as the County assessment roll shall be the assessment roll for school district tax purposes. The Board of Assessors, on or before the first day of August, shall prepare a separate assessment roll of property situated within the school districts, copied from the preceding County assessment roll shall be verified and used for school district tax purposes.
(Amended by Chapter 401 of the Laws of 2002.)
(Editor's note- § 6-18.0 should probably read ". . . copied from the preceding County assessment roll, which shall be verified . . . ."

§ 6-19.0 **Certification of assessed value of property in school districts.** As soon as the Board of Assessors has finally completed and verified the school district assessment roll and on or before the first day of August in each year, such board shall certify to the Board of Education or to the trustees of each school district the total assessed value of the real property, including special franchises, in the school district, and in each of the four classes of real property designated in Section 1802(1) of the Real Property Tax Law, as the same appear upon the school district assessment roll.
(Amended by Local Law No. 6, in effect July 26, 1982.)

§ 6-20.0 **Certification of budgets by school districts.** After the lawful authorities in each

school district shall have adopted their budget and fixed the amount of taxes to be raised therein for such school district in the manner provided by law, the Board of Education, trustees or trustee of such school district shall, on or before the fifteenth day of August in each year, certify to and file with the Board of Assessors and the Board of Supervisors such budget and the amount to be raised by taxes, together with copies of all resolutions in connection therewith.
(Amended by Local Law No. 6-1982, in effect July 26, 1982: L. 1995 Ch. 14, in effect January 1, 1995 pursuant to L. 1995 Ch. 561 sec. 23.)

§ 6-20.1 **Election of classes by school districts.** On or before the fifteenth day of August in each year, the Board of Education, trustees or trustee of such school districts shall certify to the Board of Assessors and the Board of Supervisors whether or not they have elected to allocate their tax levy amongst two classes pursuant to section 1803(5) of the Real Property Tax Law, together with copies of all resolutions in connection therewith. In addition, the Board of Education, trustees or trustee of such school districts may make recommendations to the Board of Supervisors as to the allocation of the five (5) percent adjustments for each class authorized by section 1803(2)(d) of the Real Property Tax Law. This recommendation shall be contained in the same resolution electing the number of classes.
(Added by Local Law No. 6-1982, in effect July 26, 1982.)

§ 6.20.2 **Establishment of base proportions and adjusted proportions by the Board of Supervisors.**

(a) In the calendar year 1982, the Board of Supervisors shall, on or before September 1st, establish the base proportion in accordance with the direction of section 1803(1) of the Real Property Tax Law. The base proportion shall be established for each class set forth in section 1802 of the Real Property Tax Law and for each portion (as defined in section 1801(d) of the Real Property Tax Law) included within the County.

(b) In the calendar year 1982 and in each succeeding year, the Board of Supervisors shall, on or before September 1st of each year, make adjustments to the proportions as provided for in section (2) of the Real Property Tax Law.

(c) Beginning with the calendar year 1982 and in each succeeding year, the Board of Supervisors shall, on or before September 1st of each year, certify the appropriate base proportion, adjusted base proportion or adjusted proportion for each class and for each portion, to the County Treasurer and to the chief fiscal officer of each city and of each village which uses the County's assessment roll for the levy of taxes. Such certifications shall also be filed with the State Board of Equalization and Assessment.
(Added by Local Law No. 6-1982, in effect July 26, 1982.)

§ 6-20.3 **Establishment of tax rates.** Beginning with the calendar year 1982 and in each succeeding year, the Board of Supervisors and the legislative body of each municipal corporation which levies taxes on the County's assessment roll, shall annually allocate to each class in each portion a share of such municipal corporation's tax equal to the base proportion, adjusted base proportion or adjusted proportion as certified in accordance with § 6-20.2(c).
(Added by Local Law No. 6-1982, in effect July 26, 1982.)

§ 6-21.0 **Extension of school district taxes by Board of Assessors.** As soon as the Board of Assessors shall receive from the lawful authorities of the school districts their budget and the amount to be raised by taxes and from the Board of Supervisors the base proportion, adjusted base proportion and adjusted proportion and tax shares fixed and determined pursuant to § 6-20.2 and § 6-20.3 herein, the Board of Assessors shall extend on the school district assessment roll the taxes for school district purposes. Such taxes shall be entered in separate columns.

(Amended by Local Law No. 6-1982, in effect July 26, 1982.)

§ 6-22.0 **Levy of school district taxes.** The Board of Assessors shall complete the extension of taxes for school district purposes on or before the tenth day preceding the fourth Monday of September in each year and shall file with the Clerk of the Board of Supervisors a certificate to the effect that such taxes have been extended in accordance with Sections 6-20.0, 6-20.1. 6-20.2, 6-20.3 and 6-21.0 of the code together with those portions of the school district assessment roll to which the warrants are to be annexed as provided in section 5-11.0 of the code. Such certificate of the Board of Assessors when so filed shall be conclusive as to the extension of such taxes in accordance with said sections 6-20.0, 6-20.1, 6-20.2, 6-20.3 and 6-21.0 of the code. Thereupon the Board of Supervisors shall levy the taxes so extended for such school district purposes in accordance with such certificate.
(Amended by L. 1944 Ch. 254; L. 1953 Ch. 828 § 2, in effect April 18, 1953; Local Law No. 6. 1982, in effect July 26, 1982; L. 1995 Ch. 14, in effect January 1, 1995, pursuant to L. 1995 Ch. 561 § 23.)

§ 6-23.0 **Apportionment of assessment and taxes.**

a. The receiver of taxes or the owner, mortgagee, holder of a tax lien or prospective purchaser or prospective mortgagee of all or part of a parcel of real property may petition the chairman of the Board of Assessors for an apportionment of such real property and the assessment thereof on the County and school district assessment roll, and the apportionment of taxes and assessments for benefit on such real property and the arrears thereof including tax liens which have been sold by the County.

b. The petitioner shall state in his petition:

1. The interest which he possesses in such real property or that he is the receiver of taxes.
2. The name, address, nature and degree of the interest of the owners, mortgagees or holders of tax liens in such real property and the heirs, legal representatives and assigns of any of them, so far as the petitioner can ascertain the same from the records of the County Clerk, County Treasurer or the surrogate of the County.
3. The relief sought by the petitioner.
4. Any other information which the Board of Assessors may require by its rules and regulations. Such petition shall be verified by the petitioner.

(Subdivisions a and b amended by L. 1944 Ch. 125, in effect March 7, 1944.)

c. Upon receipt of the petition, the chairman of the Board of Assessors shall notify by mail the persons mentioned in subdivision b (2) of this section that the petitioner has submitted a request for an apportionment.

d. The chairman of the Board of Assessors may approve or reject the petition and shall promptly notify the petitioner by mail of his or her decision.

e. A hearing shall be granted on such petition if:

1. The chairman of the Board of Assessors requests it.
2. The chairman of the Board rejects the petition in whole or in part and the petitioner files with the chairman of the Board of Assessors, within ten days from the date of the issuance of the notice or rejection of the petition, a written request for a hearing.
3. Any person possessing a legal or equitable interest in such real property files with

the chairman of the Board of Assessors, within ten days after the filing of the petition, a written notice objecting to the apportionment.

f. The chairman of the Board of Assessors shall determine whether the hearing shall be held before the Board of Assessors or before the chairman of the Board or before a member of the Board designated by him or before a deputy assessor so designated. The chairman of the Board shall determine whether the hearing shall be held at the main office or at a branch office of the Department of Assessment. The chairman of the Board shall notify by mail the petitioner and the other parties mentioned in subdivision b (2) of this section of the time and place of the hearing. However, the petitioner or any such party, by a written statement, may waive notice of such hearing.

g. If the petition is approved in whole or in part, the Board or chairman of the Board shall issue a memorandum of apportionment setting forth the apportionment of such real property and the assessment thereof in such manner as it deems advisable and also the apportionment of taxes and assessments for benefit on such real property and the arrears thereof, including tax liens which have been sold by the County Treasurer. However, the memorandum may provide for apportioning only such real property and the assessment thereof, without apportioning the taxes and assessments for benefit and the arrears thereof. No amendment or change in the County land and tax map shall be made as a result of the issuance of such memorandum of apportionment. Whenever an instrument is to be recorded in the office of the County Clerk which requires the amendment or change to the County land and tax map the Board or chairman of the Board shall issue a certificate of apportionment which shall set forth the same matters as provided for in a memorandum of apportionment. Upon the issuance of a certificate of apportionment as herein provided, the assessors shall forthwith mark all current assessment rolls which have not yet been delivered to the receiver of taxes including the school district assessment rolls and shall extend the taxes thereon in accordance with such certificate of apportionment.
(Amended by L. 1946 Ch. 749 § 2, in effect July 1, 1940.)

h. If a certificate of apportionment of taxes and assessments for benefit and the arrears thereof, if any, is issued, the chairman of the Board of Assessors shall send a copy of the certificate of apportionment to the receiver of taxes of the town in which the real property is situated, and in a proper case to the County Treasurer. Thereupon, such officer of the town or county, as the case may be, shall mark his records in accordance with such certificate of apportionment and shall thereafter separately receive the taxes and assessments for benefit so apportioned, and the arrears thereof with interest, penalties and additions thereon as provided in title B of chapter five of the code.
(Amended by L. 1946 Ch. 749, in effect July 1, 1946,)

i. Whenever an application is made for the apportionment of taxes and assessments for benefit, whether before or while said taxes and assessments for benefit are in the hands of the receivers of taxes for collection, no interest or penalties shall accrue on such taxes and assessments for benefit from and after the date of such application and until the filing of the certificate of apportionment with the receiver of the town in which the real property is situated or the County Treasurer as the case may be, provided, said application was made at least ten days prior to the interest or penalty date and further provided, that the taxes and assessments for benefits so apportioned are paid within twenty days after the date of billing in accordance with the certificate of apportionment.
(Amended by L. 1948 Ch. 190, in effect March 10, 1948.)

(§ 6-23.0 amended by L. 1939 Ch. 702.)

§ 6-24.0 **Correction of errors in assessment rolls.** Upon the verified petition to the Board of Supervisors by a majority of the Board of Assessors:

1. That any property subject to taxation has by mistake been placed for the current year on the County assessment roll or on the school district assessment roll, at a value different from that which the Board of Assessors intended for such property, the Board of Supervisors may cause the same to be corrected. If the value is increased, the Board of Supervisors shall insert thereon the additional amount of assessment, tax or assessment for benefit due on such property and if the value is decreased it shall credit thereon so much of the assessment, tax or assessment for benefit as is represented by the amount of decrease.

2. That any property subject to taxation has been omitted for any preceding year from the County assessment roll or any special district column thereof or from the school district assessment roll, the Board of Supervisors shall insert such property on such roll for the current year at a valuation to be fixed by the Board of Assessors in its petition. The valuation so inserted shall be the value for the year omitted. The Board of Supervisors shall make the appropriate entry in the special district column in which the omission occurred. The Board of Supervisors shall also insert in such assessment roll in addition to the amount of the tax or assessment for benefit for the current year and in a separate column properly designated, the amount of tax or assessment for benefit which such property should have borne for the year when such property was omitted. The tax shall be computed at the tax rate of the omitted year.

3. That any property subject to taxation has been omitted for the current year from the County assessment roll or any special district column thereof or from the school district assessment roll, the Board of Supervisors shall place such property on the roll from which it was omitted at a valuation to be fixed by the Board of Assessors in its petition or shall make the appropriate entry in such special district column. The Board of Supervisors also shall place the amount of the tax or assessment for benefits on such property. The tax shall be computed at the tax rate of the current year.

4. That any property subject to taxation has been assessed erroneously or illegally, for either the County assessment roll or for the school district assessment roll, the Board of Supervisors shall cancel on such roll such assessment and the tax or assessment for benefit on such property.

5. That in any of the County assessment rolls or any special district column thereof or in any of the school district assessment rolls, including such current rolls, any property subject to taxation has been assessed with the property of another, or that another person or persons have become owners of a part or parts of such property since the making of such roll, the Board of Supervisors may apportion such assessment and the amount of tax or assessment for benefit on such property.

6. That any property subject to taxation was indefinitely assessed, in either the County assessment roll or in the school district assessment roll, the Board of Supervisors may cause the same to be corrected at any time before the lands are advertised for sale for the non-payment of taxes or assessments.
(Amended by L. 1948 Ch. 205, in effect March 12, 1948.)

7. The Board of Supervisors, when authorizing the correction of an error in the assessment rolls based upon a verified petition submitted to it by the Board of Assessors pursuant to any subdivision of this section, or when it shall appear that such taxes or assessments for benefit have not been paid because of errors or omissions not the fault of the owner and which cannot be corrected under other provisions of this act may modify or waive the penalties, charges, costs and interest to be paid on such taxes or assessments.

(Amended by L. 1948 Ch. 205, in effect March 12, 1948.)

§ 6-24.1 **Determination of new assessment upon change in taxable status or construction or destruction of improvements.**

a. When the tentative assessment roll fails to reflect the filing of an application for a new exemption, a change in eligibility for exemption, or the construction or destruction of improvements, which occurred after the taxable status date applicable to such roll, but on or before the taxable status date applicable to the assessment roll for the following year, the Board of Assessors shall determine a new assessment pursuant to the provisions of this section. For purposes of this section, construction of improvements shall include the construction of a new building or other structure, the expansion of an existing building or structure, or the addition to property of other articles of real property. Destruction of improvements shall include the full or partial destruction of a building or other structure or other articles of real property by fire or other casualty or by demolition.

b. Notwithstanding the provisions of section 6-2.1 of this title, an application for a new exemption based on eligibility as of a date occurring on or before the second day of January may be filed in the form and manner and within the time period specified by law and shall apply to the next published tentative or final assessment roll. No request pursuant to subdivision c of this section shall be necessary for purposes of obtaining such new exemption.

c. Except in the case of an application for a new exemption, only the owner or any other taxpayer who would be entitled to file an application for correction pursuant to section 523-b of the Real Property Tax Law may submit a request to the Board of Assessors for a new assessment pursuant to this section no later than the first business day of January in the year in which the final assessment roll is published. In the event that improvements are destroyed in full or in part by fire or other casualty, such application may be filed by such date or sixty (60) days after such destruction, whichever is later.

d. Notwithstanding the provisions of section 6-2.1 of this title, upon a change in eligibility for exemption or the construction or destruction of improvements, the Board of assessors shall determine a new assessed valuation and taxable assessed valuation and shall, if appropriate, reclassify the property pursuant to section 1802 of the Real Property Tax Law.

1. Such new assessment shall be based on the value, use and condition of the property as of the second day of January occurring on or after the date of such change in eligibility for exemption, construction or destruction.

2. Notwithstanding paragraph one of this subdivision, if the only change relates to eligibility for a personal exemption, the assessment shall remain the same as it appeared on the tentative assessment roll except to the extent of the change in such exemption. For purposes of this paragraph a "personal exemption" includes an exemption granted pursuant to section 425, 458, 458-a, 459-c, 460 or 467, or any similar provision of the Real Property Tax Law granting a partial exemption based on ownership and residency by an individual who is a member of a class specified in the statute conferring the exemption.

e. When the Board of Assessors determines a new assessment pursuant to this section it shall be entered on the next following tentative assessment roll, except that where the new assessment is less than the original assessment but is not determined in sufficient time for entry on the next tentative assessment roll, it may be entered on the final roll. In the case of an

increased assessment entered on the tentative assessment roll, the Board of Assessors shall send a notice to the owner in the manner provided by section 510 of the Real Property Tax Law.

f. In the event that the Board of Assessors enters a new assessment on the next tentative assessment roll pursuant to this section, or fails to grant an exemption or determine a new assessment as required by this section, the owner or other taxpayer may apply to the Assessment Review Commission for correction of such assessment within the time provided by section 523-b of the Real Property Tax Law for review of assessments appearing on such next tentative assessment roll. If an application for correction has been previously filed, the owner or other taxpayer need not file a new application; the previously filed application shall remain valid for review of the assessment.

g. In the event that no application for correction has been filed, the Board of Assessors shall enter the new assessment on the roll. The Board of Assessors shall also enter all exemption changes on the roll. Except in the case of an exemption change only, where an application for correction has been filed, the Board of Assessors shall transmit its determination and supporting documents to the Assessment Review Commission for disposition. The commission may increase the assessment to the same or a lesser amount than was determined by the assessors and may take any other action that it may take on an application for correction.

(Section 6-24.1 added by Chapter 401 of the Laws of 2002; amended by Chapter 402 of the Laws of 2002.)

§ 6-25.0 **Petition; notice of presentation.** A copy of the petition for the correction of an error which correction would increase the valuation of property on the County assessment roll or on the school district assessment roll and the copy of the petition for the correction of an error pursuant to subdivision two or three of section 6-24.0 of the code, with due notice of the presentation of such petition to the Board of Supervisors shall be served in such manner as the Board of Supervisors may direct or approve on the person or corporation alleged to be liable to taxation. The Board of Supervisors shall take no action on such petition unless proof of the manner of service of such petition and notice be made to them by affidavit. The Board of Supervisors shall give an opportunity to be heard to the person alleged to be liable to taxation for such property and on such hearing and review, the Board of Supervisors shall have all the powers that the Board of Assessors have in reviewing and correcting the assessment rolls. The person or corporation alleged to be liable to taxation shall have the right to make an agreement in writing with the Board of Assessors consenting to the increase in valuation of the property on the County assessment roll or on the school district assessment roll. Upon the execution of such an agreement by the parties thereto, the Board of Assessors shall submit such written agreement to the Board of Supervisors together with the verified petition certifying the error to be corrected and in such event notice of the presentation of such petition to the Board of Supervisors need not be served on the person or corporation alleged to be liable to taxation and no hearing on said petition and agreement shall be necessary.
(Amended by L. 1943 Ch. 354 § 3, in effect April 17, 1943.)

§ 6-26.0 **Action by the Board of Supervisors on the petition.**

a. If under subdivision one of section 6-24.0 of the code, the value of the assessment is decreased, the Board of Supervisors shall cause so much of the tax or assessment for benefit not due to be refunded, if the same has been paid. If under subdivision four of section 6-24.0 of the code, any assessment, tax or assessment for benefit shall be erroneous, the Board of Supervisors shall cause the same to be reassessed in a proper manner. If under subdivision four of section 6-24.0 of the code, any tax or assessment for benefit is illegal or erroneous, the Board of Supervisors shall cause the same to be refunded or adjusted if same has been paid. If

under subdivision five of section 6-24.0 of the code, any tax or assessment for benefit is apportioned, the receiver of taxes and treasurer shall receive the same separately when so apportioned. If under subdivision seven of section 6-24.0 of the code, any penalty, charge, cost or interest and any tax or assessment for benefit is waived, the receiver of taxes shall receive the amount of tax or assessment without such penalty, charge, cost or interest when a certified copy of the resolution waiving the same is filed with him.
(Amended by L. 1947 Ch. 378 § 1, in effect March 25, 1947.)

b. If:

1. Any tax or assessment for benefit shall be illegal under subdivision four of section 6-24.0 of the code;
2. Any tax or assessment for benefit shall be decreased under subdivision one of section 6-24.0 of the code; or
3. In the case of a reassessment and relevy of an erroneous assessment, tax or assessment for benefit, the amount of tax or assessment for benefit finally due is less than the amount of tax or assessment for benefit as shown on the roll, or any special district column thereof, before such tax or assessment for benefit was found to be erroneous, then

   (a) In the case of an assessment for benefit for a special or school district the amount of such cancelled assessment for benefit, or the amount of difference of such assessment for benefit, irrespective of whether the same appears upon the tax books in the possession of the town receiver of taxes or upon the books of the County Treasurer, shall be certified by the County Treasurer, on or before July fifteenth in each year to the proper officials of such district and shall be included in the amounts to be raised for such district for the next succeeding year and shall be duly paid to the County.

   (b) In the case of town assessments for benefit other than a special district assessment for benefit, the amount of such refund or reduction, irrespective of whether the same appears upon the tax books in the possession of the town, receiver of taxes or upon the tax books of the County Treasurer, shall be certified by the County Treasurer on or before July fifteenth in each year to the proper officials of such town and shall be included in the amounts to be raised for such town for the next succeeding year and shall be duly paid to the County.

   (c) Notwithstanding any provisions of this chapter, or any other general or special law to the contrary, any deficiency existing or hereafter arising from a decrease in an assessment or tax under subdivisions one, four and seven of section 6-24.0, or sections 6-12.0 or 5-72.0 of the code or by reason of exemption or reductions of assessments shall be a county charge.

(Subparagraphs (a) and (b) amended and subparagraph (c) added by L. 1948 Ch. 851, in effect April 16, 1948.)

c. A tax or an assessment for benefit which is made greater shall not be a lien on the real property for such additional amount as against purchasers or mortgagees in good faith, if pursuant to section 6-24.0 of the code, the increase is due to the fact that:

1. omitted property subject to taxation has been added to the rolls;
2. there has been a reassessment and relevy of any tax or assessment for benefit;

3. there has been a correction of an error.

§ 6-27.0 **Validity of assessment roll.** Any incorrect statement of the name of the owner or owners of any property described in the County or school district assessment rolls, shall in no way affect the validity of such assessment roll.

§ 6-28.0 **When lands imperfectly described.** When any lands are imperfectly described in the County or school district assessment roll, the Board of Supervisors may direct the Board of Assessors to correct the description. The Board of Assessors may correct the imperfect description at any time before the lands are advertised for sale for the nonpayment of taxes or assessments, and not thereafter.

§ 6-29.0 **Assessments for benefit to be certified to town supervisor.** As assessments for benefit are made for town or special district purposes, they shall be certified to the town supervisor by the lawful authorities making the assessment.

§ 6-30* **Requirement to furnish income & expense statements.**

a. For purposes of this section:

1. Income-producing property means real property used for but not limited to commercial, industrial, utility, and residential purposes, but excludes residential property containing three dwelling units or less.
2. Taxable year means fiscal or calendar year. The term calendar year means a period of twelve calendar months ending on the thirty-first day of December, provided the owner keeps his books on the basis of such period. The term fiscal year means a period of twelve calendar months ending on the last day of any month other than December, provided the owner keeps his books on the basis of such period.

b. Where requested by the Board of Assessors an owner of income-producing property shall file with the Board of Assessors an income and expense statement for the most recent taxable year, on or before the fifteenth day of the fourth month following the close of the fiscal year or if the financial records of such income-producing property are kept on the basis of the calendar year, then the income and expense statement shall be filed on the fifteenth day of April. Nothing herein shall be construed as prohibiting the Board of Assessors from requesting a filing of such statement after the 15th day of the fourth month of either the calendar or fiscal year, whichever is applicable.

c. An owner of income producing property may apply to the Board of Assessors for a waiver or extension of time, to comply with the filing requirements.

d. Such statement shall contain a certifying sentence by the owner that the information contained therein is true and correct to the best of his knowledge and belief and that the making of any willful false statement of material fact in the statement will subject the owner to the provisions of the penal law relevant to the making and filing of false instruments.

e. The violation of any provision of this section or of any rule or regulation promulgated hereunder, shall render the violator liable for the payment to the County of a civil penalty, recoverable in a civil action, in the sum of not more than five hundred dollars for each such violation, said sum to be determined by the Board of Assessors.

(Local Law No. 5-1984, in effect April 30, 1984.)
(*Editor's note- So in original. Probably should read 6-30.0)

§ 6-31* **Exemption of capital improvements to residential buildings.** Pursuant to

Chapter 590 of the Laws of 1994, the County of Nassau opts to enact a law pursuant to section 421-f of the Real Property Tax Law without any limitations of subdivision 7; for ease of reference § 421-f less subdivision 7, in pertinent part provides as follows:

1. Residential buildings reconstructed, altered or improved subsequent to … [July 26, 1994] pursuant to this section shall be exempt from taxation and special ad valorem levies to the extent provided hereinafter.

2. (a) Such buildings shall be exempt for a period of one year to the extent of one hundred per centum of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement and for an additional period of seven years subject to the following:

(i) The extent of such exemption shall be decreased by twelve and one-half per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in subparagraph (ii) of this paragraph.

(ii) In any year in which a change in level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the state board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who, may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of this chapter for the correction of clerical errors.

(iii) Such exemption shall be limited to eighty thousand dollars in increased market value, or such other sum less than eighty thousand dollars, but not less than five thousand dollars of the property attributable to such reconstruction, alteration or improvement and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the class I (one) ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five percent, in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

(b) No such exemption shall be granted for reconstruction, alterations or improvements unless:

(i) such reconstruction, alteration or improvement was commenced subsequent to … [July 26, 1994]; and

(ii) the value of such reconstruction, alteration or improvement exceeds three thousand dollars; and

(iii) the greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

(c) For purposes of this section the terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.

3. Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the state board. The application shall be filed with the assessor of [Nassau County].

4. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. For the purposes of this section, a residential building shall mean any building or structure designed and occupied exclusively for residential purposes by not more than two families.

6. In the event that a building granted an exemption pursuant to this section ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distribute of the owner, the exemption granted pursuant to this section shall cease.

7. OMITTED

8. The provisions of this section shall not apply to a city with a population of more than one million.

(The foregoing was declared to be retroactively effective for all reconstruction, alteration and improvements made from July 26, 1994.)

(Added by Local Law No. 5-1996, in effect July 9, 1996.)
(*Editor's note- So in original. Probably should read 6-31.0)

## Title B.
## Assessment Review Commission


| | | |
|---|---|---|
| Section | 6-40.0 | Legislative intent. |
| | 6-40.1 | Establishment of Assessment Review Commission. |
| | 6-40.2 | Powers and duties. |
| | 6-40.3 | Applications for corrections of assessments for taxation. |
| | 6-40.4 | Procedures for review of applications for corrections of assessments for taxation. |

6-40.5 Separability.

§ 6-40.0 **Legislative intent.** Section 523-b of the Real Property Tax Law authorizes and empowers the Nassau County Legislature to create an Assessment Review Commission to replace the current Board of Assessment Review to review applications for corrections of assessments for tax purposes between the first day of January and the last day of December each year. The Nassau County Legislature finds the creation of an Assessment Review Commission to be in the best interests of the residents and taxpayers of Nassau County.

§ 6-40.1 **Establishment of Assessment Review Commission.**

a) There shall be an Assessment Review Commission to consist of nine commissioners who shall be appointed by the County executive subject to approval of the County Legislature, for a term of five years except as specified in paragraph (c) of this section. One commissioner shall be designated chairman and shall serve for a term of three years. Each commissioner shall have at least five years' business experience in the field of real estate, real estate law, in a public agency or in a municipal department and shall attend such training courses as shall be prescribed by the State Board of Equalization and assessment pursuant to section 523 of the Real Property Tax Law. Not more than six commissioners shall at any one time be enrolled voters of the same political party.

b) The members of the Board of Assessment Review serving immediately prior to the creation of the Assessment Review Commission shall be appointed to initial terms as commissioners of the Assessment Review Commission.

c) The terms of the nine commissioners first appointed pursuant to this section shall be two members for one year, two members for two years, two members for three years, two members for four years, and one member for five years.

d) The compensation for the Commissioners of the Assessment Review Commission shall be determined and fixed by the County Legislature and shall be set forth in the ordinance or resolution confirming the appointment of the nine commissioners of the Assessment Review Commission.

§ 6-40.2 **Powers and duties**

a) The Assessment Review Commission shall be charged with the duty of reviewing and correcting all assessments of real property made pursuant to the provisions of title one of this title.

b) Every commissioner shall exercise such other powers and duties as the chairman may from time to time assign to such commissioner. The chairman may, at his or her discretion, permit individual commissioners to hear and determine complaints filed in accordance with this title.

c) The commission shall recommend regulations and its own rules of procedure and rules for conduct of the commission, not inconsistent with the provisions of this title, to the County legislative body for approval in accordance with the County Legislature's rules of procedure.

d) The commission shall have the power, within the limits of the appropriation made by County Legislature, to employ or contract with such appraisers and other employees as may be approval of the Rules Committee of the County Legislature if such contract exceeds a term of on necessary in the performance of the duties of the Assessment Review Commission subject to the awarded any contracts the aggregate amount of expenditures under which exceeds

$100,000 without prior approval of the Rules Committee of the County Legislature.
(Amended by Local Law No. 12-1999, effective September 2, 1999, deemed effective as of January 1, 1999).
(Editor's Note- Section d probably should read: "The commission shall have the power, within the limits of the appropriation made by the County Legislature, to employ or contract with such appraisers and other employees as may be necessary in the performance of the duties of the Assessment Review Commission subject to the approval of the Rules Committee of the County Legislature if such contact exceeds a term of one year or a sum in excess if $25,000. In addition, no person, firm or entity shall, in any year, be awarded any contract the aggregate amount of expenditures under which exceeds $100,000 without prior approval of the Rules Committee of the County Legislature." However, the intent of the 1999 amendment is unclear.)

e) Commissioners and others appointed to the Assessment Review Commission shall be required to disclose on a form prescribed by the State Board of Equalization and Assessment any direct or indirect interest in a property for which a complaint has been filed. Such disclosure shall be filed with the Chairman of the Board of Assessors on or before the date when the Assessment Review Commission submits the statement of assessment changes pursuant to subdivision 3 of section 525 of the Real Property Tax Law. Any member of the Assessment Review Commission who knowingly and intentionally fails to disclose such interest shall be subject to a civil fine of two hundred fifty dollars for each such omission with respect to property for which a complaint has been filed. The chairman of the Board of Assessors may recover in the name of the County in a civil action commenced in any court of competent jurisdiction such civil penalty in addition to any actual damages incurred by the County. Any recovery shall be deposited in the general fund of the assessing unit. For purposes of this section, a member of the Assessment Review Commission shall be deemed to have a direct or indirect interest in any property for which a complaint has been filed when the member, spouse or any of his or her minor children:

(1) is the owner of such property;

(2) is an officer, director, partner or employee of an entity which is an owner of lessee of such property;

(3) is an officer, director, partner or associate of a law firm or real estate firm which has a financial interest with the owner or lessee of such property; or

(4) legally or beneficially owns or controls stock of a corporation which is an owner or lessee of such property, provided, however, ownership of stock shall not constitute an interest where such stock is listed on a major stock exchange or is sold on the over the counter market and the value thereof is less than ten thousand dollars.

f) The Assessment Review Commission may appoint a secretary who shall perform such confidential duties and such other duties as are necessary to enable the Assessment Review Commission to properly and efficiently carry out the provisions of this title. The Assessment Review Commission staff shall include a minimum of 3 appraisers and 3 assistants. The compensation of the secretary and such appraisal support personnel shall be fixed by the County Legislature.
(Amended by Local Law 1-2002, effective May 2, 2002)

g) The chairman, a commissioner or their representatives may, when accompanied by the petitioner, enter upon real property and into buildings and structures upon notice by certified or registered mail to the petitioner, after the filing of the complaint in accordance with this title, to ascertain the character of the property. The chairman or commissioner may designate persons to act on the commission's behalf for the purposes of this section. Willful failure, neglect or refusal by the person whose real property is assessed, or his or her agent or representative to permit such entry shall, in the discretion of the Assessment Review Commission, result in dismissal of the administrative petition thereby denying administrative review and relief.

§ 6-40.3 **Application for correction of assessment for taxation.**

a) During the time between publication of the tentative assessment roll and publication of the final assessment roll, any person or corporation claiming to be aggrieved by the assessed value of real property may apply for a grievance for correction of such assessment on state approved forms. Such application shall be duly verified by a person having personal knowledge of the facts stated therein, provided that if the application is signed by someone other than the person or an officer of the corporation claiming to be aggrieved, the application must be accompanied by a duly executed power of attorney or authorization or as otherwise prescribed by the rules and regulations of the Assessment Review Commission.

b) The grounds for reviewing an assessment shall be as prescribed in subdivision 2 of section 524 of the Real Property Tax Law.

c) The application with respected to an assessment shall be on state approved forms and shall contain a statement specifying the grounds for review, and the reduction in assessed valuation or taxable assessed valuation or change in class designation or allocation of assessed valuation sought.

d) Where an application is determined to be incomplete, the Assessment Review Commission shall notify the person whose real property is assessed, or his or her agent, representative or counsel of such incompleteness, and provide them with the opportunity to cure such incompleteness. If the incompleteness is not cured, the incomplete petition may be rejected by the Assessment Review Commission thereby denying administrative review and relief, and notice of rejection shall be sent to the person whose real property is assessed, or to his or her agent, representative or counsel.
(Amended by Local Law 1-2002, effective May 2, 2002.)

e) For income producing properties, when an application is submitted by an applicant for correction of assessment for taxation, all income received or accrued and all expenses paid or incurred in the real estate operation of the property, shall be submitted and filed as prescribed by the rules of the Assessment Review Commission. Such statements with respect to income received or accrued and expenses paid or incurred shall be provided as a condition precedent to a review of the application. If no such statement is provided with the application, the Assessment Review Commission shall not grant a hearing or make an adjustment to the assessment for any year(s) under review otherwise than in accordance with the provisions of Article 5 of the Real Property Tax Law. The failure to provide such statements may, in the discretion of the Assessment Review Commission, result in a dismissal of the petition thereby denying administrative review and relief.

§ 6-40.4 **Procedures for review of application for correction of assessments for taxation.**

a) The Assessment Review Commission, with the approval of the County Executive and County Attorney, shall make rules of practice for proceedings and internal review of determinations before the Assessment Review Commission which rules shall be subject to the approval of the County Legislature, in accordance with the rules of the County Legislature, before December 31, 2002. Between the first day of January and the last day of December, the Assessment Review Commission may itself, or by a commissioner or hearing officer authorized by the Assessment Review Commission, act upon complete applications, reasonably compel attendance of witnesses, administer oaths or affirmations and examine applicants and other witnesses under oath. All oral and written testimony taken by the Assessment Review Commission, via a commissioner, authorized hearing officer or any other employee of the commission authorized to take testimony on complete applications shall constitute part of the

record of the proceedings upon an assessment. All completed applications shall be reviewed by the Assessment Review Commission in accordance with a priority plan that has been established by the Assessment Review Commission and reviewed and approved by the County Attorney and County Executive. If for any reason a completed application cannot be reviewed by the Assessment Review Commission, the chairman is to so report annually to the County Executive and County Legislature, providing the basis for such inability. Such annual report to be made within 60 days after the end of the Assessment Review Commission review period.
(As amended by Local Law 1-2002, effective May 2, 2002.)

b) The Assessment Review Commission shall determine the final assessed valuation or taxable assessed valuation, or the actual assessment or transition assessment, or the proper class designation of the real property of each applicant. The final assessed valuation or taxable assessed valuation of real property may be the same as or less than the original assessment or, if determined to be unlawful, the same shall be ordered stricken from the roll or where appropriate entered on the exempt portion of the roll. If it is determined that the real property is misclassified, the correct class designation or allocation of assessed valuation shall be entered on the roll by the Board of Assessors.

c) The final determination of the Assessment Review Commission upon applications for the correction of an assessment already heard shall be rendered not later than the tenth day of March so the final assessment roll may be prepared for publication on April first. The Assessment Review Commission, or one of the designated commissioners, may continue to take testimony and render determinations on applications subsequent to April tenth. The Commissioner may reduce or make determinations on any grieved assessment with the attorney of record of such applicant or duly substituted attorney of said applicant. The Board of Assessors, upon receipt of such determination, shall correct its assessment rolls. The Receiver of Taxes of any town in which the property is situated shall issue corrected tax bills in accordance with such determination and stipulation upon receipt of the determination, stipulation or judgment with notice of entry wherever applicable within thirty days after entry of a final determination by the Assessment Review Commission.

(d) Pursuant to subdivision (c) of § 6-40.4, the Assessment Review Commission may determine the issues relating to the grievance and enter into a stipulation through the Assessment Review Commission's attorneys in accordance with the determination agreed to between the Assessment Review Commission and petitioner. The Assessment Review Commission may reduce an assessment imposed upon real property where lawful cause is shown, including where such assessment is found to be excessive or erroneous in accordance with such determination, and resolve the current and the immediately previous two tax years' outstanding assessment challenges in accordance with Article 5 of the Real Property Tax Law by entering into stipulations and, where necessary, judgments with notice of entry in settlement of such challenges. If the tax shall have been paid, the County Treasurer is authorized to refund any excess tax paid, with interest. No settlement can be offered without adequate documentation of entitlement to the settlement. Such adequate documentation shall be as set forth in the rules of practice for proceedings before the Assessment Review Commission referred to in Section 3 (a), above.
(Amended by Local Law No. 1-2002, effective May 2, 2002; amended by Local Law No. 12-1999, effective September 2, 1999, deemed effective January 1, 1999).

e) On or before April first, each year the Assessment Review Commission shall mail to each applicant, who has filed an application for the correction of the assessment, a notice of the Assessment Review Commission's determination of such applicant's assessment. Such notice shall also contain the statement as to the final determination of the Assessment Review Commission, or a statement that the Assessment Review Commission has not yet made a

determination as to the final assessed valuation which shall be made as soon as the petitioner's application is reviewed or heard. If the applicant's property is a property defined in subdivision one of section 1802 of the Real Property Tax Law as "class 1", the Assessment Review Commission's determination shall contain the statement: "If you are dissatisfied with the determination of the Assessment Review Commission and you are the owner of a one, two or three family residential structure or residential real property not more than three stories in height held in condominium form of ownership, provided that no dwelling unit therein previously was on an assessment roll as a dwelling unit in other than condominium form of ownership, and you reside at such residence, you may seek judicial review of your assessment either under Title 1 or Article 7 of the Real Property Tax Law or under small claims assessment review law provided by Title 1-A of Article 7 of the Real Property Tax Law." Such notice shall also state that the last date to file petitions for judicial review and the location where small claims assessment review petitions may be obtained. A final determination when rendered shall contain the same statement. Failure to mail any such notice or failure of the applicant to receive the same shall not affect the validity of the assessment.

f) Each applicant that has filed an application of a property as defined in subdivision 1 of section 1802 of the Real Property Tax Law as “Class 2", “Class 3" or “Class 4" shall receive a notice as to the final determination of the Assessment Review Commission or a statement that the Assessment Review Commission has not yet made a determination as to the final assessed valuation which shall be made as soon as the petitioner's application is reviewed or heard, such application shall contain the statement: "If you are dissatisfied with the determination of the Assessment Review Commission you may seek judicial review of your assessment either under Title 1 of Article 7 of the Real Property Tax Law or under small claims assessment review law provided by Title 1-A of Article 7 of the Real Property Tax Law.” Such notice shall also state the last date to file petitions for judicial review. A final determination when rendered shall contain the same statement. Failure to mail any such notice or failure of the applicant to receive the same shall not affect the validity of the assessment.

g) A proceeding to review or correct on the merits any final determination of the Assessment Review Commission may be had as provided by law, and if brought to review a determination mentioned in subsection (a) of this section must be commenced on or before the last business day of April after final completion and filing of the assessment roll containing such assessment, as provided in appropriate provisions of the Real Property Tax Law or within thirty days after notice of a final determination has been made and sent to the applicant.

h) Each application that is denied or settled by the Assessment Review Commission requires a record, which includes, but is not limited to, the date of the filing of the application, and if the application is incomplete, the date the notice was sent, and the date the completed application was thereafter received; the settlement requested; the documents utilized by the Assessment Review Commission in denying or settling the application; the names of the Commissioners and/or authorized hearing officers; and the dates denying or settling the application.
(As added by Local Law 1-2002, effective May 2, 2002)

i) For purposes of this section, an application that is rejected means that the application was not considered because it was incomplete. An application that is denied means that a complete application was considered, but no reduction was indicated.
(As added by Local law 1-2002, effective May 2, 2002)
[Editor’s note- Local Law 1-2002 purported to amend section 6-40.4 “as follows” but then only printed subdivisions a, d, h, and i. It is unclear whether this had the effect of repealing subdivisions b, c, e, f, and g.]

§ 6-40.5 **Separability.**

a) If any part of, or provisions of the title or the application thereof to any person, entity, or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or the application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this title or the application thereof to other persons, entities or circumstances.

(Added by Local Law No. 8-1998, in effect February 1, 1999.)

# CHAPTER VII

## OFFICE OF PURCHASING

Section 7-1.0 Purchases involving less than one hundred dollars.
7-2.0 Filing of contracts of purchase.
7-3.0 Defaulters to the County.

§ 7-1.0 **Purchases involving not more than five hundred dollars.** Notwithstanding the provisions of section seven hundred two of the Charter, the Director of Purchasing or his designee may make purchases involving not more than five hundred dollars without competition.

(Added by L. 1939 Ch. 701 § 1; amended by L. 1954 Ch. 198; Local Law No. 1-1958 § 2; Local Law No. 19-1965 § 4, in effect January 1, 1966; Local Law No. 13-1991, in effect January 31, 1992; amended by Local Law No. 1-2000, effective February 2, 2000.)

§ 7-2.0 **Filing of contracts of purchase.** Each contract of purchase of materials, supplies or equipment, or certified copy thereof, shall be filed with the Comptroller accompanied by certified abstract of all bids, and if awarded after publication of advertisements, affidavits of publication shall also be filed with the contract. (Added by L. 1939 Ch. 701 § 1, in effect June 5, 1939; amended by Local Law No. 1-2000, effective February 2, 2000.)

§7-3.0 **Defaulters to the County.** No bid for materials, supplies or equipment may be accepted from, or contract therefore awarded to any person who is in arrears to the County, upon debt or contract or who has defaulted as surety or otherwise upon contract or obligation to the County.

(Added by L. 1939 Ch 701 § 1, in effect June 5, 1939; amended by Local Law No. 1-2000, effective February 2, 2000.)

# CHAPTER VIII
# DEPARTMENT OF POLICE

## Title A. In General


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(Editor's note- There are two Title Hs and an H-I.)

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Title I. Impoundment and Storage of Vessels

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Title J.
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Title A
In General

§ 8-1.0 **Definitions.** As used in this chapter:

1. The term "district" means the police district of the County of Nassau.

2. The term "police department" or "independent" means the Department of Police of the County of Nassau, and such term includes the term "police force".

3. The term "police force" or "force" includes all members of the police department excepting those members appointed to render clerical or stenographic, mechanical, chauffeur and laboring services exclusively.
(Amended by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-2.0 **Commissioner of Police; qualifications.** The Commissioner of Police, at the time of his appointment, must be a citizen and a resident of the State of New York for at least one year.
(§ 8-2.0 erroneously omitted in compiling main volume.)

§ 8-2.1 **School crossing guards - police cadets.**

a. The Commissioner may appoint school crossing guards and police cadets to serve for such period of time as he deems advisable. Such school crossing guards and police cadets shall be empowered to direct pedestrian and vehicular traffic at locations to which they may be assigned and shall perform such other related duties as may be prescribed by the Commissioner.

b. Nothing herein contained shall be construed to constitute such school crossing guards and police cadets as members of the police force or to entitle them to the privileges and benefits of the members of the police force nor shall they be deemed peace officers.

c. The Commissioner of Police shall have the authority to promulgate rules and regulations governing the conduct of school crossing guards and police cadets and he shall prescribe the insignia and uniform to be worn by such guards and cadets.

d. The salaries and other costs and expenses of the police department in connection with guarding school crossings shall be a charge upon the police districts.
(Added by Local Law No. 5-1954, in effect November 1, 1954; former 8-2.0 renumbered § 8-2.1 and amended by Local Law No. 9-1965, in effect June 4, 1965.)

§ 8-3.0 **Commissioner; powers and duties.** Except as otherwise provided in this chapter, the Commissioner shall have the jurisdiction and control of the government, administration, disposition and discipline of the police department and he may promulgate and enforce rules and regulations for such purposes.
(§ 8-3.0 erroneously omitted in compiling main volume; amended by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-4.0 **Police force.** There shall be a police force which shall render such police service as

may be prescribed by this chapter. The police force shall consist of such numbers of captains, lieutenants, sergeants, and police officers as shall be determined by the County Legislature upon the recommendation of the County Executive and the Commissioner of Police.

The Commissioner may detail captains as follows: One to act as First Deputy Commissioner of Police and one Lieutenant, Captain, or Sergeant to act as Second Deputy Commissioner of Police; one as Chief of Operations; one as Chief of Support; one as Chief of Detectives; one as Chief of Patrol; and, within the number provided by ordinance of the County Legislature, such additional number to act as Assistant Chiefs, Deputy Chiefs, Inspectors and Deputy Inspectors as he deems necessary. Such detail shall not be deemed a promotion.

When the Commissioner shall be unable to act by reason of his absence or inability, the duties of his office shall devolve upon the first Deputy Commissioner of Police or as otherwise directed by order of the Commissioner.

(Amended by Local Law No. 1-1951; Local Law No. 2-1959; Local Law No. 7-1965; Local Law No. 4-1972; Local Law No. 12-1972, in effect September 25, 1972; Local Law No. 4-1976, in effect May 10, 1976; Local Law No. 3-1979, in effect April 30, 1979; amended by Local Law 14-2000, effective May 23, 2000.)

§ 8-5.0 **Detective bureau.**

a. There shall be a bureau for detective purposes to be known as the detective bureau. The Commissioner may designate as many members *of* the police force as he may deem necessary to serve in such bureau and at any time may revoke the designation of such a member.

b. With the approval of the County Executive the Commissioner shall assign such members of the force to the office of the district attorney, the office of the fire marshal and any other officer or county department to perform such service as such officer or county department may require.

(Amended by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-6.0 **Bureau of public safety.**

a. There shall be a bureau of public safety.

b. It shall be the duty of such bureau, throughout the County to:

1. Enforce all laws relating to the manufacture, storage, sale, transportation or use of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures.

2. Perform such other duties as the Commissioner may prescribe.

(Former paragraph 2 repealed and part 3 renumbered 2 by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-6.1 **Air bureau.**

a. There shall be a bureau to be known as the air bureau. The Commissioner may detail as many members of the police force as he may deem necessary to serve in such bureau in the following positions: patrolman aircraft pilot, patrolman aircraft mechanic, sergeant aircraft pilot, sergeant aircraft mechanic, and lieutenant aircraft pilot. Such a detail shall not be deemed a promotion and the Commissioner at any time may revoke the detail of such a member.

b. It shall be the duty of such bureau to provide air patrol of the territory under the jurisdiction of the County and to perform such other duties as the Commissioner may prescribe.

(Added by Local Law No. 13-1973, in effect December 18, 1973.)

§ 8-7.0 **Property clerk; lost, stolen and unclaimed property.**

a. There shall be a member of the police force to be known as the property clerk.

b. The property clerk shall take charge of all property:

1. Alleged to have been stolen or embezzled and which shall be brought to the general headquarters;
2. Taken from the person of a prisoner;
3. Alleged or supposed to have been feloniously obtained or which has been lost or abandoned; and

(a) Which shall come or be taken into the custody of any member of the police force or any criminal court in the County, or

(b) Which shall be by such member or court, or by order of any court, given into his custody.

c. All such property or money shall be described and registered by such property clerk in a book kept for that purpose, which shall contain:

1. The name of the owner or claimant if ascertained;
2. The place where found;
3. The name of the person from whom taken, with the general circumstances surrounding such taking;
4. The date of receipt;
5. The name of the member of the force recovering such property or money;
6. A description thereof;
7. The names of all claimants thereto; and
8. Any final disposition thereof.

d. The Commissioner may require and take from the property clerk security for the faithful performance of the duties imposed by this section.

e. All property or money:

1. Taken on suspicion of having been feloniously obtained, or of being the proceeds of a crime, and for which there is no other claimant than the person from whom such property was taken;
2. Which is lost and comes into the possession of any member of the police force;
3. Taken from pawnbrokers as the proceeds of crime; or
4. Taken by such member from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves,

shall be transmitted, as soon as practicable, to the property clerk to be registered and advertised in the official newspapers of the County for the benefit of all persons interested, and

for the information of the public, as to the amount and disposition of the property so taken into custody by the police.

f. If any property or money placed in the custody of the property clerk shall be desired as evidence in any criminal court, such property shall be delivered to any member of the force who shall present an order to that effect from such court. Such property, however, shall not be retained by such court, but shall be returned to the property clerk on the final determination of the action in which such property was so used, on the payment of the necessary expenses incurred in its preservation.

g. 1. In this subdivision:

(a) "Property" means and includes personal property, money, negotiable instruments, securities or any interest in a thing of value, excepting real property.

(b) "Proceeds of a crime" means any property obtained through the commission of any offense and includes any appreciation in value of such property.

(c) "Substituted proceeds of a crime" means any property obtained by the sale or exchange of proceeds of a crime, and any gain realized by such sale or exchange.

(d) "Instrumentality of a crime" means any property, other than real property and any buildings, fixtures, appurtenances, and improvements thereon, whose use contributes directly and materially to the commission of any offense.

2. Except as provided in Article 13-A of the Civil Practice Law and Rules, proceeds of a crime, substituted proceeds of a crime or any instrumentality of a crime delivered to the property clerk shall be subject to forfeiture as prescribed in this section.

3. The County of Nassau may commence a civil action for forfeiture to the County of Nassau of the proceeds of a crime, substituted proceeds of a crime or instrumentality of a crime seized subsequent to an arrest for a misdemeanor crime or petty offense as such terms are defined in the penal law and the criminal procedure law, respectively, or upon a conviction for such misdemeanor crime or petty offense against any person having an interest in such property. Any person from whom property is seized incident to his or her arrest for a misdemeanor crime or petty offense will receive written notice at the time the property is seized and inventoried or as soon thereafter as practicable that the County of Nassau may commence an action for forfeiture of such property as the proceeds of a crime, substituted proceeds of a crime or instrumentality of a crime.

(Amended by Local Law No. 4-2003, in effect March 10, 2003.)

4. Except for a felony offense, as defined in section eleven hundred ninety-three of the Vehicle and Traffic Law, which may give rise to a forfeiture action pursuant to article thirteen-A of the Civil Practice Law and Rules, the County of Nassau may commence a civil action for forfeiture to such county of any vehicle as such term is defined in subdivision fourteen of section 10.00 of the Penal Law when such vehicle is operated by a person charged with a violation of section eleven hundred ninety-two of the Vehicle and Traffic Law and such person is convicted or pleads guilty to any subdivision of such section where it is proved by a preponderance of the evidence in a civil forfeiture proceeding that such person was driving in violation of

such section. Subject to the provisions of subparagraph f of this paragraph, the interest of a lienholder in such property shall not be subject to forfeiture pursuant to this paragraph, provided, however, that this provision shall not be construed to entitle a lienholder to more than the outstanding balance of the lien. For purposes of this section, the term "lienholder" shall mean any person, corporation, partnership, firm, agency, association or other entity who at the time of an arrest pursuant to this section has a financial interest recorded as a lien with the Department of Motor Vehicles of New York State or any other state, territory, district, province, nation or other jurisdiction, except that "lienholder" shall not mean an entity that leases vehicles pursuant to a written agreement subject to the New York state personal property law or the uniform commercial code. Nothing in this provision shall be construed to prevent a lienholder whose lien is not so recorded from intervening in any action or proceeding under this paragraph.

a. A person from whom a vehicle has been removed and impounded by the police pursuant to an arrest for a violation of any provision of section eleven hundred ninety-two of the Vehicle and Traffic Law shall receive notice at the time of arrest on such charge and by certified mail, return receipt requested, as soon thereafter as practical informing such person how and when the vehicle may be reclaimed and that the vehicle is subject to a civil forfeiture proceeding. In the event that the driver is not the registered owner of the vehicle, separate notice shall be provided to the registered owner of the vehicle. Notice shall also be provided to any lienholder. A vehicle removed and impounded pursuant to this section shall be subject to a reasonable fee upon release of the vehicle covering the cost of removal and storage.

b. In the event that the driver of the vehicle has a prior conviction, within the past ten years, for a violation of any provision of section eleven hundred ninety-two of the Vehicle and Traffic Law or an offense involving the use of alcohol or a controlled substance while operating a vehicle in another jurisdiction, the County may retain the vehicle and shall apply to the court, after having provided notice as required to the persons or entities set forth in subparagraph a of this paragraph, within fifteen days for a prompt hearing to request the court to take measures to protect the public safety and to protect the vehicle from destruction or sale during the pendency of the forfeiture proceeding. At such hearing the court shall determine the probable validity of the retention of the vehicle by the County, or other such appropriate measures, including but not limited to the installation at the expense of the owner of an interlock device to prevent the operation of the vehicle while the driver is under the influence of alcohol, the posting of a bond or an order restraining the sale or transfer of title of the vehicle. The hearing shall take into consideration, but not be limited to: (i) the existence of probable cause for the underlying arrest; (ii) the likelihood of success on the merits of the forfeiture action; and (iii) the driver's prior conviction, within the past ten years, for a violation of any provision of section eleven hundred ninety-two of the Vehicle and Traffic Law or for an offense regarding the use of alcohol or a controlled substance while operating a vehicle in another jurisdiction.

c. The owner of a vehicle subject to forfeiture pursuant to this paragraph must notify the County of any intention to transfer ownership or possession of such vehicle, no later than fifteen days prior to such transfer. Notice provided pursuant to subparagraph a of this paragraph shall set forth the time and

manner and procedures for such notification to the County. The provisions of this subparagraph shall remain in effect until the resolution of the forfeiture proceeding, provided, however, that the notice requirement herein shall expire one hundred twenty days after an arrest pursuant to this paragraph in the event the County has not commenced such a proceeding within such period.

(i) Nothing in this subparagraph shall be construed to affect the ability of an entity that leases vehicles or a lienholder to exercise its lawful rights to obtain possession of a vehicle under a contract or applicable law.

(ii) In the event of a transfer of title or possession pursuant to clause (i) of this subparagraph, the person or entity that affects such transfer shall provide notice to the County of its action as soon as practicable and in no event later than seventy-two hours subsequent to such action.

d. Upon receiving notification pursuant to subparagraph c of this paragraph, the County may apply for a court order to ensure that the vehicle remain available pending the outcome of the civil forfeiture proceeding pursuant to this paragraph. At such hearing the County may request appropriate measures including, but not limited to, an order of the court restraining the transfer of title or possession of such vehicle, retention by the County of the vehicle pending the outcome of the forfeiture proceeding, or a bond in the amount of fifteen hundred dollars plus the fair market value of the vehicle at the time of the arrest, as set forth in subparagraph e of this paragraph.

e. A person who transfers title or possession of a vehicle without providing notice to the County as required by subparagraph c of this paragraph shall be subject, upon a judgment that the vehicle shall be forfeited, to a penalty in the amount of fifteen hundred dollars in addition to the fair market value of the vehicle at the time of the arrest. Evidence of such fair market value may be established with reference to publications such as, but not limited to, Kelley Blue Book or NADA guide.

f. It shall be an affirmative defense to an action brought pursuant to this paragraph that the owner of the vehicle other than the person arrested for violation of any provision of section eleven hundred ninety-two of the Vehicle and Traffic Law did not know, or had no reason to know, that there was a reasonable likelihood that the vehicle would be used in violation of any such provision.

g. Following a determination by the court pursuant to this paragraph that a vehicle shall be forfeited, an owner may petition the court for relief from such determination. Such petition shall contain an affirmation that the loss of the vehicle would cause a substantial and unwarranted hardship because the owner has no reasonable access to public transportation or to the use of another vehicle and lacks the financial resources to purchase another vehicle and that possession of a vehicle is a necessary incident to his or her employment, business, trade, occupation or profession; or to his or her travel to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training; or necessary travel to and from a necessary medical examination or necessary medical treatment for such owner or a member of his or her household. Upon

demonstration of these factors satisfactory to the court, the court may grant relief from the forfeiture determination upon such terms and conditions as will provide maximum protection to the public safety.

h. Notice pursuant to this paragraph shall be to the address recorded with the Department of Motor Vehicles by certified mail, return receipt requested.

(Amended by Local Law No. 4-2003, in effect March 10, 2003; REPEALED and re-enacted by Local Law No. 5-2004, in effect March 16, 2004.)

5. A civil action seeking forfeiture brought pursuant to this section shall be commenced in the County of Nassau within one hundred twenty (120) days after the seizure of the property. Upon motion of the defendant, the County Attorney or District Attorney, said action shall be stayed during the pendency of the criminal action relating to the property.

(Amended by Local Law No. 4-2003, in effect March 10, 2003.)

6. Except for property that the Commissioner of Police determines would aid law enforcement within the County and property as defined in subdivision (i) any property forfeited pursuant to the procedures established by this subdivision shall be sold at public auction, after having been advertised by the Commissioner in the official newspapers of the County for a period of ten days, in a suitable location to be designated by the Commissioner for such purpose. The proceeds of such sale, and any other monies realized as a consequence of the forfeiture, shall be paid into the police headquarters fund of the County of Nassau to be used by Nassau County Police Department for narcotics enforcement purposes.

7. If a person charged with a misdemeanor crime or petty offense is not convicted or does not plead guilty to any misdemeanor crime or petty offense, any property seized incident to that person's arrest will be returned to him or, in the event that another person has a superior right of possession in such property, to such other person, by the property clerk of the Nassau County Police Department.

(Amended by Local Law No. 5-1966 § 1, in effect September 27, 1966: new subdivision 9 added by Local Law No. 17-1990, in effect November 26, 1990, amended by Local Law No. 4, 2003, in effect March 10, 2003.)

8. If any part or provision of this subdivision or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this subdivision, or the application thereof to other persons or circumstances.

(Added by Local Law No-4, 2003, in effect March 10, 2003)

h. 1. Except for property that the Commissioner of Police determines would aid law enforcement within the County and property as defined in subdivision (i) all lost or abandoned property which is in the possession of the property clerk and is unclaimed by its owner for a period of six months and not otherwise subject to the provisions of this section, after having been advertised by the Commissioner in the official newspapers of the County for a period of ten days, may be sold at public auction in a suitable location to be designated for that purpose.

2. The proceeds of such sale and such monies shall hereafter be paid into the general

fund of the County of Nassau to be used for drug rehabilitation, education or information purposes. Expenditures from the currently existing general welfare fund of the Nassau County Police Department, as established by order of the Commissioner of Police, shall be covered by itemized vouchers or claims in the name of the fund, verified by the oath of the Commissioner of Police and subject to audit by the County Comptroller. The existing resources of the fund may be expended pursuant to rules and regulations established by the Commissioner of Police.

(New subdivision h added by Local Law No. 17-1990, in effect November 26, 1990.)

i. However, the Commissioner may direct and empower the property clerk to destroy such property where it consists of:

1. Burglar tools of any description.
2. Cartridges or explosives.
3. Gambling apparatus.
4. Instruments, articles or medicines for the purpose of procuring abortion or preventing conception, or soiled, bloody or unsanitary clothing.
5. Solids and liquids of unknown or uncertain compositions.
6. Opium, morphine, heroin, cocaine or any of its admixtures or derivatives.
7. Hypodermic syringes and needles.
8. Any poisonous, noxious, perishable or deleterious solids or liquids.
9. Any property which in the opinion of the Commissioner of Police, is of such slight value as to make the sale of same impracticable or which might result in injury to the health or safety of the public.

(Subdivision h re-lettered as subdivision I and subparagraphs 9 and 10 amended by Local Law No. 17-1990, in effect November 26, 1990.)

j. If any part or provision of this section or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

(Added by Local Law No. 5-2004, in effect March 16, 2004.)

§ 8-8.0 **Police surgeon.** There shall be a surgeon to the police force. Such surgeons shall be duly licensed to practice medicine in this state, and at the time of his appointment, shall have been engaged in the active practice of medicine for at least five years.

(Amended by Local Law No. 10-1990, in effect August 28, 1990.)

§ 8-9.0 **Fingerprint expert.** There shall be a fingerprint expert who shall be a member of the police force.

§ 8-10.0 **Special patrolmen.**

a. The Commissioner may appoint as many citizens as he deems advisable to serve as special patrolmen, without pay, on Election Day, on a day of public celebration, or in the case of

riot, pestilence, invasion or other public calamity. Such appointment shall be made only for a specified time, and shall be revocable at all times by the Commissioner.

b. Such special patrolmen shall be vested with all the powers and privileges and shall perform all the duties of patrolmen in the regular police force. Each such special patrolman shall wear a badge, to be furnished by the Commissioner. In making such appointment, the Commissioner shall in no way interfere with the force or lawful command of the sheriff of the County.

§ 8-11.0 **Qualifications of members of the police force.**

a. No person shall be eligible for appointment to the police force who:

1. Has ever been convicted of a felony;
2. Is not a citizen of the United States;
3. Cannot understandably read and write the English language; or
4. Shall not have resided in the County for one year next preceding his appointment.

(Paragraph 4 of subdivision (a) amended by Local Law No. 5-1952, in effect November 3, 1952.)

b. Subdivision (a) shall not apply to the Commissioner.

§ 8-12.0 **Detail to duty.** The Commissioner may detail without regard to residence, members of the police force to such parts of the County, and to such criminal courts therein as he may deem advisable. He shall also detail to the civil courts held within the County on request of a judge or justice thereof, such number of members of the police force as may be necessary.

§ 8-13.0 **Discipline and punishment.**

a. The Commissioner shall have power to discipline a member of the force by:

1. Reprimand;
2. Fine;
3. Suspension, with or without pay;
4. Dismissal or removal from the force; or
5. Reducing him to any grade below that in which he was serving. If he be above the grade of patrolman, after which his compensation shall be the same as that allowed to remembers of the grade to which he is reduced.

b. Such members shall be disciplined for the following reasons only:

1. Conviction for any criminal offense;
2. Neglect of duty;
3. Violation of rules;
4. Neglect or disobedience of order.
5. Incapacity;

6. Absence without leave;

7. Conduct injurious to the public peace or welfare or immoral conduct;

9. Conduct unbecoming an officer; or

10. Any other breach of discipline.

The Commissioner may designate a captain to conduct hearings on charges against lieutenants, sergeants and patrolmen and to report his findings and recommendations to the Commissioner for action thereon. In case of disciplinary action by fine, not more than thirty days pay shall be forfeited and withheld for any offense.

c. The Commissioner shall remove or dismiss any member of the force only after:

1. Written charges are proffered against and served upon such member; and

2. Such member shall have had an opportunity to be publicly heard and examined before the Commissioner.

d. A petition to review a determination by the Commissioner to fine, suspend, dismiss or otherwise discipline a member of the police force shall not be granted after the expiration of thirty days from the service of a notice of such determination upon the member of the force so fined, suspended, dismissed or otherwise disciplined.
(Amended by L. 1948 Ch. 436, in effect March 23, 1948.)

§ 8-14.0 **Resignation; unexplained absence.**

a. Any member of the force who shall withdraw or resign, without the permission of the Commissioner, shall forfeit such salary or pay which shall be due him. The Commissioner may deem an unexplained absence, without leave, on the part of any member of the force for five days or more, a resignation by such member and accept it as such.

b. Any member of the police force who shall accept any place of public trust or civil emolument, or shall be publicly nominated for an elective office, except fire district commissioner, and shall not within ten days thereafter publicly decline such nomination, shall be deemed thereby to have vacated his office.
(Amended by Local Law No. 2-1988, in effect May 16, 1988.)

§ 8-15.0 **Expenses of the police department; how raised.**

a. The Board of Supervisors shall annually cause to be raised the amount of money required to pay the annual expenses of the police department by levying and collecting a uniform tax upon the real estate subject to taxation located within the police district.

b. Notwithstanding the provisions of subdivision a of this section, the Board of Supervisors shall annually cause to be raised by levying and collecting a tax upon the real estate subject to taxation located within the County, the amount of money required to pay the annual expenses of the maintenance, operation and personal services of the bureaus, divisions or offices which serve the County, including the following:

1. Communications bureau.

2. Detective bureau.

3. Information bureau.
4. Public safety bureau.
5. Administrative division.
6. Air division.
7. Identification division.
8. Marine division.
9. Radio division.
10. Transportation and maintenance division.
11. Office of Commissioner of Police.
12. Offices of chief and district inspectors.
13. Office of police surgeon.
14. Office of property clerk.
15. Technical research laboratory.
16. Highway patrol.
17. Emergency ambulance patrol.
18. Such other bureaus, divisions, squads or offices which serve the County.

Such expenses shall be a County charge.
(Amended by Local Law No. 2-1951, in effect December 24, 1951.)

§ 8-16.0 **Petty cash fund.** The Board of Supervisors may authorize the County Treasurer to furnish the Department of Police with a petty cash fund, in such amount as the Board of Supervisors may specify by resolution. Expenditures from this fund shall be covered by itemized vouchers or claims in the name of the fund verified by the oath of the Commissioner of Police. Upon audit of such vouchers or claims and by means of a warrant drawn on the County Treasurer signed by the Comptroller, the treasurer shall reimburse such petty cash fund the amount so audited and allowed.

Such fund shall be used for:

1. Defraying the expenses of the department in meeting public emergencies, and
2. As approved by the Commissioner, advancing the expenses that might be incurred by members of the force in the course of their assigned duties, except that expenses authorized by section 77-b of the General Municipal Law shall also be approved by the County Executive.

(Former § 8-16.0 repealed: new § 8-16.0 added by Local Law No. 1-1946; amended by Local Law No. 6-1954, Local Law No. 7- 1963, Local Law No. 13-1966; Local Law No. 3-1966 in effect September 23, 1966; subdivision 2 of § 8-16.0 repealed; new subdivision 2 of § 8-16.0 added by Local Law No. 8-1986, in effect June 16, 1986.)

§ 8-16.1 **Special enforcement fund.** The Board of Supervisors may authorize the County Treasurer to furnish the Department of Police with a special enforcement fund in such amount as the Board of Supervisors may specify by ordinance. The funds in such account shall be used

solely for undercover investigations which require the presence of cash. No expenditures of any kind or nature shall be permitted from such fund. The special enforcement fund shall be administered directly by the Commissioner of Police or the Deputy Commissioners. The funds which may be provided pursuant to this section shall be deposited into a checking account to be established by the County Treasurer. Checks drawn upon said account shall be signed by any two of the following persons:

1. Commissioner of Police.

2. First Deputy Commissioner of Police.

3. Second Deputy Commissioner of Police.

4. Chief of Operations.

(Local Law No. 11-1984, in effect June 25, 1984; amended by Local Law No. 2-1992, in effect March 2, 1992.)

§ 8-17.0 **Liability of county for negligent operation of vehicles.**

a. The County shall be liable for the negligence of a member of the police department while operating a vehicle owned by the County upon the public streets or highways of the County in the discharge of a statutory duty imposed upon the police department, providing such member at the time of the accident or injury was acting in the discharge of his duties and within the scope of his employment.

b. Any liability incurred by the County pursuant to this section shall be a charge against the County and moneys to discharge such liability shall be raised and collected in the following manner:

1. By tax upon the real estate subject to taxation within the County and located within the police district, if the vehicle at the time of the accident or injury, was being operated for the benefit of the police district; or

2. By tax upon the real estate subject to taxation within the County, if the vehicle, at the time of the accident or injury, was being operated for the benefit of the County.

c. For the purpose of this section, every such member shall be deemed an employee of the County, notwithstanding the vehicle was being operated in the discharge of a public duty for the benefit of all citizens of the community and the County derived no special benefit in its corporate capacity.

§ 8-18.0 **County police district.** The County police district now in existence is hereby continued. Such district shall consist of:

1. That part of the County outside of any city, village or the Port Washington police district.

2. Those villages which elected to become part of the County police district prior to the first day of January, nineteen hundred thirty-eight.

3. Those cities, villages or the Port Washington police district which, after the first day of January, nineteen hundred thirty-eight, elect to become part of the County police district subject to their right of withdrawal therefrom, as provided in section eight hundred three of the charter.

§ 8-19.0 **Boundaries of the police district.**

a. The Board of Supervisors, upon application of the Commissioner, and after a hearing as hereinafter provided, may alter the boundaries of the police district so as to exclude therefrom the portion of such district described in such application.

b. The Board of Supervisors shall give notice of the time, place and purpose of such hearing by publication in the official newspapers of the County once a week for two successive weeks immediately preceding such hearing. The hearing shall be held at the time and place specified in such notice, and may, from time to time, be adjourned by the Board of Supervisors, and at such hearing all persons so desiring shall be heard.

c. If after such hearing the Board of Supervisors shall be satisfied and shall find and determine that it is for the best interests of the inhabitants of, and owners of property in, the police district, that the boundaries thereof be altered so as to exclude therefrom the portion thereof described in the application, the Board shall enter such determination and finding upon their minutes, and shall make an order so altering the boundaries of the police district.

d. Such order shall be filed with the clerk of the Board of Supervisors and recorded in the minute book of such board. Thereupon, the territory within the boundaries of such police district as so altered shall be the police district, to the same extent and effect as if the same had been so described when originally created and established. The amount of money necessary for the payment of any bonded indebtedness theretofore incurred in connection with such police district, and the interest thereon, as the same shall come due, shall be raised by levying and collecting taxes on the real property subject to taxation within such police district as so altered.

§ 8-20.0 **Precincts.** The Commissioner, with the approval of the Board of Supervisors, shall divide the district into as many precincts as he deems necessary. In the event that any village, City or the Port Washington police district contracts with the police department pursuant to section eight hundred four of the charter, the Commissioner, for the purpose of furnishing the police protection provided for in such contract, shall deem such village, city or the Port Washington police district a part of any precinct adjacent thereto.

§ 8-21.0 **Powers of police force.**

a. The members of the police force shall possess all the powers of constables, except in the service of civil process, in every part of the state.

b. Any warrant of search or arrest issued by any magistrate of this state may be executed in any part thereof by any member of such force. The provisions of the code of criminal procedure relating to the giving and taking of bail shall apply to any arrest so made by a member of such force.

§ 8-22.0 **Duties of police department.** It shall be the duty of the police department within the boundaries of the police district to:

1. Preserve the public peace.
2. Prevent crime.
3. Detect and arrest offenders.
4. Protect the rights of persons and property.
5. Guard the public health.

6. Preserve order at elections and all public meetings and assemblages.

7. Remove nuisances existing in public streets, roads, places and highways and arrest all street mendicants and beggars.

8. Regulate the movement of vehicular traffic in streets, roads, places and highways and install or authorize the installation of traffic signal lights for said purposes.

(Subdivision a amended by Local Law No. 5-1964, in effect August 19, 1964.)

9. Provide proper police attendance at fires.

(Subdivisions 10 and 11 repealed by Local Law No. 3-1945, in effect July 9, 1945.)

10. Enforce and prevent the violation of all laws and ordinances in force in such district, and for these purposes with or without warrant, to arrest all persons guilty of violating any law or ordinance for the suppression or punishment of crime and offenses.

(Subdivision 12 renumbered to be subdivision 10 by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-22.1 **Police impound of vehicle.** Repealed.

(Local Law No. 5-1983, in effect July 18, 1983; Repealed by Local Law No. 2-1985, in effect February 25, 1985.)

§ 8-23.0 **Departmental records and books.** The Commissioner shall cause to be kept a general complaint book, police blotters, a force record and such other records and books as he may, with the approval of the County Executive, prescribe. He shall determine by rules what matters shall be entered in each of such books or records, by whom such entries shall be made and where each of such books or records shall be kept.

Provision shall be made for recording any special services rendered by any member of the force which shall be deemed meritorious by the Commissioner.

(Amended by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-24.0 **Subpoena of witnesses; oaths; depositions.** The Commissioner shall have power to:

1. Issue subpoenas to compel the attendance of witnesses upon any proceeding authorized by the orders, rules and regulations of the department.

2. Administer an affirmation or oath to any person summoned and appearing in any matter or proceeding so authorized.

3. Take any deposition necessary to be made under such orders, rules and regulations, or for the purposes of this chapter.

4. Issue subpoenas duces tecum to compel the attendance of witnesses or persons and the production of a book or paper material to:

(a) an investigation of proposed charges against a member of the police department, pursuant to an order made therefore, or

(b) a trial on charges made against a member of the police department.

(Added by L. 1948 Ch. 189, in effect March 10, 1948.)

§ 8-25.0 **Entry where felony is suspected.**

a. A member of the police force, having just cause to suspect that any felony has been, or is being, or is about to be committed within any building or on board of any ship, boat or vessel within the police district, may enter upon the same at all hours of the day and night to take all necessary measures for the effectual prevention or detecting of all felonies.

b. He shall have power, then and there, to:

1. Take into custody all persons suspected of being concerned in such felonies, and
2. Take charge of all property which he shall have just cause to suspect has been stolen.

§ 8-26.0 **Report upon arrest.**

a. Every member of the police force, upon making an arrest shall immediately report the same to the officer assigned to perform desk duty in the precinct in which such arrest was made or in the precinct where the crime occurred and the officer assigned to perform desk duty shall enter same in the arrest record.
(Amended by Local Law No. 3-1945: Local Law No. 7-1966, in effect November 15, 1966.)

b. The commanding officer of the precinct, within twenty-four hours after such report, shall cause to be forwarded a written report of said arrest to the information bureau at police headquarters. The form of and information to be included in such report shall be prescribed by the Commissioner.
(Amended by Local Law No. 3-1945, in effect July 9, 1945.)

§ 8-27.0 **Verification of complaint.** Where a summons has been served by a member of the police force in lieu of arrest, in cases of violations of the vehicle and traffic law or such ordinances, rules or regulations enacted pursuant thereto relating to traffic, the captain or acting captain or any lieutenant, or acting lieutenant or sergeant or acting sergeant assigned to the precinct in which the service of the summons is reported, is hereby authorized to administer to such member all necessary oaths in connection with the execution of the complaint to be presented in court by such member in the prosecution of such offense.
(Amended by L. 1952 Ch. 275, in effect March 27, 1952.)

§ 8-28.0 **Suppression of gaming and other disorderly houses.**

a. The Commissioner may authorize any member of the police force to enter any house, room or premises within the police district if any member of the police force, or any two or more householders shall, report, in writing, over their signatures, to him, that there are good grounds (stating the same) for believing that such house, room or premises is kept or used:

1. As a gaming house, gaming room or gaming premises for therein playing for wagers of money at any game of chance;
2. For lewd or obscene purposes and amusement; or
3. For the disposal or sale of lottery tickets or lottery policies.

Upon so entering, such member may forthwith arrest all persons there found offending against law, but none others, and seize all implements of gaming, or lottery tickets or lottery policies.

b. Such member shall bring:

1. Any person so arrested before a magistrate; and
2. The articles so seized to the general headquarters.

It shall be the duty of the Commissioner to cause such arrested persons to be prosecuted, and such articles seized to be disposed of as provided in section 8-7.0 of the code.

§ 8-29.0 **Custody of persons committed.**

a. The police stations in the police district, the general headquarters of the Police Department, and such other places as the Board of Supervisors shall designate, shall be lawful places of detention for persons committed by any magistrate in the County for examination upon a criminal charge, or to await trial before a court of special sessions within the County.

b. The Commissioner shall be the custodian of all persons so committed. He shall have the same powers and duties in relation to persons committed to his custody as the sheriff of the County in like cases.

c. In all cases where magistrates shall commit persons to the care and custody of the Commissioner, which they are hereby authorized to do, such commitment shall be in the same form as is provided for commitments to the sheriff of the County by the code of criminal procedure, except that the words "Commissioner of Police" shall be substituted for the word "sheriff."

§ 8-30.0 **Acquisition of city, village or Port Washington police district police property.**

a. In the event that any city, village or the Port Washington police district elects to become a part of the County police district pursuant to section eight hundred three of the charter, the common council of such city or the Board of Trustees of such village of the police commissioners of the Port Washington police district, as the case may be, may convey to the County, and the Board of Supervisors may purchase on behalf of the County, any real or personal property owned and used by such city, village or the Port Washington police district in connection with its police force or Police Department, at such price and on such terms as may be agreed upon between the Board of Supervisors and the common council of such city, the Board of Trustees of such village or the police commissioners of the Port Washington police district.

b. However, the purchase price of real or personal property so purchased from the Port Washington police district, and any surplus funds for police purposes which the Commissioners of such district shall have on hand on the date when such district becomes a part of the County police district, shall be paid over to the County for the purpose of discharging the obligations and liabilities incurred by such district prior to the date on which it becomes a part of the County police district. Any surplus thereafter remaining shall be applied towards reducing the amount to be annually raised for county police district purposes by taxation on real property subject to taxation within the area constituting the Port Washington police district.

c. The County shall assume and discharge all such obligations and liabilities of the Port Washington police district, in the event it elects to become a part of the County police district, However, after such district shall have elected to become a part of the County police district, it shall incur no obligations or liabilities under contracts which, by their terms, are not to be fully performed by the date upon which it becomes a part of the County police district.

§ 8-31.0 **Assignment for duty in city or village.** The Commissioner may designate and assign for duty within any city or village, which has not elected to become a part of the County police district, one or more members of the County police force, on the request of the mayor of such city or the trustees of such village. However, the salary of such member while so assigned shall be paid by such city or village.

§ 8-32.0 **Fees for the search and copy of accident reports and photographs.** A search fee of ten dollars per accident report shall be charged, with no additional fee for a photocopy. An additional fee of ten dollars shall be charged for a certified copy of any accident report. A fee of fifteen dollars per photograph or contact sheet shall be charged. The fees for investigative reports shall be the same as those for accident reports.
(Added by Local Law 27-2000, effective July 31, 2000.)

Title B
Transmissions from Automatic Alarm System

§ 8-40.0 **Legislative intent.** The Legislature finds it important to ensure that the alarms being called into the Police Department have valid permits. In addition, while the Legislature recognizes the importance of alarm systems, the Legislature finds that there have been an excessive number of false alarms and the costs associated with false alarms should be borne by the people who have alarm systems. Therefore, the alarm permit fees will offset the administrative and operational expenses caused by the increase in the number of responses by the Police Department.
(Amended by Local Law No. 22-2000, effective July 25, 2000; amended by Local Law No. 20-2002, effective November 15, 2002.)

§ 8-40.1 **Definitions.** As used in this title, the term:

1. "Alarm system" shall mean any transmission from or to a privately operated central station or any alarm device which automatically dials the emergency telephone number of the police and uses a pre-taped or pre-recorded message to alert the police that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual or other similar responses, upon the occurrence of any hazard or emergency, and is intended to alert persons outside the building to the existence of said hazard or emergency. An alarm system as defined in this section shall also include fire alarms for the purpose of this title.

2. "Police emergency number" shall mean any telephone number designated by the Commissioner of Police as a telephone number through which members of the public may report an emergency or request public assistance.

3. "False alarm notification" shall mean an alarm notification to the Police Department, when there is no evidence of a criminal offense or attempted criminal offense. Excluded from this definition are:

(a) Alarms occurring during severe electrical storms, hurricanes, tornadoes, blizzards and acts of God; or,

(b) The intermittent disruption or disruption of the telephone circuits beyond the control of the privately operated central station and/or alarm user; or,

(c) Electrical power disruption or failure.

(Subdivision 3 added by Local Law No. 3-1991, in effect May 1, 1991.)

§ 8-40.2 **Automatic dialing devices.** No person shall use, operate or install any device that will, upon activation by automatic means, initiate the dialing, calling or other connection with the Nassau County Police Department "911" emergency telephone number or any other Nassau County Police Department telephone number designated by the Nassau County Police Commissioner as a "police emergency number." Automatic dialing devices shall transmit

messages only to such numbers as shall be designated for that purpose by the Commissioner of Police.

§ 8-40.3 **Delay.** Upon the activation of a burglary (break-in) alarm, there shall be a mandatory delay of at least 15 seconds before the transmission of a signal to the Police Department to enable the user to abort the signal in the event that it was triggered inadvertently. This delay shall not be applicable to a robbery (holdup), fire or medical emergency alarm. Any system installed on or after the effective date of this ordinance must comply with this section. Pre-existing installations must comply within six (6) months of the effective date of this ordinance.

§ 8-40.4 **Timing device.** The user of every alarm system, emitting an audible, visual or other similar response shall, at the time such system is installed or within six (6) months of the effective date of this ordinance in the case of existing systems, install or cause to be installed an automatic timing device which shall deactivate such alarm that has been activated for thirty (30) minutes or less.

§ 8-40.5 **Limitations of automatic dialing devices.** No person shall use, operate or install any device that will, upon activation, automatically dial, call or connect with the telephone number designated by the Commissioner of Police for the purpose of receiving such alarm messages, more than twice for anyone incident. Any system installed on or after the effective date of this ordinance must comply with this section. Pre-existing installations must comply within six (6) months of the effective date of this ordinance.

§ 8-40.6 **Permit required; application; fee; transferability; false statements.**

1. A person commits a violation if he operates or causes to be operated an alarm system that results in a call to the Police Department without a valid permit issued by the Police Department. A separate permit shall be required for each alarm system.

2. The user of every alarm system maintained in the Nassau County Police District and those areas which contract with Nassau County pursuant to Section 804 of the County Government Law of Nassau County, except those installed in motor vehicles, shall, prior to installation thereof, or within six (6) months from the effective date of this section for existing alarm systems, apply for a permit from the Police Department.

3. Upon receipt of a completed permit application form and a nonrefundable permit fee of seventy-five dollars ($75.00) for residential premises or one hundred dollars ($100.00) for non-residential premises for a new permit and sixty dollars ($60.00) for residential premises or eighty dollars ($80,000) for non-residential premise for a permit renewal, the Police Department shall issue an alarm permit to an applicant unless the applicant has:

(a) failed to pay any penalty assessed pursuant to subdivision 2 of section 8-40.10; or,

(b) had an alarm permit for any alarm site revoked and the cause of such revocation has not been corrected.

(Amended by Local Law No. 22-2000, effective July 25, 2000; amended by Local Law No. 20-2002, effective November 15, 2002.)

4. Every permit for an alarm system shall include the following information:

(a) The name, address and telephone numbers of the person who shall be the permit

holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees and assessments pursuant to this title;

(b) The classification of the alarm site as either nonresidential or residential;

(1) In the case of a non-residential premises, the name, address and telephone number of an authorized representative and/or an alternative who will be able to respond when called by the Police Department to deactivate the alarm system, if necessary;

(2) In the case of a private residence, the name, address and telephone number of a person who is not a resident of the private residence in question and who will be able to deactivate the alarm system;

(c) For each alarm system located at the alarm site, the purpose of the alarm system, to wit: burglary, robbery or personal hostage or panic;

(d) Street address and the nearest cross street of the building which houses the alarm system; and

(e) Any other information which the Police Department deems necessary for the enforcement of this title.

5. Any false statements made by an applicant in conjunction with the obtaining of an alarm permit shall be sufficient cause for refusal to issue a permit.

6. An alarm permit holder shall advise the Police Department of any changes in the Information contained on the permit application.

7. An alarm permit may not be transferred to another person without the filing of a new permit application.

8. All political subdivisions of the County of Nassau including towns, cities, villages, school districts and special districts shall be exempt from the payment of the fees set forth in subdivision 3 of this section.
(New § 8-40.6 added by Local Law No. 3-1991, in effect May 1, 1991.)

9. A privately operated central station advising the Police Department of an alarm notification shall contact the Police Department through a telephone number designated by the Commissioner of Police and shall provide a valid Nassau County Police Department permit number.
(Added by Local Law 22-2000, effective July 25, 2000.)

§ 8-40.7 **Permit duration and renewal.** A permit shall expire three (3) years from the date of issuance, and shall be renewed for additional three (3) year periods by the submission of updated permit applications and permit renewal fees as required by subdivision 3 of section 8-40.6. It shall be the responsibility of the permit holder to submit a renewal application prior to the permit expiration date. Failure to timely renew will classify the permit holder's alarm system as nonpermitted and shall subject the permit holder to the penalties provided in this title.
(§ 8-40.7 renumbered as § 8-40.10 and new § 8-40.7 added by Local Law No. 3-1991, in effect May 1, 1991.)

§ 8-40.8 **False alarm notifications.**

1. The holder of an alarm permit or the person in control of an alarm system shall be

subject to warnings and/or suspension and/or revocation of an alarm permit contingent upon the number of false alarm notifications emitted from an alarm system within any three (3) month period in accordance with the flowing schedule:

| **False Alarm Notification** | **Action Taken** |
|---|---|
| (per twenty-four hour period) | |
| 1 | Warning letter |
| 2 | |
| 3 | |
| 4 | Final warning letter |
| 5 | Revocation or loss of permit |

2. Any person who operates a newly installed alarm system shall not be subject to false alarm notifications during the thirty (30) days immediately following the completion of the installation to a maximum of three (3) false alarm notifications provided that an alarm permit has been issued by the Police Department.

3. Alarm activations occurring as the result of any of subdivision 3 (a), (b), or (c) of section 8-40.1 of this title shall not be counted for the purposes of subdivision 1 of this section.

4. All residential alarm notifications must include an attempted telephone verification with a call back to the residence by the privately operated central station before the Police Department is notified.

5. The Police Department may revoke an alarm permit if it determines that:

(a) There is a false statement made in the application for a permit; or

(b) The permit holder has violated any provision of this title; or

(c) The permit holder has failed to make timely payment of any penalty fee pursuant to subdivision 2 of section 8-40.10; or

(d) A permit fee paid by an applicant by check is dishonored; or

(e) Five (5) or more false alarm notifications have been emitted from the alarm site within any three (3) month period.

6. A person whose alarm permit has been revoked may be issued a new permit if the person:

(a) Submits an updated permit application and pays a permit fee of seventy-five dollars ($75.00) for residential premises or one hundred dollars ($100.00) for non-residential premises; and

(b) Pays, or otherwise disposes of, all penalties issued to the person pursuant to this title; and

(c) Submits proof that the alarm system has been inspected and properly maintained.

(Added by Local Law No. 3-1991, in effect January 1, 1992 for the provisions of subdivisions 1, 2 and 3 with subdivisions 4,5 and 6 in effect May 1, 1991; Sub 6(a) added by Local Law 22-2000, effective July 25, 2000; amended by Local Law 20-2002, effective November 15, 2002.)

§ 8-40.9 **Hearing upon permit denial or revocation.** A person whose alarm permit application has been denied in accordance with this title or a person whose alarm permit has been revoked in accordance with the provisions of section 8-40.8 may request a hearing before a member of the Police Department designated by the Commissioner of Police for such purpose. A request for such a hearing shall be made by a person whose alarm permit application has been denied or whose alarm permit has been revoked, not more than ten (10) days after receiving notice of such denial or revocation. At the hearing, the person shall be heard in his or her defense in person or by counsel and may offer evidence on his or her behalf. The person conducting the hearing shall make a written report of his findings and a recommendation to the Commissioner of Police for decision. The Commissioner of Police shall review such findings and the recommendations and, after due deliberation, shall issue a final order accepting, modifying or rejecting such recommendation. For the purpose of this title, the Commissioner of Police or his designee may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the hearing.
(Added by Local Law No. 3-1991, in effect May 1, 1991.)

§ 8-40.10 **Penalties and fines.**

1. A person who violates section 8-40.2, 8-40.3, 8-40.4 or 8-40.5 shall be subject to imprisonment for not more than fifteen (15) days or a fine not to exceed five hundred dollars ($500.00), or both. Notwithstanding the provisions of subdivision 1 of section 8-40.8, any person who willfully or intentionally activates an alarm to summon the Police Department for the purpose of testing or verifying Police Department response shall be guilty of a violation, and upon conviction, shall be subject to imprisonment for not more than ten (10) days or a fine not to exceed one hundred dollars ($100.00), or both, for each violation.

2. Any person operating an alarm system without a permit and who does not apply for an alarm permit within thirty (30) days after a false alarm notification or who is operating an alarm with a revoked permit shall be subject to a penalty fee in the amount of twenty-five dollars ($25.00) for each alarm notification, without benefit of the notifications provided for in subdivision 1 of section 8-40.8, any penalty assessed pursuant to this subdivision shall be payable to the Police Department.
(Title B added by Local Law No. 9-1979, in effect July 23, 1979; Renumbered by Local Law No. 12-1984, in effect June 25.1984; Sections 8-40.0, 8-40.1(1), and 8.40.7 amended by Local Law No. 20-1990, in effect November 26, 1990; Section 8-40.7 renumbered Section 8-40.10 and amended by Local Law No. 3-1991, in effect January 1, 1992.)

3. A privately operated central station that violates section 8-40.6 subdivision 9 shall be subject to a penalty fee in the amount of twenty-five dollars ($25.00). Any penalty assessed pursuant to this subdivision shall be payable to the Police Department. Any privately operated central station that fails to pay the penalty as proscribed by this section shall be notified in writing by registered mail that the Police Department will no longer accept notifications from the privately operated central station unless the penalty is paid in full within sixty days.
(Added by Local Law 22-2000, effective December 23, 2000.)

## Title C
## Solicitation by Law Enforcement-Affiliated Organizations

§ 8-50.0 **Legislative Intent.** The Board of Supervisors hereby finds that there have occurred in the past certain solicitations of businesses and members of the public by solicitors on behalf of police-related organizations, and that such solicitations have been made by organizations in no way affiliated with the County of Nassau and have on occasion been made with "high pressure tactics." The Board of Supervisors hereby further finds that such solicitations tend to undermine public confidence in the law enforcement agencies of the County through the misrepresentation of such solicitations by businesses and members of the public. This Board does therefore determine the people of the County of Nassau have a right to be protected from the coercion inherent in certain police-affiliated solicitations, and enacts this legislation in furtherance thereof.

§ 8-50.1 **Definitions.** As used in this section:

(a) "Law enforcement-affiliated organization." Any organization, association, or conference of present or former policemen, sheriffs, deputy sheriffs, detectives, investigators, constables or similar law enforcement officers or peace officers or police officers as defined in subdivisions thirty-three and thirty-four of section 1.20 of the Criminal Procedure Law, or any auxiliary or affiliate of such an organization, association, or conference composed of one or more such organizations.

(b) "Professional fund raiser." Any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in the County for the purpose of soliciting funds or contributions for or on behalf of any law enforcement-affiliated organization, or who engages in the business of, or holds himself out to persons in the County as independently engaged in the business of soliciting contributions for such purposes.

(c) "Professional solicitor." Any person who is employed or retained for compensation by a professional fundraiser to solicit funds or contributions on behalf of any law enforcement-affiliated organization from persons in the County.

§ 8-50.2 **Registration of Law Enforcement-Affiliated Organization.** No law enforcement affiliated organization shall solicit funds or contributions from the public, or have funds or contributions solicited on its behalf, unless it has filed a registration statement with the Commissioner of Police of the Nassau County Police Department, or his designee, in accordance with the provisions of this section. Each registration statement shall be refiled and updated every twelve (12) months so long as the law enforcement-affiliated organization is engaged in solicitation activities in the County. Such statements shall contain the following information:

(a) The name of the organization and the purpose for which it was organized;

(b) The principal address of the organization;

(c) A statement indicating whether the organization intends to use professional fundraisers to solicit funds or contributions from the public;

(d) The general purpose or purposes for which the contributions solicited shall be used;

(e) The names and business addresses of the person or persons in direct charge of conducting the solicitation;

(f) The names and business addresses of all professional fund raisers who will be connected with the solicitation;

(g) A statement to the effect that the fact of registration will not be used or represented in any way as an endorsement by the County or by any Police Department of the solicitation conducted thereunder; and

(h) Documents verifying the information provided under provisions (a) through (g) above, including all contracts and subsequent amendments thereto between a law enforcement-affiliated organization and any professional fund raiser with whom it does business.

§ 8-50.3 **Representation.**

(a) During the course of each and every solicitation for funds or contributions on behalf of a law enforcement-affiliated organization such solicitor shall make the following representations:

(1) The name and address of the organization represented.

(2) A description of the programs in which the organization is actually engaged and for which the funds or contributions will be used.

(b) For those person(s) who agree to contribute who have been solicited by phone or by a door-to-door effort, an acknowledgement letter shall be mailed or delivered to the person(s) indicating the requirements of section A above. If a fund drive is undertaken through the mail the second requirement shall not be necessary.

§ 8-50.4 **Prohibited acts.** It shall be unlawful to solicit funds of contributions on behalf of a law enforcement-affiliated organization:

(a) By using a name, symbol or statement so closely related to that used by another law enforcement-affiliated organization or governmental agency that the use thereof would tend to confuse or mislead the public, including the use of statement or materials that would indicate that such funds or contributions were being raised for the Nassau County Police Department or the Patrolmen's Benevolent Association of the County of Nassau, unless such agency or association shall have given its written permission for the raising of such funds for it, and the use of its name in connection with the solicitation of funds.

(b) By means of a false pretense, representation or promise which includes representing:

(1) That the professional fund raisers or solicitors are police officers or employees of any law enforcement agency.

(2) That funds collected will be used to aid widows and children of police officers slain in the line of duty or that the funds collected will be used for any other charitable program unless the organization is actually engaged in such a program, in which case the percentages of funds solicited that are allocated to such programs shall be disclosed.

(3) That contributors will receive special benefits from police officers.

(4) That contributions are tax-exempt as a charitable contribution or as a business expense unless they so qualify under the applicable provisions of the internal revenue code.

(5) By any manner, means, practice or device that misleads the person solicited as to the use of the funds or the nature of the organization.

§ 8-50.5 **Criminal and civil penalties.**

(a) Any solicitor who violates any of the provisions of this title shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars or more than ten thousand dollars or up to one year's imprisonment, or both. Each such violation shall be a separate and distinct offense.

(b) Such person shall also be subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. Each such violation shall be a separate and distinct offense.

§ 8-50.6 **Enforcement actions or proceedings.** The civil penalties prescribed by this title shall be recovered by an action or proceeding in any court of competent jurisdiction. All such actions or proceedings shall be brought in the name of the County by the County Attorney. In addition, the County Attorney may institute any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this title, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this title, mandating compliance with the provisions of this title or for such other relief as may be appropriate, in any such action or proceeding, the County may apply to any court of competent jurisdiction, or to a judge or justice thereof, for a temporary restraining order or preliminary injunction enjoining and restraining all persons from violating any provision of this title, mandating compliance with the provisions of this title, or for such other relief as may be appropriate, until the hearing and determination of such action or proceeding and the entry of final judgment or order therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition to the granting or issuing of such order, or by reason thereof.

§ 8-50.7 **Scope of remedies.** Any professional fund raiser in violation of any provision of this local law, in addition to other penalties, can be denied the right to solicit funds as set forth in this local law for a period not to exceed one (1) year. The remedies and penalties provided for herein shall be in addition to any other remedies and penalties provided under any other provisions of law.

§ 8-50.8 **Construction.** The provisions of this title shall not be construed to apply to any law enforcement-affiliated organizations when solicitation of contributions is confined to their membership. In addition, the provisions of this title shall not be construed to apply to any person or law enforcement-affiliated organization which solicits contributions for the relief of any individual, specified by name at the time of solicitation, if all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary.
(Local Law No. 7-1984, in effect May 30, 1984; Re-numbered by Local Law No. 12-1984, in effect June 25, 1984.)

## Title D
## Screening and Fingerprinting of Bus Drivers and Aides

§ 8-60.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police power, to promote the general health, safety and welfare of the residents and inhabitants of the County by enacting this title, since it is the finding of the Board of Supervisors that the fingerprinting and screening of school bus drivers, aides and driver assistants/matrons will aid in the protection of the children and the residents of Nassau County by monitoring bus drivers',

aides' and driver assistants'/matrons' traffic and criminal records.
(Title D added by Local Law No. 4-1985, in effect June 17, 1985; amended by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.1 **Definitions.** As used in this section:

(A) A "bus" shall mean every motor vehicle owned, leased, rented or otherwise controlled by a motor carrier to transport a person(s) to a place of vocational, academic or religious instruction, including, but not limited to schools and camps, and which is (a) a school bus, camp bus, or any bus which is used to transport persons within Nassau County or (b) has a seating capacity of not less than twelve passengers in addition to the driver and aide and which is used for the transportation of persons or (c) has a seating capacity of at least eight but not more than eleven passengers in addition to the driver and aide and which is designed and used for the transportation of persons; provided, however, that bus shall not mean an authorized emergency vehicle operated in the course of an emergency or a motor vehicle used in vanpooling operations.

(B) "Driver" or "bus driver" shall mean every person who drives a bus for hire or profit or who operates a bus owned, leased or rented by his/her employer in the course of his/her duties other than those persons who are employed in the maintenance, repair or garaging of such buses and in the course of their duties must incidentally drive a bus.

(C) "Motor carrier" shall mean any person, corporation, municipality or entity, public or private, who employs one or more bus drivers and aides and who operates a bus wholly within or partly within Nassau County, in connection with the business of transporting persons in the operation or administration of any business, school, camp or public agency, except such out of state public or governmental operators who may be exempted from the provisions of this article by the Commissioner of Police through regulation promulgated by the Commissioner of Police.

(D) "Aide" or "bus aide" shall mean any individual employed by a motor carrier for the purpose of assisting a person(s) on a bus.

(E) "Person" shall mean:

(1) Any individual 21 years of age or younger.

(2) "Handicapped person": any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

(F) "Driver Assistant/Matron" shall mean a person at least eighteen (18) years of age and employed by a transporter to ride on a school bus for the purpose of maintaining order and rendering assistance to the students including supervision of all students on the bus, assisting the students on and off the bus, assisting with car seats and seat belts for the students and completion of reports pertaining to the behavior of the children on the bus.
(Added by Local Law No. 6-1995, in effect September 1, 1995.)

(G) "School bus" specifically shall mean every motor vehicle owned, leased, rented or otherwise controlled by a transporter, public or governmental agency or private school and operated for the transportation of pupils, teachers or other persons acting in a supervisory capacity to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.
(Added by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.2 **Screening by the motor carrier.**

(A) Each person, corporation, or other entity who employs bus drivers, aides and/or driver assistants/matrons or any agency who provides bus drivers, aides and/or driver assistants/matrons shall be responsible for the screening of all current and prospective bus drivers, aides and/or driver assistants/matrons whom they employ.

(B) Screening shall include but not be limited to: (1) verification of credentials and references; (2) fingerprinting; (3) review of criminal convictions and pending criminal actions; (4) for prospective bus drivers, aides and/or driver assistants/matrons inquiry with the applicant's three (3) most recent employers; (5) for all bus drivers, a current and valid class 2 operators license.

(C) Any motor carrier who transports persons in Nassau County including but not limited to the Nassau County Pre-School Handicapped Children's Program must screen all bus drivers, aides and driver assistants/matrons pursuant to this title.

(D) All applications for the position of driver assistant/matron and all persons currently employed as driver assistants/matrons shall have their criminal histories checked through the New York State Division of Criminal Justice Services.

(E) Fingerprint cards for all present and prospective driver assistants/matrons shall be prepared by each motor carrier and forwarded to the New York State Division of Criminal Justice Services for identification processing, together with any applicable processing fee to be paid by the motor carrier. The criminal history records processed by the New York State Division of Criminal Justice Services concerning present and prospective driver assistants/matrons shall be submitted to the Nassau County Police designated manager or supervisor of any county operated transportation program for review and consideration.

(F) Any motor carrier who fails to comply with the provision of section 8-60.2 (A), (B), or (C) shall be subject to a penalty of one thousand ($1,000.00) dollars. For every day a non-screened driver operates a bus, or a non-screened aide or driver assistant/matron is on a bus a fine of one thousand ($1,000.00) dollars per day will be imposed on the motor carrier.
(Subd. (C), (D) and (E) added by Local Law No. 6-1995, in effect September 1, 1995; Subd. (F) amended and former subd. (D) became subd. (F) by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.3 **Consent.** As a condition of either continued employment or employment, the motor carrier shall obtain the written consent from all current and prospective bus drivers, aides and driver assistants/matrons for the bus driver's, aide's and driver assistant's/matron's fingerprinting and criminal record review. Denial of such consent shall be grounds for dismissal or refusal to hire by motor carrier.
(Amended by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.4 **Fingerprinting.**

(A) All bus drivers, aides and driver assistants/matrons or prospective bus drivers, aides and driver assistants matrons who are employed to transport persons in Nassau County shall be fingerprinted by the Nassau County Police Department. A fee will be paid by the applicant to the Police Commissioner in the amount of fifteen ($15.00) dollars.

(B) The Nassau County Police Department shall issue proof of identification to any person fingerprinted in accordance with Section 8-60.4 (A). Said identification shall contain a criminal record review of any person so fingerprinted. Said proof of identification must be in the driver's, aide's and/or driver assistant's/matron's possession at all times while either operating or on a

bus in Nassau County.

(C) A motor carrier shall not permit a person who has not been screened and fingerprinted to operate a bus or to be an aide or a driver assistant/matron on a bus. Said motor carrier shall keep records of the screening and fingerprinting of all drivers, aides and driver assistants/matrons in their employ. Said records shall be open to governmental agencies in Nassau County, including but not limited to the County Attorney, Nassau County Police Department, Consumer Affairs and the Department of Mental Health, Mental Retardation and Developmental Disabilities.

(D) Any motor carrier who fails to comply with the provision of Section 8-60.4 (A), (B) or (C) shall be subject to a penalty of one thousand dollars ($1.000.00). For every additional day a non-fingerprinted bus driver operates a bus, or a non-screened aide or driver assistant/matron is on a bus a fine of one thousand dollars ($1,000.00) per day will be imposed on the motor carrier.
(Amended by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.5 **Disqualification from employment.** Any applicant for the position of driver assistant/matron or any person currently employed as a driver assistant/matron who has been convicted of any of the crimes set forth herein shall be disqualified from consideration for employment or shall be terminated from employment as follows:

(A) Permanent disqualification or termination if a person has been convicted or forfeited bond or collateral, which forfeiture order has not been vacated or the subject of an order of remission upon a violation of §§ 100.13, 105.15, 105.17, 115.08, 125.10, 125.12, 125.15, 125.25, 125.27, 130.30, 130.35, 130.40, 130.45, 130.50, 130.60, 130.65, 135.20, 135.25, 150.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 260.00, 263.05, 263.10, 263.15 or 265.04 of the Penal Law or an attempt to commit any of the aforesaid offenses under §10.00 of the Penal Law, or any similar offense committed under a former section of the Penal Law which would constitute a violation of the aforesaid sections of the Penal Law, or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the Penal Law.

(B) Such disqualification or termination with regard to convictions upon a violation of §§ 125.12, 125.20, 125.25, 125.27, 130.25, 130.30, 130.35, 130.45, 130.50, 130.60, 130.65, 130.70, 135.25 or 150.20 of the Penal Law or an attempt to commit any of these offenses under § 10.00 of the Penal Law, or any similar offenses committed under a former section of the Penal Law which would constitute violations of the aforesaid sections of the Penal Law, shall be waived, provided that five (5) years have expired since the applicant was incarcerated pursuant to a sentence of imprisonment imposed on conviction of an offense that requires disqualification or termination under this subsection and that the applicant or employee has been granted a certificate or relief from disabilities as provided for in §701 of the Correction Law. Such certificates shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, of the criminal offense or offenses for which the person was convicted, will have on the applicant's prospective employment or employee's current employment as a driver assistant/matron, prior to granting such a certificate.

(C) For a period of five (5) years from the date of last conviction specified herein, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of §§100.10, 105.13, 115.05, 120.03, 120.04, 120.05, 120.10, 120.25, 125.13, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.05,

220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, 260.20(2), 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12 and 265.35 of the Penal Law or an attempt to commit any of the aforesaid offenses under §100.00 of the Penal Law, or any similar offenses committed under a former section of the Penal Law which would constitute violations of the aforesaid sections of the Penal Law, or any offenses committed outside this State which would constitute violations of the aforesaid sections of the Penal Law. However, such disqualification or termination shall be waived, provided that the applicant or employee has been granted a certificate of relief from disabilities as provided for in § 701 of the Correction Law. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, of the criminal offense or offenses for which the person was convicted, will have on the applicant's prospective employment or employees current employment as a driver assistant/matron, prior to granting such a certificate.
(Added by Local Law No. 6-1995, in effect September 1, 1995.)

§ 8-60.6 **Separability.** If any section or subdivision of this Local Law is held to be wholly or partially invalid by a final decree of a court of competent jurisdiction to the extent that is not invalid, this Local Law shall be valid and no other section or subsection shall be deemed invalid.
(Renumbered § 8-60.6 by Local Law No. 6-1995, in effect September 1, 1995.)

Title E
Alteration or Removal of Marine Motor, Marine Equipment or
Boat Identification or Serial Numbers

§ 8-70.0 Legislative Intent.
§ 8-70.1 Definitions.
§ 8-70.2 Prohibited Activity.
§ 8-70.3 Penalties.
§ 8-70.4 Separability.

§ 8-70.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police power to enact this local law to thwart the increase in the number of thefts of boats, marine motors and marine equipment which is occurring in Nassau County. It is the further finding of the Board of Supervisors that the prohibition against the alteration or removal of serial numbers or identification numbers or symbols from marine motors, marine equipment or boat hulls will aid in the apprehension and prosecution of criminals by prohibiting concealment activities which enhance the marketability of such items.

§ 8-70.1 **Definitions.** As used in this section.

(A) “Marine equipment” shall mean equipment, including but not limited to navigational equipment, used to operate a boat and purchased with a serial or identification number supplied by the manufacturer.

(B) ”Marine motor” shall mean the source of power, other than wind propelled sailor human propelled oar or paddle, which mechanically propels a boat.

(C) “Boat hull” shall mean any boat regardless of its propulsion.

(D) “Person” shall mean any individual, corporation, unincorporated association, partnership, joint venture or joint stock association.

§ 8-70.2 **Prohibited Activity.** No person shall:

(A) Willfully remove, deface, cover, alter or destroy the manufacturer's serial numbers or identification numbers or symbols on any marine equipment, marine motor or boat hull; or

(B) Knowingly buy, sell, receive, dispose of, conceal or knowingly have in his possession any marine equipment, marine motor or boat hull from which the manufacturer's serial number or identification numbers or symbols have been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the marine equipment, marine motor or boat hull.

§ 8-70.3 **Penalties.** Any person who violates a provision of this title shall be guilty of a class A misdemeanor.

§ 8-70.4 **Separability.** If any section or subdivision of this Local Law is held to be wholly or partially invalid by a final decree of a court of competent jurisdiction to the extent that it is not invalid, this Local Law shall be valid and no other section or subsection shall be deemed invalid.
(Title E added by Local Law No. 7-1985, in effect September 18, 1985.)

Title F
Screening and Fingerprinting of
Auxiliary Police Applicants

§ 8-80.0 Legislative Intent.
§ 8-80.1 Screening by New York State Division of Criminal Justice Services.
§ 8-80.2 Fingerprinting Fees.
§ 8-80.3 Separability.

§ 8-80.0 **Legislative Intent.** The Nassau County Police Department appoints all auxiliary police officers in Nassau County. Before appointment, a background investigation of each applicant must be completed, including a criminal history check. The Nassau County Police Department can no longer submit fingerprint cards of auxiliary police applicants directly to the Federal Bureau of Investigation for criminal history verification. Such fingerprint cards must now be processed through the New York State Division of Criminal Justice Services. The New York State Division of Criminal Justice Services will perform state criminal history record checks on auxiliary police applicants through fingerprint analysis only after the County of Nassau provides such authority by Local Law. It is the finding of the Board of Supervisors that the screening and fingerprinting of police auxiliary applicants will aid in the approval process for auxiliary police officers.

§ 8-80.1 **Screening by New York State Division of Criminal Justice Services.**

(A) Prospective auxiliary police officers will be fingerprinted.

(B) Fingerprint cards will be submitted to the New York State Division of Criminal Justice Services with the appropriate processing fee for the purpose of conducting criminal history record checks in connection with the appointment or hiring of auxiliary police officers.

§ 8-80.2 **Fingerprinting fee.**

(A) Since auxiliary police officers are volunteers and not compensated for the services they provide, the processing fee charged by the New York State Division of Criminal Justice Services shall be paid by the Nassau County Police Department.

(B) The processing fee set forth in subdivision (A) of this section shall be authorized and amended from time to time as necessary by an ordinance established by the Board of Supervisors.

§ 8-80.3 **Separability.** If any section or subdivision of this title is held to be wholly or partially invalid by a final decree or a court of competent jurisdiction to the extent that it is not invalid, this title shall be valid and no other section or subsection shall be deemed invalid.
(Title F added by Local Law No. 3-1990, in effect February 26, 1990.)

Title G
Volunteer Program for Handicapped
Parking Enforcement

§ 8-90.0 Legislative Intent.
§ 8-90.1 Enforcement.
§ 8-90.2 Volunteer Program Established.
§ 8-90.3 Director of the Nassau County Office for the Physically Challenged.
§ 8-90.4 Separability.

§ 8-90.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police powers, to increase its efforts regarding enforcement of existing handicapped parking regulations on a county-wide basis. The purpose of this legislation is to create a program of volunteer assistance, to work in conjunction with the various Nassau County law enforcement agencies for increased enforcement of county and state handicapped parking legislation.

§ 8-90.1 **Enforcement.** This title shall be enforced by those public officials charged with the duty of enforcing the New York Vehicle and Traffic Law.

§ 8-90.2 **Volunteer Program Established.**

(A) The Director of the Nassau County Office for the Physically Challenged is hereby authorized, empowered and directed to establish a program to utilize volunteers to survey parking lots with cameras for the purpose of photographing vehicles parked in violation of the provisions of this title and/or sections 1203 and 1203-c of the New York Vehicle and Traffic Law together with the license plate, the handicapped parking sign and the blue stripping designating said parking space as a reserved handicapped parking space.

(B) This program shall include, but not be limited to, the issuance of identification cards to such volunteers with names and pictures affixed thereto to be used in the event that police officers need more identification from the volunteer, schedules to allow for the placement of people in various areas of the County on different days on a rotating basis so as not to leave any areas unpatrolled or duplicated, and a system of reminder letters to people who are cited for handicapped parking violations.

(C) Volunteers shall be required to wear large badges identifying the persons as part of the volunteer program with an identification number corresponding to a list of volunteers kept in the County Office for the Physically Challenged.

(D) Cameras shall be provided to volunteers by the County together with the funding for the development of film.

(E) The program shall include a procedure by which the Police Department may be requested and empowered to prepare the necessary deposition for signature by the volunteer who actually witnessed the information, administer the necessary oath for verification, prepare the necessary information for presentation to the appropriate court, and to forward all pertinent documents to said court, together with a requirement that the Police Department arrange to send, via certified mail, return receipt requested, an appearance ticket advising the registered owner of the motor vehicle when and where to appear in court, and what charge has been lodged against him.

§ 8-90.3 **Director of the Nassau County Office for the Physically Challenged.** The Director of the Nassau County Office for the Physically Challenged is hereby authorized and

empowered to:

(A) Promulgate and issue such rules and regulations as he shall deem necessary and sufficient to implement the provisions of this Title:

(B) Develop the program in conjunction with the Nassau County Police Department, District Attorney's Office, the District Court Clerk's office and the New York State Department of Motor Vehicles.

§ 8-90.4 **Separability.** If any section of this title or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined to its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any other provision or any section or the application of any part thereof to any other person or circumstances, and to this end, the provisions of each section of this title shall be deemed to be separable.
(Title G added by Local Law No. 8-1990, in effect July 30, 1990.)

## Title G-1
## Fines for illegal parking in spaces Parking for the Handicapped in Public Areas

§ 8-95.0 Legislative Intent.
§ 8-95.1 Penalties for Offenses.

§ 8-95.0 **Legislative Intent**. The Legislature finds that due to the high incidence of illegal parking in spaces designated as only for the handicapped, it is necessary to impose a larger maximum fine than is provided for in the Vehicle and Traffic Law in order to deter such illegal parking and encourage voluntary compliance with handicapped parking rules in Nassau County.

§ 8-95.1 **Penalties for offenses.** Any person who, in violation of section twelve hundred three-c of the Vehicle and Traffic Law, parks in an access aisle or who parks in spaces clearly marked for use by the handicapped without a special vehicle identification parking permit, a special municipal parking permit or whose motor vehicle is not registered in accordance with section four hundred four-a of the New York Vehicle and Traffic Law and being used for the transportation of a handicapped person, or with such permit or registration and such person is not the one to whom the permit or registration was issued or is not transporting the person issued the permit or registration, shall be subject to a fine of not less than two hundred twenty-five dollars nor more than three hundred dollars for the first offense, not less than three hundred fifty dollars nor more than four hundred fifty dollars for the second offense, and not less than four hundred fifty dollars nor more than six hundred dollars for the third offense and each offense thereafter. Where the third offense or any offense thereafter involves the illegal or unauthorized use of a handicapped parking permit by the offender, such handicapped parking permit shall be subject to revocation.
(Title G-1 added by Local Law No. 12-2002, effective October 3, 2002; amended by Local Law No. 4-2004, in effect March 1, 2004.)

Title H
Enhanced Emergency Telephone System Surcharge

§8-100.0 Definitions
§8-100.1 Surcharge Authorization.
§8-100.2 Collection of Surcharges.
§8-100.3 System Revenues; Adjustment of Surcharges.
§8-100.4 Severability.

§ 8-100.0 **Definitions**. When used in this title, the following words and phrases shall have the following meanings:

(A) "E911 system" means an enhanced emergency telephone service which automatically connects a person dialing the digits 9-1-1 to an established public service answering point and which shall include, but not be limited to, selective routing, automatic number identification and automatic location identification.

(B) "911 service area" means the area within the geographic boundaries of Nassau County.

(C) “Service supplier” means a telephone corporation which provides local exchange access service within a 911-service area.

(D) “System cost” means the costs associated with obtaining and maintaining the telecommunication equipment and the telephone services costs necessary to establish and provide an E911 system.

§ 8-100.1 **Surcharge Authorization**

(A) The service supplier is hereby authorized, empowered and directed, in accordance with Article 6 of the County Law, to impose a thirty-five cent surcharge per access line per month on each telephone subscriber in Nassau County to pay for the costs associated with implementing, installing and maintaining the E911 system. On the effective date of this title, the service provider shall begin to add such surcharge to the billings of its customers.

(B) Any such surcharge shall have uniform application and shall be imposed throughout the entire county to the greatest extent possible in conformity with the availability of such E911 system within the County.

(C) No such surcharge shall be imposed upon more than seventy-five (75) exchange access lines per customer per location.

(D) Lifeline customers and Nassau County shall be exempt from any surcharge imposed under this title.

§ 8-100.2 **Collection of Surcharge.**

(A) The appropriate service supplier or suppliers serving a 911 service area shall act as collection agent for Nassau County and shall remit the funds collected as the surcharge to the Nassau County Comptroller monthly, no later than thirty (30) days after the last business day of each month.

(B) The service supplier shall be entitled to retain as an administrative fee an amount equal to two percent (2%) of its collections of the surcharge.

(C) The surcharge required to be collected by the service supplier shall be added to and stated separately in its billings to customers.

(D) The service supplier shall annually provide to the Nassau County Comptroller an accounting of the surcharge amounts billed and collected.

§ 8-100.3 **Liability for Surcharge.**

(A) Each service supplier customer who is subject to the provisions of this chapter shall be liable to the County of Nassau for the surcharge until it has been paid to the County of Nassau, except that payment to a service supplier is sufficient to relieve the customer from further liability for such surcharge.

(B) The service supplier shall have no obligation to take any legal action to enforce the collection of any surcharge. Whenever the service supplier remits the funds collected as the surcharge to the County of Nassau, it shall also provide the County of Nassau with the name and address of any customer refusing or failing to pay the surcharge imposed by this title and shall state the amount of such surcharge remaining unpaid.

§ 8-100.3 **System revenues; adjustment of surcharge**. All surcharge moneys remitted to the County of Nassau by a service supplier and all other moneys dedicated to the payment of system costs from whichever source derived or received by the County of Nassau shall be expended only upon appropriation of the County Legislature and only for payment of system costs as permitted by this title. The County of Nassau shall separately account for and keep adequate books and records of the amount and source of all such revenues and of the amount and object or purpose of all expenditures thereof. If at the end of any fiscal year the total amount of all such revenues exceeds the amount necessary and expended for payment of system costs in such fiscal-year, such unencumbered cash surplus shall be carried over for the payment of system costs in the following fiscal year. If at the end of any fiscal year such unencumbered cash surplus exceeds an amount equal to five percent (5%) of that necessary for the payment of system costs in such fiscal year, the County Legislature shall amend this title to reduce the surcharge for the following fiscal year to a level which more adequately reflects the system costs requirements of its E911 system. The County Legislature may also amend this title to re-establish or increase such surcharge if the revenues generated by such surcharge and by any other source are not adequate to pay for system costs.

§ 8-100.4 **Severability**. If any section of this title or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction. Such order or judgment shall be confined to its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder. Any other provision or any section or the application of any part thereof to any other person or circumstances, and to this end, the provisions of each section of this title shall be deemed to be severable.
(Added by Local Law 3-2000, effective February 16, 2000.)

Title H
Screening and Fingerprinting of Applicants to the Nassau County Society for the Prevention of Cruelty to Animals, Division of Law Enforcement

§8-100.0 Legislative Intent.
§8-100.1 Screening by Nassau County Police Department.
§8-100.2 Criminal history review by Nassau County Police Department.
§8-100.3 Disqualification from employment.
§8-100.4 Separability.

§ 8-100.0 **Legislative Intent**. Certain Division of Law Enforcement employees of the Nassau County Society for the Prevention of Cruelty to Animals (NCSPCA) are peace officers, pursuant to New York State Criminal Procedure Law, section 2.10(7), with powers enumerated in New York State Criminal Procedure Law, section 2.20, and comply with the training requirement of section 2.30 of the New York State Criminal Procedure Law. At this time there is no means for the NCSPCA to thoroughly investigate and process those applicants for employment who would be employed in the capacity of peace officers. The Nassau County Police Department will perform criminal history record checks on NC SPCA Law Enforcement applicants only after Nassau County confers such authority by Local Law. The Nassau County Legislature finds that the screening, fingerprinting, and criminal records check of NC SPCA Law Enforcement applicants who would be employed in the capacity of peace officers, would aid in the employment process for NC SPCA, Division of Law Enforcement.

Section 8-100.1 **Screening by Nassau County Police Department**.

B.* Nassau County Police Department is hereby authorized to obtain fingerprints of applicants for employment in the Nassau County SPCA Division of Law Enforcement who would be employed in the capacity of peace officers.

B. The Nassau County Police Department is hereby authorized to conduct criminal history record checks, with the appropriate processing fee, which is to be paid by the NC SPCA, in connection with the appointment or hiring of NC SPCA, Division of Law Enforcement peace officer personnel.

Section 8-100.2 **Criminal history review by Nassau County Police Department.** The Commanding Officer of the Applicant Investigation Unit of the Nassau County Police Department shall be responsible for reviewing the criminal history record information provided.

Section 8-100.3 **Disqualification from employment**.**

D. Any felony, and/or misdemeanor conviction will disqualify an applicant from employment as a peace officer with the NC SPCA**,** Law Enforcement Division, if the disability has not been removed, as provided in the Correction Law.

E. The Nassau County Police Department may also disqualify an applicant, due to the fact that the SPCA peace officer designation includes the right to carry firearms.

F. The authority of the Nassau County Police Department to reject applicants will continue after the applicant has been designated a peace officer, so the peace officer status may be revoked in circumstances where necessary, as determined by the Nassau County Police Department.

Section 8-100.4 **Separability.** If any section or subdivision of this title is held to be wholly or partially invalid by a final decree or a court of competent jurisdiction, the remainder of this title shall be valid, and no other section or subsection shall be deemed invalid.
(Title H added by Local Law 4-2002 effective May 6, 2002, amended by LL 16-2002 effective October 9, 2002. Although not so described, LL 16-2002 was evidently intended to amend Title H.)
* Lettering in the original, should be “A”.
** Lettering in the original, should be “A, B, C”

Wireless Communications Service Surcharges


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|---|---|
| §8-105.0 | Legislative Intent. |
| §8-105.1 | Definitions. |
| §8-105.2 | Surcharge Authorization. |
| §8-105.3 | Collection of Surcharge. |
| §8-105.4 | Liability for Surcharge. |
| §8-105.5 | System Revenues. |
| §8-105.6 | Severability |


§ 8-105.0 **Legislative Intent**. This title implements section 308-A of the County Law by imposing a County of Nassau wireless surcharge of thirty cents on wireless communication service in Nassau County that will assist the County in paying the costs associated with the maintenance and upgrading of its public safety communications network.

§ 8-105.1 **Definitions.**

"Wireless communication service" shall mean all commercial mobile services, as that term is defined in section 332(d) of title 47, United Stales Code, as amended from time to time, including, but not limited to, all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent-wide area specialized mobile radio licensees, which offer real time, two-way voice or data service that is interconnected with the public switched telephone network or otherwise provides access to emergency communications services.

"Wireless communications device" shall mean any equipment used to access a wireless communications service.

"Place of primary use" shall mean the street address that is representative of where the customer's use of the wireless communications service primarily occurs, which address must be: (a) residential street address or the primary business street address of the customer; and (b) within the licensed service area of the wireless communications service supplier.

"Wireless service supplier" shall mean any commercial entity that operates a wireless communications service within the County of Nassau.

§ 8-105.2 **Establishment of County of Nassau Wireless Surcharge.** There shall be a surcharge of thirty cents each month on wireless communications service in the County of Nassau, which shall be imposed on each wireless communications device and shall be reflected and made payable on bills rendered for wireless communications service that is provided to a customer whose place of primary use is within the County.

§ 8-105.3 **Collection of Surcharge.**

(a) Each wireless communications service supplier serving the County of Nassau shall begin to add such surcharge to the billings of its customers on January 1, 2003.

(b) Each such wireless communications service supplier shall act as a collection agent for the County and shall remit surcharge monies collected pursuant to this title to the Treasurer of the County of Nassau every month, no later than thirty days after the last business day of each month.

(c) Each wireless communications service supplier shall be entitled to retain, as an administrative fee, an amount equal to two percent of its collections of a surcharge imposed under the provisions of this title.

(d) Any surcharge required to be collected by a wireless communications service supplier pursuant to this title shall be added to and stated separately in its billings to customer.

(e) No wireless communications service supplier shall have any legal obligation to enforce the collection of any surcharge. At the time a wireless communications service supplier remits monies as provided in this title, it shall also provide the County of Nassau with the name and address of any customer refusing or failing to pay the surcharge imposed by this title and shall state the amount of such surcharge remaining unpaid.

(f) Each wireless communications service supplier shall annually provide to the County of Nassau an accounting of the surcharge amounts billed and collected.

§ 8-105.4 **Liability for Surcharge.** (a) Each wireless communications service customer who is subject to the provisions of this title and section three hundred eight-a of the County Law shall be liable to the County of Nassau for the surcharge established in section 8-115.2[1] of this title until such surcharge has been paid to the County of Nassau, except that payment to a wireless communications service supplier is sufficient to relieve the customer from further liability for such surcharge.

§ 8-105.5 **System Revenues.** All surcharge monies remitted to the County of Nassau by a wireless communications service supplier shall be expended only upon authorization of the local County Legislature and only for payment of system costs or other costs associated with the design, construction, operation, maintenance, and administration of Public Safety communications networks serving the County. The County of Nassau shall separately account for and keep adequate books and records of the amount and source of all such monies and of the amount and object or purpose of all expenditures thereof. If, at the end of any fiscal year, the total amount of all such monies exceeds the amount necessary for payment of the above-mentioned costs in such fiscal year, such excess shall be reserved and carried over for the payment of those costs in the following fiscal year.

§ 8-105.6. **Severability.** If any section of this title or the application thereof to any person or circumstances be adjudged invalid by a court of competent jurisdiction order or judgment (sic) shall be confined to its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any other provisions or section or the application of any part thereof to any other person or circumstances, and to this end, the provisions of each section of this title shall be deemed to be severable.
(Added by Local Law No. 19-2002, in effect November 15, 2002.)

## Title I

## Impoundment and Storage of Vessels


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|---|---|
| §8-110.0 | Authority and Facilities. |
| §8-110.1 | Custody. |
| §8-110.2 | Procedure for Redemption; Charges. |
| §8-110.3 | Severability. |


[1] So in Local Law

Whenever any vessel or crew racing shell as defined in the New York State Navigation Law is impounded, stored or safeguarded for lawful cause, or is taken into custody by a law enforcement official, having probable cause to believe that it is or has been used in the commission of a crime, or for evidentiary purpose said vessel or crew racing shell may be removed and conveyed by or under the direction of a member of the Nassau County Police Department by means of towing or otherwise to an appropriate facility as the Commissioner of Police may direct and there stored; and such removal, conveyance and storage shall be at the risk of the owner of the vessel or crew racing shell.

§ 8-110.1 **Custody.** For the purpose of custody, any vessel or crew racing shell impounded, stored or safeguarded pursuant to this section shall be deemed to be in the custody of the Commissioner of Police.

§ 8-110.2 **Procedure for Redemption; Charges.**

(a) Before any owner or any other person entitled to possession of a vessel or crew racing shell impounded, stored or safeguarded pursuant to this title shall be permitted to repossess thereto, he or she shall comply with the procedure set forth by the Commissioner of Police and to the satisfaction of a member of the Nassau County Police Department, procedure shall include, but not be limited to, the presentation by the person making redemption of an original certificate of registration for the vessel, if registered, issued by an appropriate licensing authority; acceptable personal identification of the person making redemption; other bonafide proof of ownership in the case of a vessel or crew racing shell not required to be registered pursuant to the New York State Vehicle and Traffic Law; and such presentation as stated shall be prima facie evidence of the right of the person to possession of the vessel or crew racing shell.

(b) In addition to the procedure stated in paragraph (a), an owner or other person entitled to possession of a vessel or crew racing shell impounded, stored or safeguarded pursuant to this title shall pay to the Nassau County Treasurer a fee of seventy five dollars ($75.00) for administrative costs, as well as towing and storage charges in accordance with the following schedule. A designee of the Nassau County Treasurer shall be authorized to collect any and all monies for such charges as may be imposed:

(1) For removal and towing by Nassau County Police Department personnel and equipment, one hundred dollars ($100.00).

(2) For removal, towing and dewatering by Nassau County Police Department personnel and equipment, one hundred fifty dollars ($150.00).

(3) For outdoor storage at a County Police facility or as otherwise directed by the Commissioner of Police, fifteen dollars ($15.00) for each 24 hour period or part thereof. This rate shall also apply in anticipation of forfeiture.

(4) For indoor storage at a County Police facility or as otherwise directed by the Commissioner of Police, thirty dollars ($30.00) for each 24 hour period of part thereof. This rate shall also apply in anticipation of forfeiture.

(c) No person may remove a vessel or crew racing shell from the custody of the Commissioner of Police and the Nassau County Police Department without also first posting required bail for the commission of any offense causing the towing and storage, of the vessel or crew racing shell. Bona fide proof of posted bail for said offense or offenses shall be presented

to the member of the Nassau County Police Department who may authorize redemption of the vessel or crew racing shell.

(d) For the purpose of computing the charges imposed by paragraph (b), the 24 hour period shall commence at 12:01 A.M.

(e) Any charges imposed by authority of this title shall constitute a lien upon the vessel or crew racing shell.

(f) The County of Nassau may enter into a contractual or other administrative agreement with the owner of an appropriate storage facility for the purpose of providing for additional storage of vessels or crew racing shells. Such owner shall agree to accept the terms and conditions, and the schedule of fees for itemized services as set forth in the agreement.

(g) The Nassau County Treasurer may designate the owner of the property upon which the vessel or crew racing shell is stored, if other than a police facility, to collect the administrative fee pursuant to this section at such time as he or she may direct.

The Nassau County Treasurer is hereby authorized to and shall pay such owner up to ten percent (10%) of any administrative fees collected by such owner.

§ 8-110.3 **Severability.** If any clause, sentence, paragraph, subdivision, section or part of this title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confirmed in its operation to the clause, sentence, paragraph, subdivision, section or part of this title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.
(Added by Local Law No. 2-2000, effective February 2, 2000.)

Title J.
Immobilization and Removal of Illegally Parked and Scofflaw Vehicles


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| Section | 8-120.0 | Legislative Purpose |
| | 8-120.1 | Definitions |
| | 8-120.2 | Immobilization and removal of vehicles; general provisions |
| | 8-120.3 | Immobilization; notice and penalties |
| | 8-120.4 | Removal; notice; release of immobilized and removed vehicles |
| | 8-120.5 | Procedures |
| | 8-120.6 | Separability |


§ 8-120.0 **Legislative Purpose.** The Legislature finds that it is necessary for the County of Nassau to increase its efforts regarding the enforcement of parking laws and regulations. There are currently 1850 motor vehicles against which at least ten (10) tickets, warrants, summonses or fines for parking violations returnable to the Nassau County Traffic and Parking Violations Agency have been issued and are delinquent. This figure points to the need for a stronger deterrent to illegal parking and the disregard of parking summonses in Nassau County. Immobilizing and removing illegally parked and scofflaw vehicles will provide the necessary deterrent. The immobilization or removal of illegally parked and scofflaw vehicles by the Police Department serves a significant governmental interest by facilitating the enforcement of traffic regulations. The immobilization or removal of illegally parked and scofflaw vehicles encourages

voluntary compliance with parking laws and regulations, discourages illegal parking, and deters the consistent disregard of parking summonses. Additionally, removal of illegally parked vehicles facilitates traffic and public safety in Nassau County. Removal of scofflaw vehicles will bring within the reach of the law owners who have demonstrated their defiance of the County's parking rules and judicial process by consistently disregarding parking summonses.

§ 8-120.1 **Definitions.** "Illegally parked vehicle" shall mean any motor vehicle parked or left standing upon any county-owned property, public street or highway of the County of Nassau in violation of an ordinance or regulation issued by an agency authorized to promulgate parking ordinances and regulations.

"Immobilize" or "immobilization" shall mean the act of placing on a parked motor vehicle a mechanical device known as a boot, designed to be attached to the wheel or tire or other part of such vehicle so as to prohibit its usual manner of movement.

"Delinquent" shall mean a parking ticket, warrant or summons that has not been answered by the required appearance date, or for which adjudged fines and applicable surcharges have not been paid.

"Police Department" shall mean the Police Department of the County of Nassau and its members, agents, and officers employed by such department.

"Remove" or "removal" shall mean the act of towing a parked motor vehicle, which shall be placed and stored in a location designated by the Police Department and shall be held until it is released or disposed of pursuant to applicable law.

"Scofflaw vehicle" shall for purposes of this title mean a vehicle against which three (3) or more tickets, warrants, summonses or fines for parking violations, which are returnable to the Nassau County Traffic and Parking Violations Agency, have been issued and are delinquent.

§ 8-120.2 **Immobilization and removal of vehicles; general provisions.** (a) In addition to any other authority, the Police Department, subject to the procedures in this title, is hereby authorized to cause the immobilization and removal of i) illegally parked vehicles; and ii) scofflaw vehicles.

(b) A vehicle subject to the provisions of subsection (a) of this section may be immobilized or removed, or both, by the Police Department at any place and at any time the Police Department may lawfully enforce traffic and parking laws or regulations.

(c) The immobilization or removal of a vehicle under this title shall be at the expense and risk of the owner of such vehicle, who shall pay to the Police Department the cost incurred for any such immobilization or removal prior to the release of the vehicle in accordance with section 8-120.4 of this title.

(d) The immobilization or removal of a vehicle under this title shall not prevent a determination pursuant to other law that such vehicle was abandoned, provided that no application to release the vehicle has been made or that no administrative or judicial proceeding to determine the status of the vehicle is pending.

(e) The Police Department shall not contract to a private entity the immobilization or removal of any vehicle pursuant to this title, provided, however, that the Police Department may, in its discretion, provide for the storage of vehicles pursuant to a contract with a private entity.

(f) All sums due for delinquent parking tickets and all fees for immobilization or removal shall be a lien on any vehicle so immobilized or removed. On or after the fifteenth business day following the immobilization or removal of a vehicle pursuant to this title, such vehicle shall be subject to levy upon execution of a judgment. Nothing in this title shall impair any other authority of the Sheriff or Sheriff s deputy to levy, upon execution of a judgment, against any seized vehicle.

(g) Nothing in this title shall impair the rights or remedies under other law of any owner or operator of any vehicle immobilized or removed.

(h) Nothing in this title shall impair any other power or duty of the Police Department heretofore or in the future established by law.

§ 8-120.3 **Immobilization; notice and penalties.** (a) When an immobilization device is used, the Police Department shall cause to be attached to the immobilized vehicle a notice containing the following information, in such form as directed by the Commissioner of the Police Department:

(i) The location and identifying characteristics of the vehicle;

(ii) The dates and time of placement of the devices and the signature of the installer of the device;

(iii) Notice that further parking penalties will be waived while the vehicle is immobilized;

(iv) Notice that any person tampering with the device or vehicle will be subject to criminal prosecution as provided in paragraph (b) of this section, as well as civil liability for any loss to the County of Nassau due to damage to or theft of the device;

(v) The steps that the owner must take to obtain release of the vehicle; and

(vi) Such other information, statements, notices and warnings as the Police Department may from time to time determine.

(b) Any person who tampers with, defaces, removes or destroys an immobilization device or moves by any means a vehicle immobilized as herein provided will be subject to prosecution to the full extent of the law.

§ 8-120.4 **Removal; notice; release of immobilized and removed vehicles.** (a) Notice. Within two business days following the removal of a vehicle under this title, the Police Department shall send notification to the registered owner of such vehicle, by first-class mail to the address indicated on the vehicle's registration, of:

(i) the place to which such vehicle has been removed;

(ii) the reason for the removal;

(iii) the owner's ability to obtain the release of such vehicle upon payment of the outstanding fines to the Nassau County Traffic and Parking Violations Agency and the immobilization or removal fees to the Police Department; and

(iv) the owner's option to post a bond, as provided by paragraph (ii) of subdivision (b) of

this section, equal to the outstanding fines and immobilization or removal fees, for the release of the vehicle.

(b) (i) Prior to the release of a vehicle that has been immobilized or removed pursuant to this title, the owner, or a person authorized by the owner to obtain the release of such vehicle, shall furnish satisfactory evidence of his or her identity and ownership or authorization from the owner to obtain the release of such motor vehicle, and shall make payment to the Police Department for charges incurred in the immobilization or removal of such vehicle, and in the case of a scofflaw vehicle, to the Nassau County Traffic and Parking Violations Agency of all fines for delinquent parking tickets, warrants or summonses issued against such vehicle. Upon the presentation of such evidence of identity and ownership or authorization, and payment, the Police Department shall forthwith release the vehicle and provide a receipt to the owner or person authorized by the owner to obtain the release of such vehicle.

(ii) Any scofflaw vehicle immobilized or removed pursuant to this title may be released upon the posting of a cash or money order bond with the Nassau County Traffic and Parking Violations Agency in the amount of the fines for delinquent parking tickets, warrants or summonses issued against such vehicle plus any charges incurred in the immobilization or removal of such vehicle. Upon an acquittal or dismissal of any underlying parking violation or violations by the Nassau County Traffic and Parking Violations Agency, the Nassau County Traffic and Parking Violations Agency shall refund that portion of the bond corresponding to the amount of the penalty for such underlying parking violation or violations. In addition, the full amount of the bond shall be refunded if the Police Department determines that immobilization or removal should not have occurred pursuant to the provisions of this title. No bond will be refunded after one year after posting unless the time is extended by Nassau County Traffic and Parking Violations Agency for administrative purposes or, in the discretion of such Agency, upon a request by the person posting the bond.

§ 8-120.5 **Procedures.** (a) The Police Department shall develop procedures necessary to effectuate the purposes and provisions of this title, including but not limited to specifications for the manner and content of notice to the public concerning the operation of this title; the content of notice to the registered owner of a vehicle immobilized or removed under this title; the place of storage of such vehicles; the time and place such vehicles may be released; and the fees for immobilization or removal of a vehicle that shall compensate the Police Department for such immobilization or removal, as well as the administrative costs of the scofflaw vehicle removal program.

(b) The Nassau County Traffic and Parking Violations Agency shall develop procedures necessary to effectuate the expeditious adjudication of traffic tickets, wan-ants and summonses for those persons who contest the validity of such traffic tickets, warrants and summonses issued against a vehicle immobilized or removed pursuant to this title.

§ 8-120.6 **Separability.** If any part of or provisions of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.
(added by LL 25-2002, effective January 1, 2003)

Dissemination of Information Concerning Sex Offenders

| | | |
|---|---|---|
| Section | 8-130.1 | Legislative Intent |
| | 8-130.2 | Definitions |
| | 8-130.3 | Mandatory dissemination of information |
| | 8-130.4 | Promulgation of rules and procedures |
| | 8-130.5 | Database of entities with vulnerable populations |
| | 8-130.6 | County not liable |

§ 8-130.1 **Legislative intent**

This legislature finds that sex offenders are prone to recidivism. The community has an interest in protecting vulnerable populations from sex offenders who may relapse into criminal behavior. This public interest can best be served by disseminating information about such offenders to groups or entities that are made up of [residents, be they] children, seniors, women or others [that] who are vulnerable to victimization by sex offenders. The New York state Sex Offender Registration Act ("SORA") provides for the registration of convicted sex offenders and the release of certain information about them by local law enforcement agencies. While this law is an invaluable tool for informing the public about the presence of certain convicted sex offenders in their communities, this legislature finds that it can be made more effective by requiring the county's law enforcement agencies to notify entities with vulnerable populations about such offenders residing in their vicinity. This local law is therefore necessary to ensure the widest possible dissemination of information about level 2 and level 3 sex offenders consistent with SORA.

The legislature further finds that sex offenders present a particular danger when they live in close proximity to schools and parks- areas where children learn, play, and congregate. The county's compelling governmental interest in ensuring that children do not become victims of sex crimes is best served by limiting the occasions for contact between children and registered sex offenders, and the residency restriction contained in this law is therefore necessary to protect a vulnerable population from sex offenders who may relapse into criminal behavior.

§ 8-130.2 **Definitions**

§ 8-130.2 Definitions

When used in this title:

"Entity with a vulnerable population" shall mean any community group, organization, association, or other organized collection of people whose members are potential targets of a sex offender.

"Commissioner" shall mean the commissioner of the police department of Nassau County.

"Level 1 offender" shall mean a sex offender determined by the New York state board of examiners of sex offenders to pose a low risk of recidivism.

"Level 2 offender" shall mean a sex offender determined by the New York state board of examiners of sex offenders to pose a moderate risk of recidivism.

"Level 3 offender" shall mean a sex offender determined by the New York state board of examiners of sex offenders to pose a high risk of recidivism.

"Park" shall mean any park, preserve, playground, athletic field, golf course, swimming pool, or beach operated by the county, or by the state of New York or any town, village or city within the county.

"School" shall mean a public, private or parochial elementary or secondary school, including a middle school, junior high school, high school or Board of Cooperative Educational Services (BOCES) school but not including a college, a university, a privately owned trade/vocational school or a home school.

"Registered sex offender" shall mean a person who has been classified as a

level I, level II or level III sex offender and who is required to register with the New York state division of criminal justice services, or other agency having jurisdiction, pursuant to the provisions of article 6-C of SORA, whether or not the sex offender has actually registered in compliance with the law or order of a court of competent jurisdiction.

"Residence" shall mean the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

"SORA" shall mean the New York state sex offender registration act.

"Domicile" shall mean a person's true, fixed, permanent home or fixed place of habitation.

"County" shall mean the county of Nassau.

§ 8-130.3 **Mandatory dissemination of information**

(a) Level 2 Offenders. Upon receiving notification as a law enforcement agency having jurisdiction, as defined in subdivision 4 of section 168-a of the correction law of New York, pursuant to subparagraph (b) of subdivision 6 of section 168-l of such law, the Commissioner shall immediately disseminate relevant information including a photograph and description of the offender, such offender's name, approximate address based on zip code, background information including the offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to those entities which in his determination have vulnerable populations related to the nature of the offense committed by such sex offender.

(b) Level 3 Offenders. Upon receiving notification as a law enforcement agency having jurisdiction, as defined in subdivision 4 of section 168-a of the correction law of New York, pursuant to subparagraph (c) of subdivision 6 of section 168-l of such law, the Commissioner shall immediately disseminate relevant information including a photograph and description of the offender, such offender's name, exact address, address of the offender's place of employment, background information including the offender's crime of conviction, modus of operation, type of victim targeted, the name and address of any institution of higher education at which the sex offender is enrolled, attends, is employed or resides and the description of special conditions imposed on the offender to those entities which in his determination have vulnerable populations related to the nature of the offense committed by such sex offender.

§ 8-130.4 **Promulgation of rules and procedures**

The Commissioner shall promulgate rules and procedures mandating the widest possible dissemination of information regarding Level 2 and Level 3 Offenders to entities with vulnerable populations as required by § 8-130.3 of this title. Such rules may provide for such dissemination to entities by means of electronic mail or such other methods of notification as may be deemed effective by the Commissioner, including but not limited to facsimile transmission, regular mail, and door-to-door notification by members of the Nassau County Police.

§ 8-130.5 **Database of entities with vulnerable population**

a) The Commissioner shall establish and maintain a database categorizing the County's vulnerable populations in relation to the nature of the offenses for which a sex offender must register under section 168 et seq. of the correction law, as well as the local entities in Nassau County having or providing services to such categories of vulnerable populations, which may include, but shall not be limited to, public and private schools, child day care centers, senior care centers, senior community centers, camps, organizations which serve primarily children, women or vulnerable adults, and community groups located in an area where a sex offender resides, expects to reside or is regularly found. In addition, upon written request of an entity in

the form and manner established by the Commissioner, there shall be included in such database any entity which upon a review by the Commissioner, in his or her sole discretion, is determined to be an entity with a vulnerable population.

b) All contracts with the County of Nassau providing for child care services in a family day care home or group family day care home, as such terms are defined in section three hundred ninety of the New York State Social Services Law and section one thousand seven of the County Government Law shall be subject to the condition that said providers register with the Commissioner in accordance with § 8-130.5 (a) of this Title. This requirement to register with the Commissioner for sex offender notifications shall be incorporated in contracts for family day care or group family day care services entered into with the County of Nassau, and any violation thereof shall be a material breach of the contract sufficient to cause termination.

§ 8-130.6 **Residency restrictions**

It shall be unlawful for any registered sex offender to establish a residence or domicile where the property line of such residence or domicile lies within:

1) one thousand feet of the property line of a school; and
2) five hundred feet of the property line of a park.

(Current section 8-130.6 added by local law 4-2006. Former section 8-130.6, as added by local law 4-2005, was repealed by local law 4-2006)

§ 8-130.7 **Notification**

a. Each registered sex offender residing within the county shall be notified in writing by the commissioner of the prohibitions applicable to such offender under this title.

b. Any registered sex offender who has established a residence or domicile prohibited by this title shall relocate such residence or domicile within sixty days following receipt of written notice pursuant to subdivision a of this section. Failure to timely re-locate such residence or domicile to one that is permitted under this title shall constitute a violation of section 8-130.6.

§ 8-130.8 **Exemption**

The residency restriction of section 8-130.6 shall not apply to registered sex offenders who have established residences or domiciles prior to the effective date of this local law.

§ 8-130.9 **Penalties**

Any violation of section 8-130.6 after notification pursuant to section 8-130.7 shall be a class A Misdemeanor punishable by a fine not exceeding one thousand dollars; or imprisonment for a term not exceeding one year; or both such fine and imprisonment.

§ 8-130.10 **County not liable**

Nothing in this title shall be deemed to impose any civil or criminal liability upon or to give rise to a cause of action against any official, employee or agency of the county for failing to act in accordance with this title.

(Sections 8-130.1 through 8 -130.5 added by Local Law 4-2005; Sections 8-130.1 and 8-130.2 amended by Local Law 4-2006; sections 8-130.6 through 8 -130.10 added by Local Law 4-2006, passed on April 3, 2006 and signed by County Executive on April 10th, 2006, with effective date of sixty days after it shall have become a law.)

# CHAPTER IX
# DEPARTMENT OF HEALTH

## Title A. (Repealed)

## Title B. Nursing Homes


| | | |
|---|---|---|
| Section | 9-15.0 | Homes for the care of the sick or infirm for compensation. |
| | 9-16.0 | License required. |
| | 9-17.0 | Inspection. |
| | 9-18.0 | Suspension: revocation. |
| | 9-19.0 | Violations: penalty. |


## Title C. In General


| | | |
|---|---|---|
| Section | 9-20.0 | County Health Ordinance. |


## Title D. (Repealed)

## Title E. (Repealed)

## Title E. Sale of Drug Paraphernalia


| | | |
|---|---|---|
| Section | 9-22.0 | Declaration of Policy. |
| | 9-22.1 | Definitions. |
| | 9-22.2 | Sale of Drug Paraphernalia: Penalties. |
| | 9-22.4 | Separability. |
| | 9-22.3 | Effective Date. |


## Title F: Charitable Medical Care


| | | |
|---|---|---|
| Section | 9-23.0 | Legislative Intent. |
| | 9-23.1 | Definitions. |
| | 9-23.2 | Reporting to the Department of Health. |
| | 9-23.3 | Notification |
| | 9-23.4 | Authority to Adopt Rules and Regulation. |
| | 9-23.5 | Hospital Noncompliance. |
| | 9-23.6 | Severability |
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## Title G. Tanning Facilities


| | | |
|---|---|---|
| Section | 9-24.0 | Short Title. |
| | 9-24.1 | Legislative Intent |
| | 9-24.2 | Definitions |
| | 9-24.4 | Applicability |
| | 9-24.5 | Operating Regulations |
| | 9-24.6 | Protective Eyewear |
| | 9-24.7 | Posted Warning and Disclosure Required |
| | 9-24.8 | Parental Consent Required |
| | 9-24.9 | Records Required |

9-24.10 Penalties
9-24.11 Rules

Title H. Tobacco sales to individuals under the age of nineteen

Section 9-25.1 Legislative Intent
9-25.2 Definitions
9-25.3 Sale of tobacco products, herbal cigarettes, rolling papers or pipes to individuals under the age of nineteen prohibited
9-25.4 New York State Retail Dealer Certificate of Registration and Tobacco Vendor Education Certification of Tobacco Retailer Dealers
9-25.5 Certification requirements; recertification
9-25.6 Penalties
9-25.7 Rules and Procedure

Title A. (Repealed)

Title B. Nursing Homes

§ 9-15.0 **Homes for the Care of the Sick or Infirm for Compensation.** The County Department of Health shall have the power to license and regulate the establishment, maintenance and operation of homes for the care of the sick or infirm for compensation.
(Added by L. 1941 Ch. 530 § 1, in effect September 1, 1941.)

§ 9-16.0 **License Required.** It shall be unlawful for any person to establish, maintain or operate a home in the County for the care of the sick or infirm for compensation where three or more inmates thereof are or may be accommodated without a license thereof. The Department of Health, in its discretion, shall license such homes as shall have complied with the rules and regulations which the Department of Health shall have established thereof. Each applicant for such a license shall file with the Department of Health a written application on a form to be provided by the Department of Health. The fee for such license shall be fixed by the Department of Health and all such licenses shall expire on the thirty-first day of December next succeeding the date of issuance thereof.
(Added by L. 1941 Ch. 530. § 1; amended by Local Law No. 2, 1953, in effect July 13, 1953.)

§ 9-17.0 **Inspection.** Such homes shall at all times be open to visitation and inspection by the Department of Health and its employees.
(Added by L. 1941 Ch. 530 § 1, in effect September 1, 1941.)

§ 9-18.0 **Suspension; Revocation.** The Department of Health shall have power to suspend or revoke at any time any license granted under section 9-16.0 upon cause shown thereof, which suspension or revocation shall be subject to review by a proceeding under article seventy-eight of the civil practice act.
(Added by L. 1941 Ch. 530 § 1, in effect September 1, 1941.)

§ 9-19.0 **Violations; penalty.** Any person who shall violate any of the provisions of this title upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars or by imprisonment for not more than six months or both such fine and imprisonment.

(Added by L. 1941 Ch 530 § 1, in effect September 1, 1941.)

## Title C
## In General

§ 9-20.0 **County Health Ordinance.**

a. The County Board of Health may formulate, promulgate, adopt and publish, rules, regulations, orders and directions for the security of life and health in the County health district which shall not be inconsistent with the state sanitary code. Such rules, regulations, orders and directions shall be known as county health ordinances. Any violation of or noncompliance with any provision of such a county health ordinance or of any rule, regulation, order or special direction duly made thereunder shall constitute a violation punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment.
(Subd. a amended by Local Law No. 8-1975, [known as Local Low No. 5-1975 for purposes of filing with the Secretary of State], in effect October 6, 1975.)

b. Such rules, regulations, orders and directions may include provisions regulating the disposal of sewage and other putrescible organic wastes into the tidal water areas of the County outshore to a distance of five hundred feet from the low water line.
(Amended by L. 1945 Ch. 347 § 1, in effect March 28, 1945.)

## Title D
## Air Pollution Control

REPEALED

(Title D Added by Local Law No. 1-1967, in effect February 25.1967: Repealed in entirety by Local Law No. 22-1984, in effect November 19.1984.)

## Title E
## Nassau County Drug Abuse and Addiction Commission

§ 9-22.0 **Declaration of Policy.**
(Repealed by L. 1972 Ch. 782, in effect August 1, 1972.)

§ 9-22.1 **Commission established.**
(Repealed by L. 1972 Ch. 782, in effect August 1, 1972.)

§ 9-22.2 **Functions and Duties.**
(Repealed by L. 1972 Ch. 782, in effect August 1, 1972.)

§ 9-22.3 **Rule, and Regulations.**
(Repealed by L. 1972 Ch. 782, in effect August 1, 1972.)

## Title E
## Sale of Drug Paraphernalia
(New Title E added by Local Law No. 4-1981, in effect December 19, 1981.)

§ 9-22.0 **Declaration of Policy.** It is hereby declared and found that the sale of items used to aid the storage, use, concealment and testing of the strength or purity of illegal drugs is a widespread and growing practice which is contrary to the public interest. Therefore, public

safety, health, welfare and morals are best served by discontinuing the sale of such items.

§ 9-22.1 **Definitions.** When used in this title, the following terms shall mean or include:

1. "Controlled substance." Any substance described in subdivision five and six of section 220.00 of the Penal Law.

2. "Sell." To sell, exchange, give or dispose of to another, or to offer or agree to do the same.

3. "Person." Any individual, partnership, firm, association, trust, company or corporation.

4. "Cocaine spoon." Any spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon.

5. "Marijuana or hashish pipe." Any pipe having a bowl which is so small that the primary use of which such pipe is reasonably adapted or designed is the smoking of marijuana or hashish.

6. "Drug paraphernalia." Any equipment, products and materials of any kind which are used, intended for use, or designed for use, in violation of the laws of the State of New York in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, conveying, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding converting, producing, processing or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity, of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as genuine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, controlled substances;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the body;

(l) Objects used, intended for use, or designed for use in ingesting, or otherwise introducing controlled substances into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: meaning objects used to hold burning material such as marijuana cigarettes, that has become too small or too short to be held in the hand;

(vi) Cocaine spoons and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs;

(xiii) Ice pipes or chillers;

(xiv) Marijuana or hashish pipes.

§ 9-22.2 **Sale of Drug Paraphernalia; Penalties.** A person is guilty of violating this title when he knowingly and unlawfully sells or displays for the purposes of sale any drug paraphernalia.

A violation of any provision of this title is a class A misdemeanor.

§ 9-22.3 **Separability.** If any clause, sentence, paragraph, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 9-22.4 **Effective date.** This act shall take effect on the sixtieth day after it shall have become law.

(Title E added by Local Law No. 4-1981, in effect December 19, 1981.)

## TITLE F.
## CHARITABLE MEDICAL CARE

§ 9-23.0 **Legislative intent.** Nassau County Legislature recognizes the importance of providing charity medical care to indigent persons who would otherwise be left untreated. The

Legislature further finds that it is the responsibility of all hospitals within the County to provide proper medical treatment to indigent persons. Many of these hospitals are not for profit and have the obligation to provide charity care in exchange for favorable tax treatment by the government.

The Legislature finds, therefore, that it is essential for the Nassau County Department of Health to evaluate, on an ongoing basis, the need for charity care in the County and the level of care that is being provided to indigent persons by hospitals within Nassau County. In order for the County to be able to evaluate this care, the County needs information from hospitals with regard to their policies on the availability, access, procedures and criteria for providing charity care. The County further needs information concerning the amount of charity care provided to indigent persons by each hospital in order to better fashion an appropriate response to unmet needs for charity care, including the recommendation of budgetary, regulatory or other action at the local, state and federal levels.

To maximize the access to charity care within the community and to enhance the health of the public by informing individuals of the availability of charity care, it shall be the policy of the County of Nassau that each hospital provide notice to every patient of its charity care policy. Such notice shall include visually prominent multilingual postings explaining the hospital's policy on charity care. It shall also be the policy of the County of Nassau to encourage hospitals, when practicable, to notify patients verbally at the time of admission about the availability of charity care and the process for applying or qualifying for such care.

§ 9-23.1 **Definitions.** For the purpose of this section the following terms shall have the following meanings:

(a) "Application for charity care" or "request for charity care" means a written or verbal statement by a patient to a hospital officer, such as a financial officer or personal account representative, that he or she is an indigent person as defined in this section.

(b) "Bad debt" means the unpaid accounts of any person who has received medical care or is financially responsible for the cost of care provided to another, where such person has the ability to pay but is unwilling to pay.

(c) "Charity care" means medical services provided by hospitals to indigent persons, to the extent that such persons are unable to pay for all or part of their care.

(d) "Cost" means the actual amount of money a hospital spends to provide each service, but not the full list price charged by the hospital for that service.

(e) "Department" means the Nassau County Department of Health.

(f) "Commissioner" means the Nassau County Health Commissioner or a designee.

(g) "Hospital" means every entity in Nassau County licensed as a general acute care hospital, as defined by section 2801 of the New York Public Health Law.

(h) "Indigent person" means a person who is low income and uninsured or who has been determined, after a needs assessment by the health care provider, to be unable to pay for all or part of his or her hospital care.

(i) "Patient" means a patient or a guardian, spouse, relative or other representative of a patient who can act for the patient with respect to information about accessing charity care.

(j) "Policies" means the hospital's criteria and procedures for the provision of charity care, including, but not limited to, the criteria for eligibility for charity care, procedures for patient and community notification of charity care availability, the application or eligibility process, the appeal process from denials of requests for charity care, and the hospital's internal accounting

procedures for charity care.

(k) "Ratio of cost-to-charge." The term cost-to-charge shall mean the relationship between the hospital's cost of providing services and the charge assessed by the hospital for the service.

§ 9-23.2 **Reporting to the department of health.** Hospitals shall submit, once a year, on or before a date set by the Commissioner, a report containing the following information:

(a). A description of the charity care policy of the hospital. Such description shall set forth, but shall not be limited to, a description of:

(1) the criteria used by the hospital to determine eligibility for charity care, including income levels , resources and all other factors taken into consideration in determining such eligibility, such as the size of family of the applicant or the existence of prior medical debt;

(2) the hospital's procedures for notifying patients about the availability of charity care, in addition to the notice required by section 9-23.3 of this title, including

(i) whether patients are notified about the availability of charity care prior to billing for services;

(ii) whether bills include information about the availability of charity care; and

(iii) whether collection agencies employed by the hospital are instructed to notify patients about the availability of charity care and the procedure for requesting it.

(3) the process by which eligibility for charity care is determined, including

(i) whether a formal application process exists, the times prior to, during and subsequent to the delivery of services at which patients may request consideration for charity care; and

(ii) the process by which a patient may appeal a denial of a request for charity care, including but not limited to the period of time during which an appeal must be filed and the time in which the hospital must determine the appeal and notify the applicant; and

(4) the collection process, including

(i) whether the hospital or its collection agency will permit installment payments and the hospital's policy for determining the amount of the installment; and

(ii) any actions taken with respect to patients for whom charity care is or has been provided pursuant to paragraph (ii) of subdivision (c) of this section, including but not limited to notification to credit companies, banks or employers.

(iii) under what circumstances the hospital or its collection agency will commence actions to garnish wages or seize patient assets.

(5) such other information as the Commissioner may determine will assist in the understanding of the administration of the hospital's policies with respect to the provision of charity care.

(b) .The dollar amount of charity care provided during the prior year as specified by the department, after adjustment by the cost-to-charge ratio. Each hospital shall file a calculation of its ratio of costs-to-charges with its report. Figures representing bad debt shall not be included in the amount reported. The dollar amount of charity care reported shall specify separately (i) the dollar amount that has been provided on the basis of applications or requests from patients as set forth in paragraph (i) of subdivision (c) of this section; and (ii) the dollar amount that has been provided for episodes of patient care as set forth in paragraph (ii) of subdivision (c) of this section on the basis of recommendations from the hospital or a collection agency that the person is without assets to pay for such care.

(c). (i) The total number of patient applications or requests, patient and third party requests for charity care;

(ii) The total number of episodes of patient care recommended for charity care after an assessment by the hospital or a collection agency for the hospital that the person is without assets to pay for such care. For the purposes of this provision, an "episode of patient care" shall mean a billable unit of services.

(iii) the total number of hospital acceptances and denials of applications for charity care received and decided during the prior year and the reasons for denials, including but not limited to the number of applicants found not to meet the hospital's criteria for charity care and the number of applicants determined to be eligible for public assistance;

(iv) the zip code of each charity care patient's residence and the zip code of each person denied charity care;

(v) the number of individuals seeking, applying, or otherwise eligible for charity care who were referred to other medical facilities along with the identification of the facility to which the individuals were referred.

(vi) the number of persons provided charity care prior to the transmittal of accounts to collection agencies separate from the hospital;

(vii) The number of persons provided charity care prior to collection efforts and subsequent to such efforts.

(d). The total number of applicants who received hospital services within the prior year reported to the department as being charity care, the total number of episodes of patient care as defined in paragraph (ii) of subdivision (c) of this section and whether those services were for emergency, inpatient or outpatient medical care, or for ancillary services.

(e). The total dollar amount expended by the hospital for uncompensated care, including both charity care and bad debt.

(f). The average length of inpatient treatment for charity care patients

(g). The number of persons assisted by the hospital to apply for coverage under Medicaid or other insurance.

(h) Such other information as the department shall require.

§ 9-23.3 **Notification.**

(a) During the admission process or at registration, or whenever thereafter practicable and appropriate, including on a bill for services, hospitals shall provide patients with verbal notification about the hospital's policies, describing the availability of charity care, a description of the services that are covered by the charity care policy, a description of services, in any, that will not be covered, and any process necessary to request charity care. The hospital shall, on a timely basis, inform a patient who requests charity care whether or not such care will be provided, and, if such care is denied, of the procedure for appealing the denial.

(b) Hospitals shall post multilingual notices as to any policies on charity care in several prominent locations within the hospital, including but not limited to the emergency

department, billing office, waiting rooms for purposes of admissions, outpatient area, and inpatient area. Such notices shall be published in at least the following languages English and Spanish: and shall be of size and placement that will enable them to be clearly visible to the public from the location where they are posted.

§ 9-23.4 **Authority to adopt rules and regulations.** The Commissioner may issue, amend and implement rules, regulations, standards, or conditions to implement the provisions of this title.

§ 9-23.5 **Hospital noncompliance.** The Department of Health shall maintain a telephone line to receive complaints by patients in connection with alleged violations of the provisions of this title. Such complaints shall be forwarded to the New York State Department of Health. No county agency shall enter into an agreement with a hospital that has failed to comply with the provisions of this title. The department shall cause to be posted on the County website a list of hospitals that have failed to comply with this title; once in compliance any such hospital shall be removed from the website.

§ 9-23.6 **Severability; consistency with federal and state law.** If any part or provision of this law, or the application thereof to any person or circumstances, is held invalid, the remainder of the law, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this law are severable. Nothing in this section shall be interpreted or applied so as to create any power, duty or obligation in conflict with any federal or state law.

§ 9-23.7 **Annual report.** The Nassau County Department of Health shall, no later than June 30 of each year, make an annual report to the County Executive on the information obtained from the hospitals for use including, but not limited to, future planning on the department's provision of health care to the community. A copy of such report shall be filed with the Clerk of the Legislature. Each hospital shall be provided a draft copy of the annual report. Hospitals will be allowed to provide an explanation as to the data presented in the draft annual report, which may be incorporated within the final annual report presented to the public.

(Title F added by Local Law No. 1-2003, in effect January 23, 2003, amended by Local Law 7-2005.)

## TITLE G

## TANNING FACILITIES

§ 9-24.0 Short Title

This law shall be known as the “Colette Coyne skin cancer prevention act.”

§ 9-24.1 Legislative intent

This Legislature finds that many physicians and scientists now warn that the risks associated with sun-tanning are greater when tanning with artificial ultraviolet light. These risks include, but are not limited to, sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system. Certain medications, cosmetics, and foods are “photosensitizing,” which means that in some people they react unfavorably with ultraviolet light to produce skin rashes or burns. Sunlamps and

other artificial sources of ultraviolet light are know to intensify these effects. The Legislature finds, therefore, that a local law is necessary in order to protect and promote the public health, safety and welfare of those persons who use tanning facilities in Nassau County.

§9-24.2 Definitions

As used in this title, the following terms shall have the following meanings:

“Operator” shall mean a person designated by the tanning facility owner or tanning equipment lessee to operate, or to assist and instruct the customer in the operation and use of, the tanning facility or tanning equipment.

“Customer” shall mean any individual who enters a tanning facility for the purpose of using an ultraviolet radiation device.

"Tanning facility” shall mean any location, place, area, structure, or business which provides persons access to any tanning equipment, including, but not limited to, tanning salons, health clubs, apartments, or condominiums regardless of whether a fee is charged for access to the tanning equipment.

"Tanning equipment" shall mean any device that emits electromagnetic radiation with wavelengths in the air between two hundred to four hundred nanometers used for tanning of the skin, including, but not limited to, a sunlamp, tanning booth, or tanning bed.

“Commissioner” shall mean the Commissioner of the Nassau County Department of Health.

“Person” shall mean an individual, corporation, partnership, joint venture, or any business entity.

(**Editor’s Note: There is no §9-24.3)**

§ 9-24.4 Applicability

This title shall apply to any tanning facility in Nassau County; provided, however, that it shall not apply to any physician duly licensed to practice medicine who uses, in the practice of medicine, medical diagnostic and therapeutic equipment that emits ultraviolet radiation or any person who owns tanning equipment exclusively for personal, noncommercial use.

§ 9-24.5 Operating regulations.

1. A tanning facility shall have an operator present during operating hours who is sufficiently knowledgeable in the correct operation of the tanning equipment used at the facility so that he or she is able to inform and assist each customer in the proper use of such tanning equipment.

2. The tanning facility operator shall:

(a) instruct each customer on: (1) the proper position to maintain relative to the tanning equipment; (2) the position of the safety railing, where applicable; (3) the manual switching device to terminate radiation; and (4) the maximum time of exposure permitted by the tanning facility;

(b) monitor the use of the facility to ensure that the interior temperature does not exceed one hundred degrees Fahrenheit;

(c) comply with sanitizing procedures specified by the manufacturer of the tanning equipment between users; and

(d) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning equipment.

§ 9-24.6 Protective Eyewear.

1. A tanning facility shall provide to each customer, at no extra charge, protective eyewear for use with the tanning equipment which meet the requirements of Code of Federal Regulations, Title 21, Part 1040.20 (c)(4).

2. A tanning facility shall not permit any customer to use such facility's tanning equipment without wearing the protective eyewear required by this section.

§ 9-24.7 Posted warning and disclosure required.

1. A tanning facility shall post a warning sign at the front or main entrance to such facility and within three feet of each tanning station within such facility. Such sign shall be clearly visible and legible so that it can be easily viewed by customers, having dimensions not less than seventeen inches by twenty-two inches, and shall read as follows:

**Danger – Indoor tanning can be hazardous to your health and may cause skin cancer and long term eye damage as well as other eye and skin damage. Indoor tanning has no known health benefits. Exposure to either UVA or UVB rays can cause damage to the skin and eyes. You must wear protective eyewear. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight.**

2. A tanning facility shall provide to each customer, upon his or her first visit to such facility, the following written warning, which shall be signed, witnessed and dated prior to the use of any tanning equipment at such facility and thereafter kept on file by such facility:

**Danger - ultraviolet radiation warning**

**-Follow instructions.**

**-Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.**

**-Wear protective eyewear. Failure to use protective eyewear may result in severe burns or long-term injury to the eyes.**

**-Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight.**

**I have read the above warning and understand what it means before undertaking any tanning equipment exposure. I have not attended another tanning facility within the preceding 30 days.**

**.....**

**Signature of facility operator**

**.....**

**Signature of consumer**

**.....**

**Print name of consumer**

**.....**

**Date**

**or**

**The consumer is illiterate and/or legally blind and I have read the warning statement aloud and in full to the consumer in the presence of the below signed witness.**

**.....**

**Signature of facility operator**

**.....**

**witness**

**.....**

**date**

§9-24.8 Parental Consent Required

1. No tanning facility shall permit a person under the age of eighteen to use such facility without first obtaining the signed written consent of his or her parent or legal guardian. Such consent shall consist of the parent or legal guardian signing and dating the warning statement required under § 9-24.7 of this title.

2. No tanning facility shall permit a person under the age of sixteen to use such facility unless such person is accompanied by a parent or legal guardian.

§9-24.9 Records required

A tanning facility shall maintain an record of the use of such facility by each customer which shall include the dates and durations of each customer's tanning exposures as well as his or her total number of tanning exposures at such facility, or any branch location thereof, for a period of three years after exposure.

§ 9-24.10 Penalties

Any tanning facility found to be in violation of any provision of this title shall be subject to a civil penalty of up to five hundred dollars ($500) for the first violation, not less than seven hundred fifty dollars ($750) and not more than one thousand dollars ($1000) for the second violation, and not less than one thousand dollars ($1000) and not more than one thousand five hundred dollars ($1500) for the third violation and each violation thereafter, which may be recovered following notice and an opportunity to be heard in a proceeding before the Commissioner of Health.

§ 9-24.11 Rules

The Commissioner shall promulgate such rules as are necessary to effectuate the provisions of this title.

(Added by Local Law No. -2005 on April 4, 2005, effective 45 days thereafter)

## Title H

## Tobacco sales to individuals under the age of nineteen

§ 9-25.1 **Legislative intent**

This legislature finds that individuals are less likely to become addicted to cigarettes if they have not begun smoking before the age of nineteen. It is the intent of this title to make tobacco products inaccessible to Nassau county's high school-aged students in order to reduce the chances that they will become addicted to cigarettes at any age.

§9-25.2 **Definitions**

As used in this title:

1. "Person" shall mean a person, firm, company, corporation, partnership, sole proprietor, limited partnership or association.

2. "Tobacco products" shall mean one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products.

3. "Herbal cigarette" shall mean any product made primarily of an herb or combination of herbs, and intended to be smoked in any of the methods that tobacco is smoked, including but not limited to, as a cigarette, cigar or pipe filler.

4. "Tobacco Retail Dealer" shall mean any person who owns or operates a business in the county of Nassau at which tobacco products are sold or offered for sale to the public.

5. "Tobacco Vendor Education Certificate" shall mean a certificate issued by the Nassau county department of health.

6. "Commissioner" means the commissioner of the department of health.

7. “Department” means the Nassau county of department of health.

§9-25.3 **Sale of tobacco products, herbal cigarettes, rolling papers or pipes to individuals under the age of nineteen prohibited**

1. No tobacco retail dealer shall sell tobacco products, herbal cigarettes, rolling papers or pipes to any individual under nineteen years of age except all persons serving in the active United States armed forces.

2. Every tobacco retail dealer shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ROLLING PAPERS OR PIPES, TO PERSONS UNDER NINETEEN YEARS OF AGE IS PROHIBITED BY NASSAU COUNTY LAW." Such sign, which shall be provided by the department, shall be printed on a white card in red letters at least one-half inch in height.

3. The sale of tobacco products or herbal cigarettes by a tobacco retail dealer, other than by a vending machine, shall be made only to an individual who demonstrates, through a driver’s license or other photographic identification card issued by a government entity or educational institution indicating that such individual is at least nineteen years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product or herbal cigarettes to an individual under nineteen years of age.

§9-25.4 **New York State Retail Dealer Certificate of Registration and Tobacco Vendor Education Certification of Tobacco Retailer Dealers**

1. No tobacco retail dealer shall sell or offer for sale tobacco products within Nassau county without first complying with section four hundred eighty-a of the New York state tax law and having obtained a valid New York State Retail Dealer Certificate of Registration for tobacco products and a valid Tobacco Vendor Education Certificate issued by the commissioner in accordance with section 9-25.5 of this title.

2. Every retail tobacco dealer shall conspicuously post within his or her place of business a New York State Retail Dealer Certificate of Registration for tobacco products and the Tobacco Vendor Educational Certificate issued to such dealer.

3. A copy of such certificates shall be filed with the commissioner as proof of compliance with section four hundred eighty-a of the New York state tax law and this title.

§ 9-25.5 **Certification requirements; recertification**

1. Every tobacco retail dealer shall attend and satisfactorily complete a tobacco sales training program given and administered pursuant to section thirteen hundred ninety nine-ee of the New York state public health law.

2. Upon presentation by a tobacco retail dealer to the commissioner of proof of attendance and satisfactory completion of such training program , the commissioner shall issue to such retail dealer a Tobacco Vendor Education Certificate.

3. A tobacco retail dealer shall obtain re-certification during each third year thereafter, within thirty days after the anniversary of the previous certification, for as long as such dealer remains in business.

§ 9-25.6 **Penalties**

1. Any tobacco retail dealer who sells tobacco products in violation of any provision of this title shall for the first and second offense be subject to a civil penalty of up to one thousand dollars and for the third offense within a period of thirty six (36) months, be subject to a civil penalty of up to one thousand dollars and suspension of his or her Tobacco Vendor Education Certificate for six months, which fine and certificate may be imposed and suspended, respectively, following notice and an opportunity to be heard in a proceeding before the commissioner; provided, however, that such penalties shall not be imposed in any case where a tobacco retail dealer shall have been found to have sold tobacco products in violation of Article thirteen-F of the New York state public health law, known as the Adolescent Tobacco Use Prevention Act (ATUPA)

2. The commissioner may, at his or her own discretion, deny, refuse to renew or revoke a Tobacco Vendor Education Certificate if the applicant for state registration or any person listed on the application was listed on a previous application where the registration was revoked for violations of ATUPA, or for violations of this Article.

§9.25.7 **Rules and procedures**

The commissioner shall promulgate such rules and procedures as are necessary to effectuate the provisions of this title.

(Added by Local Law 5-2006, signed on April 26, 2006, to take effect one hundred twenty days after it shall have become a law, except that sections 9-25.4 and 9-25.5 of this law shall take effect on January first, two thousand seven .)

# CHAPTER IX-A

(Repealed by L. 1947 Ch. 204 § 1, in effect July 1, 1947 and inserted by § 2 into Chapter XII with a new Title F.)

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# CHAPTER XI.
# COUNTY ATTORNEY

## Title A.
## In General

§ 11-1.0 **Bond of County Attorney.** The County Attorney shall give a bond in such sum as shall be fixed by the Board of Supervisors, conditioned for the faithful performance of his duties and the accounting and turning over of all moneys of the County that may come into his hands by virtue of his office.

§ 11-2.0 **Deputies to act for County Attorney.** The deputies appointed by the County Attorney shall act generally for and in the place of the County Attorney in reference to the particular branch of work assigned to them.

§ 11-3.0 **Powers and duties.**

a. The County Attorney or special counsel for the County shall not have the power to institute any action or proceeding on behalf of the County, or any of its officers, except by direction of the Board of Supervisors or the County Executive or an officer, board, commission or body having power or authority under statute to direct the starting of any such action or proceeding.
(Amended by Local Law No. 4-1945, in effect July 9, 1945.)

b. He shall not be empowered to compromise, settle or adjust any rights, claims, demands or causes of action in favor of or against the County unless authorized by the Board of Supervisors acting by resolution, or by the Board, body, commission or officer empowered by statute to direct or consent to such compromise, settlement or adjustment. However, this prohibition shall not operate to limit or abridge the discretion of the County Attorney in regard to the proper conduct of the trial of any proceeding or action at law, or to deprive such County Attorney of the powers or privileges ordinarily exercised in the course of litigation by attorneys at law when acting for private clients. He shall not permit, offer or confess judgment against the County, or accept any offer of judgment in favor of the County, unless previously duly authorized so to do by resolution of the Board of Supervisors.

§ 11-4.0 **Actions and proceedings.** All process and papers for the commencement of actions and legal proceedings against the County of Nassau or any agency, commission, department or bureau thereof, shall be served either upon the County Executive, the clerk of the Board of Supervisors, the County Clerk, the County Treasurer or the County Attorney, and all actions or proceedings, wherein the County of Nassau or any agency, commission, department or bureau thereof is a party shall be brought and maintained in the County of Nassau.
(Amended by L. 1941 Ch. 187 § 1, in effect March 17, 1947; amended by Local Law No. 8-1991, in effect August 13, 1991.)

§ 11-4.1 **Presentation of certain claims.** Any claim against the County for damages for death or for injuries to person or property, invasion of personal or property rights of every name and nature whatsoever, whether casual or continuing, continuing and continuous trespasses, continuing and continuous invasions of property, continuing and continuous invasions of property rights, continuing and continuous maintenance of nuisances and any other claim or damages for death or injury to person or property, arising at law or in equity and enforceable or sought to be enforced at law or in equity, or arising under section fifty-b of the General Municipal Law, alleged to have been caused or sustained in whole or in part by or because of any misfeasance, negligence, omission of duty, wrongful act, fault or neglect on the part of the County or any of its agents, officers or employees, must be presented in writing to the clerk of

the Board of Supervisors of the County and to the County Attorney within thirty days after such damages or injury to person or property were sustained. Each claim for damages shall be verified by the claimant in the form as required for the verification of a pleading in an action and must state the time when the place where and the circumstances under which the damages or injuries were sustained and the particular cause thereof. It must also state so far as is then practicable, the nature and extent of the damages or injuries, the place, of residence of the claimant by street and number, and if there be no street or number, it must contain such statement as will disclose such place of residence. If such claim be pursuant to section-b of the General Municipal Law, a copy of such claim shall also be served on the appointee within the thirty days aforesaid. No action may be maintained against the County or the appointee for damages sustained as aforesaid unless it shall appear by and as an allegation in the complaint or the moving papers that notice has been presented as aforesaid and that notice of intention to commence the action was served upon the County Attorney within three months and the action is commenced within one year after such damages or injuries were sustained, but no such action may be brought until three months has elapsed after the presentation of the claim. The place of trial of all actions brought against the County shall be in the County of Nassau. This section shall not apply to claims for damages or compensation for property taken for highway purposes.

(Added by L. 1942 Ch. 598 in effect September 1, 1942.)

(A former section having the same number was added by L. 1939 Ch. 101 and repealed by L. 1940 Ch. 457.)

(Also note L. 1945 Ch. 694 relative to the subject of the foregoing section.)

§ 11-4.2 **Examination on claims.**

a. It shall be the duty of the County Attorney to cause all tort claims to be thoroughly investigated. He shall have power to issue subpoenas to compel the attendance of the claimant or any other person or persons to appear, be sworn and testify before him or any deputy County Attorney relative to the claim, and when so sworn, to answer as to any facts relative to the justness of such claim. The result of such examination shall be reported to the Board of Supervisors.

b. Such subpoenas may be served at any place within the State of New York in the same manner in which subpoenas issued out of the supreme court are served. Any person who shall neglect or refuse to attend or testify in obedience to any such subpoena or to be sworn or affirmed or to answer any proper or material question may be arrested by virtue of an order of attachment, which may be issued by a county judge or a justice of the supreme court upon his own knowledge of such neglect or refusal or upon written proof of the service of such subpoena, and of such neglect or refusal, and in the absence of a satisfactory excuse thereof may be punished by such county judge or justice of the supreme court in the same manner and to the same extent as a witness neglecting or refusing to attend in obedience to a subpoena issued and served out of the County court or the supreme court. Willful false swearing before the County Attorney or any deputy County Attorney shall be perjury and punishable as such.

(Added by L. 1939 Ch. 701 § 4 in effect June 5, 1939.)

§ 11-4.3 **County Attorney relieved from payment of fees to county and town officers.**

a. It shall be unlawful for any salaried officer of the County or of the towns within the County or of the supreme court held in and for Nassau County or of the surrogate's court of Nassau County or of the County court of Nassau County or of the district court of Nassau County, or for any public officer who is required by law to deposit fees collected in his office in the County treasury, to receive from the County Attorney, any fee for levy, service or return of executions or other mandate or order, or for entering, filing, docketing, registering, recording of

issuing any paper, record, mandate, precept or document required by law to be filed in or issued out of his office.
(Subd. a. amended by L. 1940 Ch. 223 § 1, in effect March 21, 1940.)

b. Every such officer, must upon application thereof, furnish to the County Attorney, a certified or photostatic copy, extract or transcript of any paper, record, mandate, precept or document on file in his office, or of the return upon an execution, mandate or order, without receiving thereof the fee prescribed by law.

c. The County Attorney is not required to pay a trial fee or jury fee or a fee for placing a cause upon the calendar in the supreme court held in and for the County of Nassau, or in the County court of Nassau County or in the district court of Nassau County, to the County Clerk of Nassau County or to any court clerk.
(Section added by L. 1939 Ch. 701 § 4, in effect June 5, 1939.)

§ 11-5.0 **Annual supplement to charter and code.** The County Attorney shall prepare annually a supplement to the charter and administrative code which shall indicate all additions to, repeals and amendments of any section of the charter or of the administrative code.

§ 11-5.1 **Petty cash fund.** The Board of Supervisors may authorize the County Treasurer to furnish the County Attorney with a sum not to exceed five hundred dollars for a petty cash fund. Expenditures from this fund shall be covered by itemized vouchers or claims in the name of the fund, verified by the oath of the County Attorney. Upon audit of such vouchers or claims, and by means of a warrant drawn on the County Treasurer, signed by the Comptroller, the treasurer shall reimburse to such petty cash fund the amount so audited and allowed.
(Added by L. 1940 Ch 645 § 1, in effect April 19, 1940.)

## Title B
## Property of the County
## Article 1 ACQUISITION AND DISPOSAL OF REAL PROPERTY

(Amended by Local Law No. 2-2004, to “Acquisition, Lease, and Disposal of Real Property,” in effect March 1, 2004, expired May 1, 2004.)

§ 11-6.0 **Definitions.** As used in this title, unless otherwise expressly stated or unless the context or subject matter otherwise requires:

1. The term "acquisition" or "proceeding" means a proceeding to acquire title to real property by condemnation pursuant to the provisions of this title.

2. The term "county" means the County of Nassau.

3. The term "board" or "Board of Supervisors" means the Board of Supervisors of the County of Nassau.

4. The term "County Attorney" means the County Attorney of the County of Nassau.

5. The term "County Treasurer" means the treasurer of the County of Nassau.

6. The term "County Clerk" means the County Clerk of the County of Nassau.

7. The term "the court" means the County court of the County of Nassau if the acquisition is pending in the County court or a special term of the supreme court held in and for the County if the acquisition is pending in the supreme court.

8. The term "commissioners" means the Commissioners of estimate appointed by the

supreme or county court, as the case may be, to ascertain and determine the compensation which ought justly to be paid to the owners of real property being acquired in an acquisition.

9. The term "owner" means a person having an estate, interest or easement in the real property being acquired or a lien, charge or encumbrance thereon.

10. The term "real property" includes all lands and improvements including works and facilities, lands under water, the water of any lake, pond or stream, any easements and hereditaments, corporeal or incorporeal, and every estate, interest, and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise.

11. The term "works or facilities" means works or facilities as defined in sections twelve hundred eight, twelve hundred sixteen or twelve hundred seventeen of the charter or in section 2-2.0 of the code.
(Amended by L. 1948 Ch. 498 § 1, in effect April 4, 1946.)

12. The term "slope and fill easement" means an easement on, over and under the land within the easement area for the purpose of grading or filling such land within the easement area to support, or prevent obstruction of a highway or bridge or park or drains or sewers or other public improvement abutting such easement. The owner of land subject to a slope and fill easement as herein defined shall have the right to use such servient land for any purpose otherwise lawful, provided only that such use does not endanger or interfere with the highway, bridge, park, drain, sewer or public improvement abutting such land.
(Amended by L. 1948 Ch. 178: L. 1954 Ch. 134, in effect March 15, 1954.)

13. The term "working easement" means a temporary easement for use in connection with the construction of buildings, highways, parks, drains or works or facilities during the period of construction only.

14. The term "park" includes all state or county parks, parkways, branches, open spaces and boulevards: also approaches and entrances thereto, docks and piers and bridges in, leading to or connecting such park or parks or parts thereof, and such other rights and appurtenances as are incident thereto.

15. The term "highway" includes a state highway, county road and public place.

16. The term "days" means calendar days exclusive of Sundays and full legal holidays.

17. The term "works or facilities fund" means the fund for the acquisition, construction and maintenance of works or facilities; from this fund shall be paid the damages, costs, charges and expenses incurred by reason of the acquiring of such works or facilities.

18. The term "land acquisition fund" means the fund for acquiring by the County real property other than works or facilities; from this fund shall be paid the damages, costs, charges and expenses incurred by reason of the acquiring of such real property.

19. The term "an assessable improvement" means an acquisition which the Board of Supervisors has determined shall be paid for in whole or in part by assessments upon the real property deemed by such board to be benefited by such acquisition.

20. The term "application to condemn" means:

(a) An application to the supreme court to have the compensation which should justly be made to the respective owners of the real property being acquired, ascertained and determined by such court without a jury and, in the case of an assessable improvement, to have the cost

and expense of the acquisition or such portion thereof as the Board of Supervisors shall direct, assessed by the court upon such real property as the Board may deem to be benefited thereby; or

(b) An application to the supreme court or county court, as the case may be, for the appointment of one or more sets of three commissioners of estimate to ascertain such compensation and, in the case of an assessable improvement, of one or more commissioners of assessment to assess such cost and expense upon the real property so deemed benefited by the acquisition.

(Subd. 13 added and former 13 to 19 renumbered by L. 1952 Ch. 198, in effect March 25, 1952.)

§ 11-7.0 **Authority to acquire real property.**

a. Whenever required for any public or county use or purpose, the County may acquire title in fee to real property or any interest therein either within or without the County boundaries, except that assessable improvements may be instituted only within the County. Such title or interest may be acquired by purchase, condemnation or otherwise.

b. Such acquisition, except as otherwise expressly provided herein, shall be in accordance with the provisions of this title. Compensation shall be made to the owners of the real property acquired, and, in a proper case, the cost of such acquisition, or a portion thereof may be assessed upon the real property benefited thereby. However, the cost of the acquisition by the County of works or facilities shall be defrayed as provided in section twelve hundred eleven of the charter.

c. The term "public or county use or purpose" without limiting or restricting in any way the powers of the County under this section, shall include the acquisition of lands for:

1. The purpose of obtaining pits, beds, quarries or other places for gravel, stone or other material when required for the construction, improvement, or maintenance of county roads.

2. Spoil banks for such pits, beds, quarries or other places.

3. Rights of way to such spoil banks or to such beds, pits, quarries or other places where such gravel, stone or other material may be located.

§ 11-8.0 **Authority to dispose of real property.** Notwithstanding the provisions of section two hundred fifteen of the County law, the County may sell, convey, exchange, grant, lease, release or otherwise dispose of any of its real property, apply such real property to a county use other than that for which it was acquired, or lease such property for a period not to exceed ninety-nine years at public or private sale, and grant rights or interests in, over, under and across any real property in which the County has any right, title or interest, for such consideration and upon such terms and conditions as the County Legislature may deem proper and with respect to the sale of surplus real property such terms and conditions may include purchase money mortgages, installment contract sales and any other means of selling and financing. Notwithstanding anything else to the contrary, no county property shall be sold, conveyed, exchanged, granted, released or otherwise disposed until the Nassau County Planning Commission has issued its recommendation in accordance with the following procedures:

a. Any proposal, including but not limited to a request for proposals, bid, lease, contract, or offer pursuant to which the County may sell, convey, exchange, grant, lease, release or otherwise dispose any of its real property shall be given to the Nassau County Planning Commission for its recommendation prior to being advertised or otherwise circulated. The

Nassau County Planning Commission shall forward forthwith to the Nassau County Open Space and Parks Advisory Committee ("OSPAC") any proposal referred to it pursuant to this section.

b. The Nassau County Planning Commission shall hold a public hearing upon such notice as required by the Public Officers Law of New York State to receive public comment regarding the disposition of said property within thirty (30) days from the date of receipt of the aforementioned proposal. Subsequent to the public hearing referred to in this subsection, OSPAC shall report within thirty (30) days to the Nassau County Planning Commission any recommendations it may have with respect to [said] a proposal.

c. The Nassau County Planning Commission shall issue its written recommendations regarding the disposition of such property to the County Executive and the County Legislature within forty-five (45) days of the conclusion of such public hearing.

d. In making its recommendation, the Nassau County Planning Commission shall use the criteria identified in the Nassau County Planning Commission's Master Plan as developed pursuant to section sixteen hundred and four-a of the Charter and the criteria governing review by OSPAC set forth in Title 47 of the Miscellaneous Laws of Nassau County.

(Amended by Local Law 7-2003, in effect May 28, 2003; amended by Local Law No. 14-2001, in effect October 1, 2001; amended by Local Law No. 12-1967, in effect October 13, 1967; amended by L. 1976 Ch. 421, in effect June 21, 1976.).

(Editor's note- Subd. (a) – (d) are listed as 11-8.0(a), 11-8.0(b), 11-8.0(c), 11-8.0(d) in the original.)

§ 11-9.0 **Acquisition of lands for parkway purposes and dedication of the same within the County.**

a. Any municipal corporation within the County may acquire by purchase, gift, devise or condemnation, real property necessary, for or incidental to, the construction of a state park, parkway or boulevard or incidental to the separation of grades at the intersection of a state parkway or boulevard and a state, county, town, city or village road, highway or street within the County.

b. Any such municipal corporation may donate or dedicate such real property to the state or may release to the state for such purposes, existing rights of way or casements not needed for the requirements of the municipal corporation. Such municipal corporation may purchase options to carry out the purposes of this section in aid of the state parks and parkway system.

c. For the purposes set forth in subdivision a of this section the County may also donate or dedicate, to the state, real property which it has acquired for such purposes or it may release to the state existing rights of way or casements which are not required for county purposes.

d. The County, any town therein, any city therein, or any village therein, either alone or together with any other municipal corporation or municipal corporations may contribute toward the cost of acquisition of a state park wholly or partly within their boundaries or adjacent or near to them on the basis of probable benefit to such county or municipal corporations. In the event that a state park is acquired by agreement involving contributions by several municipal corporations, the purchase price shall be met in accordance with the terms of the agreement.

(Amended by L. 1943 Ch. 110 § 109, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)

(Note: Amendment required by Local Finance Law § 10.00, 11.00, 21.00, 23.00, 28.00 and 30.00.)

e. If the County acquires real property for any of the purposes set forth in subdivision a of this section, such moneys may be raised by taxation or by the issuance of obligations pursuant to the local finance law. If a town acquires such real property, the money necessary therefore

shall constitute a town charge and be raised by taxation or by the issuance of obligations pursuant to the Local Finance Law. If a city acquires such real property, the money therefore may be raised by taxation or by the issuance of obligations pursuant to the Local Finance Law. If a village acquires such real property, the money therefore may be raised by taxation or by the issuance of obligations pursuant to the Local Finance Law.
(Amended by L. 1943 Ch. 710 § 110, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
(Note: Amendment required by Local Finance Law § 10.00, 11.00, 21.00, 23.00, 28.00 and 30.00.)

§ 11-10.0 **Adoption of real property acquisition procedure by municipal corporations and districts.**

a. Notwithstanding any other general, special or local law any municipal corporation or district within the County may, so far as practicable, adapt for its use the procedure for the acquisition of real property for public use provided for in this title, whenever it shall be empowered or required by law to acquire real property for such use.

b. Notwithstanding any other general, special or local law, any municipal corporation or district vested with the power of acquiring excess lands, may, so far as practicable, adopt for its use the procedure for the acquisition of excess lands provided for in article three of this title.

§ 11-10.5 **Lease of real property for county purposes.** Notwithstanding the provisions of subdivision 3 of section [*] of the County Law and subject to the approval of the Legislature, the County is hereby authorized and empowered to enter into a written agreement for the lease, rental or occupancy of real property for a term that may exceed five years.)
(Added by Local Law No. 2-2004, in effect March 1, 2004, and expired May 1, 2004.)
(*Editor's note- Missing in original, probably § 215.)

Article 2 REAL PROPERTY ACQUISITION PROCEDURE

§ 11-11.0 **Special provisions governing acquisitions without the County.**

a. Whenever real property shall be acquired in an acquisition without the boundaries of the County, references in this title to:

1. "The County Clerk" except as referred to in subdivision b of section 11-36.0 of the code, shall refer to the clerk of the County in which such real property is situated.

2. "The court" shall refer to the court, as otherwise defined in this title, in and for the County in which such real property is situated.

3. "The official newspapers" shall refer to the official newspapers published in the County in which such real property is situated.

b. An assessment for benefit shall not be levied upon any real property lying outside the County of Nassau.

c. All other provisions of this title, so far as practicable, shall be deemed to apply to any acquisition without the boundaries of the County.

§ 11-12.0 **Conveyance or cession of real property to county.**

a. An owner of real property which the County is authorized to acquire by an acquisition may convey or cede the same to the County on such terms and conditions, including exemptions from assessments, as the Board may prescribe, provided such real property be free from encumbrances inconsistent with the title to be acquired by the County.

b. When a conveyance of such real property shall be accepted, the County shall become vested with the title to the real property so conveyed to the same extent and effect as if it had been acquired in an acquisition.

c. In any acquisition the County Attorney may make settlements of compensation to be paid an owner or owners on such terms and conditions, including exemption from assessments, as shall be authorized by the Board of Supervisors.

§ 11-13.0 **Purchase of real property to be acquired in an acquisition.**

a. The Board of Supervisors may agree with the owner thereof as to the purchase price of any real property, or any part thereof, authorized to be acquired in any acquisition, and may purchase the same for and on behalf of the County.

b. The Board may authorize the County Attorney to acquire options for the purchase by the County of such real property. Each such option must be approved by the County Executive.

c. When a conveyance of such real property shall have been made to the County, the County shall become vested with title to such real property so conveyed to the same extent and effect as if it had been acquired in an acquisition.

§ 11-13.1 **Relocation allowance in acquisitions.**

a. Subject to the approval of the Board of Supervisors, the County Attorney shall fix and promulgate and, from time to time, amend a schedule of payments to be made without Interest

to occupants of real property acquired as an allowance against the reasonable and necessary expenses of relocating from said property, and rules and regulations under which said relocation allowance shall be paid.

b. The relocation allowance to be paid to residential occupants shall not exceed one thousand one hundred dollars and the relocation allowance to be paid to business or commercial occupants or non-profit organizational occupants shall not exceed fifteen thousand dollars.
(Amended by Local Law No. 5-1991, in effect June 17, 1991.)

c. Upon application to the County Attorney by the applicable occupant, the relocation allowance herein provided may be paid in whole or in part at any time after vesting of title and before final award by the County Treasurer upon certification by the County Attorney as to the entitlement and amount and in accordance with such additional procedures as the County Comptroller may prescribe.
(Added by Local Law No. 2-1963, in effect March 9, 1963.)

§ 11-13.2 **Interest on settlements in acquisitions; tender.** In any settlement in a condemnation proceeding the County Attorney shall include, in addition to all other items of damages to the owner, interest on any settlement made. Such interest shall be at the maximum rate authorized by section 3 of the General Municipal Law computed from the date of vesting of title to the date of execution of the agreement by the County Executive. In the event an offer of settlement is made in writing by the County Attorney which is not accepted within twenty days, the County Attorney shall tender seventy five percent of such offer to the claimant with interest from the date of vesting. In the event such tender is not accepted within ten days, interest on the amount of such tender shall cease. No interest shall be paid on the amount of such tender on any subsequent award or settlement.
(Added by Local Law No. 4-1967, in effect April 22, 1967.)

§ 11-13.3 **Settlements; tax apportionments.** In any settlement in a condemnation proceeding the County Attorney shall include, in addition to all other items of damages to the owner, the pro rata portion of all real property taxes paid by the owner for school, county, town and village taxes, excluding all other taxes, on the condemned parcel of real property from the date of vesting of title or surrender of possession, whichever occurs later.
*Catchline supplied.
(Added by Local Law No. 5-1967, in effect April 28, 1961.)

§ 11-14.0 **Agreements for compensation to be awarded for the removal of structures from premises being acquired.**

a. The Board of Supervisors, prior to the purchase of the premises being acquired upon which buildings or parts of buildings or other structures are erected, or prior to the signing of the final decree of the court or final report of commissioners, as the case may be, may agree with the owner or owners thereof, in case title thereto has not vested in the County:

1. As to the cost and compensation to be allowed and paid to them to remove such buildings or parts of buildings or other structures, and
2. That such sum or sums shall be the compensation to be awarded or allowed for the damage done such buildings or parts of buildings or other structures by virtue of the acquisition.

Such buildings or parts of buildings or other structures shall not, in any case, be relocated or reerected within the lines of any proposed public improvement.

b. Such agreement may also be made as a condition of the sale by the County, at private sale, of its interest in such buildings or parts of buildings or other structures, after vesting of title thereto, to the owner or owners of the award or awards therefor or other persons having an interest therein. The Board of Supervisors shall prescribe such conditions in the terms of sale, which, if broken, shall entitle the County to a resale of such property and which shall revest title thereto in the County.

c. The court or the Commissioners of estimate, as the case may be, shall accept such agreed amounts of compensation for the removal of buildings or parts of buildings or other structures as the amounts to be awarded as such compensation and include the same in the tentative and final decrees or reports, as the case may be.

§ 11-15.0. **Assessable improvements.**

a. An assessable improvement may be authorized by the Board of Supervisors when land is to be acquired for:

1. Highways, including drains, slope and fill easements and the necessary incidents and appurtenances to such highways.
2. Parks, including playgrounds and beaches.
3. Parking fields.

b. The power to levy assessments shall not be construed to limit or in any way to restrict the power of the County to levy ad valorem taxes, in a proper case, pursuant to the provisions of section twelve hundred eleven of the charter.

§ 11-16.0 **Determination of manner of acquisition and of portion of cost to be born by property benefited.**

a. The Board shall determine whether the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court, without a jury, or by three commissioners of estimate, to be appointed either by the supreme court or by the County court as the Board shall determine.

b. The Board may also determine and direct in accordance with rules adopted by it, that the whole or a specified portion of the cost of the acquisition shall be borne by the real property benefited thereby.

c. The Board may authorize two or more highways or portions thereof, to be included in one acquisition.

d. The Board shall specify the duration of any easement being acquired.

§ 11-17.0 **Determination of the portion of the cost and expense of acquisition to be borne by the County and by the real property benefited.**

a. Whenever real property is being acquired for the purposes set forth in section 11-15.0 of the code, the Board of Supervisors may determine that all or a portion of the cost of such acquisition shall be borne by the real property benefited thereby, and it may also determine that all or a corresponding portion of the expense of the acquisition shall be borne by the real property deemed by such board to be so benefited.

b. The Board may also determine in any such acquisition that all or a portion of the expense of the office of the County Attorney incurred by reason of the provisions of this title and the expense incurred by the Department of Public Works in the preparation of any rule, damage and benefit and tax maps required by such provisions, shall be borne by the real property deemed by such board to be benefited thereby.

c. The determination of such board as to placing all or a portion of the cost and expense upon the real property deemed benefited by such improvement may, after it shall have been made and announced, be reopened and reconsidered and a change of such determination or decision made as to the portion of the cost and expense of the acquisition to be borne and paid by the real property benefited, at any time before the entry of the final decree of the court as to the assessments, or before the final confirmation of the report of the Commissioner of Assessment appointed in the acquisition, as the case may be. Such portion may be reduced but not increased. In such event, such board shall cause to be published, once each week for two consecutive weeks in the official newspapers of the County, a notice that it proposes to reopen and reconsider such determination or decision and that at a time and place specified in the notice, which time shall be not less than ten days after the first publication of such notice, the Board will hold a hearing in respect to a reopening and reconsideration of its former determination or decision, at which time it will afford a reasonable opportunity to all interested persons to be heard.

§ 11-18.0 **Sum to be equally and proportionately assessed.** The portion of the cost of the acquisition and of the expenses thereof, which the Board of Supervisors shall have directed to be borne by the real property benefited, shall be assessed by the court or by the Commissioner of Assessment, as the case may be, equally and proportionately, so far as the same may be practicable, upon the real property which such board shall deem benefited by such acquisition. Such assessment shall be a lien and charge on the real property specified in the final decree of the court or in the report of the Commissioner of Assessment, as the case may be, from the date of the entry of such decree or of the order confirming such report and shall be collected by the County Treasurer in the manner provided by law for the collection of delinquent taxes. Nothing herein contained shall affect any agreement between landlord and tenant or other contracting parties respecting the payment of such assessment.

§ 11-19.0 **Reapportionment of the cost and expense of acquisition to be borne by the County and by the real property benefited.**

a. Notwithstanding the provisions of section 11-17.0 of the code, the Board of Supervisors, by the concurrence of two-thirds of the voting strength of such board, within five years after the date of the final confirmation of assessments for an assessable improvement, may authorize a reapportionment of the cost, or of the cost and expense of such improvement, as fixed and determined in the resolution or ordinance authorizing the institution of the acquisition therefor. Such reapportionment may reduce, but shall not increase the portion of such cost, or of such cost and expense, to be borne by the real property assessed for benefit in such improvement. All such assessments shall be proportionately reduced to conform to such reapportionment.

b. The Board shall give notice, in the manner provided in subdivision c of section 11-170 of the code, whenever it proposes to consider the advisability of such reapportionment.

c. All persons who are entitled to a refund from the County by reason of such reapportionment shall make demand therefore, in writing, upon the County Treasurer within one year from the date of the resolution or ordinance authorizing the reapportionment. Failure to make such timely demand shall constitute a waiver of such refund.

d. No interest shall be paid on any refund due as a result of a reapportionment provided for by this section.

§ 11-20.0 **Adoption of area of assessment.**

a. Whenever the Board of Supervisors shall have determined that the cost and expense of the acquisition or of a portion thereof, shall be borne by the real property benefited thereby, it shall, when directing the institution of the acquisition, or at any time before the entry of the final decree, if the acquisition be before the supreme court without a jury, or before the date of the entry of the order confirming their report, if the acquisition be before commissioners of estimate, fix and determine upon an area or areas of assessment for benefit. The Board may review and alter such area of assessment at any time before the entry of the final decree of the court as to assessments or the entry of the order of the court confirming the report of the Commissioner of Assessment, as the case may be.

b. The Board may also divide the area or areas of assessment or partial or separate areas of assessment determined upon by it into zones or sub-areas of benefit and may direct what proportion in percentage of the cost and expense of the acquisition shall be made a charge upon and shall be distributed by the court, or by the Commissioner of Assessment, as the case may be, over and upon such zones or sub-areas of benefit in proportion to the benefit received.

c. When the Board proposes to fix an area of assessment or zone or sub-areas of benefit, it shall give notice in the manner provided in subdivision c of section 11-17.0 of the code, of the proposed area of assessment for each assessable improvement, and of the proposed zones or sub-areas of benefit contained within the entire area of assessment and of the proposed proportion in percentage of the cost and expense of the acquisition, which it may direct to be distributed within such zones or sub-areas, and of the time and place of a hearing thereon. Such notice may set forth and describe the proposed area of assessment and the zones and sub-areas thereof and the respective percentages of the cost and expense to be borne by such zones and sub-areas by a general description of the boundaries or by a diagram which shall show the same with reference to the acquisition. In accordance with such notice a hearing shall be held at which the Board shall hear all interested persons. A hearing shall be had and similar notice shall be given in the event of a proposed revision or alteration of the area or sub-area of assessment theretofore fixed by such board, or of the partial or separate areas or zones or sub-areas theretofore fixed by it, or of the percentages which it may have directed to be distributed, levied and raised upon such areas.

d. The Board shall establish uniform rules for the determination of areas and zones or sub areas of benefit and of the proportion of the cost of an acquisition to be distributed therein.

§ 11-21.0 **Acquisition of real property in villages and cities; appropriation of moneys therefor.**

a. The term "municipality" as used in this section means a city or village within the County and the term "governing board" includes the common council and mayor of a city, and the Board of Trustees of a village.

b. If any real property being acquired in an assessable improvement lies within a municipality, the cost of the acquisition of such real property shall be estimated by the Commissioner of Public Works, who shall include in his estimate the cost of such real property and the expense necessarily incident to the acquisition thereof.

c. 1. The governing board of such municipality may, by contract with the County, provide, that the cost and expense of such acquisition, or any part thereof, shall be paid in

whole or in part by such municipality, or may provide that a sum of money specified in such contract shall be paid by the municipality on account of such cost and expense, and in either event shall appropriate the money necessary for such purpose.

2. If such contract and appropriation be made by a city, the moneys therefor may be raised by taxation or by the issuance of obligations pursuant to the local finance law.

3. If such contract and appropriation be made by a village, the moneys therefor maybe raised by taxation or by the issuance of obligations pursuant to the local finance law.

4. The purposes for which such contract and appropriations may be made and such moneys raised, as provided in this subdivision, are hereby declared to be city and village purposes, as the case may be.

(Subd. c amended by L. 1943 Ch. 710 § 111 as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
(Note: Amendment required by Local Finance Law § 10.00, 11.00, 21.00, 23.00, 28.00 and 30.00.)

d. After the contract has been entered into between the municipality and the County, the Board of Supervisors may determine to proceed with the proposed acquisition in such municipality. In such event, the County shall provide for the payment of the cost and expense thereof, other than that appropriated by such municipality, in accordance with the provisions of this title and of such contract.

e. Thereafter, the County Treasurer shall prepare and deliver to the treasurer or similar officer of such municipality, from time to time, as the moneys appropriated by such municipality may be required, his certificate stating the amounts required and the date or dates when payment thereof is to be made, and the treasurer or similar officer shall, out of money so appropriated, pay over to the County Treasurer the sums of money set forth in such certificate on the dates therein specified. The County Treasurer shall deposit such moneys to the credit of the land acquisition fund and shall disburse the same in accordance with the provisions of this title for the purposes named in the resolution of the governing board by which such moneys were appropriated. The County Treasurer shall, within sixty days after the entry of the final decree of the court, or the entry of the order confirming the report of the Commissioners of estimate, as the case may be, or within thirty days after the demand in writing by the governing board, render to such board an itemized account of the disposition of such moneys received by him.

f. Nothing in this section contained shall be deemed to alter or impair the right of the County to acquire real property in a municipality in accordance with the other provisions of this article.

§ 11-22.0 **Acquisition map; preparation and filing of.**

a. Before an acquisition is commenced the Board of Supervisors shall cause to be prepared a map of the real property affected thereby, distinctly indicating thereon the several parcels to be acquired. In all cases the parcels and lots shall be designated on the map by the same description as shall be used to designate such real property on the County tax map and land value map if available. The map shall indicate the names of the last known owners of such parcels, as recorded in the block indices of the County Clerk; and the dimensions and bounds of each such parcel. The map shall also indicate all the real property which adjoins the parcel being acquired and is in the same ownership. A certified copy of the ordinance or resolution authorizing the preparation of the map shall be filed forthwith in the office of the County Clerk.

b. Such map shall be filed in the office of the Department of Public Works. Thereupon, the

Board of Supervisors shall cause to be published three times in the official newspapers of the County a notice of the filing of such map, and that at a time and place specified in the notice, which time shall be not less than twenty days from the day of the first publication of such notices the Board will hold a hearing in respect to such map, at which time it will afford a reasonable opportunity to all interested persons to make objections thereto or suggest changes therein. The clerk of the Board of Supervisors shall transmit such notice by ordinary mail to the owner as shown on such map at least ten days prior to said hearing. The failure of such owner to receive notice as required by the section shall not invalidate the proceeding or impair any title acquired pursuant to this article.
(Subds. a and b amended by Local Law No. 10, 1967, in effect June 19, 1967.)

c. After such hearing, the Board of Supervisors may modify such map and, by ordinance or resolution, shall adopt the same with modification or without change. A certified copy of such ordinance or resolution and a copy of such map as adopted shall be filed forthwith in the office of the County Clerk.

d. The Board of Supervisors, its agents, engineers, surveyors, appraisers and such other persons as may be necessary to enable it to perform its duties under this title, are hereby authorized to enter upon any real property for the purpose of making surveys, appraisals, examinations or investigations and of preparing maps, and for such other purposes as may be necessary in the performance of its duties under this title.

§ 11-23.0 **Additional requirements for petition and map.**
(Repealed by L. 1948 Ch. 184, in effect March 10, 1948.)

§ 11-24.0 **Supervisors, court or commissioners to be furnished maps, surveys, diagrams or plans.**

a. The Commissioner of Public Works of the County shall furnish to the Board of Supervisors, to the court or to the Commissioners of Estimate and the Commissioners of Assessment, as the case may be, such maps, surveys, diagrams or plans as shall be required by this title.

b. The court or commissioners may require such Commissioner of Public Works to furnish such surveys and maps and other information as will aid and assist the court or commissioners in the trial or determination of the acquisition.

§ 11-25.0 **County Attorney to provide clerks and offices; expenses.** The County Attorney shall furnish the court or the Commissioners of Estimate and the Commissioner of Assessment, as the case may be, such necessary clerks and other employees as may be required, and shall provide such suitable offices for the Commissioners, clerks and other employees as may be required to enable the court or commissioners, as the case may be, to fully and satisfactorily discharge the duties imposed by law. All necessary expenses and disbursements which the County, the Commissioner of Public Works of the County and the County Attorney, on behalf of the County, shall incur under the provisions of this title including expenses of title examination, shall be paid by the County Treasurer out of the land acquisition fund or the works or facilities fund as the case may be, and if provided by the Board of Supervisors, the salaries of the employees of the Department of Public Works of the County engaged in the preparation of maps, surveys and diagrams pursuant to section 11-24.0 of the code shall also be paid out of such fund. Such sums, paid or payable out of the appropriate fund, shall be included in, and taxed by, the court, upon due proof of services rendered and disbursements charged, as part of the necessary costs and expenses of the acquisition. An amount estimated to be sufficient to cover the legally taxable costs, charges, expenses and

disbursements of such Department of Public Works or of the County Attorney or of the County, which are necessary to be incurred in an acquisition, between the date to which the final bill of costs shall be made up and the date of the entry of the final decree of the court or of the order confirming the report of the Commissioners, as the case may be, shall be taxed by the court.

§ 11-26.0 **Expenses to be certified to County Attorney; inclusion in assessments.** The Commissioner of Public Works of the County shall certify to the County Attorney the expense incurred in making such maps, surveys, diagrams or plans and furnishing such information, including all expenses incurred in the examination of titles necessary to the preparation of such maps, surveys and diagrams. The expense of making computations of interest on awards, computations of assessments and other work in connection with the preparation of tentative and final decrees and reports shall be certified by the County Attorney. The whole of the expenses of the County, the County Attorney and such Commissioner of Public Works incurred by reason of the acquisition, or such part of such expenses as the Board of Supervisors shall determine, shall be included in the assessment for benefit after the same shall have been taxed by the court.

§ 11-27.0 **Notice of application to condemn where acquisition is before supreme court without a jury.** Whenever the Board of Supervisors shall have determined that the compensation to be made to the owners of the real property being acquired shall be ascertained by the supreme court without a jury, the County Attorney shall institute an acquisition, and shall give notice by advertisement published once in each week for two consecutive weeks in the official newspapers of the County, and by causing copies of such notice in the form of handbills to be posted for the same period in three conspicuous places upon or near such real property, and mail said notice by ordinary mail to the address of the last known owner of record, that he intends to make application to condemn to the supreme court at a time and place specified in such notice. Such notice shall indicate the real property to be taken by reference to the maps on file in the office of the County Clerk. In the case of an assessable improvement, such notice shall also refer to the area of assessment as fixed by the Board. Such area of assessment may be described in such notice by means of a map or diagram instead of by metes and bounds.
(Amended by Local Law No. 3-1963, in effect March 9, 1963.)

§ 11-28.0 **Presentation of petition.** The County Attorney shall present to the court a petition, signed and verified by him, setting forth:

1. The action had by the Board with reference to the acquisition.

2. The real property being acquired by a general description by metes and bounds and by reference to a map, which shall be attached to the petition, and to the map on file in the office of the County Clerk.

3. The duration of any easement being acquired in the improvement.

4. A prayer that the compensation to be made to the respective owners of the real property being acquired be ascertained and determined by the court without a jury, and in a proper case that the cost of such acquisition, or such portion thereof as the Board shall direct, be assessed by the court upon such real property as may have been deemed by such board to be benefited thereby, in accordance with the area of assessment as fixed by such board.
(Amended by L. 1948 Ch. 184, in effect March 10, 1948.)

§ 11-29.0 **Order granting application to condemn.** At the time and place mentioned in such notice, unless the court shall adjourn the application to a subsequent day, and in that event at the time and place to which the same may be adjourned, upon due proof to its satisfaction of the publication and posting of the notice referred to in section 11-27.0 of the

code, and upon the filing of such petition, the court shall enter an order granting the application. Such order shall be filed in the office of the County Clerk.

§ 11-30.0 **Acquisition before supreme court without a jury; claims by property owners; notice; filing.** Thereupon, the County Attorney shall cause to be published in the official newspapers of the County, once a week for two consecutive weeks, a notice containing a general description of the real property being acquired and a statement that the order granting the application to condemn has been filed and requiring that all owners of such property, on or before a date therein specified, shall individually file with the County Clerk a written claim or demand, duly verified in the manner required by law for the verification of pleadings in an action, setting forth the real property owned by such claimant, by reference to the map in the proceeding on file in the office of the County Clerk, and his post office address, together with an inventory or itemized statement of the fixtures, if any, for which compensation is claimed. In case such claim or demand for compensation in respect to any fixtures is made by a lessee or tenant of the real property being acquired, a copy of the verified claim or demand of such lessee or tenant, together with such inventory or itemized statement, shall be served upon the owner of such real property or upon his attorney. The claimant, or his attorney on or before the date specified in the published notice shall serve on the County Attorney a copy of such verified claim or demand.

§ 11-31.0 **Acquisition before supreme court without a jury; proof of ownership.** The proof of title to the real property being acquired, in all cases where the same is undisputed together with proof of liens or encumbrances thereon, shall be submitted by the claimant to the County Attorney, or to such assistant as he shall designate. The County Attorney shall serve upon all parties or their attorneys, who have served upon him a copy of their verified claims, a notice of the time and place at which he will receive such proofs. If the title of the claimant be disputed, the court shall determine the ownership of such real property upon the proofs submitted to the court during the trial. In addition, the court shall have power to determine all questions of title incident to the acquisition.

§ 11-32.0 **Examination before trial of party or witness.** An acquisition shall be deemed a special proceeding, in which testimony may be taken by deposition pursuant to the provisions of article twenty-nine of the Civil Practice Act and the Rules of Civil Practice and subject to the provisions of this section. The pendency of such an acquisition shall constitute special circumstances which render it proper that the deposition of any person not an owner be taken, pursuant to section two hundred eighty-eight of the Civil Practice Act. Such deposition may be taken upon any question or issue in the acquisition and for the purpose of obtaining testimony as to any sale or lease as described in subdivision a of section 11-35.0 of the code at the instance of the County or of any owner or at the direction of the court at any time after the expiration of the date fixed for filing claims. Any owner desiring to obtain testimony by deposition shall give at least five days' notice or, if service is made through the post office, at least eight days' notice to the County Attorney and to all other owners or their attorneys who have duly filed their verifies claims. If the County Attorney shall desire to obtain testimony by deposition he shall give at least five days' notice to all owners or their attorneys who have duly filed and served on him copies of their verified claims. For the purpose of any such examination before trial brought on by an owner and noticed for and held at the office of the County Attorney or at such other place as the County Attorney shall designate, the County Attorney shall at the expense of the County provide proper stenographic service and shall furnish to the owner bringing on such examination a copy of the typewritten transcript of such examination, duly certified by the officer before whom the same was taken. In all other cases, the party bringing on such examination shall at his own cost and expense provide proper stenographic service and shall furnish to the County Attorney two copies of the typewritten transcript of such examination duly certified by the officer before whom it was taken. The deposition of a witness need not be

subscribed by him, if such subscription shall be waived by the parties appearing upon his examination. The County Attorney, at the office address subscribed by him upon the papers in the acquisition, shall, from and after the date of his receipt thereof, keep on file, available for inspection by all parties to the acquisition and by any owner of property within the area of assessment, if any, a certified copy of each such deposition in the acquisition.

§ 11-33.0 **Note of Issue.**

a. After all parties who have filed verified claims, as provided in section 11-30.0 of the code, have proved their title or have failed to do so after being notified by the County Attorney of the time and place when and where such proof of title would be received by him, the County Attorney shall serve upon all parties or their attorneys who have appeared in the acquisition a note of issue thereof, and shall file such note of issue with the clerk of the court.

b. The note of issue shall be served at least ten days before, and shall be filed at least eight days before, the date designated for trial in such note of issue. It shall briefly state the title of the acquisition, the date and place of the entry of the order granting the application to condemn, the names and addresses of the parties who have filed claims, the names and addresses of their respective attorneys, and a brief statement as to the extent of the real property to be acquired.

c. The clerk of the court must thereupon enter the acquisition upon the proper calendar according to the date of the entry of the order granting the application to condemn. When a note of issue has been served and filed the acquisition must remain on the calendar until finally disposed of.

d. All acquisitions shall have preference over all other civil actions and proceedings except those actions specified in section one hundred thirty-nine of the Civil Practice Act.

§ 11-34.0 **View by court.** It shall be the duty of the justice trying any such acquisition, to view the real property being thereby acquired, and if he shall deem a view of the real property in the area of assessment necessary or useful he shall also make such view. Where title to the real property being acquired shall have been vested in the County, and buildings or improvements situated thereon shall have been removed or destroyed by the County, or pursuant to its authority, prior to the trial of the acquisition, and whereby the justice trying the acquisition is deprived of a view of the buildings or improvements so removed or destroyed, the fact that the justice has not had a view thereof shall not preclude the court from receiving at such trial testimony and evidence as to the damages sustained by the claimant by reason of the taking thereof, when offered on behalf of either the claimant or the County.

§ 11-35.0 **Trial of acquisition: evidence.**

a. Upon the trial, evidence of the price and other terms upon any sale, or of the rent reserved and other terms upon any lease, relating to any of the real property taken or to be taken or to any other property in the vicinity thereof, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination, if the court shall find the following:

1. That such sale or lease was made within a reasonable time of the vesting of title in the County;
2. That it was freely made in good faith in the ordinary course of business; and
3. In case such sale or lease relates to other than property taken, that it relates to property

which is similar to the property taken or to be taken.

No such evidence, however, shall be admissible as to any sale or lease, which shall not have been the subject of an examination before trial, either at the instance of the County or of an owner, unless at least twenty days before the trial the attorney for the party proposing to offer such evidence shall have served a written notice in respect to such sale or lease, which notice shall specify the names and addresses of the parties to the sale or lease, the date of making the same, the location of the premises, the office, liber and page of the record of the same, if recorded, and the purchase price or rent reserved and other material terms, or unless such sale or lease shall have occurred within twenty days before the trial. Such notice by the County Attorney shall be served upon all owners or their attorneys who have appeared in the acquisition, or, if served on behalf of the owner, shall be served upon the County Attorney and upon all other owners or their attorneys who have appeared in the acquisition. The testimony of a witness as to his opinion or estimate of value or damage shall be incompetent, if it shall appear that such opinion or estimate is based upon a sale or lease of any of the property taken or to be taken or of any of the property in the vicinity thereof, which shall not have been the subject of an examination before trial, unless it shall have been specified in a notice served as aforesaid or shall have occurred within twenty days before the trial.

b. Upon the trial, no map or plan of proposed streets, drains or sewers for the subdivision and improvement of any property, nor any drawing or other specification of excavation or filling or piling or of any proposed structure above or under ground deemed necessary or proper to provide a foundation for a suitable or adequate improvement, or of any other structure or improvement not existing on the property on the date that title thereto may vest in the County, nor any oral or written estimate of the cost or expense of constructing the streets, drains or sewers in conformity with such map or plan, nor any oral or written estimate of the cost of making such excavation or filling or piling or of constructing any such other proposed structure or improvement in conformity with such drawing or other specification thereof, nor any evidence of value or damage based upon any of the foregoing, shall be received in evidence, unless the party offering the same in evidence shall have served upon the adverse party, at least thirty days prior to the trial, a notice of intention to offer such evidence on the trial and of the particulars thereof, including a true copy of the map or plan or drawing and other specifications and the estimate of cost or expense to be so offered in evidence. However, when offered, such evidence shall be subject to objection upon any legal ground.

c. Upon the trial, no evidence shall be admitted as against an owner of real property being acquired, of an offer made by or on behalf of such owner, for:

1. The sale of his property, or any part thereof, to the County.
2. The sale or assignment of any right or title to the award or awards, or any part thereof, to be made for such property, or any part thereof.
3. The settlement of the compensation to be paid such owner by the County for such property, or any part thereof.

d. Upon such trial, no evidence shall be admitted, as against the County, of any offer made to such owner, by or on its behalf, for:

1. The purchase of such property, or any part thereof, by the County.
2. The purchase of any right or title to the award or awards, or any part thereof, to be made for such property, or any part thereof.

3. The settlement of the compensation to be paid such owner by the County for such property, or any part thereof.

§ 11-36.0 **Tentative awards and assessments.**

a. The court, after hearing such testimony and considering such proofs as may be offered, shall ascertain and estimate the compensation which should justly be made by the County to the respective owners of the real property being acquired and, in addition thereto, in the case of an assessable improvement proceeding, shall make a just and equitable estimate of the assessment of the value of the benefit and advantage of such improvement to the respective owners of the real property within the area of assessment. The court shall instruct the County Attorney to prepare separate tabular abstracts of the estimate of damage and, in a proper case, of the estimate of assessments for benefit.

b. The County Board of Assessors shall furnish to the County Attorney duplicate sets of the tax map of the County, relating to the real property being acquired or assessed in the acquisition if available, for filing and for convenience of reference in the tabular abstract of estimated assessments. The County Clerk shall furnish to the County Attorney block and lot maps relating to such real property and shall furnish information necessary to keep the maps furnished as accurate as practicable.

§ 11-37.0 **Tentative decree; contents; where flied.**

a. The tabular abstract of the estimated damage, and, in addition thereto, in the case of an assessable improvement, the tabular abstract of the estimated assessments for benefit, respectively, shall set forth separately the amount of loss and damage, and, where necessary, in addition thereto, the amount of benefit and advantage to each and every parcel of real property affected by the proceeding, the names of the respective owners of each and every parcel of real property affected thereby, so far as the same shall be ascertained, and a sufficient designation or description of the respective lots or parcels of real property acquired and assessed by reference to the numbers of the respective parcels indicated upon the surveys, diagrams, maps or plans which shall be used by the court, or copies thereof, which, together with all of the affidavits and proofs upon which such estimates are based, shall accompany or be attached to such abstracts. The assessment against each parcel owned by the County shall be separately stated therein.

b. In the case of an assessable improvement, the court shall assess all real property within the area of the assessment adopted by the Board. In proportion to the amount of the benefit received. No parcel of real property shall be assessed more than one-half its full value. Such full value of each parcel assessed shall be set forth in the abstract.

c. Such tabular abstracts shall be signed by the justice trying the proceeding and filed with the County Clerk. When so filed such abstract or abstracts shall constitute the tentative decree of the court as to awards for damages and as to assessments for benefit, if any.

§ 21-38.0 **Notice of filing tentative decree; objections thereto.**

a. Upon the filing of the tentative decree, the County Attorney shall give notice by advertisement in the official newspapers of the County, once a week for two consecutive weeks, that such tentative decree has been filed, that the County and all other parties interested in the acquisition, or in any of the real property affected thereby, having any objection thereto must file such objections, in writing, with the County Clerk within twenty days after the first publication of such notice, and that the County Attorney on a date specified in such notice, will apply to the

justice who made the tentative decree to fix a time when he will hear the parties so objecting. Such notice shall also provide that the objections be duly verified in the manner required by law for the verification of pleadings in actions and setting forth the real property owned by the objector and his post office address. The objector shall within the same time serve on the County Attorney a copy of the objections filed by him. Upon such application the justice shall fix the time when he will hear the parties. Similar notice shall be given of the filing of any new, supplemental or amended tentative decree and for the filing of objections thereto. All notices required by this section shall also be given to the attorneys of record in the acquisition.

b. At the time fixed, the justice shall hear the person or persons who have objected to the tentative decree, or to the new, supplemental or amended tentative decree, and who may then and there appear, and shall have power to adjourn from time to time until all parties who have filed objections and who desire to be heard shall have been fully heard.

c. After the filing of the tentative decree or of any new or supplemental or amended tentative decree, no award for damages shall be diminished nor any assessment for benefit increased without notice to the owner of the real property affected or his attorney appearing in the acquisition and an opportunity given for a hearing in regard thereto before signing the final decree.

d. Notwithstanding any other provision of this section to the contrary, in the event that any individual parcel or parcels in a proceeding on the trial calendar of the supreme court is settled by the claimant or his attorney and the County Attorney, either at or prior to trial, and a stipulation of settlement is entered on the record of the court, the provisions of this section shall be waived providing no other parties are adversely affected and a final decree prepared pursuant to section 11-40.0 of the code shall be filed in the office of the County Clerk.
(Subd. d added by Local Law No. 1-1974, in effect 45 days after its adoption on December 11, 1974.)

§ 11-39.0 **Correction of errors; change of ownership.** If there be any errors in the tentative decree or in the maps, diagrams, surveys, or plans attached thereto, or if there occur between the date of the tentative decree and the time of the signing by the court of the final decree any changes in ownership resulting in changes in the size or area, by subdivision or otherwise, of any of the parcels of real property to be acquired or to be assessed, the court may alter and correct the respective maps, diagrams, surveys or plans to show changes and may make an apportionment of any proposed assessment rendered necessary by any subdivision or other change in the size or area of any parcel assessed, between the date of the tentative decree and the time of the signing by the court of the final decree as to assessments so as to show such changes in such final decree.

§ 11-40.0 **Final decree.**

a. After considering the objections, if any, and making any corrections or alterations In the tentative decree as to awards for damages or assessments for benefit, which the court deems just and proper, the justice trying the acquisition shall instruct the County Attorney as to the preparation of the final decree. Such final decree shall consist of:

1. The tentative decree altered and corrected in accordance with the instruction of the justice, and the final awards as determined by the court set opposite the respective damage parcel numbers in a column headed "final awards" in the tabular abstract of awards for damage and, in a proper case, the final assessments as determined by the court set opposite the respective benefit parcel numbers in a column headed "final assessments" in the tabular abstract of assessments for benefit.

2. The award for and the assessment against each parcel owned by the County,

separately stated and the total amount of all such assessments upon real property, stated in a gross sum.

3. A statement of the facts conferring upon the court jurisdiction of the acquisition and a statement that the amounts set opposite the respective damage parcel numbers in the column headed "final award'! in the tabular abstract of awards for damage constitute and are the just compensation which the respective owners are entitled to receive from the County and that the amounts set opposite the respective benefit parcel numbers in the column headed "final assessments" in the tabular abstract of assessments for benefit constitute the sums of money to be paid to the County for the benefit and advantage derived, by reason of the improvement, by the respective owners of each parcel so assessed.

4. A statement of such other matters as the court shall require to be set forth.

5. The maps, diagrams, surveys and plans referred to in section 11-37.0 of the code, duly corrected, and attached to the final decree, if the court so direct.

b. The final decree shall set forth also:

1. The several parcels taken or assessed by reference to the numbers of such parcels on the respective maps, diagrams or surveys, and it shall not be necessary to describe any parcel either acquired or assessed by a description by metes and bounds.

2. The names of the respective owners of the several parcels acquired and assessed for benefit so far as the same shall have been ascertained; but in all cases where the owners are unknown or not fully known to the court, it shall be sufficient to set forth and state in general terms the respective sums to be allowed and paid to or by the owner of the respective parcels for the loss and damage or for the benefit and advantage, as the case may be, without specifying their names or their estates or Interests therein, and in such cases the owners may be specified as unknown.

c. The final decree, together with all of the affidavits and proofs upon which the same is based, shall be filed in the office of the County Clerk.

d. A final decree unless set aside or reversed on appeal shall be final and conclusive as well upon the County as upon the owner of the real property mentioned therein and also upon all other persons whomsoever.

§ 11-41.0 **Notice of application to condemn where acquisition is before commissioners.**

a. In an acquisition in which the Board shall have determined that the compensation to be made to the owners of the real property to be acquired shall be ascertained by three commissioners of estimate to be appointed by the supreme court, or by the County court, as the case may be, the County Attorney shall institute the acquisition and shall give notice by advertisement published once in each week for two consecutive weeks in the official newspapers of the County, and by causing such notice in the form of handbills to be posted for the same period in three conspicuous places upon or near such real property, and mail said notice by ordinary mail to the address of the last known owner of record, that he intends to make application to the supreme court, or to the County court, as the case may be, at a time and place specified in such notice for the appointment of one or more sets of commissioners of

estimate and, in the case of an assessable improvement, of one or more commissioners of assessment, as the case may be.

b. Such notice shall indicate the real property to be taken by reference to the maps on file In the office of the County Clerk, and shall refer to the area of assessment as fixed by the Board. The area of assessment may be described in such notice by means of a map or diagram instead of by metes and bounds.
(Amended by Local Law No. 4, 1963, in effect March 9, 1963.)

§ 11-42.0 **Appointment**, removal, organization and compensation of commissioners of estimate and of assessment.

a. The County Attorney shall present to the court a petition, signed and verified by him or by a deputy County Attorney, setting forth:

1. The action had by the Board with reference to the acquisition.
2. The real property to be acquired by a general description by metes and bounds and by reference to the map on file in the office of the County Clerk.
3. The duration of any easement being acquired in the acquisition.
4. A prayer that the court appoint one or more sets of three commissioners of estimate to ascertain and determine the compensation to be made to the respective owners of the real property to be acquired, and, in the case of an assessable improvement, one or more commissioners of assessment to assess the cost of the improvement or such portion thereof as the Board shall direct, upon such real property as may have been determined by such board to be benefited thereby, in accordance with the area of assessment as fixed by such board.

(Amended by L. 1948 Ch. 184, in effect March 10, 1948.)

b. 1. At the time and place mentioned in such notice, unless the court shall adjourn the application to a subsequent date, and in that event at the time and place to which the same, maybe adjourned, upon due proof to its satisfaction of the publication and posting of the required notice, and upon the filing of such petition, the court shall enter an order appointing one or more sets of three disinterested and competent resident freeholders of the County as commissioners of estimate to ascertain and appraise the compensation to be made to the owners and all persons interested in the real property sought to be taken as set forth in the petition, and in a proper case, appointing one of each such set of commissioners as Commissioner of Assessment, for the performance of the duties prescribed in this title. The court shall assign to each such set of commissioners so much of the acquisition, in terms of damage parcels, and, in the case of an assessable improvement, in terms of areas of assessment determined by the Board of Supervisors to be benefited by the acquisition of such parcels, as shall seem proper to such court.

2. Such order shall also fix the time and place for the first meeting of the Commissioners and the time for filing of claims by owners in the manner set forth in section 11-43.0 of the code.

c. In case of the death, resignation, refusal, neglect or inability to serve, or removal of any commissioner or commissioners of estimate, the County Attorney, upon due notice to any person or persons who may have appeared in the acquisition, may apply to the court for the appointment of one or more commissioners to fill the vacancy or vacancies so occasioned.

d. The court shall have power to appoint other commissioners in place of any who shall have died, or shall refuse or neglect to serve, or be incapable of serving, or shall be removed. Such court, at any time, may remove any of such commissioners, who in its judgment, shall be Incapable of serving, or who, for any reason in its judgment, shall be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same.

e. The Commissioners shall take and subscribe the oath of office required by article thirteen of the constitution and shall file the same in the office of the County Clerk.

f. After the filing of their oaths, the Commissioners shall proceed to meet and organize on the date specified in the order of the court appointing them. They shall elect one of their members as chairman. The County Attorney shall thereupon furnish the Commissioners with a clerk who shall be the clerk of the Commissioners.

g. Prior to the filling by the court of a vacancy among the Commissioners of estimate appointed pursuant to this section or in the absence of one of the Commissioners, it shall be lawful for any two of such commissioners so appointed and qualified and who shall have taken and filed their oath of office, to execute and perform the duties imposed upon them by this title. The acts, decisions and proceedings of two of such commissioners of estimate shall be as binding, valid and effectual as if all of such commissioners had concurred and adjoined therein.

h. Each commissioner appointed by the court shall be entitled to compensation at not exceeding twenty-five dollars each day necessarily employed as such and to his necessary expenses. The amount of compensation to which such commissioner shall be entitled shall be determined by the court, upon the verified accounts of such commissioners, stating in detail the number of days necessarily employed in the discharge of their duties, with the dates thereof and the nature of the services rendered. Such compensation and expenses shall be a county charge and shall be taxed in the manner provided in section 11-54.0 of the code.

§ 11-43.0 **Acquisition before commissioners; claims by property owners; notice; filing.** Upon the entry of the order appointing commissioners of estimate and in a proper case of the appointment of a Commissioner of Assessment, the County Attorney shall cause to be published in the official newspapers of the County, once a week for two consecutive weeks, a notice containing a general description of the real property being acquired and a statement that the order granting the application to condemn has been filed and requiring that all owners of such real property on or before a date thereon specified, shall individually file with the County Clerk a written claim or demand, duly verified in the manner required by law for the verification of pleadings in an action, setting forth the real property owned by such claimant, by reference to the map in the acquisition on file in the office of the County Clerk, and his post office address, together with an inventory or Itemized statement of the fixtures, if any, for which compensation is claimed. In case such claim or demand for compensation in respect of any fixtures is made by a lessee or tenant of the real property being acquired, a copy of the verified claim or demand of such lessee or tenant, together with such inventory or itemized statement, shall be served upon the owner of such real property or upon his attorney. The claimant, or his attorney on or before the date specified in the published notice shall serve on the County Attorney a copy of such verified claim or demand.

§ 11-44.0 **Acquisition before commissioners; proof of ownership.** The proof of title to the real property being acquired, in all cases where the same is undisputed, together with proof of liens or encumbrances thereon, shall be submitted by the claimant to the County Attorney or to such assistant as he shall designate. The County Attorney shall serve upon all parties or their attorneys, who have served upon him a copy of their verified claims, a notice of the time

and place at which he will receive such proofs. Such proofs of title shall be submitted to the Commissioners and made part of the record. If the titles of any claimants to parcels being acquired be disputed, the Commissioners shall not have power to determine such titles, but the sums awarded as damages for the taking of such parcels shall be made payable to "unknown owners" in the report of such commissioners.

§ 11-45.0 **View by commissioners.** The Commissioners of estimate shall view the real property being acquired, and the Commissioner of Assessment, if he shall deem a view of the real property in the area of assessment necessary or useful, shall view such real property. Where title to the real property being acquired shall have been vested in the County, and buildings or improvements situated thereon shall have been removed or destroyed by the County or pursuant to its authority prior to the hearing in the acquisition, and whereby the Commissioners of estimate are deprived of a view of the buildings or improvements so removed or destroyed, the fact that such commissioners have not had a view thereof shall not preclude them from receiving testimony and evidence, as to the damage sustained by reason of the taking thereof, when offered on behalf of either the claimant or the County.

§ 11-46.0 **Hearing before commissioners; notice.** The Commissioners of estimate shall fix a day when they will meet, at a place furnished by the County Attorney, for the purpose of hearing the parties claiming an interest in the damages to be awarded by reason of the acquisition. The Commissioners shall notify the County Attorney of such day at least three weeks prior thereto. The County Attorney shall thereupon publish a notice in the official newspapers once each week for two weeks successively next preceding the day of meeting, stating in such notice the time and place when the Commissioners will meet for the purposes aforesaid. Such notice shall also state the fact that a map or maps of the acquisition have been filed in the office of the County Clerk. At the time and place of such meeting and at any adjournment thereof such commissioners shall hear proofs and allegations of all interested parties. The Commissioner or a majority of them, may adjourn the proceedings from time to time, issue subpoenas and administer oaths, and shall keep minutes of their proceedings and reduce to writing all oral evidence given before them.

§ 11-47.0 **Payment of expenses on opening of default.** The Commissioners of estimate or a majority of them, as a condition for the opening of a default, may require the party applying therefore to pay the fees of the Commissioners and the clerical expenses of the commission, for the additional meeting or meetings of the commission made necessary by the default of such parties.

§ 11-48.0 **Estimates of commissioners of estimate and of Commissioner of Assessment.** The Commissioners of estimate, or a majority of them, after hearing the testimony and considering such proofs as may be offered and after having given all parties an opportunity to offer, consider and present objections to the same, as the case may be, shall, without unnecessary delay, ascertain and estimate the compensation which ought justly to be made to the respective owners of the real property within the area of assessment and shall make a tentative report thereon.

§ 11-49.0 **Tentative reports; contents; filing.**

a. The tentative reports shall be in the form of separate tabular abstracts of the estimate of damage and of the assessments for benefit. Such abstracts shall set forth the amount of loss and damage and of benefit and advantage to each and every parcel of real property affected by the acquisition, and the names of the respective owners of such parcels of real property so far as the same may be ascertained. If the Commissioners are unable to ascertain such names, or if the titles to any of such parcels are disputed, such commissioners shall, in place of such names, insert the words "unknown owners." Such abstracts shall also contain a sufficient

designation or description of such lots or parcels by reference to the numbers thereof indicated upon the maps, diagrams, surveys or plans which shall be attached to such abstracts. The Commissioner of Assessment, if any, in his tabular abstract of assessments shall assess any and all real property within the area of assessment fixed and prescribed by the Board, in proportion to the amount of benefit received. However, no parcel of real property shall be assessed more than one-half of the full value thereof, as valued by the Commissioner of Assessment. Such full value of each parcel assessed shall be set forth in such abstract.

b. Such report, together with the minutes of the proceedings of the Commissioners, and of the affidavits and proofs used by them in making their abstracts, shall be filed in the office of the County Clerk.

§ 11-50.0 **Notice of filing tentative report; objections thereto.**

a. Upon the filing of the tentative report, the County Attorney shall give notice by advertisement in the official newspapers of the County, once a week on two consecutive weeks, that such report has been filed, and that the County and all other persons interested in the acquisition, or in any of the real property affected thereby, having any objection thereto, must file such objections, in writing, with the Commissioners, within twenty days after the first publication of such notice, and stating also that such commissioners will hear parties so objecting at a place and time after the expiration of such twenty days to be specified in such notice. Such notice shall also provide that the objections shall be duly verified in the manner required by law for the verification of pleadings In actions setting forth the real property owned by the objector and his post office address. Similar notice shall be given of any new, supplemental or amended report, and for the filing of objections thereto. All notices required by this section shall be given to the attorneys of record in the acquisition.

b. At the time and place named in such notice, the Commissioners shall hear the person or persons who have objected to such report, or to the new, supplemental or amended report, and who may then appear, and shall have power to adjourn from time to time until all parties who have filed objections and desire to be heard shall have been fully heard.

c. After the filing of the tentative report, or of any new, supplemental or amended report, no award for damages shall be diminished nor any assessment for benefit increased, unless the person or persons affected by such diminution or increase, as the case may be, or their attorneys, shall have had notice thereof and opportunity of being heard by the Commissioners before their report shall be presented to the court for confirmation.

§ 11-51.0 **Correction of errors; change, of ownership.** If there be any errors in the tentative report of the Commissioners, or in the maps, diagrams, surveys or plans attached thereto, or should there occur between the date of the filing of such tabular abstracts and the time of the preparation or signing of the final report as to damages and as to assessments for benefit, any changes in ownership resulting in changes in the size or area by subdivisions or otherwise in any of the parcels of real property being acquired, or being assessed, the Commissioners of estimate or the Commissioner of Assessment, as the case may be, may alter and correct the respective maps, diagrams, surveys or plans and the Commissioner of Assessment may make an apportionment of any proposed assessment rendered necessary by any subdivision or other change in the size or area, of any parcel assessed, between the date of the filing of the tabular abstracts and time of the signing by the Commissioners of their final report.

§ 11-52.0 **Final report of commissioners.** After considering the objections, if any, which have been filed, and making any corrections or alterations in their report or in the maps, diagrams, surveys or plans attached thereto, which the Commissioners of estimate, or a

majority of them, or which the Commissioner of Assessment shall find are just and proper, such commissioners shall sign such reports and file the same with the County Clerk within thirty days of the date of the advertised hearing as provided in section 11-50.0 of the code unless such time be extended by the court appointing the Commissioners. Such final report as to benefit shall separately state the assessment against each parcel owned by the County, and shall state the total amount of all assessments against real property in a gross sum. Upon filing the final reports, the Commissioners shall notify the County Attorney that such report or reports have been signed and filed.

§ 11-53.0 **Proceeding after signing final report.**

a. The County Attorney shall immediately after the receipt of notice from the Commissioners of the signing of their final report or reports give notice in writing to all persons, or their attorneys, who had filed objections to such report or reports or who had appeared in the acquisition that, at a time and place specified in such notice, he will apply to the court for an order to confirm or set aside such report or reports.

b. It shall be the duty of the justice or judge hearing such motion, nor to taking any action with respect thereto, to view the real property being acquired, and if he shall deem a view of the real property in the area of assessment necessary or useful, he shall also make such view. Where title to the real property being acquired shall gave been vested in the County, and buildings or improvements situated thereon shall have been removed or destroyed by the County or pursuant to its authority, prior to such motion, and whereby such justice or judge is deprived of a view of the buildings or improvements so removed or destroyed, such fact shall not preclude the court from action upon such motion.

c. Upon such motion, the court may confirm the report, or may set it aside for irregularity or other error of law in the proceedings before the Commissioners, or upon the ground that the award is excessive or insufficient or that the assessment for benefit, if any, was not properly made.

d. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report as are herein prescribed for the confirmation of the first report.

e. The final report, together with all of the affidavits and proofs upon which it is based, and the order of the court confirming it, shall be filed in the office of the County Clerk. The final report, unless the order confirming it is set aside or reversed on appeal, shall be final and conclusive as well upon the County as upon the owners of the real property mentioned therein and also upon all other persons whomsoever.

§ 11-54.0 **Costs, charge, and expenses; taxation thereof.**

a. The fees of commissioners, and the other costs, charges or expenses shall not be charged or paid or allowed for any services performed under this title unless the same shall be taxed by the court after notice given as herein provided.

b. A bill of costs, charges and expenses shall be filed in the office of the County Clerk by the County Attorney at least ten days before the same shall be presented for taxation. All such costs, fees and expenses or disbursements which by law are required to be taxed, shall be stated in detail in the bill of costs, charges and expenses and shall be accompanied by such proof of the reasonableness thereof and of the necessity therefore, as is required by law and the

practice of the court upon taxation of costs and disbursements in other special proceedings or actions in such court. There shall be annexed a statement of the amounts, if any, previously taxed, to whom such amounts are payable and the date of such taxation.

c. The County Attorney shall publish a notice of the time and place of taxing such costs, charges and expenses, by advertisement, once in each week for two weeks in the official newspapers of the County. Thereupon, such costs, charges and expenses shall be taxed by a justice of the Supreme Court, or by the County judge, as the case may be, or by a referee under special order of such justice or judge, and before the final decree or final decrees of the court or the report or reports of the Commissioners as the case may be, shall be prepared. Upon such taxation due proof of the nature and extent of the services rendered and the disbursements charged shall be furnished and no unnecessary costs, charges or expenses shall be allowed.

d. The County Attorney shall present to the justice, judge or referee upon such taxation, his certificate in writing which shall state that the items of costs, charges and expenses have been audited and examined by him and snail set forth the result of such audit and examination. The certificate of the County Attorney snail be presumptive evidence of the correctness, reasonableness and necessity of such costs, charges and expenses.

e. Property owners appearing in acquisitions instituted pursuant to this title snail not be entitled to recover counsel fees, costs, disbursements or allowances, except as provided in section 11-74.0 of the code.

f. On the taxation of the final bill of costs, there may be a relaxation of any bill previously taxed in the same acquisition, if sufficient reason therefore be made to appear.

§ 11-55.0 **Separate and partial tentative and final decrees and reports.**

a. The Supreme Court without a jury or the Commissioners of estimate and the Commissioner of Assessment, as the case may be, upon the authorization of the Board of Supervisors, may make a separate and partial tentative decree or report, as the case may be, and a separate and partial final decree or report, as the case may be, embracing the entire real property being acquired, or successive sections or parcels thereof.

b. Whenever a separate and partial tentative and final decree or decrees or report or reports, as the case may be, shall have been authorized, the County Attorney shall file in the office of the County Clerk a surveyor map showing the part of the real property being acquired as to which a separate and partial tentative and final decree or report, as the case may be, has been authorized, subdivided into parcels corresponding with separate ownerships thereof, so far as ascertained, and the County Attorney and the court or commissioners, as the case may be, shall proceed with the ascertainment and determination of the damages with relation to the real property shown on such partial damage map in the same manner as provided for the ascertainment and determination of damages with relation to the entire real property embraced in an acquisition.

c. In case a separate and partial final decree or decrees, or report or reports, as the case may be, as to damage, and no such final decree or report as to benefit shall have been made or filed in the acquisition and the justice who made and filed the separate and partial final decree or decrees as to damage shall have died or retired from the bench, or become incapacitated for any reason, or if the Commissioner of Assessment shall have died, or shall refuse or neglect to serve, or be incapable of serving, or shall be removed prior to the making and filing of his separate and partial final report as to benefit, the County Attorney and the court or the Commissioners of estimate and the Commissioner of Assessment appointed in place and stead of the one disqualified, as the case may be, shall proceed with the ascertainment and

determination of damage and benefit with relation to the remaining real property damaged and the real property benefited in the same manner as provided for the ascertainment and determination of damage and benefit with relation to the entire real property being acquired and shall make a separate and partial tentative and final decree or report, as the case may be, as to damage and benefit with respect to all the real property being acquired or benefited, which shall not have been included in prior separate and partial final decrees or reports, as to damage. All provisions of this title relating to tentative and final decrees shall apply to the separate and partial final decrees as to damage and benefit so made.

d. Where, for any reason, all the real property being acquired in any acquisition shall have been Included in a separate and partial final decree or decrees of the court, as to damage, and no final decree as to benefit shall have been made or filed, the clerk of the court, upon the application of the County Attorney shall place the acquisition on the special term calendar of the court as a preferred cause. When reached on the calendar, the acquisition shall be assigned to a justice who shall consider the assessments for benefit and give directions to the County Attorney as to the preparation of a tabular abstract of estimated assessments for benefit in pursuance of the authorization of the Board of Supervisors. When the tabular abstract shall have been prepared in accordance with such directions, such justice shall sign the same and cause it to be filed in the office of the County Clerk. When so filed such abstract shall constitute the tentative decree as to benefit, and the same proceedings shall be had with relation thereto as are provided by this title with relation to tentative decrees as to damage and benefit embracing the entire property affected by an acquisition. When such proceedings shall have been duly had with relation to such tentative decree as to benefit only, a final decree as to benefit only shall be made and filed, which shall have the force and effect provided by this title with relation to a final decree as to both damage and benefit embracing the entire real property affected by the acquisition.

e. Where, for any reason, all the real property being acquired in any acquisition shall have been included in a separate and partial report or reports of the Commissioners of estimate, as to damage, and no final report as to benefit shall have been made or filed, the court, in a proper case, shall appoint a Commissioner of Assessment who shall consider the assessments for benefit and prepare a tabular abstract of estimated assessments for benefit and the same proceedings shall be had with relation thereto as are provided by this title with relation to tentative reports as to damage and benefit embracing the entire property affected by an acquisition. When such proceedings shall have been duly had with relation to such tentative report as to benefit only, a final report as to benefit only shall be made and filed, which shall have the force and effect provided by this title with relation to a final report as to both damage and benefit embracing the entire real property affected by the acquisition.

§ 11-56.0 **County Treasurer to publish notice of decree or confirmation of report.** Immediately after the filing of the final decree of the court as to assessments for benefit or the entry of the order confirming the report of the Commissioner of Assessment, as the case may be, for any acquisition provided for in this title, the County Attorney shall transmit to the County Treasurer a duplicate copy of the final decree of the court or a duplicate copy of the report of the Commissioner of Assessment, together with a certified copy of the order of confirmation, as the case may be, relating thereto. Notwithstanding any other provision of law requiring any other or different notice of assessments and interest thereon, the County Treasurer shall publish notice by advertisement once in each week for two consecutive weeks, in the official newspapers of the County, that the final decree of the court as to assessments for benefit has been filed or that the report of the Commissioner of Assessment has been confirmed, as the case may be, specifying the title of the acquisition, the date of the filing of the final decree of the court as to assessments for benefit or the date of the entry of the order confirming the report of the

Commissioner of Assessment, as the case may be, and also the date of entry in the "record of assessments confirmed" kept in his office, notifying all persons, owners of the real property affected by any such assessment, that unless the amount assessed for benefit on any parcel of real property shall be paid within sixty days after the date of such entry of any such assessments, interest shall thereafter be collected thereon as provided in section 11-68.0 of the code. A copy of such notice with a bill shall be mailed by the County Treasurer to each owner of real property affected whose address is known to such County Treasurer.

§ 11-57.0 **Appeal to the appellate division.**

a. The County or any party or person affected by the acquisition and aggrieved by the final decree of the court therein as to awards or as to assessments, or either of them, or by the order of the court entered on the motion to confirm the report of the Commissioners of estimate or of the Commissioner of Assessment, or either of them, may appeal to the appellate division of the supreme court of the judicial department in which such acquisition was had. Such appeal must be taken within thirty days after notice of the filing of such final decree. Except as herein otherwise provided, such appeal shall be taken and heard in the manner provided by the civil practice act and the rules and practice of the court in relation to appeals from orders in special proceedings. The appeal shall be heard and determined by the appellate division upon the merits both as to matters of law and fact. The determination of the appellate division shall be In the form of an order.

b. The appeal shall be heard upon the evidence taken by the court or such part or portion thereof as the justice who made the decree may certify, or upon the evidence taken before the Commissioners or such part or portion thereof as the justice or judge who made the order confirming the report of the Commissioners may certify, or the parties to such appeal may agree upon as sufficient to present the merits of the questions in respect to which such appeal shall be taken.

c. The taking of an appeal by any person or persons shall not operate to stay the proceedings under this title, except as to the particular parcel of real property with which the appeal is concerned. The final decree of the court or the order of the court confirming the report or reports, as the case may be, shall be deemed to be final and conclusive upon all parties and persons affected thereby, who have not appealed. An appeal taken but not prosecuted within six months after the filing of the notice of appeal, unless the time within which to prosecute the same shall have been extended by an order of the appellate court, shall be deemed to have been abandoned and no agreement between the parties extending the time within which such appeal may be prosecuted shall vary the provisions hereof.

d. When a final decree of the court or a report or reports of commissioners shall be reversed on appeal, the court or the Commissioner of Assessment, as the case may be, shall have power to make such additional assessments for benefit as may be necessary.

§ 11-58.0 **Appeal to court of appeals.**

a. An appeal to the court of appeals may be taken by the County or any person or party affected by the acquisition and aggrieved by the order of the appellate division. Such appeal shall be taken and heard in the manner provided by the civil practice act and the rules and practice of the court of appeals in relation to appeals from orders in special proceedings.

b. An appeal taken but not prosecuted within six months after the filing of the notice of appeal, unless the time within which to prosecute the same shall have been extended by an order of the court of appeals, shall be deemed abandoned, and no agreement between the

parties to the appeal extending the time to prosecute the same shall vary the provisions hereof.

c. he court of appeals may affirm or reverse the order appealed from, and may make such order or direction as shall be appropriate to the case.

d. If the final decree or decrees of the court, or the final report or reports of the Commissioners, shall be reversed by the court of appeals, the court or the Commissioner of Assessment, as the case may be, shall have power to make such additional assessments for benefit as may be necessary.

§ 11-59.0 **Land acquisition fund.** There shall be a land acquisition fund set up by and under the jurisdiction of the County Treasurer, into which shall be paid:

1. The proceeds of all sales of real property of the County, except works or facilities or such real property as may be acquired in the course of enforcing the collection of taxes.

2. All collections of assessments, levied in assessable improvements, and the interest collected thereon.

3. The proceeds of the sale of county obligations authorized to be issued to replenish such fund.

4. Such sums of money, raised by taxation, as shall be directed by the Board of Supervisors.

5. All awards of damages to the County in any acquisition or other condemnation proceedings involving real property of the County, other than works or facilities.

6. Such other amount as may be directed by law.

§ 11-60.0 **Land acquisition bonds and temporary notes.**
(Repealed by L. 1943 Ch. 712, as last amended by L. 1945 Ch. 339, in effect September 2, 1945.)

§ 11-61.0 **Works or facilities fund.**

a. There shall be a works or facilities fund, set up by and under the jurisdiction of the County Treasurer, into which shall be paid, to the credit of the separate accounts to be set up by the County Treasurer for each acquisition of works or facilities:

1. Such sums raised by taxation, pursuant to section twelve hundred eleven of the charter, as shall be directed by the Board of Supervisors, for each such acquisition.

2. The proceeds of the sale of bonds, notes or other certificates of indebtedness, issued for each such acquisition.
(Subd. 2 of paragraph a, amended by L. 1943 Ch. 710 § 112, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
Note: Amendment required by the repeal of borrowing provisions of §211 of the Charter by section 103 and 104 of Part Two of Local Finance Law.

b. There shall also be paid into the fund:

1. The proceeds of all sales of works or facilities of the County.

2. All awards of damages to the County in any acquisition or other condemnation proceeding, involving works or facilities of the County.

3. Such other amounts as may be directed by law.

§11-62.0 **Advance payments by County.**

a. Whenever title to the real property being acquired by the County shall have become vested, the Board of Supervisors may authorize the County Treasurer to pay to the person entitled to an award for such real property a sum to be determined by the Board of Supervisors in advance of the final determination of damages. The sum authorized to be paid under this section as an advance payment shall be one and one-half times the assessed value of the property so taken in such acquisition, but in no event exceeding sixty per centum of the County Attorney in such acquisition, which amount shall be certified to the County Treasurer by the County Attorney. Before any such advance payment shall be made, the County Treasurer shall procure the certificate of the County Attorney showing that the person to whom payment is to be made is the person legally entitled to receive the same. If the Board of Supervisors shall authorize an advance payment under this section interest on the sum authorized to be paid shall cease to run on and after a date five days after such person shall have been notified by mall or otherwise that the treasurer is ready to pay the same.

b. In case the person entitled to an award at the date of the vesting of title to the real property in the County shall have transferred or assigned his claim, such transfer or assignment made by him, or by his successor in interest or legal representative, shall not become binding upon the County unless the instrument or instruments evidencing such transfer or assignment shall have been executed and filed in the office of the County Treasurer as provided in section 11-66.0 of the code, prior to any such advance payment.

c. Whenever real property acquired by the County is less than an entire plot, the Board of Assessors, at the request of the Board of Supervisors or of the County Attorney shall immediately apportion the assessed valuation of such real property.
(Subd. a amended and Subd. c added by Local Law No. 10, 1964, in effect December 10, 1964.)

d. In case an advance payment shall have been authorized and the person entitled thereto shall have been notified by mail or otherwise that the County Treasurer is ready to make such advance payment, interest on the amount so authorized to be paid in advance from a date five days after notification by such treasurer that he is ready to make such advance payment to the time the person entitled thereto shall accept such advance payment, shall be deducted by such treasurer on paying the awards therefore from such award.

§ 11-63.0 **Payment of damage, cost, charges and expenses.**

a. All damages awarded by the court, with interest thereon from the date of vesting title, shall be paid by the County to the respective owners mentioned or referred to in such final decree, or in the report of the Commissioners of estimate, as the case may be, and all costs, charges and expenses which may be taxed shall be paid by the County to the persons and parties in whose favor such costs, charges or expenses shall be taxed. Damages awarded as compensation shall be payable immediately upon the entry of the final decree of the court, or upon the entry of the order confirming the report of the Commissioners of estimate, as the case may be.

b. Interest shall cease to run:

1. On the sums awarded as damages to known owners ten days after they shall have been notified by the County Attorney that the County Treasurer will pay the amount of the award at his office.

2. On the sums awarded as damages to known owners, in those cases where the County

Attorney has not so notified such owners, six months after the date of the filing of the final decree or after the date of the entry of the order confirming the report of the Commissioners of estimate, as the case may be, unless within that time demand therefore, in writing, be served upon the County Treasurer.

3. On the sums awarded as damages to unknown owners or persons under legal disability from the date of the order directing the same to be retained by the County Treasurer or to be paid into court as provided by section 11-64.0 of the code.

4. On the sum or sums awarded as damages to an owner who shall have filed notice of appeal from the final decree of the court or from the order confirming the report of the Commissioner of estimate, as the case may be, ten days after notification by the County Attorney that the treasurer will pay the amount of such award at his office. The acceptance by such owner of such award shall not prejudice an appeal to have a greater sum awarded as damages.

c. Such damages, posts, charges and expenses shall, except in an acquisition for works or facilities, be paid from the land acquisition fund. In the case of an acquisition for works or facilities such damages, costs, charges and expenses shall be paid from the particular account, in the works or facilities fund, for the acquisition of such works or facilities.

d. The owners to whom an award shall be made in such acquisitions, and the person in whose favor costs and expenses may be taxed, shall not have an action at law against the County for such awards, costs or expenses, but the court in which such acquisitions shall have been had, upon the application of any such owner or person, in case of the failure of the County Treasurer to pay the same, within thirty days after demand therefore, shall by order require and direct such treasurer to pay such awards, costs and expenses from the appropriate fund, and enforce such order in the same manner as other orders of such court are enforced.
(Subd. e, Repealed by L. 1943 Ch. 712, as last amended by L. 1945 Ch. 339, in effect September 2, 1945.)

e. However, when real property without the boundaries of the County shall have been acquired in the acquisition, such owner or person, in case of the failure of the County Treasurer to pay such sums within thirty days after demand therefore, may sue for and recover the same, with such lawful interest and the costs of suit. In any proper form of action against the County in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due the plaintiff or plaintiffs therein by virtue of the provisions of this title for real property taken for the County purpose or purposes acquired. The final decree of the court or the report of the Commissioners and order confirming such report, and the order or orders taxing such costs, charges and expenses, shall be conclusive evidence in such suit or action, and shall entitle plaintiff or plaintiffs to judgment therein.

§ 11-64.0 **Moneys of persons under disability, how disposed of; moneys paid to persons not entitled thereto.**

a. When an owner, in whose favor an award shall have been made pursuant to acquisitions under this title, is under legal disability or unknown, or absent from the County, or when the name of the owner shall not be set forth or mentioned in the final decree or in the report of the Commissioners of estimate, as the case may be, or when the owner, although named in such decree or report, cannot upon diligent inquiry be found, or where there are adverse or conflicting claims to the money awarded as compensation, the court in which the acquisition is pending, upon the application of the County, or of any persons entitled thereto, or claiming to be interested in the real property for which such awards have been made, or any part thereof, shall direct either that the same be retained by the County Treasurer, or be paid into the court, until

the title thereto, or the respective estates and interests of all parties therein shall be determined by the court. Upon such application, the court shall take the proof and testimony of the claimant or person interested in the real property for which such award has been made, or refer the matter to a referee for such purpose.

b. Payment of an award to a person named in the final decree of the court or the report of the Commissioners, which has been confirmed by the court, as the case may be, as the owner thereof, if not under legal disability shall, in the absence of notice in writing to the County Treasurer of adverse claims thereto, protect the County.

c. Where an award shall be paid to a person not entitled thereto, the person to whom it ought to have been paid may sue the one to whom the award shall have been paid. The person entitled to the award shall recover the award with lawful interest and costs of suit as so much money had and received.

§ 11-65.0 **Purchase of awards by the County.** In any acquisition, in which title to the real property being acquired therein shall have become vested in the County prior to the entry of the final decree of the court, or of the order confirming the report of the Commissioners, as the case may be, the Board of Supervisors shall have power and is hereby authorized to purchase or to approve the purchase on behalf of the County from the individuals or corporations who were the owners of such real property at the date of vesting of title thereto, or their successors in interest, or legal representatives, their right and title to the award or awards, or any part thereof, to be made in such proceeding and to take an assignment thereof to the County. If such owner or owners or their successors in interest or legal representatives shall have transferred or assigned such claim, such transfer or assignment made by such owner or owners, or by their successors in interest or legal representatives shall not become binding upon the County unless the instrument or instruments evidencing such transfer or assignment shall have been executed and filed in the office of the County Treasurer as provided in section 11-66.0 of the code, prior to the completion of such purchase by the County.

§ 11-66.0 **Instruments assigning or pledging awards; notices of lien or claim; filing of.**

a. In case of the pledge, sale, transfer or assignment of an award by the person entitled to receive the same by virtue of the final decree of the court, or the report of the Commissioners, as the case may be, or by other order of the court, the instrument evidencing such pledge, sale, transfer or assignment acknowledged or proved for the recording of transfer of real property, shall be filed in the office of the County Treasurer, who shall indorse on such instrument its number and the hour, day, month and year of its receipt. If an assignment of an award be contained in an instrument recorded in an office in which instruments affecting real property are by law required to be recorded, a certified copy thereof may be filed in the office of the County Treasurer in place of the original. Such instruments or assignments shall be subject to all the provisions of this article.

b. An index shall be kept in alphabetical order under the name of the pledgor or assignor and also the pledgee or assignee, stating the title of the acquisition, the time of the filing of the instrument, the file number thereof, and the portion of the award assigned thereby. A memorandum of the file number of the instrument shall be made by the County Treasurer on the duplicate decree of the court or the duplicate report of the Commissioners, as the case may be, opposite the place where the amount of the award so assigned is set forth.

c. Every such instrument not so filed shall be void as against any subsequent pledgee or assignee of the same award or of any portion thereof, who obtained the same in good faith and for a valuable consideration from the same pledgor or assignor, his heirs, administrators or

assigns, and the assignment of which is first duty filed in the office of the County Treasurer. Payment to the assignee or pledgee shown to be entitled to the award by such record in the office of the County Treasurer shall protect the County from liability to any other person or persons.

d. Verified notices of attorneys' liens and any other verified notices of liens or claims against any person to whom an award or sum of money shall be payable as the result of an acquisition shall be filed in the office of the County Treasurer. Such notices shall be filed in the same manner as pledges, sales, transfers, and assignments of awards. Failure to file such liens shall protect the County in its payment of the award to which the lien was attached.

§ 11-67.0 **Assessments; set-off, lien.**

a. If an owner to whom an award shall have been made in the final decree of the court as to awards or in the confirmed report of the Commissioners of estimate, as the case may be, also owns real property against which an assessment in the final decree of the court as to assessments for benefit or in the report of the Commissioner of Assessment, as the case may be, shall have been entered for collection in the same acquisition, he may, at any time prior to receiving payment of the award, apply to the County Treasurer to have the award set off against the assessment, and thereupon such set-off shall be made as of the date of entry of the assessment for collection. If the award exceeds the assessment, the County shall be liable for interest only on the amount of such excess, if the assessment exceeds the award, the owner assessed shall be liable for interest on the amount of such excess as if no set-off had been made.

b. If it shall appear by the final decree of the court as to awards or by the report of the Commissioners of estimate, as the case may be, or otherwise, that a person entitled to an award also owns property against which an assessment in the same acquisition shall have been entered for collection, the County may, without the assent of the person entitled to the award, set off the assessment against the award. Such set-off shall be made by the County in the same manner and have the same effect as if made on the application of the person entitled to the award.

c. A lien for the amount of any assessment in a proceeding shall attach to any award made in such acquisition provided that such award be made either:

1. To any person who was the owner of any real property at the time of the commencement of such proceeding, on which real property or any part thereof, an assessment has been levied in the proceeding;

or

2. To anyone who claims by or through such person.

§ 11-68.0 **Interest to be charged on assessments if not paid within sixty days.** If any such assessment shall remain unpaid for the period of sixty days after the date of entry thereof in the "record of assessments confirmed," the County Treasurer shall charge, collect and receive interest thereon at the rate of seven per centum per annum to be calculated to the date of payment from the date when such assessment became a lien as provided by section 11-18.0 of the code.

§ 11-69.0 **Payment of assessments in installments.**

a. Upon the application in writing of the owner of a parcel of real property affected by an unpaid assessment for benefit confirmed after the first day of January, nineteen hundred thirty-

two, the amount of which exceeds three per centum of the valuation of such parcel, exclusive of improvements thereon, made in the annual assessment for the purpose of taxation in the calendar year next preceding such confirmation, the County Treasurer shall divide the assessment upon such parcel into ten parts as nearly equal as may be. One part thereof in any event shall be due and payable, and in each case as many more of such parts shall be due and payable as years may have elapsed since the entry of such original assessment for collection. Such parts thereof with interest at the rate of seven per centum per annum on the amount of the assessment unpaid, shall be paid within ten days after such division as, a condition of the extension of time of payment of the remainder as provided in this section.

b. Upon payment of such parts and interest the balance of such assessments shall cease to be a lien upon such real property except as hereinafter provided, and the remaining parts shall be paid in annual installments as herein provided. After the time therein specified for the annual installment and interest to become due, the amount of the lien thereof shall bear interest at the rate of seven per centum per annum. The installments not due, with interest at the rate of five per centum per annum to the date of payment, may be paid at any time.

c. In the event of the acquisition of any property upon which there are installments not due, such installments shall become due as of the date of the entry of the final decree of the court as to the assessment for benefit, or of the entry of the order confirming the report of the Commissioners in such acquisitions, as the case may be, and shall be set off against any award that may be made for the property acquired.

d. When an award for damage shall accrue to the same person who is, or who was at the time the assessment was confirmed, liable for the assessment for benefit on the abutting property in the same proceeding, only the portion of the assessment in excess of such award may be considered in levying installments under the provisions of this title.

e. Except as provided in this section, no such annual installments shall be a lien or deemed to be an encumbrance upon the title to the real property assessed until it becomes due as herein provided.

f. Upon requisition of the County Treasurer for the assessed valuation of the real property affected by any assessment, the Board of Assessors of the County shall forthwith certify the same to the County Treasurer.

§ 11-70.0 **Payments on account of assessments.** The County Treasurer shall accept and credit as payments on account of assessments now or hereafter levied against any parcel or plot of real property in an acquisition, such sums of money not less than fifty dollars or multiples thereof in amount as may be tendered for payment on account of any such assessments.

§ 11-71.0 **Vesting of title in county.**

a. Should the Board of Supervisors at any time deem it for the public interest that the County shall become vested with the title or interest being acquired in fee or otherwise of, to or in all or any, of those parcels of real property, including slope and fill easements, indicated on the map or maps filed pursuant to the provisions of this title and described in the petition, such Board of Supervisors may direct by ordinance or resolution, to become effective upon one week's notice published in the official newspapers of the County, that upon the date of the entry of the order granting the application to condemn, if the application be before the supreme court without a jury, or, upon the date of the filing of the oaths of the Commissioners of estimate, as the case may be, or upon a specified date after either, but not later than the date of filing the final decree of the court, or the entry of the order confirming the report of the Commissioners, as the case may be, the title or interest being acquired shall be vested in the County. A certified

copy of such ordinance or resolution and the affidavit of publication shall be filed forthwith in the office of the County Clerk. Such title or interest shall vest in the County for the time and purposes determined by the Board and authorized by this title.

b. In all cases, the title or the interest sought to be acquired shall vest in the County upon the filing of the final decree of the court or upon the entry of the order confirming the report of the Commissioners of estimate, as the case may be.

c. The reversal on appeal of the final decree of the court or of the order of confirmation, as the case may be, shall not divest the County of title to the real property affected by the appeal.

d. The County, upon becoming vested with the title or interest being acquired, may immediately or at anytime or times thereafter take possession of the same or of any part or parts thereof without any further action or proceeding at law.

(Former subdivision b repealed and former subdivisions c, d, and e relettered b, c, and d by L. 1942 Ch. 586 sections 1 and 2, effective April 30, 1942.)

§ 11-72.0 **Effect of vesting on contracts of landlord and tenant or other contracting parties.**

a. Where the whole of any lot or parcel of real property under lease or other contract shall be taken by virtue of this title, all the covenants, contracts and engagements between landlord and tenant or any other contracting parties, respecting the same, or any part thereof, upon the vesting of the title in the County, shall cease and determine and be absolutely discharged.

b. Where part only of a lot or parcel of real property, so under lease or other contract, shall be so taken, all contracts and engagements respecting the same, upon such vesting of title shall cease, determine and be absolutely discharged as to the part thereof so taken, but shall remain valid and obligatory as to the residue thereof.

§ 11-73.0 **Amendments of defects.** The court at any time may amend any defect or informality in any notice, petition, pleading, order, report, or decree in a proceeding authorized by this title, or cause real property affected by such defect, informality or lack of jurisdiction to be excluded therefrom, or other real property affected by such defect, informality or lack of jurisdiction to be included therein by amendment, upon ten days' notice, published and posted as provided by this title for the institution of an acquisition and may direct such further notices to be given to any party in interest as it shall deem proper.

§ 11-74.0 **Discontinuance of acquisition by Board of Supervisors.**

a. The Board of Supervisors may discontinue any acquisition commenced for the purposes provided for in this title as to the whole or a part of the real property to be acquired in such proceeding, at any time before title to such real property to be thereby acquired shall have vested in the County, and may cause new proceedings to be instituted for the condemnation of such real property. The ordinance or resolution of the Board declaring any such proceeding discontinued shall affect the discontinuance of such proceeding or such part thereof as may be discontinued thereby.

b. In the event of such discontinuance, the reasonable actual case disbursements, necessarily incurred and made in good faith by any party interested, shall be paid by the County after the same shall have been taxed by the justice or judge of the court in which the proceeding is pending, or by a referee under his special order, provided the application to have such disbursements taxed shall be made and presented to such court within one year after the adoption of the ordinance or resolution of the Board discontinuing the proceeding in whole or in

part. The County Attorney shall be given ten days' notice of the application for such taxation. The amounts taxed as disbursements shall be due and payable thirty days after written demand for payment thereof shall have been filed with the County Treasurer.

§ 11-75.0 **Grants to owners abutting certain tope protection easements**. The Board of Supervisors may agree with owners respecting the extent and use of casements for slope protection and may grant to owners of land abutting upon lands acquired by the Board for the purposes set forth in and pursuant to the authority conferred by section 11-9.0 of the code, rights-of-way over and access to lands so acquired upon such terms and for such considerations, as to the Board may seem reasonable and proper.

§ 11-76.0 **Pending proceedings.** If, at the time this code takes effect, a proceeding instituted by the County for the acquisition of real property shall be pending, and the final decree of the court or the order confirming the report of the Commissioners, has not been filed therein, then such proceeding shall thereafter be conducted to completion in the manner provided by this article.

b. The provisions in this article relating to the showing and setting forth in petitions or upon maps of assessed valuations of real property to be acquired shall apply only to acquisitions authorized by the Board of Supervisors after the first day of July, nineteen hundred forty.

Article III EXCESS LANDS ACQUISITION PROCEDURE

§ 11-77.0 **Definitions.** As used in this article, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:

1. The term "project" means the laying out, widening, extending or relocating of a park or highway.

2. The term "excess lands" or "additional lands" or "additional real property" means the real property in addition to the real property needed or required for a project.

3. The term "block" means such extent of a proposed or existing highway affected by a project, as lies between the points at which such highway intersects legally existing highways.

§ 11-18.0 **Construction.** The provisions of this article shall be construed as supplementing and extending the effect of the provisions of article two of this title so as to provide for the acquisition of title to additional lands in connection with a project. Nothing in this article contained shall be construed as limiting the effect of the provisions of article two of this title in their application to the acquisition of title to real property required for a project when acquired in an acquisition in which additional lands shall or shall not be acquired nor to the levying of assessments for benefit in such acquisitions, except as the provisions of article two of this title are in this article expressly so limited in their application.

§ 11-79.0 **Power to condemn excess lands.** The County, in acquiring real property for any project, may acquire more real property than is needed for the actual construction of such project. The Board of Supervisors may authorize the County to acquire additional real property in connection with any project, and direct (hat the same be acquired with the real property to be acquired for such project. Such additional real property, however, shall be not more than sufficient to form suitable building sites abutting on the project. The title which the County shall acquire to additional real property shall in every case be a fee simple absolute. Additional real property shall be acquired by the County in connection with a highway project only when the title acquired for such project shall be in fee. When the Board of Supervisors shall have authorized

the acquisition of title to additional real property in connection with a project, title to such additional real property shall be acquired by the County in the manner and according to the procedure, except in such respects as in this article set forth, provided for the acquisition of title to the real property required for the project and in the same acquisition in which 'title to the real property required for the project shall be acquired.

§ 11-80.0 **Amendment of acquisition to include or exclude excess lands.** After the institution of an acquisition for a project, the Board of Supervisors may amend such acquisition by authorizing the acquisition of lands additional to those required for the project, provided that title shall not have vested in the County to any parcel of real property being acquired for the project, between legally existing highways, embracing the additional lands sought to be acquired. The Board may also amend any acquisition so as to exclude any or all additional lands being acquired therein, provided title to such additional lands shall not have vested in the County. Thereafter such acquisition shall be conducted in the same manner as if the additional lands included or excluded by the amendment had been included or had not been included in the acquisition at the time of the institution thereof.

§ 11-81.0 **Acquisition maps to be prepared.** When the Board of Supervisors shall authorize the acquisition of additional real property in connection with any project, it shall cause to be prepared and it shall adopt a map showing the real property to be acquired for the project and such additional real property in connection with the real property to be acquired for the project, in the same manner as an acquisition map is caused to be prepared and adopted in an acquisition in which no additional lands are being acquired.

§ 11-82.0 **Petition and notice.** When the Board of Supervisors shall have authorized the acquisition of additional real property in connection with any project, such additional real property shall be separately described in the notice of application to condemn and in the petition presented on any such application, and shall be separately shown on the map attached to the petition and on the acquisition map in the proceeding. Such notice and petition shall state what part of the real property to be condemned is required for the project, and what part thereof is to be acquired as additional real property. The acquisition of such additional real property, when authorized by such board, shall be deemed to be for a public purpose.

§ 11-83.0 **Vesting of title; seizing; possession.**

a. In an acquisition in which additional real property shall be acquired, the Board of Supervisors may direct that on the date of the entry of the order granting the application to condemn by the supreme court without a jury, or appointing commissioners of estimate, as the case may be, or on a date thereafter, but not later than the date of filing the final decree of the supreme court or of the entry of the order confirming the report of the Commissioners of estimate, as the case may be, specified in the ordinance or resolution of the Board, the title to the whole but not less than the whole of such additional real property to be acquired in the proceeding shall vest in the County. Such ordinance or resolution shall also direct the vesting in such county, simultaneously, of the title to all of the real property being acquired in the acquisition. In a proceeding involving the acquisition of title to additional real property required for a highway, however, the Board shall not be required to vest, at one time, the title to all the additional real property to be acquired, provided that:

1. In vesting title to parts of such additional real property every such part shall be of at least a block length along the project, and that no fractional portion of a block shall be contained in any such part.

2. Such board shall also direct that all the real property required for the highway in such block or blocks shall vest in the County simultaneously.

b. Upon the date of entry of the order granting the application to condemn or appointing commissioners of estimate, as the case may be, or upon such date thereafter, as may be specified by such board, but not later than the date of filing the final decree of the supreme court or of the entry of the order confirming the report of the Commissioners of estimate, as the case may be, the County shall be and become seized in fee simple absolute of such additional real property. In all other cases, except as herein otherwise provided, title in fee simple absolute to such additional real property as may be acquired in any such proceeding shall vest in the County upon the filing of the final decree of the court or the order confirming the report of the Commissioners of estimate, as the case may be, as to such additional real property. The reversal on appeal of such final decree or order, or of any part thereof, shall not operate to divest the County of title to any of the real property so acquired. In an acquisition in which excess lands shall be acquired, the Board shall not have power to direct the vesting of title in the County to the real property required for the project without also directing the vesting of title in the County, simultaneously, to the excess lands being acquired in such proceeding in connection with the project except that the Board may direct, in the manner provided in subdivision a of this section, shall vest in the County in any block of such highway abutting which no excess lands are taken.

c. In any proceeding in which excess lands shall be acquired, when title to any part less than the whole of the real property required for the highway in anyone block thereof shall vest in the County, upon and by virtue of the entry of the final decree of the court as to awards or of the order confirming the report of the Commissioners of estimate, as the case may be, title to the remainder of the real property required for the highway in the same block and title to the additional lands to be acquired in the proceeding abutting on such highway in the same block, shall vest in the County simultaneously. The reversal on appeal of such final decree or such order of the court, or of any part thereof, shall not operate to divest the County of title to any of the real property so acquired for the highway in the same block or to the additional lands abutting thereon.

d. Upon the vesting of title, as in this section provided, to any such additional lands and to lands required for the project, the County, or any person adding under its authority, may immediately, or at any time thereafter, take possession of the additional lands so vested and of the real property required for the project so vested, or any part or parts thereof, without any suit or proceeding at law for that purpose.

§ 11-84.0 **Ascertainment of damages where part of parcel is taken for a project and remainder as excess lands.**

a. Where part of a parcel of real property shall be acquired for a project, and the remainder or a portion of the remainder of such parcel in the same ownership shall be acquired in the same proceeding as excess lands, the portion of the damages due to the acquisition of the real property required for the project shall be determined and stated separately from the entire damage due to each such owner. In determining the damages due to the acquisition of so much of such parcel as may be required for the project, the same rule shall be applied as would govern the determination of damages for the taking of the real property required for such project in case no excess lands were acquired. Where part of a parcel of real property shall be acquired for the project, and the remainder or a portion of the remainder thereof in the same ownership shall be acquired in the same proceeding as excess lands, the damages due to the acquisition of title to the real property required for the project shall, in every case, equal the amount which would be awarded to such owner in case only that part of his real property, which shall be required for the project were acquired.

b. Nothing in this section contained shall be construed to authorize the award to an owner,

part of whose real property is taken for the project, and the remainder or a portion of the remainder of whose property is taken as additional lands, of any greater amount of compensation than such owner would be entitled to by reason of the taking of his real property for the project and as additional lands, considered together as one parcel.

§ 11-85.0 **Sale and lease of acquired excess lands.** After title in the real property required for the project, and to the additional lands, shall have vested in the County, the additional lands may be either held and used by the County or sold or leased. The Board of Supervisors may provide that such additional lands shall be sold or leased subject to such restrictions, covenants or conditions as to location of buildings with reference to the real property acquired for the project, or the height of buildings or structures, or the character of construction and architecture thereof, or such other covenants, conditions or restrictions, as it may deem proper. Such additional lands shall be sold or leased subject to such restrictions, covenants, or conditions, if any, as the Board of Supervisors may have prescribed, which shall be set forth in the instrument of conveyance or lease.

# CHAPTER XI-A
# UNLAWFUL USE OF COUNTY PROPERTY


| | | |
|---|---|---|
| Section | 11-A-1.0 | Legislative Intent. |
| | 11-A-2.0 | Definitions. |
| | 11-A-3.0 | Penalties. |
| | 11-A-4.0 | Enforcement. |
| | 11-A-5.0 | Interpretation. |
| | 11-A-6.0 | Exemptions. |
| | 11-A-7.0 | Separability. |


§ 11-A-1.0 **Legislative intent.** The Nassau County Legislature hereby finds and determines that the dumping of automobiles, junk, fill, clippings, wood, branches, trash and other materials and items has occurred and is occurring at various properties, owned, maintained, leased or managed by Nassau County throughout the various areas of Nassau County. In addition, the Legislature further finds that Nassau County beaches may be polluted by the unauthorized and improper dumping of medical and infectious waste. As a result of this situation Nassau County parks, beaches and other properties owned, maintained, leased or managed by Nassau County are becoming unsightly, unsanitary, potentially hazardous and environmentally endangered areas. Substantial penalties for dumping of refuse, rubbish, litter and/or medical and/or infectious waste on property which is owned, maintained, leased or managed by Nassau County are required to maintain the quality of the environment and condition of such property and in order to deter those who violate the law.

§ 11-A-2.0 **Definitions.** Unless otherwise expressly stated in this chapter, the following terms shall have the following meanings:

a. "County property" shall mean any land which is owned, maintained, leased or managed by Nassau County for any purpose whatsoever, including but not limited to parks, preserves, beaches, streams, lakes, ponds and drains thereon, including all property at Mitchel Field and Nassau Community College.

b. "Person" shall mean any individual, company, partnership, corporation, limited partnership, joint venture or other legal entity.

c. "Refuse" or “litter” shall mean all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, paper, commercial handbills, commercial placards, posters, wrappings, cans, yard clippings, leaves, wood, glass, and solid market and industrial wastes.

d. “Waste” shall mean any liquid or solids suspended or floating within any liquid or any organic or inorganic chemicals whether solid, liquid or gaseous other than water which is potable and qualifies for drinking by humans.

e. “Medical waste” shall mean:

(1) Cultures and stocks, cultures and stocks of infectious agents and associated biological, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biological: discarded live and attenuated vaccines and culture dishes and devices used to transfer, inoculate, and mix cultures.

(2) Pathological Wastes, human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other

medical procedures, and specimens of body fluids and their containers.

(3) Human and Blood Products, (a) liquid waste human blood; (b) products of blood; (c) items saturated and/or dripping with human blood; or (d) items that were saturated and/or dripping with human blood that are now caked and dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

f. "Infectious waste" shall mean and include the following:

(1) Surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation;

(2) Obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation;

(3) Pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures;

(4) Biological waste, which consists of discarded excretions, exudates, secretions, suctionings, and disposable medical supplies which have come in contact with these substances that cannot be discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation;

(5) Discarded materials soiled with blood emanating from the treatment of a patient on isolation, other than patients on reverse or protective isolation;

(6) All waste being discarded from renal dialysis, including tubing and needles;

(7) Discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin;

(8) Discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered non-infectious by autoclaving or other sterilization techniques;

(9) Animal carcasses exposed to pathogens in research, their bedding and other waste from such animals that is discarded; and

(10) Other articles, that are being discarded that are potentially infectious and that might cause punctures or cuts, including hypodermic needles. Intravenous needles and intravenous tubing with needles attached, that have not been autoclaved or subjected to a similar decontamination technique and crushed or otherwise rendered incapable of causing punctures or cuts.

§ 11-A-3.0 **Violations.**

a. It shall be a violation for any person to leave, dispose of or otherwise fail to place in authorized receptacles any litter or waste with a gross weight of less than ten pounds upon or within any county property, or to induce another person to take such action. Where public receptacles are not provided, all litter shall be carried away from county property by the person responsible for its presence and lawfully disposed of elsewhere.
It shall be presumed that if any article of litter bears a person's name and address, that such person disposed of such litter or induced another person to do so in violation of this law; provided, however, that such presumption shall be rebutted by suitable evidence.

b. It shall be a violation of this chapter punishable by civil fine or as a misdemeanor to dump, leave or dispose of medical or infectious waste upon or within any county property, or to induce another person to dump, leave or dispose of such waste.

c. It shall be a violation of this chapter punishable by civil fine or as a misdemeanor for any person to dump or in any other manner place or deposit refuse or waste with a gross weight of ten or more pounds upon or within any county property, or to induce another person to dump or deposit such refuse or waste, except where a specific permit and/or authorization has been issued by the department or office having jurisdiction thereof.

d. It shall be a violation of this chapter punishable by civil fine or as a misdemeanor for any person to willfully discharge any waste or other material into, within or upon any county property that is a drain, sewage receptacle, storm water conduit, storm water basin or other part of a drainage or sewage system, or to induce another person to willfully discharge such waste or other material into such a system, without prior permission or authorization by the department or office having jurisdiction thereof except as otherwise provided by law.

§ 11-A-4.0 **Penalties.** A violation of subdivision a of section 11-A-3.0 of this title shall be punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars. A second violation of subdivision a occurring within five years of the date of a first violation shall be punishable by a fine of not less than five hundred dollars nor more than two thousand dollars. A third and any subsequent violation of subdivision a occurring within such five -year period shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars. Each day during or on which a violation occurs or continues shall constitute a separate violation subject to penalty under this subdivision.

b. A violation of subdivision b of § 11-A-3.0 shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or imprisonment of up to fifteen days, or both. Any subsequent violation of subdivision b occurring within five years of the date of first violation shall be punishable by a fine of not less than two thousand dollars nor more than seventy-five hundred dollars or imprisonment of up to fifteen days, or both.

c. A violation of subdivision c of § 11-A-3.0 shall be punishable by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment of up to fifteen days, or both. Any subsequent violation of subdivision c occurring within five years of the date of first violation shall be punishable by a fine of not less than two thousand dollars nor more than fifteen thousand dollars or imprisonment of up to fifteen days, or both.

d. A violation of subdivision d of § 11-A-3.0 shall be punishable by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment of up to fifteen days, or both. Any subsequent violation of subdivision d occurring within five years of the date

of first violation shall be punishable by a fine of not less than two thousand dollars nor more than fifteen thousand dollars or imprisonment of up to fifteen days, or both.

e. In addition to any other penalty provided herein, the County Attorney is hereby authorized to institute a civil action in a court of competent jurisdiction against any person determined to be in violation of § 11-A-3.0, for the recovery of the costs and damages associated with remedying such violations, for the collection of civil penalties, and/or for injunctive relief to restrain or prevent any violation of this title. Nothing in this title shall be construed to prevent the county from pursuing any other remedies available at law.

§ 11-A-5.0 **Enforcement.**
The provisions of this chapter may be enforced by the Nassau Community College Security Force and all county personnel authorized to issue appearance tickets and such provisions shall not be construed to affect or limit the powers of arrest or issuance of an appearance ticket by a police officer or peace officer under the Criminal Procedure Law.

§ 11-A-6.0 **Interpretation.** The provisions of this chapter shall be liberally construed to assure the protection of the citizens of Nassau County.

§11-A-7.0 **Exemptions.** The provisions of this chapter shall not be applicable to property owned by or under the jurisdiction of other municipal authorities, the State of New York and any agency thereof, or the government of the United States of America.

§ 11-A-8.0 **Separability.** Any invalidity, unconstitutionality or any other legal infirmity with reference to a single section or subdivision hereof shall affect only that section or subdivision and shall not affect the other provisions of this chapter which shall continue in full force and effect.

Title B


| | | |
|---|---|---|
| Section | 11-A-9.0 | Legislative Intent. |
| | 11-A-10.0 | Definitions. |
| | 11-A-11.0 | Violations. |
| | 11-A-12.0 | Penalties. |
| | 11-A-13.0 | Enforcement. |
| | 11-A-14.0 | Interpretation |
| | 11-A-15.0 | Exemptions. |
| | 11-A-16.0 | Separability. |


§ 11-A-9.0 **Legislative intent.** The Nassau County Legislature hereby finds and determines that the encroachment upon and unlawful use of Nassau County parks and other public land has occurred and is occurring at various properties, owned, maintained, leased or managed by Nassau County. In addition, the Legislature finds that such encroachment and unlawful use interferes with the right of citizens to enjoy parkland and interferes with the county's ability to manage its property. The Legislature finds, further, that penalties and enforcement under existing provisions have proven inadequate to prevent such enforcement and that enhanced penalties and enforcement capabilities are required to maintain the quality of the environment and condition of such property and to deter those who violate the law.

§ 11-A-10.0 **Definitions.** Unless otherwise expressly stated in this chapter, the following

terms shall have the following meanings:

a. "County property" shall mean any land which is owned, maintained, leased or managed by Nassau County for any purpose whatsoever, including but not limited to parks, preserves, beaches and drains thereon, including all property at Mitchel Field and Nassau Community College.

b. "Person" shall mean any individual, company, partnership, corporation, limited partnership, joint venture or other legal entity.

§ 11-A-11.0 **Violations.**

No person shall occupy or encumber any county property, erect any structure thereon, erect any barrier, wall or fencing of any kind, change the character of the land, dig, plant, remove or alter any soil, vegetation or county property, or in any way create an obstruction to public use of the land, without first obtaining the permission of the county. No person shall divert a significant amount of water or drain a swimming pool onto county property. Nothing in this title shall be deemed to prevent any county resident from using any county park for ordinary recreational purposes. A violation of this section shall issue only after notice of noncompliance has been properly served and an opportunity, to cure not to exceed thirty days, has been provided.

§ 11-A-12.0 **Penalties.**

a. A violation of § 11-A-11.0 of this title shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars. A violation that has not been cured within one month following notification of violation shall be subject to additional penalties of one thousand dollars per month for each month such violation continues. In the alternative, the fines specified above can be collected in a civil action brought by the County Attorney.

b. Any subsequent violation of § 11-A-11.0 occurring within five years of the date of commission of the first violation and concerning the same person shall be punishable by a fine of not less than two thousand dollars nor more than five thousand dollars. A violation that has not been cured within one month following notification of violation shall be subject to additional penalties of two thousand dollars per month for each month such violation continues. In the alternative, the fines specified above can be collected in a civil action brought by the County Attorney.

c. In addition to any other penalty provided herein, the County Attorney is hereby authorized to institute a civil action in a court of competent jurisdiction against any person determined to be in violation of this title, for the recovery of the costs and damages associated with remedying such violations, for the collection of civil penalties as specified herein, and/or for injunctive relief to restrain or prevent any violation of this title. Nothing in this title shall be construed to prevent the County from pursuing any other remedies available at law.

§ 11-A-13.0 **Enforcement.**

a. The provisions of this chapter may be enforced by the Nassau Community College Security Force and all county personnel authorized to issue appearance tickets and such provisions shall not be construed to affect or limit the powers of arrest or issuance of an appearance ticket by a police officer or peace officer under the Criminal Procedure Law.

b. Payment of a fine or penalty imposed pursuant to this title shall not be construed to permit the continued occupation of county property.

§ 11-A-14.0 **Interpretation.** The provisions of this chapter shall be liberally construed to assure the protection of the citizens of Nassau County.

§ 11-A-15.0 **Exemptions.** The provisions of this chapter shall not be applicable to encroachments on property owned by other municipal authorities, the State of New York and any agency thereof, or the government of the United States of America.

§ 11-A-16.0 **Separability.** Any invalidity, unconstitutionality or any other legal infirmity with reference to a single section or subdivision hereof shall affect only that section or subdivision and shall not affect the other provisions of this chapter which shall continue in full force and effect.

(Chapter XI-A added by Local Law No. 6-1987, in effect November 30, 1987: Amended by Local Law No. 4, 1989, in effect June 19, 1989; amended by Local Law No. 43-2000, effective January 1, 2001; amended by Local Law No. 11, 2006, effective Oct. 17, 2006.)

# CHAPTER XII
# DEPARTMENT OF PUBLIC WORKS

## Title A. In General


Section 12-1.0 Delegation of powers and duties.


## Title B. Roads and Parkways


Section 12-2.0 Definitions.
12-3.0 County road system of working highways.
12-4.0 Construction, maintenance and regulation of county roads.
12-4.1 Sidewalks and curbs on state highways and county roads outside of incorporated villages and cities.
12-4.2 Trees on county roads and on property abutting county roads.
12-4.3 Deposits of material on county roads.
12-4.4 Establishment of snow routes for a snow emergency.
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## Title A
## In General

§ 12-1.0 **Delegation of powers and duties.** The Commissioner of Public Works may delegate to one or more of the assistants or employees in his office specific powers and duties of the Commissioner of Public Works including those which he has as county engineer or as a county superintendent of highways and may revoke such delegations. Such delegations and revocations shall be in writing and shall set forth the specific power or powers, duty or duties so delegated or revoked. Such written delegations or revocations shall be filed with the County Clerk and if the power or powers, duty or duties so delegated or revoked are of those which the Commissioner of Public Works has as county engineer or as a county superintendent of highways a duplicate of such written delegation or revocation shall be filed with the state superintendent of public works. The acts performed by such assistants or employees pursuant to such delegations shall have the same effect in law as if performed by the Commissioner of Public Works.
(New section added by L. 1946 Ch. 291 § 2, in effect March 30, 1946; former § 12-1.0 repealed by L. 1939 Ch. 866 § 2, in effect June 14, 1939.)

## Title B
## Roads and Parkways

§ 12-2.0 **Definitions.** The term "county road" as used in this title means a road laid out, designated, constructed, reconstructed or maintained as a county road pursuant to chapter five hundred sixty-four of the laws of nineteen hundred ten, as amended, or pursuant to this title.
(Amended by L. 1939 Ch. 866 § 3, in effect June 14, 1939.)

§ 12-3.0 **County road system of working highways.**

a. The Board of Supervisors may adopt a county road system.

b. The Board of Supervisors, by resolution, may layout, construct, reconstruct and maintain or cause to be designated as county roads such portions of the public highways in the County as they shall deem advisable, excepting such portions thereof constituting a state highway as defined in section three of the highway law. The Board shall file in the office of the County Clerk a description of each new highway laid out or designated as a county road together with a map of such roads. The roads so designated shall, as far as practicable, be leading market roads in the County.
(Subd. b. amended by L 1939 Ch. 866 § 4, in effect June 14, 1939)

§ 12-4.0 **Construction, maintenance and regulation of county roads.**

a. The County shall have the sole jurisdiction over county roads laid out or designated as such pursuant to this title. The expenses of constructing, maintaining and improving such county roads shall be a county charge. All such county roads and all county roads constructed pursuant to article six of the highway law are exempt from the jurisdiction of the highway officers of the several towns, villages and cities in which such roads are located except as provided in subdivision c of this section.

b. The jurisdiction of the County over all county roads including those constructed under article six of the, highway law shall include but shall not be limited to:

1. The location of curb lines and curbs and the regulation of cuts in curbs for any purpose.

2. The opening of any part thereof between property lines for any subsurface construction or repair.

3. The location or erection or removal between property lines of any steps, posts, standards, railings, area openings or structures of any kind, except traffic and directional signs and lighting standards, provided no such construction for such purposes shall be permitted within an incorporated village or a city without the consent of such village or city.

4. The erection of poles or towers and wires or cables for the transmission of electric current or energy along, under or across such roads, provided, no such construction for such purposes shall be permitted within an incorporated village or a city without the consent of such village or city.

5. The placing of signs or banners on or across such roads between the curb lines thereof, provided no such sign or banner shall be permitted within an incorporated village or a city without the consent of such village or city.

6. Outside of cities and villages of the first and second class, the cutting and removal of grass and weeds between property lines.

The Board of Supervisors shall provide by ordinance for the regulation of the matters contained in this subdivision.

c. The Board of Trustees of villages and the city councils of cities through which county roads as defined in this title or constructed under article six at the highway law pass shall have sole jurisdiction:

1. Over the sidewalk area, which for such purpose is defined as the area on each side of the road from the property line to the curb line or if there is a curb to the far side of the curb, except as provided in subdivision b of this section.

2. To construct, repair and maintain or compel the construction, repair and maintenance by abutting property owners of sidewalks and curbs on such county roads in accordance with the provisions of the village law or the laws affecting such cities.

3. Police such roads.

4. Adopt traffic ordinances regulating the traffic thereon provided, however, that the County by ordinance may impose regulations as to parking on such county roads and as to the placing of stop signs on such county roads or on village roads or city streets at their intersection with such county roads, more restrictive than those imposed by such village or city.

5. Exercise such other police powers in reference thereto as are now exercised by such village board or city council over any village or city street, not otherwise provided for in this section.

d. The clerk of the Board of Supervisors shall submit an annual statement to the superintendent of public works showing the amounts the County has allotted for the construction, improvement and maintenance of county roads and the locations which require permanent repairs.

e. No civil action shall be maintained against the County for damages or injuries to person or property sustained by reason of any sidewalk, street, highway, parking field, stairway,

walkway, ramp, driveway, bridge, culvert, curb or gutter being defective, out of repair, unsafe, dangerous, or obstructed or in consequence of the existence of snow or ice thereon, regardless of whether such facility be one as defined by this title or one constructed pursuant to the provisions of article six of the highway law or one constructed by the State and maintained by the County, unless such sidewalk, street, highway, parking field, stairway, walkway, ramp, driveway, bridge, culvert, curb or gutter was constructed by the County or by the State or under a permit issued by the County or by the State, and unless written notice of such defective, unsafe, dangerous or obstructed condition of such sidewalk, street, highway, parking field, stairway, walkway, ramp, driveway, bridge, culvert, curb or gutter or the existence of snow or ice thereon was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of or to cause such snow or ice to be removed or to make the place otherwise reasonably safe. Such written notice shall specify the particular place and nature of such defective, unsafe, dangerous or obstructed condition or the particular location of such snow or ice. Notice required to be given as herein provided shall be made in writing by certified or registered mail directed to the Office of the County Attorney, One West Street, Mineola, New York, 11501.

(Subds. a, band c revised and subd. e amended by L. 1946 Ch. 992, in effect April 24, 1946: Subd. e amended by Local Law No. 10-1983, in effect December 5, 1983 and Local Law No. 19-1984, in effect September 24, 1984.)

§ 12-4.1 **Sidewalks and curbs on state highways and county roads outside of incorporated villages and cities.** Owners or occupants of land adjoining state highways and county roads referred to in this title or county roads constructed pursuant to article six of the highway law, and outside of incorporated villages or cities, may construct, relay or repair sidewalks or curbs at their own expense upon obtaining a permit therefore from the Department of Public Works. All construction of and grading done in connection with sidewalks or curbs laid or repaired by the owners of adjoining land shall be in accordance with the specifications of and under the direction of the Department of Public Works. If a sidewalk or curb is not constructed, relaid or repaired by the owners or occupants of adjoining lands, the Board of Supervisors may direct that such sidewalk or curb be constructed, relaid or repaired by the owner or owners, occupant or occupants of the adjoining lands and that the Commissioner of Public Works cause a notice to be served upon such owners or occupants, which notice shall specify the place and manner, and the time, not less than thirty days, in case of a new sidewalk or curb, or not less than forty-eight hours in case of repairs, within which the sidewalk or curb is required to be constructed, relaid or repaired. If an owner or occupant shall not construct, relay or repair the sidewalk or curb as required by the notice, the Board of Supervisors may cause the same to be so constructed or repaired and assess the expense thereof upon the adjoining land. Such work may be done by the Department of Public Works or by contract under direction of that department.

Whenever a sidewalk is to be constructed upon a state highway a permit shall also be obtained from the state Department of Public Works. Upon completion of any work pursuant to this section the Commissioner of Public Work shall file in the office of the clerk of the Board of Supervisors a statement showing the actual and complete cost thereof and such part of such cost as was expended from the funds of said department and the items of such expenditures. The Board of Supervisors shall provide for the payment of the cost of such work including the reimbursement of the funds of the Department of Public Works, and the cost of such work shall be borne by assessment upon the abutting property and such assessments shall be levied by the Board of Supervisors and shall be collected in the same manner as ad valorem county taxes. The provisions of this section shall not apply to sidewalks in a town which has a town wide sidewalk district.

(Amended by Local Law No. 10-1985, in effect January 1, 1986, amended by Local Law No. 12-1986, in effect September 29, 1986.)

§ 12-4.2 **Trees on county roads and on property abutting county roads.**

a. Except in cities and in villages of the first and second class all trees, hedges and shrubbery between the property lines on county roads as defined in this title and county roads constructed pursuant to article six of the highway law shall be under the jurisdiction of the Department of Public Works. The Board of Supervisors may by ordinance regulate the planting of such trees, hedges and shrubbery and the care, pruning or removal thereof.

b. Such ordinance may also provide for the care, pruning or removal of trees, hedges and shrubbery located on property abutting such roads by the owners or occupants of such abutting property when any such tree or trees, hedges or shrubbery are dangerous to such roads or to persons or vehicles using such roads. Such ordinance may provide for notice to the owners of abutting property to care for, prune or remove such dangerous tree or trees, hedges or shrubbery and that upon failure so to do within a period fixed in such ordinance, that the Department of Public Works may cause such tree or trees, hedges or shrubbery to be cared for, pruned or removed and that the expense thereof may be assessed by the Board of Supervisors upon the abutting property on which such tree or trees, hedges or shrubbery were located.

c. Upon completion of any work pursuant to subdivision b of this section the Commissioner of Public Works shall file in the office of the clerk of the Board of Supervisors a statement showing the actual and complete cost thereof as to each particular lot or plot of ground and such part of the cost as was expended from the funds of said department and the items of such expenditures. The Board of Supervisors shall provide for the reimbursement of the funds of the Department of Public Works and the amount of such complete costs as to each particular lot or plot of ground shall be added to and made a part of the annual taxes of the next ensuing fiscal year against such property, and the same shall be collected in and with as part of the annual taxes for such fiscal year, or the Board of Supervisors may direct the County Attorney to sue for and recover the amount of such expense.
(Amended by L 1946 Ch. 497 § 1, in effect April 4, 1946.)

§ 12-4.3 **Deposits of material on county roads.**

a. No person shall cause or permit any accumulation of sand, gravel, cinders, topsoil, mud, earth or other material or any container, box, dumpster, or other instrumentality for the storage of such materials to be placed, deposited, tracked, or flowed upon any county road whether such be a county road as defined in this title or a county road constructed pursuant to article six of the highway law.

b. A violation of this section shall be a misdemeanor punishable by a fine of not more than one hundred dollars or imprisonment for a period of not exceeding thirty days and the County may also maintain an action or proceeding to enjoin the violation and recover the costs incurred by the County for cleaning, repairing, reconditioning, or restoring the road or otherwise remedying the condition.

c. This section shall not be construed to prohibit the storing of building material, or the debris therefrom, or the containers, boxes, dumpsters or instrumentalities used to store such materials on county roads when such materials or containers are stored pursuant to a permit issued by the Commissioner of Public Works.
(Added by Local-Law No. 1-1953, in effect May 18.1953; Subds. a and c amended by Local Law No. 6-1983, in effect July 18.1983.)

§ 12-4.4 **Establishment of snow routes for a snow emergency.**

a. The Commissioner of Public Works shall prepare, and may from time to time amend, a list of county roads which he designates as snow routes, indicating the name and county route number of each road. Such list and any amendments thereto shall be filed with the clerk of the Board of Supervisors who shall cause such list or amendments thereto to be published once in the official newspapers of the County. Such snow routes shall take effect upon such publication and shall continue until modified.

b. The County Executive may declare a state of snow emergency whenever in his judgment snow has created dangerous driving conditions within the County. During the existence of a snow emergency no vehicle shall be parked or abandoned upon the snow routes.

c. The Department of Public Works shall erect and maintain appropriate signs at reasonable intervals along designated snow routes to provide notice that it is unlawful to park or abandon any vehicle along a snow route during a snow emergency.

d. Any vehicle parked or abandoned in violation of the provisions of this section shall be deemed a nuisance and a menace to the safe and proper regulation of traffic. Employees of the Department of Public Works or any peace officer may remove or cause to be removed any such vehicle to any other location within the County, without incurring any liability for damages to the vehicle. The owner of such vehicle shall be required to reimburse the County for the actual and necessary cost of removal and storage thereof before he is entitled to regain possession of the vehicle.

e. Parking or abandoning a vehicle in violation of the provisions of this section shall be a traffic infraction and every person convicted of a violation thereof shall be liable to a fine of not more than fifteen ($15.00) dollars.

(Added by Local Law No. 7, 1964, in effect November 15, 1964; subd. e added by Local Law No. 1, 1966 in effect January 28, 1968.)

§ 12-4.5 **Regulation of Motor Vehicle Dimension and Weights on County Roads.**

No person shall operate or move, or cause or knowingly permit to be operated or moved on any county road any vehicle or combination of vehicles of a size or weight exceeding the limitations provided for in this section unless a permit has been obtained from the New York State Department of Transportation or Nassau County Department of Public Works.

a. (1) The width of a vehicle, inclusive of load, shall be not more than ninety-six inches plus safety devices, except that the maximum width of a vehicle, inclusive of load, shall be one hundred two inches, plus safety devices, on any county road designated an access highway.

(2) The provisions of paragraph (1) of this subdivision shall not apply to omnibuses or buses used solely for the transportation of children to and from school, but the width of such omnibuses shall not exceed ninety-eight inches.

(3) Notwithstanding the provisions of paragraph (1) of this subdivision, the maximum width for omnibuses or buses having a carrying capacity of more than seven passengers shall not exceed one hundred two inches.

b. The height of a vehicle from under side of tire to top of vehicle, inclusive of load, shall be not more than thirteen and one half feet. Any damage to County bridges or roads resulting from the use of a vehicle exceeding thirteen feet in height where such excess height is the proximate cause of the accident shall be compensated for by the owner and operator of such vehicle.

c. (1) The length of a single vehicle, inclusive of load and bumpers, shall be not more than forty feet unless otherwise provided in this subdivision.

(2) The length of a semitrailer or trailer shall forty-eight feet provided, however, that the length of semi trailer being operated in combination with another semi trailer shall not exceed twenty-eight and one-half not exceed any trailer or trailer or feet.

(3) The length of buses having a carrying capacity of more than seven passengers shall not exceed forty-five feet, except that the length of articulated buses shall not exceed sixty-two feet.

(4) The provisions of this subdivision shall not apply to fire vehicles.

d. (1) The total length of a combination of vehicles, inclusive of load and bumpers, shall not be more than sixty-five feet.

(2) The provisions of paragraph (1) of this subdivision shall not apply to:

i. A combination of vehicles being operated on a County road designated an access highway;

ii. Vehicles of a corporation which is subject to the jurisdiction of the interstate commerce commission, the public service commission or other regulatory body and which are used in the construction, reconstruction, repair or maintenance of its property or facilities, provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to over length vehicles;

iii. Vehicle hauling poles, girders, columns, or other similar objects of great length provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to such over length vehicles;

iv. Fire vehicles;

v. A vehicle or combination of vehicles which is disabled and unable to proceed under its own power and is being towed for a distance not in excess of ten miles for the purpose of repairs or removal from the highway; and

vi. Stinger-steered automobile transporters, while operating on a County road designated as an access highway. Such vehicles shall not, however, exceed seventy-five feet exclusive of an overhang of not more than three feet on the front and four feet on the rear of the vehicle.

(3) Notwithstanding the provisions of paragraph (1) of this subdivision, an overhang of not more than three feet on the front and four feet on the rear of an automobile transporter or stinger-steered automobile transporter shall be permitted.

e. In determining the number of wheels and axles on any vehicle or combination of vehicles within the meaning of this section, only two wheels shall be counted for each axle, and axles which are less than forty-six inches apart, from center to center, shall be counted as one axle. However, in the case of multiple tires or multiple wheels, the sum of the widths of all the tires on a wheel or combination of wheels shall be taken in determining tire width.

f. The weight per inch width of tire on any one wheel of a single vehicle or a combination of

vehicles equipped with pneumatic tires, when loaded, shall be not more than eight hundred pounds.

g. The weight on any one wheel of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than eleven thousand two hundred pounds.

h. The weight on any one axle of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than twenty-two thousand four hundred pounds.

i. The weight on any two consecutive axles of a single vehicle or combination of vehicles, equipped with pneumatic tires, when loaded, and when such axles are spaced less than eight feet from center to center, shall be not more than thirty-six thousand pound except where axles are spaced eight feet or greater, but less, than ten feet, the weight on those two axles shall not exceed that permitted by paragraph (2) of subdivision (j) of this section and, in addition, shall not exceed forty thousand pounds. Axles to be counted as provided in subdivision (e) of this section.

j. A single vehicle or a combination of vehicles having three axles or more and equipped with pneumatic tires, when loaded, may have a total weight on all axles not to exceed thirty-four thousand pounds, plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle. Axles to be counted as provided in subdivision five of this section. In no case, however, shall the total weight exceed eighty thousand pounds. For any vehicle or combination of vehicles having a total gross weight less than seventy-one thousand pounds, the higher of the following shall apply:

(1) the total weight on all axles shall not exceed thirty-four thousand pounds plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or

(2) the overall gross weight on a group of two or more consecutive axles shall not exceed the weight produced by application of the following formula:

$$W = 500\ (LxN) / (N-1) + (12xN) + 36)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet from the center of the foremost axle to the center of the rearmost axle of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more. For any vehicle or combination of vehicles having a total gross weight of seventy-one thousand pounds or greater, paragraph (2) shall apply to determine maximum gross weight which is permitted hereunder.

k. For the purpose of this section, the width of pneumatic tires shall be ascertained by measuring the greatest width of the tire casing when tire is inflated.

l. No person shall operate or move a vehicle or a combination of vehicles over, on or through any bridge or structure on any county road if the weight of such vehicle, or combination of vehicles, and load, is greater than the posted capacity of the structure or exceeds the height of the posted clearance as shown by an official sign.

m. (1) A violation of the provisions of subdivision (j) of this section by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or the weight limitations specified by a permit issued by the New York State Department of Transportation or Nassau County Department of Public Works shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or his agent or lessee in accordance with the following schedule:

| **Excess Total Weight** (pounds) greater than | less than or equal to | Amount of Fine (dollars) |
|---|---|---|
| 0 | 2,000 | 50 |
| 2,000 | 3,000 | 75 |
| 3,000 | 4,000 | 100 |
| 4,000 | 5,000 | 200 |
| 5,000 | 6,000 | 300 |
| 6,000 | 7,000 | 400 |
| 7,000 | 8,000 | 500 |
| 8,000 | 9,000 | 600 |
| 9,000 | 10,000 | 700 |
| 10,000 | 15,000 | 1,200 |
| 15,000 | 20,000 | 1,700 |
| 20,000 | 25,000 | 2,200 |
| 25,000 | 30,000 | 2,700 |
| 30,000 | six cents for each pound in excess of 30,000 | |

(NOTE: Where the excess total weight is greater than 10,000 pounds in excess of the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)

(2) A violation of the provisions of subdivisions (h) and (i) of this section by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or the weight limitations specified by a permit issued by the New York State Department of Transportation or Nassau County Department of Public Works shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner, or his agent, or lessee, in accordance with the following schedule:

| Percentage of excess weight (percentage) greater than | less than or equal to | Amount of Fine (dollars) |
|---|---|---|
| 0 | 5.0 | 100 |
| 5.0 | 10.0 | 200 |
| 10.0 | 15.0 | 350 |
| 15.0 | 20.0 | 600 |
| 20.0 | 25.0 | 1000 |
| 25.0 | 30.0 | 1600 |
| 30.0 | | 2450 |

(NOTE: Where the excess axle or axles weight is greater than ten percent in excess of the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)

In connection with the weighting of a vehicle or combination of vehicles, if it is found that there is a violation of a New York State Department of Transportation permit or Nassau County permit and/or subdivision (j) and also of subdivision (h) or (i), or both subdivisions (h) and (i), of this section, there shall be a single fine imposed and the maximum amount of such fine shall not exceed the highest fine that could be imposed under paragraph (1) of this subdivision or this paragraph.

(3) A violation of the provisions of subdivisions (a), (b), (c), (d), (f), (g) and (1) of this section by any vehicle or combination of vehicles shall be punishable by a fine not to exceed five hundred dollars for the first offense and a fine not to exceed one thousand dollars for subsequent offenses.

n. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate, is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the Department of Motor Vehicles or given to the person issuing the appearance ticket or summons.

(Added by Local Law 21-2000, effective June 26, 2000.)

§ 12-5.0 **Issuance of bonds and other evidences of indebtedness.** The construction, improvement, reconstruction and maintenance of the County roads may be financed by taxation or by the issuance of obligations pursuant to the local finance law.
(Amended by L. 1943 Ch. 710 § 113, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
Note: Amendment required by Local Finance Law § 10.00, 11.00, 20.00, 30.00 and 57.00.

§ 12-6.0 **County roads in villages and cities.** A county road may be constructed through a village or city unless it is the opinion of the Commissioner of Public Works that the street through which the proposed county road runs shall not be reconstructed because it has been so improved or paved as to form a continuous and improved highway. In the latter event such county road shall be constructed or improved to the place where such paved or improved street begins.

§ 12-7.0 **Acquisition of lands for rights-of-way.** The Board of Supervisors shall acquire all necessary fights of way prior to the actual commencement of the construction, laying out, improvement, widening or other alteration of a new or existing county road.

§ 12-7.1 **Termination of working easements.** Where a working, easement, as defined in section 11-6.0 of this code, has been acquired for any public work, the Commissioner of Public Works shall, within thirty-days after completion of such public work and its acceptance by him, file in the office of the County Clerk a certificate, in form suitable for recording, certifying that such working easement is no longer necessary. Upon filing of such certificate the working easement shall be terminated. A working easement, in the absence of the filing of such certificate, shall, in any event terminate when five years have elapsed from the date of vesting.
(Added by Local Law No. 6, 1967, in effect May 18, 1961.)

§ 12-8.0 **Removal of road obstructions.** The Commissioner of Public Works may enter upon private property, with the consent of the owners thereof, at intersecting cross roads and remove obstructions to the view of users of a county road.
(Amended by L. 1939 Ch. 866 § 5, in effect June 4, 1939.)

§ 12-9.0 **Sunrise boulevard; spurs.**

a. The spurs from the conduit or Sunrise boulevard shall be constructed under the direction of the superintendent of public works at the expense of the state and the County.

b. The plans for the construction of the Lynbrook spur shall have the approval of the Long Island state park commission and the city of New York.

c. The village of Lynbrook may pay the cost of:

1. Additional paving, and
2. All landscaping on that part of Lynbrook spur located within such village.

d. The spur at Lynbrook from the conduit or Sunrise boulevard and the Merrick road to the Southern state parkway, when completed, shall be a parkway or boulevard under the jurisdiction and subject to the ordinances, rules and regulations of the Long Island state park commission.

§ 12-10.0 **Long Island state park commission; conveyances.**

a. The Board of Supervisors may request the Long Island state park commission to convey to the County any right of way or easement acquired by such commission by donation or dedication for state parkway purposes.

b. The Long Island state park commission may certify to the Board of Commissioners of the land office, with the approval in writing of the governor, that any right or rights of way or easements heretofore or hereafter acquired by such commission in the County of Nassau by donation or dedication for state parkway purposes are no longer required for such purposes and that they are necessary for or incidental to the construction of county roads in the County of Nassau.

c. The Board of Commissioners of the land office upon such certification shall thereupon convey such rights of way or easements to the County to be used by such county only for the purposes of county roads. If such rights of way shall be wider than required by the County for road purposes, such Board of Commissioners of the land office shall reconvey in consideration of one dollar or other nominal consideration so much of such right of way as is not required for such county roads, to the person or persons who originally donated or dedicated such rights of way to the state. The Board of Commissioners of the land office shall not convey such rights of way to the County unless the approval in writing of the person or persons who originally donated or dedicated such right of way or easement to the state shall be filed with such board.

Title C
Bridges

§ 12-11.0 **Application of title.**

a. The provisions of this title relate to bridges wholly within the County.

b. The provisions of sections two hundred thirty-five to two hundred forty-three inclusive and section two hundred sixty-five of the highway law shall not apply to a bridge described in this title.

§ 12-12.0 **"Bridge" defined.** As used in this title, the term "bridge" means a bridge wholly within the County having a span of more than twenty feet.
(Amended by L.1939 Ch. 866 § 6, in effect June 14.1939.)

§ 12-13.0 **Construction, maintenance and control of bridges within the County.**

a. Bridges over streams or waterways intersecting or at the terminus of state highways or county roads shall be constructed, repaired and maintained by the County.

b. The Commissioner of Public Works shall supervise the construction, repair and maintenance of such bridges.

§ 12-14.0 **Plans and specifications.** The Commissioner of Public Works shall prepare plans, specifications and estimates for the repair or construction of such bridges.
(Amended by L. 1939 Ch. 866 § 7, in effect June 14, 1939.)

§12-15.0 **Construction of bridges to be by contract.** Where the estimated cost of the construction, improvement or repairs of a bridge exceeds fifteen hundred dollars such work shall be done by contract except where the work is performed by regular employees of the Department of Public Works.
(Amended by L. 1939 Ch. 866 § 8, in effect June 14, 1939.)

§ 12-16.0 **Condemnation of bridges.**

a. The Board of Supervisors by resolution shall direct the inspection of any bridge reported to be unsafe for public use and travel by the Commissioner of Public Works or by five residents of the County. If such bridge is found to be unsafe for public use and travel, such board shall condemn such bridge and notify the Commissioner of Public Works of that fact.

b. Such board may direct the Commissioner of Public Works to prepare or cause to be prepared plans and specifications for the immediate construction, reconstruction or repair of such bridge.

c. The Board of Supervisors, upon receiving and approving such plans and specifications, shall procure estimates for the reconstruction or repair of such bridges.

§ 12.17.0 **Reconstruction and repairs after condemnation.**

a. The County Executive, upon receiving notice of the condemnation of a bridge shall call a meeting of the Board of Supervisors. Such board shall appropriate and make immediately available the necessary moneys for the immediate rebuilding of such bridge.

b. As soon as moneys are made available therefore, the Commissioner of Public Works

shall proceed with the repairing or rebuilding of such condemned bridge.

§ 12-18.0 **Liability of county for damages.** The County shall be liable for damages suffered by any person from defects in any such bridge.

§ 12-19.0 **Issuance of bonds; interest; sale.** The construction, repair, maintenance or the permanent betterment of bridges may be financed by taxation or by the issuance of obligations pursuant to the local finance law.
(Amended by L. 1943 Ch. 710 § 114, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
Note: Amendment required by Local Finance Law § 10.00, 11.00, 21.00, 23.00, 28.00, 30.00 and 57.00.

## Title D
## Drainage

§ 12-20.0 **Drainage facilities; construction by county.** The Board of Supervisors, for the purpose of drainage and to protect the property and the public health within the County from floods, freshets, and high waters, may authorize the Department of Public Works to:

1. Construct dams, culverts, ditches, sluices, and other channels for the passage of water.

2. Deepen, straighten, alter, pipe, or otherwise improve any of the lakes, ponds, streams, ditches, drains, or water courses in any part or section of the County in order to prevent them from overflowing, and to provide that they carry off such additional water as may be brought to them by other public improvements in the County.
(Amended by L. 1946 Ch. 904 § 1, in effect April 18, 1946.)

§ 12-20.1 **Approval of drainage facilities provided by other agencies.** No city, town, village or other public corporation shall make any improvements which may be made by the County under section 12-20.0 of the code until a plan showing the improvement proposed to be made, in such detail as may be required by the Commissioner of Public Works, shall be submitted to and be approved by such Commissioner of Public Works.
(Added by L. 1946 Ch. 904 § 2, in effect April 18, 1946.)

## Title E
## Waterways

§ 12-21.0 **Improvement of waterways.** The Board of Supervisors may provide for the widening, deepening or dredging of any bay, harbor, inlet or channel within the boundaries of the County and for the construction of dikes, bulkheads, seawalls, jetties or other similar devices necessary or appropriate to increase the navigability of any such bay, harbor, inlet or channel, and to lessen erosion, and to protect against damage from floods, or storm waters, at the expense of the County, and, if any such work or Improvement shall be, undertaken by the State of New York or by the federal government or by any of the agencies of such state or federal government, the Board of Supervisors may, in its discretion, agree to pay, and pay, to the state or federal government or any such agency undertaking such work or improvement, a portion of the cost of such work or improvement.
(Amended by L. 1953 Ch. 822. § 1, in effect April 17, 1953.)

## Title F
## Mosquito Extermination

(Formerly Chapter IX-A. established by L. 1944 Ch. 274, subsequently repealed by L. 1947 Ch. 204 and established as Title F under Chapter XII.)

§ 12-22.0 **Powers and duties.**

a. The Department of Public Works shall use every practicable means to exterminate mosquitoes found within the County.

b. The Commissioner of Public Works without hindrance shall enter upon any or all lands within the County for the purpose of draining or treating such land. The Commissioner may perform such other acts which in his opinion may be necessary for the elimination of breeding places of mosquitoes in such land, or which will tend to exterminate mosquitoes of fresh water, salt water and every other kind or variety found within the County.

§ 12-23.0 **Publication of notice of plans; hearing thereon.** Immediately upon completion of its plans for work during the ensuing year, the Department of Public Works shall file a copy thereof with the Board of Supervisors. Such plans shall set forth the blocks and sections on the land map of Nassau County within which are located the lands where work is to be performed. Immediately following approval of such plans by the Board of Supervisors and the County Executive, the Department of Public Works may file such approved plans with the clerk of the Board of supervisors and may within thirty days publish in the official newspapers of the County a notice of a hearing on such plans which hearing shall be held not less than ten or more than thirty days after the publication of said notice. Such notice shall set forth a list of blocks and sections on the land map of Nassau County within which are located the lands where work is to be performed. Any person who objects to the entry of the Commissioner of Public Works and any consulting engineer, deputy, assistant or employee of the Department of Public Works, upon his lands shall on or before the opening of the hearing file a protest with the Commissioner setting forth his objection. The decision of the Commissioner of Public Works as to the necessity of such work set forth in such plans shall be final.

§ 12-24.0 **Claims; actions thereon.** Any person claiming damages due to the execution of the work of the Department of Public Works shall file a claim in writing against the County with the clerk of the Board of Supervisors and with the County Attorney as required by section 11-4.1 of the code and actions to recover such damages shall only be brought as provided in such section 114.1.

§ 12-25.0 **Annual plan.**

a. The Department of Public Works, at the time it submits its annual estimate, shall file with the County Executive:

1. A plan of the work to be done and the methods to be employed.

2. A general description of the lands to be entered for the purpose of executing its plans.

b. The County Executive and the Board of Supervisors may approve, modify or alter the plans and methods proposed by the Department of Public Works for the ensuing year.

§ 12-26.0 **Obstructions; interferences.** Any person who obstructs or interferes with the entry of the Commissioner of Public Works and any consulting engineer, deputy, assistant or employee of the Department of Public Works, upon his lands or who obstructs or interferes with, molests, or damages any work of the Department of Public Works shall be guilty of a misdemeanor.

§ 12-27.0 **Accumulation of water a nuisance.** Any accumulation of water in which mosquitoes are breeding, or are likely to breed, is hereby declared to be a nuisance.

§ 12-28.0 **Property of abolished commission.** Upon the abolition of the County mosquito extermination commission, such commission shall surrender and deliver all files, books, documents, equipment, indices, materials, papers, records, supplies and all other property of whatsoever kind or description in its official custody or under its control to the Department of Public Works, and shall account to such Department of Public Works for all money in its official custody. The balance of county appropriations placed to or remaining to the credit of the County mosquito extermination commission, is hereby transferred to and shall be placed to the credit of the Department of Public Works.

§ 12-29.0 **Employees.** The officers and employees in the competitive and noncompetitive classes of the County civil service in the County mosquito extermination commission at the time of the abolition of such commission shall be retained in the Department of Public Works, and the existing status and rights of such officers and employees in respect to grade, pension, promotion, rank, salary, seniority and tenure shall continue.
(Added by L. 1947 Ch. 204 § 2, in effect July 1, 1947.)

# CHAPTER XIII
# DEPARTMENT OF CIVIL SERVICE

## Title A
## In General

§ 13-1.0 **Officers and employees to be residents.**

a. An office or position, compensation for which is payable solely or in part from funds of the County, shall be filled only by a person who is a citizen and a bona fide resident and dweller of the County for at least one year.

b. A person who is not a citizen or bona fide resident or dweller of the County for one year may be appointed to an office or position for which peculiar or exceptional qualifications of a scientific, professional or technical character are necessary. In such cases, evidence in writing shall be furnished:

1. That the service or work to be performed cannot be properly performed by any available citizen and resident of the County.
2. That the non-resident person, proposed to be appointed, is generally recognized as one possessing such exceptional qualifications in a high degree.

(Subd. b amended by Local Law No. 1.1950, in effect August 30, 1950.)

c. The consent of the County Executive shall be obtained before the appointment or employment of such non-residents shall be made. The County Executive may require the County civil service commission to, pass upon the appointment and certify:

1. Whether it be necessary, and
2. Whether for lack of an available citizen and actual resident the proposed non-resident be competent and necessary.

d. Nothing herein shall be construed to apply to an official or employee of the County, whose duties regularly require his attendance in places outside of the County.

e. Notwithstanding any other provision of this section, members of the faculty at the Nassau community college may be employed without regard to their place of citizenship or residency.

(Added by L. 1944 Ch. 175, in effect March 16, 1944 Subd. f added by Local Law No. 2, 1968, in effect May 22, 1968. Section 13-1.0 amended, deleting subd. e and renumbered subd. f as subd. e by Local Law No. 7, 1987, in effect December 21, 1987.)

# CHAPTER XIV
# FRANCHISES

CHAPTER XV
DISTRICTS, TOWNS, VILLAGES AND CITIES

§ 15-1.0 **Nassau County Joint Municipal Survey Committee.**

a. There is hereby created pursuant to article 12-c of the general municipal law, a joint municipal survey committee of the various cities, towns, villages and school districts within the County of Nassau and the County of Nassau, to be known as the Nassau County joint municipal survey committee. The term "committee", as used in this section shall mean the Nassau County joint municipal survey committee. The term "municipality", as used in this section shall mean the County, and any town, village, city and school district within the County.

b. The committee shall consist of one member appointed by the County Executive, subject to confirmation by the Board of Supervisors, and one member for each other participating municipality appointed by their respective governing bodies or appointing authorities as the case may be. Each member shall serve at the pleasure of the person or authority which appointed him.

c. The committee shall serve as a joint municipal survey committee to strengthen local governments and promote efficient and economical provision of local government services within or by the participating municipalities and shall have the power, within the limits of the appropriation made by the Board of Supervisors and the respective governing bodies of the other participating municipalities to:

1. Make surveys and studies and conduct research programs to aid in the resolution of local governmental problems and in efforts to improve administration and services including but not limited to comprehensive studies pursuant to section twelve hundred sixty-three-A of the public health law and part five-A or article five of the conservation law.

2. Provide for the distribution of information and recommendations resulting from such surveys, studies and programs.

3. Consult and cooperate with appropriate state, municipal and public or private agencies in matters affecting municipal government.

4. Devise practical ways and means for obtaining greater economy and efficiency in the planning and provisions of municipal services and make recommendations in accordance therewith.

5. Promote the general commercial, industrial and cultural welfare of the participating municipalities.

6. Otherwise promote strong and effective local government public health, safety, morals and general welfare by means of local and inter-community planning or performance of municipal services.

7. Employ such persons and adopt such rules and regulations as shall be necessary and proper to effectuate the purposes of this section.

8. Receive and expand grants from private foundations or agencies, apply for and accept grants from the federal or state governments, enter into contracts for and agree to accept such grants, donations, or subsidies in accordance with such reasonable conditions and requirements as may be imposed thereon.

d. The Committee shall adopt by-laws to govern its activities and shall elect from its members a chairman and secretary and other necessary officers and subcommittees to serve for such periods as the committee shall decide. The powers of the committee shall be vested in and exercised by a majority of its members present representing the participating municipalities at a meeting duly called and held.

e. The members of the committee shall receive no compensation for their services, but shall be reimbursed from committee funds for their expenses actually and necessarily incurred in the performance of their duties hereunder.

(Added by Local Law No. 9. 1964, in effect October 14, 1965.)

CHAPTER XVI
DEPARTMENT OF PLANNING

Title A
In General

§ 16-1.0 **Width of streets for real property development in Nassau County.**

a. Real property within the County, outside of a city or village, which has been or which shall be subdivided by any person or corporation into lots, plots, blocks or sites shall not be offered for sale before streets are laid out therein of at least three rods in width, and are so indicated on any map thereof filed with the County or town clerk pursuant to section three hundred thirty-four-a of the real property law.

b. However, the town superintendent of highways of the town in which such real property is located may consent that any such street, or part thereof, be of a lesser width but not less than two rods. Such consent, if granted, shall be evidenced by a certificate of the town superintendent of highways describing or designating such street or portion thereof with sufficient exactitude to locate the same on the map of such real property, filed in the offices of the County and town clerks. Such certificate shall be issued in duplicate and a copy filed in each such office. If a map of such real property shall have been filed in such offices, prior to the granting of such consent, the County or town clerk shall indicate thereon every street or portion thereof to which such consent applies.

c. The provisions of this section shall not apply to streets, not less than two rods in width, laid out in a real property development, described in this section, prior to the seventh day of March, nineteen hundred twenty-two, if dwelling houses shall have been erected thereon.

d. Any person or corporation violating this section shall be guilty of a misdemeanor, and in addition, any contract for the sale of a lot or plot in such development, and any deed or conveyance thereof, may be set aside by the supreme court, upon proof of the fact that a street or portion thereof in such development, on which such lot or plot is situated, has not been laid out as required by this section.

Title B
Empire Zones

§16-2.0 **Purpose.** Article 18-B of the General Municipal Law establishes a program creating "Empire Zones," intended to stimulate private investment, private business development and job creation through special incentives. This local law will enable the Planning Department to apply on behalf of Nassau County for designation as an Empire Zone of an area in need of assistance to encourage economic development incentives available under the designation can encourage new businesses to locate in the zone area and existing businesses to expand, thereby creating new employment opportunities for Nassau County residents.

§16-2.1 The Nassau County Planning Department is hereby authorized and empowered to submit an application for designation of certain areas within the County of Nassau as an Empire Zone; provided, however, that such authorization and empowerment shall be conditioned upon the prior concurrence, with respect to such application of the governing bodies of any and all cities, towns and villages in which such zone is located.

Deputy County Attorney

§16-2.2 The boundaries of the areas to be included in the Empire Zone shall be as attached hereto and made a part hereof.

§16-2.3 Pursuant to the requirement of section 963 of the General Municipal Law, the Deputy County Executive for Economic Development shall serve as the Local Empire Zone Certification Officer of Nassau County's Empire Zone, and shall perform the following duty, to wit: certify, jointly with the New York State Commissioner of Economic Development and the New York State Commissioner of Labor, those business enterprises that are eligible to receive benefits referred to in section 966 of the General Municipal Law, and any other applicable statutes.

§16-2.4 Pursuant to Article 18-B of the General Municipal Law, a Local Empire Zone Administrative Board is hereby established to consist of not fewer than six (6) members. All appointments to the Board shall be made by the County Executive, subject to the approval of the Legislature. The members shall not include the Local Empire Zone Certification Officer, and shall include a representative of local business, organized labor, financial institutions, local educational institutions, community organizations and at least one resident of the Empire Zone. The Chairperson of the Board shall be the County Executive. The Local Empire Zone Administrative Board shall perform all duties required of it pursuant to section 963(b) of the General Municipal Law.

(Note- Title added by Local Law 8-2002, signed into law on August 7, 2002 and effective upon filing with Secretary of State. Local Law No. 8 -2005, an unconsolidated Local Law, also authorized application for designation of certain areas as an Empire Zone with slightly varying provisions. Such application was approved by the State on January 3, 2006.)

# CHAPTER XVII
# FIRE PREVENTION

# CHAPTER XVIII
# COUNTY DEBT COMMISSION

# CHAPTER XIX
# COUNTY CLERK

## Title A. Indexing and Re-Indexing


| | | |
|---|---|---|
| Section | 19-1.0 | Scope of title. |
| | 19-2.0 | Definitions. |
| | 19-3.0 | Land and tax map; custody and control. |
| | 19-4.0 | Subdivision of county land and tax map. |
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| | 19-11.0 | Block indices. |
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| | 19-16.0 | Designation of section and block numbers. |
| | 19-16.1 | Endorsement of diagram. |
| | 19-17.0 | Fees for indexing; endorsement page requirement: section, block and lot number information requirement. |
| | 19-18.0 | Erroneous block designations: how corrected; fees. |
| | 19-19.0 | Entry of time of receipt: tickler entries: index entries. |
| | 19-20.0 | Endorsement of block numbers on certificate. |
| | 19-21.0 | Block index to be notice: variance. |
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| | 19-24.0 | Corrections to be made without destroying original entry, |
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| | 19-26.0 | Variance between system of reference and records; liability. |
| | 19-27.0 | Expense to be a county charge. |


## Title A
## Indexing and Re-Indexing

§ 19-1.0 **Scope of title.**

a. Every instrument affecting real estate of chattels real, situated in the County, which shall be recorded in the office of the County Clerk, shall be recorded and indexed pursuant to the provisions of this title.

b. The provisions of this title shall not apply to the indexing or recording of:

1. General assignments.
2. Wills.
3. Powers of attorney.
4. Executory contracts for the sale or purchase of land.

Such instruments shall be filed or recorded as required by law and when filed or recorded shall be indexed in separate alphabetical indices.

§ 19-2.0 **Definitions.**

1. The term "section" means a subdivision of the County delineated upon the land and tax maps by a section number.

2. The term "block" means a plot or parcel of land delineated upon the land and tax maps by a block number. For the purpose of locating the description of property contained in an instrument, in the several blocks affected thereby, each block shall be deemed to extend to the middle lines of the streets, avenues, roads, highways, boulevards and brooks when these form one or more of the boundaries of such block.
(Subds. 1 and 2. amended by L. 1946 Ch. 726 §§ 1-2, in effect July 1, 1946.)

3. The term "lot" means a plot or parcel of land lying wholly within the confines of a block and designated by a lot number.

4. The term "county land and tax map" means the County land and tax map as required in section six hundred three of the County Government Law of Nassau County and all the sections into which the County shall be divided.

5. The term "section land and tax map" means a map delineating a section of the County.

6. The term "land and tax map" means the County land and tax map together with section land and tax maps.
(Subds. 4, 5 and 6, amended by L. 1946 Ch. 726 § 3,in effect July 1, 1946.)

7. The term "block diagram" means a map delineating all the lots lying wholly within the confines of a block and designating the numbers of such lots.

§ 19-3.0 **Land and tax map; custody and control.** The County land and tax map shall be in the custody and control of the Board of Assessors. The land maps now in existence are hereby discontinued; however, they shall be preserved and kept in the custody and control of the County Clerk.

§ 19-4.0 **Subdivision of county land and tax map.** The County land and tax map shall:

1. Be subdivided into sections convenient for the use to which it is to be put pursuant to this title.

2. Have delineated thereon the division lines of the several sections.

3. Have the sections thereon numbered from number one consecutively, upward for as many sections as shall appear thereon.

4. Have the blocks thereon numbered in such manner as is deemed advisable.

Separate maps of each section containing the numbers of all blocks shall be made.

§ 19-5.0 **Land and tax maps; public records: copyright.** a. The land and tax maps, as amended from time to time shall be public records and shall be housed in the same building where the office of the County Clerk is maintained.

§ 19-6.0 **Maps to be furnished to certain county officers.** The Board of Assessors shall

furnish a certified copy of the County land and tax map to the following county officers:

1. The County Treasurer.
2. The County Attorney.
3. The County Clerk.
4. The Department of Public Works.
5. The Department of Planning.

§ 19-7.0 **Copies of map authorized by Board of Supervisors.** The Board of Supervisors, upon terms and conditions in its discretion may authorize:

1. Any city or village, now existing or hereafter incorporated within the County, to make a copy of such part of the County land and tax map covering the incorporated area of such city or village.

2. The Board of Assessors to make and deliver to such city or village a copy of such part of the County land and tax map.

(Sections 19-3.0.19-4.0.19-5.0.19-6.0 and 19-70, amended by L. 1948 Ch. 726 § 7, in effect July 1, 1946.)

§ 19-8.0 **Supplemental land and tax maps; public records; effect.**

a. Whenever the Board of Assessors deem it necessary, they may further subdivide the sections and blocks delineated on the land and tax maps and designate the new subdivisions with such numbers or titles of reference as they deem most suitable.

b. The County Clerk, so far as practicable, shall keep a record of all changes caused by the opening, closing, widening or alteration of any street, avenue, road, highway, boulevard, parkway or waterway and shall forthwith notify the Board of Assessors who shall denote such changes on the land and tax map.

(Subds. a. and c. amended by L. 1948 Ch. 726 §§ 5 and 6, in effect July 1, 1946.)

d. The supplemental land and tax maps shall constitute a part of the land and tax maps and shall be a public record.

(Subd. d. amended by L 1946 Ch. 726 § 7, in effect July 1, 1946.)

§ 19-9.0 **Supplemental land and tax maps furnished to county offices**. The Board of Assessors, annually on the first day of May or as soon thereafter as possible, shall furnish to the County offices enumerated in section 19-6.0 of the code a certified copy of the supplemental land and tax maps, showing all new subdivisions, numberings and changes made during the preceding year.

(Amended by L. 1946 Ch. 726 § 8, in effect July 1. 1946.)

§ 19-10.0 **Sale of copies of maps.** The Board of Assessors shall:

1. Print as many copies of the land and tax maps as the Board of Supervisors may authorize.

(Amended by L. 1946 Ch. 726 § 9 in effect July 1, 1946.)

2. Sell such copies at a price fixed by the Board of Supervisors.

3. Pay over to the County Treasurer the proceeds of the sale of such copies.

§ 19-11.0 **Block indices.**

a. The County Clerk shall prepare one or more books for each section for the indexing under the proper block diagrams and block and lot numbers of all instruments required to be recorded in the books of conveyances and mortgages.

b. Such books shall be entitled "block indices" and shall bear such other titles as the County Clerk may designate. The block indices shall indicate the sections and blocks to which they relate.

c. Such indices shall contain:

1. The names of the parties to each instrument.
2. The date of the instrument.
3. The date of record.
4. The liber and page of the record.
5. A notation of the location of the lot or parcel of land it affects.
6. A column headed "remarks" wherein shall be noted such additional information which in the judgment of the County Clerk will make reference to recorded instruments more convenient.

d. The indices shall be kept in the office of the County Clerk and shall be public records.

§ 19-12.0 **Entries of satisfaction.** The County Clerk upon receiving for recording and filing

a. satisfaction of any mortgage shall forthwith enter upon the margin of the record of such mortgage the date of the recording and filing of such satisfaction, provided, however, if recording is accomplished by microfilm process, the County Clerk may, in lieu of making such entry on the record, make appropriate entry on the block index of such mortgage of the date of filing and recording of the satisfaction.
(Amended by L. 1949 Ch. 180; L. 1968 Ch. 524, in effect July 5, 1968.)

§ 19-13.0 **Correcting instruments.** The County Clerk upon receiving for recording any instrument which by its express recitals purports to correct a recorded instrument shall index such instrument in the same manner as a deed or a mortgage and shall also make a suitable note thereof upon the index of the affected instrument.
(Amended by L. 1939 Ch. 701 § 9, In effect June 5, 1939.)

§ 19-14.0 **Block indices of liens; public record.**
a. There shall be a set of block indices in the office of the County Clerk for the purpose of indexing all liens or statutory notices of liens or claims on land except mortgages and the satisfaction or cancellation thereof.
(Amended by L. 1949 Ch. 180 § 2, in effect May 1, 1949.)

b. Such books shall be suitably designated as block indices of liens, the designation specifying the kind of liens indexed therein.

c. Such indices shall be ruled for the entering therein of:

1. The-names of the lienors or claimants.

2. The names of the owners against whose title or interest a lien or claim is made.

3. The property affected.

4. The amount claimed to be due.

5. The date of satisfaction or cancellation.

(Subd. c. amended by L. 1939 Ch. 701 § 11, in effect June 5, 1939.)

d. The block indices of liens shall be kept in the office of the County Clerk. Such indices shall be public records.

§ 19-15.0 **Daily indices.**

a. The County Clerk shall provide and keep in his office:

1. A daily index or tickler of conveyances.

2. A daily index or tickler of mortgages.

3. A daily index or tickler of lis pendens.

4. A daily index or tickler of liens or statutory notices of liens or claims on land.

b. The County Clerk shall maintain such indices or ticklers by section and block numbers.

(Amended by L. 1939 Ch. 701 § 11, in effect June 5, 1939.)

§ 19-16.0 **Designation of section and block numbers.**

a. Every instrument presented for recording which is required to be indexed pursuant to this title must have endorsed thereon, to be recorded therewith, before it shall be accepted by the County Clerk, a designation of the number of each section and the number of each block in such section on the County land and tax map in which the land affected by the instrument lies.

(Amended by L. 1946 Ch. 726 § 10, in effect July 1, 1946.)

b. The record of such instruments shall not be notice to bona fide purchasers or incumbrancers in respect to any land situated in any block not so endorsed, except as hereinafter provided in section 19-18.0 of the code.

(Subd. c renumbered to be b by L. 1939 Ch. 701 § 13, in effect June 5, 1939).

§ 19-16.1 **Endorsement of diagram.**

a. The County Clerk may refuse to accept any instrument presented for recording or filing which is required to be indexed pursuant to this title unless there is endorsed thereon a diagram of the land affected by the instrument.

b. Such diagram shall be in conformity with the block diagrams on the County land and tax map.

(Section added by L. 1939 Ch. 705 § 2, in effect June 5, 1939; subd. b, amended by L. 1946 Ch. 726 § 11, in effect July 1, 1946.)

§ 19-17.0 **Fees for indexing; endorsement page requirement; section, block and lot number information requirement.**

a. Any person presenting an instrument to the County Clerk for recording and indexing or for the satisfaction or cancellation of a lien or statutory notice of a lien or claim on land and the indexing of such satisfaction or cancellation, shall pay to such clerk, in addition to such other

fees required by law, the sum of ten dollars for each block under which such instrument is required to be indexed.

b. The office of the County Clerk shall affix to the instrument its computer-generated endorsement page which shall meet statutory requirements for endorsement, and which shall become part of the instrument. Such endorsement page shall be subject to the statutory per page fee set forth in CPLR section 8021(4)(a).

c. Any document or instrument affecting real property presented to the County Clerk for recording and indexing or filing shall contain the property section, block and lot number on the first page of the instrument.

(Amended by Local Law No. 3, 1954; Local Law No. 10, 1972, in effect October 1, 1972; Local Law No. 7, 1979, in effect January 1, 1979; Local Law No. 10, 1979, in effect January 1, 1980; Local Law No. 16-1990, in effect October 15, 1990; Local Law No. 9-1992, in effect July 1, 1992: Local Law No. 4-1994, in effect October 11, 1994; Subd. a. b and c amended by Local Law No. 5-1995, in effect June 28, 1995: Subd. d & e deleted by Local Law No. 5-1995, In effect June 26, 1995.)

d. Issuance of a cover sheet which is the functional equivalent of the original cover sheet. The County Clerk is authorized to:

1. Produce and issue a document which is the functional equivalent of a cover sheet when the original cover sheet is unavailable for reproduction; and
2. Certify said document as a true copy of the original, without further explanation and to collect the requisite certification fee.

(Subd. d added by Local Law No. 8-1997, in effect January 8, 1998.)

§ 19-18.0 **Erroneous block designations; how corrected; fees.**

a. Upon presentation of a recorded instrument which has not been properly indexed pursuant to this title and upon proof thereof the County Clerk shall:

1. Properly re-index such instrument against each section and block in which the land affected lies.
2. Forthwith make a note of such re-indexing and the date thereof in every place where such instrument may have been erroneously indexed, opposite the entry thereof.
3. Forthwith make a note of such re-indexing and the date thereof upon the record of the instrument and upon the instrument itself if it is in his possession or presented to him for that purpose.

b. Any person presenting an instrument to be re-indexed pursuant to this section shall pay the sum of ten dollars for each block under which such instrument is required to be re-indexed.
(Subd. b. amended by Local Law No. 5-1994, in effect June 27, 1994.)

c. Where an instrument has been improperly indexed the record of such instrument shall not be notice to a bona fide purchaser until such instrument has been properly re-indexed pursuant of this section.

§ 19-19.0 **Entry of time of receipt; tickler entries; index entries.** The County Clerk upon receiving a recordable instrument which is required to be indexed pursuant to this title shall:

1. Forthwith endorse thereon the date, hour and minute of its receipt.

2. Forthwith enter in the proper tickler the names of every party executing the instrument, the date of record thereof and the number of every section and block endorsed upon the instrument pursuant to section 19-16.0 of the code.

3. Within ninety days after its receipt, index the instrument in the proper book of block indices under the block number.

§ 19-20.0 **Endorsement of block numbers on certificate.** The certificate which the County Clerk is required to endorse on instruments recorded by him, shall contain, in addition to the other matters required to be stated thereon the number of every block and section on the land and tax map under which the instrument has been indexed.
(Amended by L. 1946 Ch. 726 § 12, in effect July 1, 1946.)

§ 19-21.0 **Block index to be notice; variance.**

a. All entries made in the indices pursuant to this title except the information contained in the column headed "remarks" shall be deemed a part of the record of the instruments to which such entries respectively refer, and shall be notice to subsequent purchasers or incumbrancers to the same extent as the recorded instruments in the office of the County Clerk.

b. Whenever a variance exists between any entry in such indices and any part of the record proper of an instrument as contained in the libers or books of record, such record proper shall be controlling for the purpose of notice as provided in section 19-26.0 of the code.

§ 19-22.0 **Re-indexing.**

a. The County Clerk may re-index and prepare new indices, of all instruments, liens, notices and claims affecting real property in the County which were recorded or filed in the office of the County Clerk of the County of Nassau prior to, the completion and filing of the land maps and prior to the commencement of the block and lot index.

b. The County Clerk may keep the records of such re-indexing and new indices in separate books or incorporate them partly or wholly in the section, block and lot indices.

c. Such supplemental indices or any part thereof shall become a public record when their completion for public use is certified by the County Clerk under his hand. Such indices shall be kept in the office of the County Clerk.

d. The index books prepared under this section shall be suitably endorsed as block indices of re-indexed instruments affecting real property, the endorsements specifying the kind of instruments or liens re-Indexed in each index book.

e. Upon the certification by the County Clerk of the completion of the supplemental indices or any part thereof all the provisions of this title shall apply to them with the same force and effect as if they were prepared pursuant to sections 19-11.0 and 19-14.0 of the code.

§ 19-23.0 **Method of indexing and re-indexing.** When the County Clerk deems it impracticable or inadvisable to index or re-index an instrument or notice of lien as required by this title he may adopt and execute such other plan of indexing or re-indexing which in his opinion will simplify reference to such instruments and notices.

§ 19-24.0 **Corrections to be made without destroying original entry.** A correction of an entry in the records index of the Office of the County Clerk shall be made by putting notations on the screen of the original entry. The notations shall include the date of the correction, initials

of the person making the correction, the new liber and page, if any, and the nature of the correction to be made, without destroying the original entry.

A corrective document is created which reflects the changes and a new cover sheet reflecting such changes is generated. The original recording date and time is set forth on the corrected record index. Both the original entry and the corrective entry will cross reference each other.

(Amended by Local Law No. 6-1994, in effect June 27, 1994.)

§ 19-25.0 **System of reference; public record.** The County land and tax maps, section land and tax maps, the former county land map, the former section land maps, block diagrams, block indices and the notations made from time to time upon them and the marginal notations of satisfactions made from time to time upon or adjacent to the record of any mortgage pursuant to this title shall constitute a system of reference to instruments recorded or filed in the office of the County Clerk. Such system of reference shall be a public record.

(Amended by L. 1946 Ch. 726 § 3, in effect July 1, 1946.)

§ 19-26.0 **Valiance between system of reference and records; liability.**

a. Where a variance exists between the information noted in any part of such system of reference and the record proper of any instrument recorded or filed, as contained in the libers or books of record in the office of the County Clerk, the record proper of the instrument shall be controlling.

b. The County Clerk, his deputies, assistants and employees shall not be liable for damages in any cause arising from such variance unless it was made or brought about by willful and intentional fraud attributable to the department or persons sought to be held liable therefore.

§ 19-27.0 expense to be a county charge. Upon the requisition of the County Clerk the County Treasurer shall payout of the amounts appropriated the expenses authorized by this title.

(Amended by L. 1943 Ch. 710 § 115, as last amended by L. 1945 Ch. 338, in effect September 2, 1945.)
Note: Amendment required by Local Finance Law § 11.00.

CHAPTER XX
SHERIFF

Title A I n General

Section 20-1 0 Chaplains to the County Jail.
20-2.0 Petty Cash Fund.

Title A
In General

§ 20-1.0 **Chaplains to certain institutions of Nassau County.**

a. The County Executive, subject to confirmation by the Board of Supervisors, may appoint chaplains to each of the following county institutions: the County jail, the A. Holly Patterson Home for Aged and Infirm, the Nassau County Public General Hospital, the Nassau County Sanatorium, the Nassau County Children's Shelter and such other county institutions as may from time to time be designated by ordinance.

b. Except as provided in subdivision c of this section, chaplains, appointed as aforesaid, shall receive an annual salary in such amount as shall be fixed by ordinance of the Board of Supervisors. Such salary shall include all expenses incurred by such chaplains in the performance of their duties.

c. Designation of chaplains for the aforesaid institutions may also be accomplished by means of a contractual agreement or agreements for the services of such chaplains at the said institutions and such other county institutions as may from time to time be designated by ordinance at such compensation as shall be fixed by the Board of Supervisors, which shall include all expenses incurred by such chaplains in the performance of their duties. Such contract or contracts shall be executed by the County Executive with the approval of the Board of Supervisors.

§ 20-2.0 **Petty Cash Fund.** The Board of Supervisors may authorize the County Treasurer to furnish the Department of Sheriff with a petty cash fund, in such amount as the Board of Supervisors may speedy by resolution. Expenditures from this fund shall be covered by itemized vouchers or claims in the name of the fund verified by the oath of the sheriff. Upon audit of such vouchers or claims and by means of a warrant drawn on the County Treasurer signed by the Comptroller, the treasurer shall reimburse such petty cash fund the said amount audited and allowed.

Such fund shall be used for:

1. Defraying the expenses of the department in meeting public emergencies, and

2. As approved by the sheriff, advancing the expenses that might be incurred by members of the department in the course of their assigned duties, except that expenses authorized by §7-b of the General Municipal Law shall also be approved by the County Executive.
(Amended by Local Law No. 6.1963; Local Law No. 8, 1963: Local Law 10, 1963; Local Law No. 1, 1968, in effect February 13, 1968; Section 20.2.0 added by Local Law No. 6-1986, in effect June 16, 1986.)

# CHAPTER XXI
# MISCELLANEOUS OFFICERS

## Title A. Law, Library


| | | |
|---|---|---|
| Section | 21-1.0 | Continuance of law library. |
| | 21-2.0 | Board of Trustees. |
| | 21-3.0 | Appointments; budget; expenses. |
| | 21-4.0 | Powers of Board of Trustees. |
| | 21-5.0 | Gifts to law library. |
| | 21-6.0 | Suits to recover penalties and damages. |


## Title B Hospitals and Sanatoria


| | | |
|---|---|---|
| Section | 21-7.0 | Regulation of the use of county hospital buildings and grounds. |


## Title C Commission on Human Rights


| | | |
|---|---|---|
| Section | 21-9.0 | Policy. |
| | 21-9.0-a | Chapter to be Liberally Construed. |
| | 21-9.1 | Creation of Commission on Human Rights. |
| | 21-9.2 | Definitions. |
| | 21-9.3 | Functions of the Commission. |
| | 21-9.4 | Powers and duties. |
| | 21-9.5 | Employments and expenses. |
| | 21-9.6 | Separability. |


## Title C-1 Open Housing


| | | |
|---|---|---|
| Section | 21-9.7 | Open housing provisions. |


## Title C-2 Unlawful Discriminatory Practices


| | | |
|---|---|---|
| Section | 21-9.8 | Unlawful discriminatory practices. |
| | 21-9.9 | Enforcement. |
| | 21-9.9.1 | Penalties. |
| | 21-9.9-b | Separability. |


## Title C-3 Domestic Workers and Household Employees


| | | |
|---|---|---|
| Section | 21-9.10.1 | Definitions |
| | 21-9.10.2 | Statement of employee rights and employer obligations under state and federal law. |
| | 21-9.10.3 | Statement of job conditions; records |
| | 21-9.10.4 | Enforcement |
| | 21-9.10.5 | Violations |


## Title D Consumer Affairs


| | | |
|---|---|---|
| Section | 21-10.0 | Commissioner of Consumer Affairs; powers and duties. |
| | 21-10.1 | Board on consumer affairs. |
| | 21-10.2 | Unfair trade practices prohibited; enforcement. |

## Title D- 1 Licenses

Article 1. Home improvement business.


| | | |
|---|---|---|
| Section | 21-11.0 | Legislative purpose. |
| | 21-11.1 | Definitions. |
| | 21-11.2 | License required, home improvement business. |
| | 21-11.3 | Craft licenses. |
| | 21-11.4 | Home improvement business licenses: requirements. |
| | 21-11.5 | Licenses: display, renewals: duplicates. |
| | 21-11.6 | Fees. |
| | 21-11.7 | Powers of the Commissioner. |
| | 21-11.8 | Refusal, suspension, revocation of license and fines. |
| | 21-11.9 | Prohibited acts. |
| | 21-11.10 | Exceptions. |
| | 21-11.11 | Completion Date. |
| | 21-11.12 | Issuance, refusal and renewal of licenses; temporary licensing. |
| | 21-11.13 | Hearings on charges; decisions. |
| | 21-11.14 | The Home Improvement Industry Board. |
| | 21-11.15 | Violations and penalties. |
| | 21-11.16 | Home Improvement Restitution Fund. |


## Title D-2 Privilege Tax on Coin Operated Amusement Devices

(REPEALED by Local Law No. 20-2003, in effect December 31, 2003.)

## Title D-3 Sale of Water Contaminated Gasoline


| | | |
|---|---|---|
| Section | 21-13.0 | Definitions. |
| | 21-13.1 | Duties of operator of motor-fuel dispensing facility. |
| | 21-13.2 | Prohibitions. |
| | 21-13.3 | Penalties. |
| | 21-13.4 | Enforcement. |
| | 21-13.5 | Separability. |


## Title D-4 Fuel Delivery Vehicle Identification


| | | |
|---|---|---|
| Section | 21-14.0 | Definitions. |
| | 21-14.1 | Vehicle Identification. |
| | 21-14.2 | Enforcement. |
| | 21-14.3 | Penalties. |
| | 21-14.4 | Separability. |


## Title D-5 Sale of Adulterated Motor Fuel


| | | |
|---|---|---|
| Section | 21-15.0 | Legislative Intent. |
| | 21-15.1 | Definitions. |
| | 21-15.2 | Marking of Motor Product Fuel Pumps. |
| | 21-15.3 | Penalties. |
| | 21-15.4 | Enforcement. |
| | 21-15.5 | Separability. |


## Title D-6 Licensing of School Bus Companies

Section 21-16.0 Legislative intent.
21-16.1 Definitions.
21-16.2 Licenses required.
21-16.3 Applications for licenses.
21-16.4 Licenses; decals; renewals; duplicates; hearings.
21-16.5 Fees.
21-16.6 Powers of the Commissioner.
21-16.7 Bus inspections.
21-16.8 General provisions.
21-16.9 Refusal, suspension and revocation of licenses.
21-16.10 Hearings on charges; decisions.
21-16.11 Fines.
21-16.12 Violations and penalties.
21-16.13 Separability.

Title D-7 Required Posting of Tax-exempt Foods and Drugs

Section 21-17.0 Legislative Intent.
21-17.1 Definitions.
21-17.2 General Provisions.
21-17.3 Enforcement.
21-17.4 Hearing.
21-17.5 Penalty for Violations.
21-17.6 Settlements.
21-17.7 Separability.

Title D-8 Item Pricing and Pricing Accuracy

Section 21-18.0 Legislative Intent.
21-18.1 Definitions.
21-18.2 Item Pricing.
21-18.3 Pricing Accuracy.
21-18.3.1 Waiver from Item Pricing
21-18.4 Enforcement.
21-18.5 Regulations.
21-18.6 Separability.

## Title D-9

## Tax Assessment Reduction Services


| | | |
|---|---|---|
| Section | 21-19.0 | Legislative Intent. |
| | 21-19.1 | Definitions. |
| | 21-19.2 | Unlawful Activity. |
| | 21-19.3 | Penalties. |
| | 21-19.4 | Enforcement of Contracts and Agreements. |
| | 21-19.5 | Title Not Exclusive Remedy. |
| | 21-19.6 | Separability. |


## Title D-9 Registration of Taxicabs and Limousines


| | | |
|---|---|---|
| Section | 21-19.0 | Definition. |
| | 21-19.1 | Registration of for-hire vehicles. |


(Title D-9 [§ 21-19.0 to 21-19.5] REPEALED and § 21-19.0 to 21-19.1 re-enacted by Local Law No. 21-2003, in effect December 29, 2003.)

## Title D-10 Disclosure Requirements for Refund Anticipation Loans


| | | |
|---|---|---|
| Section | 21-20.0 | Legislative Intent. |
| | 21-20.1 | Title and scope. |
| | 21-20.2 | Definitions. |
| | 21-20.3 | Refund anticipation loans. |
| | 21-20.4 | Posting of Fee Schedule and Disclosures. |
| | 21-20.5 | Penalties. |
| | 21-20.6 | Civil Cause of Action. |
| | 21-20.7 | Severability. |


(Title D-10 added by Local Law No. 6-2004, in effect May 6, 2004.)

## Title E Nassau County Traffic Safety Board


| | |
|---|---|
| 21-50.0 | Board established. |
| 21-50.1 | Organization and reports by the Board. |
| 21-50.2 | Functions of the Board. |
| 21-50.3 | Executive secretary of the Board. |


## Title F Environmental Management Council


| | |
|---|---|
| 21-60.0 | Legislative intent and declaration of policy. |
| 21-60.1 | Council established. |
| 21-60.2 | Membership. |
| 21-60.3 | Term of office. |
| 21-60.4 | Powers and duties. |
| 21-60.5 | Compensation and expenses. |


## Title G Control and Regulation of Waste Oil Deposition

*(Repealed by Local Law No. 7, 1982, adopted September 13, 1982, due to pre-emption by an amendment to

Article 23 of the Environmental Conservation Law of the State of New York.)

Title H Advisory Council for Senior Citizen Affairs

Section 21-80.0 Council established.

Title I Nassau County Water Resources Board

Section 21-90.0 Legislative intent and declaration of policy.
21-90.1 Board established.
21-90.2 Membership.
21-90.3 Powers and duties.
21-90.4 Compensation and expenses.

Title J Nassau County Cultural Development Board*

Section 21-100.0 Legislative intent and declaration of policy.
21-100.1 Board established.
21-100.2 Membership.
21-100.3 Powers and duties.
21-100.4 Compensation and expenses.

*(Repealed by Local Law No. 43-2000, in effect December 28, 2000.)

Title K Nassau County Public Utility Agency

Section 21-110.0 Legislative intent and declaration of policy.
21-110.1 Agency Established
21-110.2 Membership.
21-110.3 Powers and duties.
21-110.4 Rates and Agency Costs.
21-110.5 Eminent Domain.
21-110.6 Compensation and Expenses.

Title L Nassau County Department of Probation

Section 21-120.0 Petty Cash Fund.

Title M Nassau County Recycling Board

Section 21-130.0 Legislative Intent and Declaration of Policy.
21-130.1 Recycling Board Established
21-130.2 Membership.
21-130.3 Powers and Duties.
21-130.4 Establishment of the Position of Recycling Coordinator.
21-130.5 Powers and Duties of the Recycling Coordinator.
21-130.6 Separability.

## Title A
## Law library

§ 21-1.0 **Continuance of law library.** The law library maintained in the County seat is continued and shall be a county department.

§ 21-2.0 **Board of Trustees.** The Board of Trustees of such library is continued. Such board shall consist of the County judge, the surrogate and the district attorney.

§ 21-3.0 **Appointments; salary; budget; expenses**

a. The County Executive, subject to confirmation by the Board of Supervisors, shall appoint, and at pleasure remove, a librarian and such assistant or assistants as he may deem necessary. Such librarian and assistants shall receive such compensation as may be provided by ordinance.

b. The law library shall be subject to the budgetary and other financial provisions of the charter. All purchases of books, periodicals, supplies, materials and equipment of every nature shall be made pursuant to the provisions of the charter.

§ 21-4.0 **Powers of Board of Trustees.** Such Board of Trustees:

1. May direct the purchase of such books and periodicals, within its annual appropriation, as it may deem necessary.

2. May make rules and regulations for the management and protection of such law library and prescribe penalties for the violation thereof.

§ 21-5.0 **Gifts to law library.** The County may receive by gift, devise or bequest any property given or conveyed for the law library.

§ 21-6.0 **Suits to recover penalties and damages.** The County may sue for and recover penalties prescribed by the Board of Trustees and may maintain actions for injury to such library.

CHAPTER XXI

Title B
Hospitals and Sanatoria

§ 21-7.0 **Regulation of the use of county hospital buildings and grounds.** The Board of Managers of any Nassau County tuberculosis hospital or county public general hospital is authorized to adopt by ordinance, rules and regulations for the government, use and protection of the hospital buildings and the property and grounds in connection therewith, provided that no such ordinance shall regulate, restrict or authorize the vehicular use of, or parking on, or traffic in and through the hospital property or grounds.

Every such ordinance hereafter adopted by the Board of Managers of a county hospital shall be entered in the minutes of such board and shall be published in the official newspapers of Nassau County once and the same shall take effect ten days after such publication.

It shall be the duty of the County police department to enforce such ordinance and to prevent the violation thereof whether such violation or threatened violation occurs in the County of Nassau within or without the County police district, and for such purpose within the County hospital buildings and the property grounds and driveways in connection therewith, the members of the County police force shall possess all the powers which they possess within the boundaries of the County police district. Any person who violates any rule or regulation established by such ordinance shall be guilty of a misdemeanor and upon conviction, shall be punishable by a fine of not to exceed fifty dollars or by imprisonment. Fines collected for violation of such ordinance shall be paid to the County Treasurer and credited to the County general fund.

Nothing in this section contained shall be held to affect or abridge the right of any city, town or village to perform its lawful functions of government within its boundaries, or to pursue and apprehend as it lawfully may, any person or persons who commit any breach of any statute, ordinance or regulation.

(Added by Local Law No. 5-1945; amended by Local Law No. 2, § 2, 1954, in effect May 17, 1954.)

§ 21-8.0 **Refusal to grant hospital staff appointments and privileges because of group participation prohibited.**

(Repealed by L. 1964 Ch. 582, in effect June 15, 1964.)

Chapter Twenty-One
Title C
Commission on Human Rights

§ 21-9.0. **Policy**. In a county such as the County of Nassau, with its large and diverse population, there is no greater danger to the health, morals, safety and welfare of the County than the existence of groups prejudiced against and antagonistic to one another because of actual or perceived differences of race, color, creed, gender, age, disability, religion, source of income, sexual orientation, national origin, marital status, familial status or ethnicity. The Nassau County Legislature hereby finds and declares that prejudice, intolerance, bigotry and discrimination threaten the rights and proper privileges of its residents and menace the institutions of a free democratic society. Pursuant to the powers granted to the County by the New York State Constitution and the Municipal Home Rule Law, in order to protect the health, morals, safety and welfare of the County and its inhabitants, a Commission is hereby created through which the County of Nassau officially may encourage mutual understanding and respect among all groups in the County, eliminate prejudice, intolerance, bigotry and discrimination and give effect to the guarantee of equal rights for all assured by the Constitution and the laws of this state and of the United States of America.

§ 21-9.0-a. **Titles to be liberally construed**. Titles C, C-1 and C-2 of this chapter shall be construed liberally for the accomplishment of their purposes and any provision of this code inconsistent with any provision of these titles shall not apply.

§ 21-9.1. **Creation of Commission on Human Rights**. There is hereby created a Commission on Human Rights. It shall consist of fifteen members, serving without compensation, to be appointed by the County Executive, upon recommendation of the Commission and subject to confirmation by the County Legislature. One member shall be designated by the County Executive as the chair of the Commission. Of the fifteen members first appointed, five shall be appointed for one year, five for two years and five for three years; thereafter all appointments to the Commission shall be for a term of three years. In the event of death or resignation of any member, his or her successor shall be appointed to serve for the unexpired period of the term for which such member has been appointed.

§ 21-9.2. **Definitions**. For the purposes of titles C, C-1 and C-2 of this chapter the following terms shall have the following meanings:

a. "Commission" means the Nassau County Human Rights Commission, established and governed pursuant to this chapter.

b. "County" means the County of Nassau.

c. "County attorney" means the Nassau County Attorney.

d. "Discrimination" means any difference in treatment based on actual or perceived race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual orientation, age, marital status, familial status or disability and shall include segregation, except that it shall not be discrimination for any religious or denominational institution to devote its facilities, exclusively or primarily, to or for members of its own religion or denomination or to give preference to such members or to make such selection as is calculated by such institution to promote the religious principles for which it is established or maintained, unless membership in such religion is restricted on account of race, color, or national origin.

e. “Disability” means (a) a physical, mental or medical impairment, resulting from anatomical, physiological, genetic or neurological conditions, that prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment; or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this chapter regarding employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

f. “Familial status” refers to (a) a person who is pregnant or has a child or is in the process of securing legal custody of a person who has not attained the age of eighteen years, or (b) one or more persons who have not attained the age of eighteen years and are domiciled with a parent or another person having legal custody of such person or persons or the designee of such parent.

g. “Legislature” means the Legislature of Nassau County.

h. “Marital status” refers both to the status of a person and to the status of a couple.

i. “National origin,” for the purposes of this chapter, includes ancestry.

j. “Person” includes one or more individuals , partnerships, limited liability companies, associations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, mutual companies, joint-stock companies, trusts, unincorporated associations, fiduciaries, or receivers.

k. “Protected status” means race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status, marital status, or national origin.

l. “Reasonable accommodation” means actions taken that permit an employee, prospective employee or member with a disability to perform in a reasonable manner the activities involved in the job or occupation sought or held. Reasonable accommodation includes, but is not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules, provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested.

m. “Religious or denominational institution” means an institution operated for religious purposes or operated, supervised or controlled by religious or denominational organizations.

n. “Sexual orientation” refers to a person’s actual or perceived identity as being homosexual, bisexual or heterosexual.

o. “Source of income” means any lawful source of income, including federal, state, local, non-profit assistance or subsidy program.

§ 21-9.3. **Functions of the Commission**. The Commission shall:

a. foster mutual understanding and respect in Nassau County, a community diverse with respect to race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual

orientation, age, marital status, familial status or disability;

b. encourage equality of treatment and prevent discrimination based upon actual or perceived race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual orientation, age, marital status, familial status or disability;

c. cooperate with governmental and non-governmental agencies and organizations having like or kindred functions; and

d. make such investigations and studies in the field of human relations as in the judgment of the Commission will aid in effectuating its general purposes.

§ 21-9.4. **Powers and duties**. In addition to the powers and duties set forth in section 21-9.3, the Commission shall:

a. work together with federal, state, city, town, village and non-profit agencies in developing courses of instruction, for presentation in public and private schools, public libraries and other suitable places, on techniques for achieving harmonious inter group relations within the County of Nassau;

b. enlist the cooperation of those comprising diversity with respect to race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual orientation, age, marital status, familial status and disability; community organizations; labor organizations; fraternal and benevolent associations; and other groups in the County of Nassau in programs and campaigns devoted to eliminating group prejudice, intolerance, bigotry and discrimination;

c. study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship;

d. receive and investigate complaints and to initiate its own investigations of (i) tensions, prejudice, intolerance and bigotry based upon race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual orientation, age, marital status, familial status and disability; and any disorder occasioned thereby; (ii) discrimination against any person or persons, organization or corporations whether practiced by private persons, associations, corporations and, after consultation with the County Executive, by county officials or agencies;

e. hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith require the production of any evidence relating to any matter under investigation or in question before the Commission. Except as provided in section 21-9.7 of this chapter, all such hearings shall be held in executive session unless prior written approval for a public hearing is obtained from the County Executive. The Commission, after the completion of any public hearing, shall make a report in writing to the County Executive setting forth the facts found by the Commission and its recommendations. At any hearing before the Commission or any committee thereof a witness shall have the right to be advised by counsel present during such hearing. The powers enumerated in this subdivision may be exercised by any group of three or more members of the Commission acting as a committee thereof, when so authorized in writing by the Commission. The Commission shall designate one member of the committee to chair such hearing and such chair is designated, pursuant to section twenty-two hundred thirteen of the County Government Law of Nassau County, as an officer who may administer oaths and affirmations; compel the attendance of witnesses and the production of books and papers;

f. issue publications and reports of investigations and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby;

g. recommend to the County Executive and to the Nassau County Legislature policies and procedures to aid in carrying out the purposes of the title; and

h. submit an annual report to the County Executive and the Nassau County Legislature.

§ 21-9.5. **Employment and expenses**. The Nassau County Legislature may appropriate sufficient sums to meet the capital and operating expenses of said Commission. The County Executive, upon the recommendation of the Commission and subject to the confirmation of the Legislature, shall appoint an Executive Director. The Commission may employ such additional personnel as it deems necessary within appropriations therefor. The Executive Director shall act as Secretary of said Commission and perform such other duties as shall be assigned to him or her by the Commission.

§ 21-9.6. **Separability**. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of such title or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; amended by Local Law No. 7-2004, in effect June 28, 2004, amended by Local Law no. 9-2006, effective January 1, 2007.)

Title C-1
Open Housing

§ 21-9.7. **Open housing provisions**.

a. **Policy**.

There is no greater danger to the health, morals, safety, and welfare of the County and its residents than the existence of groups and persons antagonistic to each other because of actual or perceived differences of race, creed, color, gender, disability, age, religion, source of income, sexual orientation, familial status, marital status, ethnicity or national origin. Many persons have been compelled to live under substandard, unhealthful, unsanitary, and crowded living conditions because of discrimination and segregation in housing. The Legislature also finds that housing segregation creates economic instability by limiting access to quality education, health care and job opportunities for professionals and skilled workers. It creates pockets of poverty and increases the cost of housing in all neighborhoods. It limits the availability of housing for enterprises whose workforces reflect the efficiencies of diversity, and this limitation reduces the County's capacity for economic development, to the social and economic detriment of the entire County.

The Nassau County Legislature hereby finds and declares that acts of prejudice, intolerance, bigotry, and discrimination which deny a person the opportunity to sell, purchase or lease, rent, or obtain financing for the purchase or lease of housing accommodations because of actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, familial status, marital status, ethnicity or national origin threaten the fundamental rights and privileges of the residents of the County of Nassau and undermine the

foundations of a free democratic state. The Legislature further declares it to be the public policy of the County of Nassau to eliminate and prevent discrimination and segregation based on actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status, marital status or national origin, and to safeguard the right of every person to sell, purchase, lease, rent, or obtain financing for the purchase or lease of housing accommodations without regard to actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status, marital status or national origin.

The Nassau County Legislature further declares it to be the public policy of the County of Nassau to require that every department or other agency of the County which may be involved in any public construction program which could involve the removal of persons from their present housing accommodations and their relocation elsewhere, or which endeavor to implement any public or publicly-assisted or public-approved housing or relocation plan, promote the elimination of segregation in housing within the County.

It shall be the duty of all county officers, officials, and employees to exercise appropriate governmental functions relating to the use or occupancy of land, real property, or housing accommodations in such a manner consistent with law that all patterns of racially segregated housing existing in this county be eliminated and that the creation of any such patterns be prevented to the maximum extent that such a result can be achieved by such action.

b. **Definitions**. The terms defined in section 21-9.2 of this chapter, unless otherwise defined herein, shall have the meanings set forth therein. In addition, the following terms shall have the following meanings:

1. "Agent" means a person with the authority to engage, on behalf of another, in any act associated with the offer, purchase, sale, rental, or occupancy of one or more housing accommodations.

2. "Covered multifamily dwelling" means:
(i) any building consisting of four or more units if such building has one or more elevators; and
(ii) any ground floor unit in any building consisting of four or more units.

3. "Couple" means two persons who reside or seek to reside together.

4. "Covered entity" means a person required to comply with any provision of this title.

5. "Housing accommodation" includes a building, structure, or portion thereof used or occupied or intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one or more human beings, and vacant land offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

6. "Lending institution" means any bank, insurance company, savings and loan association, or any other person regularly engaged in the business of lending money or guaranteeing loans.

7. "Reasonable modification" and "reasonable accommodation" mean such modification or accommodation, including a reasonable economic or financial accommodation relating to the payment for or financing of a dwelling, that will not cause undue hardship in the conduct of the owner's business. The owner shall be required to demonstrate undue hardship.

8. “Real estate broker,” “real estate salesperson,” and “associate real estate broker” shall have, respectively, the meanings of “real estate broker,” “real estate salesman,” and “associate real estate broker” set forth in section four hundred forty of the Real Property Law. Notwithstanding any inconsistent provision, for the purposes of this title, a real estate broker shall be legally responsible for any act of a real estate salesperson or associate real estate broker, provided that:
(i) in connection with the offer, purchase, sale, rental, or lease of housing accommodations, the real estate broker has authorized such real estate salesperson or associate real estate broker to act on the broker’s behalf and subject to his or her direction, supervision, or control; and
(ii) such violation has occurred within the scope of the authorization described in subparagraph i of this paragraph.

c. **Certain acts prohibited**.

1. It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of, or other person having the right to sell, rent or lease housing accommodations, constructed or to be constructed, or any agent or employee thereof:
(i) to refuse to sell, rent or lease any housing accommodation to any person or group of persons, or refuse to negotiate for the sale, rental or lease of any housing accommodation to any person or group or persons, because of the actual or perceived protected status of such person or persons, or to represent that any housing accommodation is not available for inspection, sale, rental or lease when in fact it is so available, or to otherwise deny or withhold any housing accommodation or any facilities of any housing accommodation from any person or group of persons because of the actual or perceived protected status of such person or persons;
(ii) to discriminate against or harass any person in the terms, conditions or privileges of the sale, rental, lease¸ or occupancy of any such housing accommodations or in the furnishing of facilities or services in connection therewith because of the actual or perceived protected status of such person.
(iii) to induce or attempt to induce any person to sell or rent any housing accommodation through the use of representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, gender, age, disability, religion, source of income, sexual orientation, national origin and ethnicity.
(iv) to print or circulate or cause to be printed or circulated any statement, advertisement, or publications, or to use any form of application for the purchase, rental, or lease of such housing accommodations, or to make any record or inquiry in connection with the prospective purchase, rental, or lease of such housing accommodations which expresses, directly or indirectly, any limitation, specification, or discrimination with respect to actual or perceived protected status.
(v) to refuse to make reasonable modifications of existing premises occupied or to be occupied by a person with a disability if such modifications are made at the expense of the person with a disability and are necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the covered entity may where it is reasonable to do so condition permission for such modification on a tenant’s agreement to restore, at his or her own expense, the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
(vi) to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling;
(vii) in connection with the design and construction of covered multifamily dwellings for first occupancy after the first of January two thousand seven, to fail to design and construct those dwellings in such a manner that—
(A) the public use and common use portions of such dwellings are readily accessible to and

usable by disabled persons;
(B) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons in wheelchairs; and
(C) all premises within such dwellings contain the following features of adaptive design:
(aa) a route into and through the dwelling accessible by persons in wheelchairs;
(bb) light switches, electrical outlets, thermostats, and other environmental controls in locations accessible to such persons;
(cc) reinforcements in bathroom walls that permit installations of grab bars; and
(dd) kitchens and bathrooms about which persons in wheelchairs can maneuver.

Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People ("ANSI A117.1"), as such standard may from time to time be amended, suffices to satisfy the requirements of clause (C) of subparagraph (vii) of this paragraph. Nothing in subparagraphs (iv), (v) or (vi) of this paragraph requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to his or her health or safety or to the health or safety of others or whose tenancy would result in substantial physical damage to the property of others.

The provisions of subparagraphs (i) through (iv) of this paragraph shall not apply: (1) to the rental of housing accommodations in a building which contains housing accommodations for not more than two families if the owner of such building actually maintains and occupies one of such housing accommodations as his or her residence, or (2) to the rental of a room or rooms in a housing accommodation by a person who actually maintains and occupies such housing accommodation as his or her residence. With respect to familial status, the provisions of this title shall not apply to housing accommodations that fall under a state or federal program specifically designed and operated to assist elderly persons, as defined in such program; are intended for and solely occupied by persons sixty-two years of age or older; or are intended and operated for occupancy by persons fifty-five years of age or older, as such intention and operation is defined at subparagraph C of paragraph 2 of subdivision b of section eight hundred seven of the federal Fair Housing Amendments Act of 1988, as amended.

2. No person, bank, trust company, private banker, savings bank, industrial bank, saving and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the County and, if incorporated, regardless of whether incorporated under the laws of the state of New York, the United States, or any other jurisdiction, or any officer, agent or employee thereof, to whom application is made for financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodations shall:
(i) discriminate against any such applicant or applicants because of the actual or perceived protected status of such applicant or applicants or any member, stockholder, director, officer, or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodations in the granting, withholding, extending, or in the fixing of the rates, terms or conditions of any such financial assistance.
(ii) use any form or application for such financial assistance or make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, limitations, specification, preference or discrimination because of actual or perceived protected status.

3. No person shall aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this title, or attempt to do so.

4. No person shall coerce, intimidate, threaten, harass, or interfere with any person: (i) in the

exercise or enjoyment of, or because he or she exercised or enjoyed any right granted or protected by this title; (ii) because he or she aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this title; or (iii) because of the protected status of a person with whom such person has or is perceived to have a relationship or association.

d. **Enforcement**. 1. Administrative enforcement. (i) It shall be the duty of the Commission to receive and investigate complaints and to initiate its own investigations of violations of this title, to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath, and in connection thereof to require the production of any evidence relating to any matter under investigation or any question before the Commission, provided, however, that the Commission shall not have jurisdiction to hear a complaint if:
(A) the complainant has previously initiated a civil action in a court of competent jurisdiction with respect to the same grievance that is the subject of the complaint under this title unless such civil action has been dismissed without prejudice or withdrawn without prejudice;
(B) the complainant has previously filed and has an action or proceeding pending before an administrative agency of the state of New York with respect to the same grievance that is the subject of the complaint under this title; or
(C) the complainant has previously filed a complaint with the New York State Division of Human Rights with respect to the same grievance that is the subject of the complaint under this title and the complaint has not been dismissed pursuant to subdivision nine of section two hundred ninety-seven of the Executive Law.
(ii) Complainant-initiated complaints. Any person aggrieved by an unlawful discriminatory practice may, by himself or herself or such person's attorney, make, sign and file with the Commission a verified complaint. The Commission shall acknowledge the filing of the complaint and advise the complainant of the time limits and forum choices set forth in this title. It shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent and such parties of his or her procedural rights and obligations as set forth herein. The Commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice occurred, or over any complaint that has been filed more than one year after a complainant learns or should have learned that he or she has been harmed as a result of an act or acts prohibited under this section, whichever is later.
(iii) Commission-initiated complaints. The Commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice, provided that the Commission shall not have authority to file such complaint more than two years after the alleged unlawful discriminatory practice occurred or after a complainant learns or should have learned that he or she has been harmed as a result of an act or acts prohibited under this section, whichever is later.
(A) A verified complaint filed with the Commission pursuant to subparagraphs (ii) or (iii) shall conform to the requirements for verified pleadings set forth in the Civil Practice Law and Rules.
(B) The Commission shall not have jurisdiction to entertain a complaint if:
(aa) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined by this title with respect to the same grievance which is the subject of the complaint under this title, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or

(bb) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this title with respect to the same grievance which is the subject of the complaint under this title; or

(cc) the complainant has previously filed a complaint with the New York State Division of Human Rights alleging an unlawful discriminatory practice as defined by this title with respect to

the same grievance with is the subject of the complaint under this title and a final determination has been made thereon.

(dd) such complaint alleges in whole or part that a zoning law, ordinance, regulation or rule duly enacted by a municipal corporation is or will be, pursuant to subparagraph (i) or (ii) of paragraph one of subdivision c of this section, an unlawful discriminatory practice by virtue of or as evidenced by its disparate impact on persons having a protected status. Nothing herein shall be construed to prohibit the commencement of a civil action to obtain enforcement upon such claim pursuant to paragraph three of this subdivision.

(iv) Answer. (A) A written, verified answer shall be filed with the Commission no later than thirty days after a copy of the complaint has been served upon the respondent by the Commission. The Commission shall cause a copy of such answer to be served upon the complainant and any necessary party.

(B) All verified answers filed with the Commission pursuant to this section shall conform to the requirements for verified pleadings set forth in the Civil Practice Law and Rules;

(v) Withdrawal of complaints. (A) A complaint filed pursuant to paragraph one of this section may be withdrawn by the complainant as of right at any time prior to the commencement of a hearing before an administrative law judge. Such a withdrawal shall be in writing and signed by the complainant.

(B) Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:

(aa) to the continued prosecution of the complaint by the Commission;

(bb) to the filing by the Commission of a complaint based in whole or in part upon the same facts;

(cc) to the commencement of a civil action pursuant to paragraph three of this subdivision; or

(dd) to the commencement of a civil action by the County Attorney based upon the same facts pursuant to paragraph two of this subdivision.

(vi) Dismissal of complaint. (A) The Commission may, in its discretion, dismiss a complaint:

(aa) for administrative convenience at any time prior to the taking of testimony at a hearing. The grounds for dismissal of a complaint for administrative convenience may include, but shall not be limited to, the following:

(1) the complainant's objections to a proposed conciliation agreement are without substance;

(2) the complainant is unavailable or unwilling to participate in conciliation or investigation, or to attend a hearing, or has repeatedly engaged in conduct that is disruptive to the orderly functioning of the Commission;

(3) relief is precluded by the respondent's absence or other special circumstances;

(4) holding a hearing will not benefit the complainant;

(5) processing the complaint will not serve the public interest; or

(6) the complainant has initiated or intends to initiate an action or proceeding in another forum based on the same grievance.

(bb) if the complaint is not within the jurisdiction of the Commission.

(cc) if after investigation the Commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice, the Commission shall dismiss the complaint as to such respondent.

(B) The Commission shall promptly serve notice upon the complainant, respondent and any necessary party of any dismissal pursuant to this section.

(C) The complainant or respondent may, in accordance with the rules of the Commission, apply to the chairperson for review of any dismissal pursuant to this section. Upon such application, the chairperson shall review such action and issue an order affirming, reversing or modifying such determination or remanding the matter for further investigation and action. A copy of such order shall be served upon the complainant, respondent and any necessary party.

(D) The Commission may reopen any proceeding, or vacate or modify any order or

determination of the Commission, whenever justice so requires, in accordance with the rules of the Commission.
(vii) Investigation. (A) The Commission shall cause every complaint to be investigated according to standards and procedures adopted by the Commission.
(B) Such standards and procedures shall include, but not be limited to, a requirement that proceedings with respect to a complaint be commenced within thirty days of its filing. They shall also include a requirement that, within one hundred days of the filing of a complaint, the Commission shall determine whether it has jurisdiction and, if so, whether there is probable cause to believe that the respondent named in the complaint has engaged or is engaging in activity prohibited under this section.
(C) At the end of each investigation, the Commission shall prepare a final investigative report. The Commission shall make available on request of a complainant or respondent a copy of the final investigative report and the information derived from the investigation.
(viii) Injunction and temporary restraining order.
(A) At any time after the filing of a complaint with the Commission alleging an unlawful discriminatory practice under this title, where there is reason to believe that the respondent, or any other person acting in concert with the respondent, may do or cause to be done any act that would tend to render ineffectual relief that could be ordered:
(aa) The County Attorney may commence a special proceeding in accordance with article sixty-three of the Civil Practice Law and Rules for an order to show cause why the respondent and such other persons should not be enjoined from doing or causing such acts to be done; and
(bb) Where the County Attorney has obtained injunctive relief pursuant to this paragraph, in order to prevent the involvement of innocent third parties in the rental or sale of housing accommodations during the pendency of the complaint, a notice may be posted by the county in a conspicuous place on such housing accommodation stating that such accommodation is the subject of a complaint before the Commission and that prospective buyers or renters will take such accommodations at their own risk, provided, however, that no such notice shall be posted where the person charged with discrimination agrees in writing not to sell or rent such housing accommodations during the pendency of the action or proceeding against him or her. Any willful destruction, defacement, alteration or removal of such notice by the owner or the agents or employees of the owner shall be a misdemeanor punishable upon conviction by a fine of not less than five hundred dollars nor more than one thousand dollars.
(ix) Determination of probable cause.
(A) Where the Commission determines that there is probable cause to believe that the respondent has engaged or is engaging in an act or acts prohibited under this section, the Commission shall issue a written notice to complainant and respondent so stating. A complaint initiated by the Commission shall be deemed a determination that there is such probable cause.
(B) A determination of probable cause shall not be administratively or judicially reviewable.
(C) Where the Commission has found probable cause pursuant to clause A of this subparagraph, the Commission shall refer the complaint to an administrative law judge and shall serve a notice upon the complainant, respondent and any necessary party that the complaint has been so referred.
(x) Investigative orders.
(A) The Commission may at any time issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence relating to any matter under investigation or any question before the Commission.
(B) Where the Commission has determined that probable cause exists to believe that any respondent engaged or is engaging in an act or acts prohibited under this title, the Commission may demand, with respect to records of the type made and kept by such respondent and that the Commission determines is or could be relevant to determining whether such person or persons have committed unlawful discriminatory practices, that such respondent continue to make and keep such records until the termination of all proceedings relating to the complaint

about which probable cause has been determined. The Commission may inspect such records or require them to be filed with the Commission.
(C) The Commission shall establish by procedures enabling any person upon whom a demand has been made pursuant to this provision to object to such demand. Unless the Commission orders otherwise, the assertion of an objection shall not stay compliance with the demand.
(D) Upon the expiration of the time set pursuant to such rules for making an objection to such demand, or upon a determination that an objection to the demand shall not be sustained, the Commission shall order compliance with the demand.
(E) A proceeding may be brought by the County Attorney on behalf of the Commission in any court of competent jurisdiction seeking an order to compel compliance with an order issued pursuant to subparagraph (D) of this paragraph.
(xi) Mediation and conciliation.
(A) At any time after the filing of a complaint, the Commission may endeavor to resolve such complaint by any method of dispute resolution prescribed by rule of the Commission including but not limited to mediation and conciliation.
(B) The terms of any conciliation agreement may contain such provisions as may be agreed upon by the Commission, the complainant and the respondent, including a provision for the entry in court of a consent decree or complaint with motion for conditional dismissal based upon a settlement agreement embodying the terms of the conciliation agreement.
(C) The members of the Commission and its staff shall not publicly disclose what transpired during the processes of mediation and conciliation.
(D) If a conciliation agreement is entered into, the Commission shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. The Commission may impose civil penalties for a violation of a conciliation order as authorized under subparagraph (ii) of paragraph four of this subdivision.
(E) Every conciliation agreement shall be available to the public except where, to the extent allowed by law, the Commission determines, either on its own or at the request of both complainant and respondent, that extraordinary circumstances exist that would make such disclosure contrary to the public interest.
(xii) Hearing.
(A) A hearing on a complaint shall be held before an administrative law judge designated by the Commission. Notice of the date, time and place of such hearing shall be served upon the complainant, respondent and any necessary party.
(B) The case in support of the complaint shall be presented before the Commission by prosecutors employed or otherwise designated by the Commission, under contract to the Commission, or attorneys assigned to the Commission for such purpose by the County Attorney.
(C) An administrative law judge may, in his or her discretion, permit any person who has a substantial interest in the complaint to intervene as a party and may require the joinder of necessary parties.
(D) An administrative law judge shall have the powers of the Commission as set forth at clause (A) of subparagraph (x) of this paragraph.
(E) Evidence relating to endeavors at mediation or conciliation by, between or among the Commission, the complainant and the respondent shall not be admissible.
(F) If the respondent has failed to answer the complaint within the time period prescribed in clause (A) of subparagraph (iv) of paragraph one of subdivision d of section 21-9.7 of this title, the administrative law judge shall enter a default and the hearing shall proceed to determine the evidence in support of the complaint.
(G) Except as otherwise provided in this title, the Commission through its prosecutors, a respondent who has filed an answer or whose default in answering has been set aside for good cause shown, a necessary party or a complainant or other person who has intervened pursuant to the rules of the Commission may appear at such hearing in person or otherwise, with or

without counsel, and may cross-examine witnesses, present testimony and offer evidence.
(H) A hearing shall be governed by rules of evidence adopted by the Commission and established to elicit the best evidence consistent with due process. The rules of evidence observed by courts need not be adopted. The testimony taken at such hearing shall be under oath and shall be transcribed.
(I) Subsequent to a hearing and to such briefing as the administrative law judge may direct, the administrative law judge shall prepare and forward to the Commission, along with the record, a recommended decision and order.
(xiii) Decision and order.
(A) If the Commission finds that a respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and conclusions of law and issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice. Such order shall require the respondent to take such affirmative action as, in the judgment of the Commission, will effectuate the purposes of this title including, but not limited to: selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination; requiring training, monitoring, or the adoption of alternative policies; payment of compensatory damages to the person aggrieved by such practice or act; and submission of reports with respect to the manner of compliance. The Commission may also direct the payment of civil penalties to the County in the amounts and under circumstances described in paragraph four of this subdivision. The Commission may also direct the payment of a prevailing complainant's reasonable attorney's and expert fees and costs.
(B) If the Commission finds that a respondent has not engaged in any such unlawful discriminatory practice, the Commission shall issue an order stating its findings of fact and conclusions of law and shall dismiss the complaint as to such respondent.
(xiv) Judicial review. Any final order of the Commission shall be subject to review in the manner provided in article seventy-eight of the Civil Practice Law and Rules.
(xv) Enforcement of final orders of the Commission. The County Attorney may initiate any action or proceeding that may be appropriate or necessary for the enforcement of any final order issued by the Commission pursuant to this title, including actions to secure temporary or permanent injunctions enjoining any acts or practices that constitute a violation of any such order, mandating compliance with the provisions of any such order, imposing civil penalties pursuant to paragraph four of this subdivision, or for such other relief as may be appropriate.

2. Enforcement actions by County Attorney. In addition to any other enforcement provision of this title, the County Attorney is hereby authorized to obtain enforcement of the provisions of this title by commencing an administrative proceeding before the Commission or an action in any court of competent jurisdiction for any relief as provided under this title, including but not limited to injunctive relief, monetary and punitive damages to persons aggrieved, civil penalties, and attorney's fees. Such authority shall include the authority to appear as intervenor in any action commenced by a party pursuant to any provision of this title. Notwithstanding any other provision of law, any action taken by the County Attorney under this paragraph shall not require a resolution of the Legislature.

3. Civil cause of action. (i) Except where a complainant has filed a complaint with the Commission or the New York State Division of Human Rights or a federal enforcement agency with respect to the same grievance and such complaint has not been dismissed by such division pursuant to subdivision nine of section two hundred ninety-seven of the Executive Law, any person claiming to be aggrieved by a practice prohibited by this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages and for injunctive relief or such other remedies as may be appropriate.

(ii) Notwithstanding any inconsistent provision of this subdivision, where a complaint filed with the Commission is dismissed for administrative convenience or by annulment of complainant's administrative remedy by the Commission or by the New York State Division of Human Rights, an aggrieved person shall maintain all rights to commence a civil action pursuant to this section as if no such complaint had been filed.
(iii) Notice of any civil action filed pursuant to this paragraph shall be delivered in person to the County Attorney within ten days of such filing, or by any method calculated to place the County Attorney in receipt thereof within ten days of such filing. In any such action, the County Attorney shall have the right to intervene whenever he or she determines such intervention necessary to vindicate the public interest.
(iv) A civil action commenced under this section must be commenced within three years after the occurrence of the alleged unlawful discriminatory practice. Upon the filing of a complaint with the Commission and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three-year limitations period shall be tolled.
(v) Notwithstanding any inconsistent provision of this subdivision, where a complaint filed with the Commission is dismissed for administrative convenience and such dismissal is due to the complainant's malfeasance, misfeasance or recalcitrance, the three-year limitation period on commencing a civil action pursuant to this paragraph shall not be tolled.
(vi) Any person shall be deemed to be injured by an unlawful discriminatory practice and shall have the right to commence an action pursuant to this paragraph or to file a complaint pursuant to subparagraph (ii) of paragraph one of this subdivision when such person or its agents:
(A) are deprived of truthful information in violation of section 21-9.7(c)(1)(i); or
(B) discover through investigation that a covered entity is engaging or has engaged in an unlawful discriminatory practice, provided that such person has expended funds to reveal the covered entity's unlawful discriminatory practice, regardless of whether such expenditure constituted a diversion of resources from his or her other activities.
This subparagraph shall not limit the availability of any other basis in law for alleging injury resulting from acts prohibited under subdivision d of this title. The measure of compensatory damages for a person injured as defined in this subparagraph shall include the fair market value of the efforts such person has undertaken to investigate and remedy the unlawful discriminatory practice.

4. Civil penalties for unlawful discriminatory practices or for violating orders of the Commission.
(i) In any matter where the Commission or a court of competent jurisdiction finds that a person has engaged in a discriminatory practice in violation of this title, the Commission or such court shall impose a civil penalty in an amount not more than fifty thousand dollars. Where the Commission finds that an unlawful discriminatory practice was the result of the respondent's wanton or malicious act, the Commission or court shall impose a civil penalty in an amount not more than one hundred thousand dollars.
(ii) Any person who fails to comply with an order issued by the Commission pursuant to subparagraphs (x), (xi) or (xiii) of paragraph one of this subdivision shall be liable for a civil penalty of not more than fifty thousand dollars and an additional civil penalty of not more than one thousand dollars per day for each day that the violation continues.
(iii) Any civil penalties recovered pursuant to this chapter shall be paid into the general fund of the County.

5. Attorney's fees. In any administrative enforcement or civil action commenced pursuant to this subdivision, the Commission or court, in its discretion, may award the prevailing party or parties costs and reasonable attorney's fees regardless of the amount of damages awarded to a complainant in such action. For the purposes of this paragraph, the term "prevailing" includes a complainant or plaintiff and/or intervenor whose commencement and/or prosecution of litigation has been found by the Commission or court to have substantially resulted in the remediation of

an unlawful discriminatory act on the part of the respondent or defendant, regardless of whether such remediation has been implemented voluntarily, as a result of a settlement or as a result of a judgment in such complainant's, plaintiff's or intervenor's favor.

6. Guidelines for construction and rules of procedure. The Commission may adopt guidelines for the construction of the provisions of this title and shall adopt rules setting forth hearing and pre-hearing procedures. Such rules shall include, but not be limited to, rules governing discovery, motion practice and the issuance of subpoenas.

e. **Separability**. If any section, subdivision, paragraph, subparagraph, clause, or item of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

(Title C-1 added by Local Law No. 4, 1969 in effect August 26, 1969; amended by Local Law No. 7-2004, in effect June 28, 2004, amended by Local Law 9-2006, effective January 1, 2007.)

## Title C-2
## Unlawful Discriminatory Practices

§ 21-9.8 **Unlawful discriminatory practices.**

1. It shall be an unlawful discriminatory practice:
   a. For an employer to refuse to hire or employ or to bar or to discharge from employment or to discriminate against any individual in compensation or in terms, conditions or privileges of employment, because of the actual or perceived gender, race, color, creed, national origin, disability, age, religion, source of income or sexual orientation of any such individual.
   b. For an employment agency to discriminate against any individual in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation.
   c. For a labor organization to exclude or to expel from its membership or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of the actual or perceived gender, race, color, creed, national origin, ethnicity, disability age, religion, source of income or sexual orientation of any individual.
   d. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly any limitation, specification or discrimination as to actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.
   e. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this title or because he had filed a complaint, testified or assisted in any proceeding under this title.

(Amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

2. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

a. To refuse to select any person or persons for an apprentice training program registered with the state of New York because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation and on any basis other than their lack of qualifications as determined by objective criteria which permit review.
b. To deny to or withhold from any person because of his actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program.
c. To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation.
d. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

3. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodation, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation or that the patronage of any person because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation is unwelcome, objectionable or not acceptable, desired or solicited.

4. No person shall aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this title, or attempt to do so.

5. No person engaged in any activity to which this title applies shall retaliate or discriminate against any person because he or she has opposed any practices forbidden under the title or because he has filed a complaint, testified, or assisted in any proceeding under this title.

§ 21-9.9 **Enforcement.**

a. It shall be the duty of the Nassau County Commission on human rights to receive and

investigate complaints and to initiate its own investigations of violations of this title, to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath, and in connection thereof to require the production of any evidence relating to any matter under investigation or any question before the commission, provided, however, that the commission shall not have jurisdiction to hear a complaint if (i) the complainant has previously initiated a civil action in a court of competent jurisdiction with respect to the same grievance that is the subject of the complaint under this title unless such civil action has been dismissed without prejudice or withdrawn without prejudice; (ii) the complainant has previously filed and has an action or proceeding pending before an administrative agency of the state of New York with respect to the same grievance that is the subject of the complaint under this title; or (iii) the complainant has previously filed a complaint with the State Division of Human Rights with respect to the same grievance that is the subject of the complaint under this title. The County Attorney is hereby authorized to take such action as necessary to obtain enforcement of the provisions of this title, including the enforcement of corrective orders and the assessment of penalties and fines as provided herein. Any action taken by such commission or County Attorney under this title shall not require resolution of the Legislature.

b. Where the commission determines that probable cause exists to believe that a respondent has engaged, or is engaging, in a practice prohibited by this title, the commission shall issue a written notice of its determination to the complainant and the respondent. A finding of probable cause is not a final order of the commission and shall not be subject to administrative or judicial review.

c. At any time after the filing of a complaint with the commission alleging an unlawful discriminatory practice under this title, where there is reason to believe that the respondent, or any other person acting in concert with the respondent, is doing or causing to be done any act that would tend to render ineffectual relief that could be ordered, the County Attorney may commence a special proceeding in accordance with article sixty-three of the civil practice law and rules for an order to show cause why the respondent and such other persons should not be enjoined from doing or causing such acts to be done.

§21-9.9.1 **Penalties.** Any person who shall be found to have violated any of the provisions of section 21-9.8 of this title shall, shall, in addition to such corrective action, be liable for a penalty of not less than five thousand nor more than ten thousand dollars that shall be recoverable for and payable to the aggrieved, and shall, in addition be subject, for the first such offense, for a fine of no less than five thousand dollars nor more than ten thousand dollars and, for each subsequent offense, to a fine of no less than ten thousand nor more than twenty thousand dollars.

§21-9.9-b **Separability.** If any portion, subsection, sentence, clause, phrase, or portion of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

(Title C-2 added by Local Law No. 7, 1970 in effect January 1, 1971; amended by Local Law 38-2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

## Title C-3
## Domestic Workers and Household Employees

§21-9.10.**1 Definitions**.

"Domestic or household employee" means any person who performs services of a household nature in a private home of the person by whom he or she is employed. The term

includes employees such as housecleaners, nannies, governesses, cooks, waiters, butlers, valets, maids, laundresses and chauffeurs of automobiles for family use. It does not include au pairs as defined herein. This listing is illustrative and not exhaustive.

"Au pair" means a person who performs childcare services pursuant to the program administered by the State Department of the United States in a private home of the person by whom he or she is employed.

"Employment agency" means:

a. any person who, for a fee, procures or attempts to procure:

(1) employment or engagements for persons seeking employment or engagements, or

(2) employees for employers seeking the services of employees.

b. any person who, for a fee, renders vocational guidance or counseling services and who directly or indirectly:

(1) procures or attempts to procure or represents that he or she can procure employment or engagements for persons seeking employment or engagements;

(2) represents that he has access, or has the capacity to gain access, to jobs not otherwise available to those not purchasing his or her services; or

(3) provides information or service of any kind purporting to promote, lead to or result in employment for the applicant with any employer other than himself.

"Fee" means anything of value, including any money or other valuable consideration charged, collected, received, paid or promised for any service, or act rendered or to be rendered by an employment agency, including but not limited to money received by such agency or its agent which is more than the amount paid by it for transportation, transfer of baggage, or board and lodging on behalf of any applicant for employment.

"Person" means any individual, company, society, association, corporation, limited liability corporation or company, limited liability partnership, manager, contractor, subcontractor, partnership, bureau, agency, service, office or the agent or employee of the foregoing.

§21-9.10.2 **Statement of employee rights and employer obligations under state and federal law.**

a. Every employment agency engaged in the job placement of domestic or household employees shall provide to each applicant for employment as a domestic or household employee and his or her prospective employer, before job placement is arranged, a written statement indicating the rights of such employee and the obligations of his or her employer under state and federal law. Such statement of rights and obligations shall be formulated by the chair of the commission and shall embody provisions of state and federal laws that pertain to domestic or household employees, both in their capacity as workers in New York State and the United States and in their capacity specifically as domestic or household employees in New York State and the United States. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation. Such statement of rights and obligations shall be prepared in any language the Commission on Human Rights determines the law applies to and/or any language requested by an employment agency, and shall be made available to all employment agencies that are engaged in the job placement of domestic or household employees in Nassau County by being posted on the county web-site in PDF form and/or distributed to employment agencies that request forms by the chair of commission.

b. Every employment agency engaged in the job placement of domestic or household employees in Nassau County shall keep on file in its principal place of business for a period of three (3) years a statement, signed by the employer of a domestic or household employee whom the employment agency has placed with such employer, indicating that the employer has read and understands the statement of rights and obligations he or she received pursuant to

subdivision a of this section.

§21-9.10.3 **Statement of job conditions; records**.

a. Every employment agency engaged in the job placement of domestic or household employees in Nassau County shall provide to each applicant for employment as a domestic or household employee a written statement, in a form approved by the commission, of the job conditions of each potential employment position to which the agency recommends that the applicant apply. Each such statement shall fully and accurately describe the nature and terms of employment, including the name and address of the person to whom the applicant is to apply for such employment, the name and address of the person authorizing the hiring for such position, wages, hours of work, the kind of services to be performed and agency fee.

b. Every employment agency engaged in the job placement of domestic or household employees in Nassau County shall keep on file in its principal place of business for a period of three (3) years a duplicate copy of the signed written statement of job conditions required by subdivision (a) of this section.

§21-9.10.4 **Enforcement.**

The commission shall have the same duties and powers of enforcement as set forth in section 21-9.9 of this chapter.

§21-9.10.5 **Violations.**

Any employment agency that violates this title shall be subject to a fine not to exceed one thousand dollars by any court of competent jurisdiction.

(Title C-3 added by Local Law 8-2006)

## Title D
## Consumer Affairs

§ 21-10.0 **Commissioner of Consumer Affairs; powers and duties.** The Commissioner of Consumer Affairs shall have the power and it shall be his duty:

a. To receive and investigate complaints and initiate his own investigation of frauds or unfair dealings against consumers: to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith require the production of any evidence relating to any manner under investigation or in question before the Commissioner. At any hearing before the Commissioner, a witness shall have the right to be advised by counsel present during such hearing.

b. To represent the interest of consumers before administrative and regulatory agencies and legislative groups.

c. To assist, advise and cooperate with local, state and federal agencies and officials to protect and promote the interests of the Nassau County consumer public.

d. To conduct Investigations, research studies and analyses of matters affecting the Interests of Nassau County consumers.

e. To study the operation of state and local laws for consumer protection and to recommend amendments of such laws for the protection of consumers.

f. To report to the appropriate law enforcement officers any information concerning violations of any consumer protection laws.

g. To assist, develop and conduct programs of consumer education and consumer information through publications and other informational and educational material prepared for dissemination to the consumer public of Nassau County in order to increase the competence of consumers and to raise the general standard of living.

h. To undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services, and to permit licensees and others in good standing with the Department to place advertisements on the web site maintained by the Department of Consumer Affairs and to make rules and charge fees for such advertisements not to exceed one hundred fifty dollars ($150.00) per advertisement.
(Amended by Local Law No. 20-2002, effective November 15, 2002.)

i. To cooperate with other agencies, public and private, in the development of standards and quality grades for consumer goods and services.

J. To exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to protect and promote the welfare of Nassau County consumers

k. To render each year to the County Executive a written report of the activities and recommendations of his office.

§ 21-10.1 **Board on consumer affairs.** There is hereby created a Board of Consumer Affairs, consisting of fifteen representatives who shall reflect a cross section of consumer and business interests, to be appointed by the County Executive, subject to confirmation by the Board of Supervisors. Of the nine members the first appointed before September fifteenth, nineteen sixty-eight, two shall be appointed for three years, two for a term of two years, and two for a term of one year, thereafter, all appointments shall be for a term of three years. One member shall be designated by the County Executive as chairman. Members shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties. The Board shall assist and advise the Commissioner in his duties and functions under this title.

§ 21-10.2 **Unfair trade practices prohibited; enforcement.**

1. Unfair Trade Practices Prohibited; Licenses Required

(a) Unfair trade practices prohibited. No person shall engage in any deceptive or unconscionable trade practice in the sale, lease, rental or loan or in the offering for sale, lease, rental or loan of any consumer goods or services, in the extension of consumer credit, or in the collection of consumer debts.

(b) It shall be unlawful for any person or entity required to be licensed pursuant to the provisions of this title or pursuant to provisions of state law authorized to be enforced by the Department to engage in any trade, business or activity for which a license is required unless such person or entity possesses such license.
(Amended by Local Law 20-2002, effective November 15, 2002.)

2. Definitions.

a. "Person." An individual, merchant, partnership, firm or corporation.

b. "Deceptive trade practice." Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind, which has the capacity, tendency or effect of deceiving or misleading consumers and is made In connection with the sale, lease, rental or loan of consumer goods or services; the offering for sale, lease, rental or loan of consumer goods or services; the extension of consumer credit: or the collection of consumer debts, deceptive trade practices include but are not limited to:

(1) representations that:

(a) goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

(b) the merchant has a sponsorship, approval, status, affiliation or connection that he does not have;

(c) goods are original or new if they are deteriorated altered, reconditioned, reclaimed, or secondhand:

(d) goods or services are of particular standard, quality, grade, style, or model, If they are of another.

(2) the use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact:

(3) failure to state a material fact if such use or failure deceives or tends to deceive;

(4) disparaging the goods, services, or business of another by false or misleading representations of materials facts;

(5) offering goods or services without intent to sell them:

(6) offering goods or services without intent to supply reasonably expectable public demand, unless the offer discloses the limitation;

(7) making false or misleading representations of fact concerning: the reason for, existence of, or amounts of price reductions; or the price in comparison to prices of competitors to one's own price at a past or future time;

(8) falsely stating that a consumer transaction involves consumer rights, remedies or obligations:

(9) falsely stating that services, replacements or repairs are needed; and

(10) falsely stating the reasons for offering or supplying goods or services at sale or discount prices.

(11) causing, permitting, allowing or approving the blockage, obstruction or concealment from the view of the purchaser or purchasers, the indicators of any machine, device or register used to Itemize and/or total sales to such purchaser or purchasers, by any person engaged in any commercial business activity in which consumer goods and/or services are sold to the public.

(12) advertising a price for goods or services which price is a comparative price to the price of a specified merchant or to the prices of other specified merchants, unless such comparative price is a price at or below the price at which goods or services of identical or substantially the same kind or quality are to have been offered for sale by the specified merchant.

(Subd. (12) added by Local Law No. 2-1996, In effect May 8, 1996.)

(13) advertising former price unless goods or services of identical or substantially the same kind or quality have been sold in reasonable quantities for a price equal to or below the former price or openly and actively offered for sale to the

public for a reasonable period of time in the regular course of business in good faith and not for the purpose of establishing a fictitious price comparison. "Former price" shall mean the price at which goods or services were previously sold in reasonable quantities or offered for sale to the public for a reasonable period of time.

(Subd. (13) added by Local Law No. 2-1996, in effect May 8, 1996.)

(14) The sale, advertising or offering for sale of gasoline:

(a) Using the term "regular", either by itself or in combination with any other term, to describe or identify gasoline with an R+M/2 octane number greater than 87;

(b) Using the terms "mid grade", "plus" or "mid", either by themselves or in combination with any other term, to describe or identify gasoline with R+M/2 Octane number other than 89;

(c) Using the terms "super", "premium" or "high test", either by themselves or in combination with any other term, to describe or identify gasoline with an R+M/2 Octane number less than 92;

(d) Using the terms "no lead", "unleaded" or "lead free" or other similar meaning to describe or identify any grade of gasoline. These terms may be used in combination with other terms such as "unleaded regular", "premium no lead", etc., providing such terms meet the conditions set forth in (a), (b) or (c) above;

(e) Using more than one term, description or identifying name to describe gasolines with the same R+M/2 Octane number at a single retail gasoline location.

(Subd. (14) added by Local Law No. 5-1998, in effect August 19, 1998.)

(14)* failure of any taxicab company and/or limousine service or terminal therefore to include its license and/or Nassau County registration number and the name or the issuing jurisdiction in any print, television or radio advertisement.

(Added by Local Law No. 20-2000, effective June 26, 2000.)

*(Editor's note- As in original. Probably should read (15).)

c. "Unconscionable trade practice." Any act or practice is unconscionable if it takes unfair advantage of the lack of knowledge, ability, experience or capacity of a consumer which results in a gross disparity in the rights of a consumer as against the merchant or results in a gross disparity between the value received by a consumer and the price paid by the consumer;

d. "Consumer goods, services, credit and debts." Goods, services, credit and debts which are primarily for personal household or family purposes;

e. "Consumer.' A purchaser, lessee or recipient or prospective purchaser, lessee or recipient of consumer goods or services or consumer credit. Including a co-obligor or surety;

f. "Merchant" A manufacturer, supplier, seller, lessor, creditor or other person, firm or corporation who makes available to consumers, either directly or indirectly, goods, services, or credit;

g. "Commissioner." The Commissioner of Consumer Affairs.

3. Regulations. The Commissioner may, after a public hearing, adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including regulations defining specific deceptive or unconscionable trade practices. At least seven days prior notice of such public hearing shall be published in the official newspapers of the County. A copy of the rules and regulations adopted hereunder and any amendments thereto shall be filed in the office of the clerk of the Board of Supervisors.

4. Enforcement.

(a) The violation of any provision of this section or of any rule or regulation promulgated hereunder shall render the violator liable for the payment to the County of a civil penalty, recoverable in a civil action, in the sum of not more than $2,500 for the first violation, and in the sum of not less than $1,000 and not more than $4,000 for the second violation, and in the sum of not less than $2,500 and not more than $5,000 for the third and subsequent violations, together with, in each instance, the cost of the investigation incurred by the Commissioner.

(Amended by Local Law No. 19-1990, in effect November 26, 1990; amended by Local Law No. 25-2000, effective July 31, 2000; amended by Local Law No. 20-2002, effective November 15, 2002.)

(b) Whenever any person has engaged in any acts or practices which constitute repeated, persistent or multiple violations of any provision of this section or of any rule or regulation promulgated hereunder, the County Attorney, upon the request of the Commissioner of Consumer Affairs, may make application to the Supreme Court for a temporary or permanent injunction, restraining order, or other equitable relief.

(c) Notwithstanding any other provision in this title, the Commissioner after notice and a hearing shall be authorized to impose fines upon any person or entity in violation of this paragraph (b) of subdivision 1 of this section of one hundred dollars ($100.00) per violation per day for each and every day of such violation.

(Subd. (c) added by Local Law No. 20-2002, effective November 15, 2002.)

5. Settlements. In lieu of instituting or continuing an action or proceeding, the Commissioner may accept written assurance of discontinuance of any act or practice in violation of this section. Such assurance may include a stipulation for the payment by the violator of the costs of investigation, a fine, and/or a stipulation for the restitution by the violator to consumers of money, property or other things received from such consumers in connection with a violation of this section. Any civil penalty authorized by subdivision 4 of §10.2 may be waived or compromised by the Commissioner or his designated representative.

(Subdivision 5 amended by Local Law No. 7-1994, in effect August 1, 1994.)

6. Exclusions. Nothing in this section shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine, or other form of printed advertising, who broadcasts, publishes, or prints an advertisement which violates this section except insofar as such station or publisher or printer engages in a deceptive or unconscionable practice in the sale or offering for sale of its own goods or services.

7. Separability. If any provision of this section or the application of such provision to any person or circumstance shall be held unconstitutional or invalid, the constitutionality or validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby.

(Title D added by Local Law No. 9, 1961 § 2, in effect June 9, 1961; § 21-10.1 amended by Local Law No. 5, 1968; §21.10.2 added by Local Law No. 2, 1970; paragraph b of subdivision 2 of § 21-10.2 amended by Local Law No. 6, 1971 adding subparagraph 11; subparagraph 11 of paragraph b of subdivision 2 of § 21.10.2 amended by Local Law

No. 11, 1973, in effect October 1, 1973; subparagraphs (12) and (13) of § 21-10.2 amended by Local Law No. 2-1996, in effect May 8.1996.)

## Title D-1
## Licenses

(Title D.-1 added by Local Law No. 6-1970, in effect October 7, 1970.)

§ 21-11.0 **Legislative purpose.** It is the purpose of the Board of Supervisors in enacting this Local Law to safeguard and protect the homeowner against abuses on the part of home improvement contractors by regulating the home improvement, remodeling and repair business and by licensing of persons engaged in such business.
(§ 21.11.0 amended by Local Law No. 2-1984, in effect January 4, 1984.)

§ 21-11.1 **Definitions.**

1. "Commissioner" means the Commissioner of Consumer Affairs.

2. "Contractor" means any person who owns or operates a home improvement business or who undertakes or offers to undertake or agrees to perform any home improvements in Nassau County.
(Subdivision 2 amended by Local Law No. 2-1984, in effect January 4, 1984; Local Law No. 3-1981, in effect July 21, 1981.)

3. "Home Improvement" means repair, maintenance, replacement, remodeling, alteration, conversion, modernization, or addition to any land or building, or that portion thereof, which is used as a private residence or dwelling place for not more than three families, and other improvements to structures or upon land which is adjacent to a dwelling, and shall include, but not be limited to, the installation, construction, replacement or improvement of driveways, swimming pools, porches, garages, sheds, central heating or air conditioning systems, vacuum cleaning systems, windows and awnings, sandblasting, power washing, waterproofing, floor refinishing, chimney cleaning, interior and/or exterior painting, carpet installation, and gardening/landscaping, when the gardener/landscaper uses his/her own equipment in the conduct of his/her business and uses his/her vehicle to transport such equipment. "Home Improvement" shall not include (a) the construction of a new home building or work done by a contractor in compliance with a guarantee of completion of a new building project, or (b) the sale of goods or materials by a seller who neither arranges, to perform nor persons directly or indirectly any work or labor in connection with the installation of goods or materials, or (c) decorating when not incidental or related to home improvement work as herein defined, or (d) residences owned by, the state or any municipal subdivision thereof, or (e) automatic fire alarm systems, or (f) burglar alarm systems.
(Subd. 3 amended by Local Law No. 3-1981, in effect August 17, 1981; Local Law No. 3-1981, in effect July 27, 1981; Local Law No. 2-1995, in effect February 28, 1995; amended by Local Law No. 20-2002, in effect November 15, 2002; amended by Local Law No. 10-2004.)

4. "Home improvement contract" means an agreement between a contractor and an owner for the performance of a home improvement, and Includes all labor, services and materials to be furnished and performed thereunder.

5. "Home improvement establishment" means any shop, establishment place or premises where the home improvement business is carried on.

6. "Licensee" means a person permitted to engage in the home improvement business under the provisions of this title.

7. "Owner" means any homeowner, tenant, or any other person who orders, contracts for, or purchases the home improvement services of a contractor, or the person entitled to the performance of the work of a contractor pursuant to a home Improvement contract.

8. "Person" means an individual, firm, partnership, association or corporation.

9. "Management Personnel" means a person or persons who are principals in a contracting business or who are employed by a contractor and are responsible for assisting in the business of the contractor and vested with such discretion and judgment as to accomplish the business purpose of the contractor.

(Subd. 3, amended by Local Law No, 3-1978, in effect March 13, 1978; amended by Local Law No. 3-1981, in effect August 17,1981; Subd. 9 added by Local Law No. 2-1981, in effect July 27, 1981.)

§ 21-11.2 **License required; home improvement business.** No person shall own, maintain, conduct, operate, engage in or transact a home improvement business after January first, nineteen hundred seventy-two, or hold himself out as being able to do so after such date unless he is licensed therefore pursuant to this title.

(Amended by Local Law No. 4-1971, in effect May 26.1971.)

§ 21-11.3 **Craft Licenses.**

1. A license issued pursuant to this title may not be construed to authorize the licensee to perform any particular type of work or kind of business which is reserved to qualified licensees under separate provisions of state or local law; nor shall any license or authority other than as is issued or permitted pursuant to this title authorize engaging in the home improvement business.

2. Nothing in this title shall be construed to limit or restrict the power of a city, town or village to regulate the quality, performance, or character of the work of contractors including a system of permits and inspections which are designed to secure compliance with and aid in the enforcement of applicable state and local building laws, or to enforce other laws necessary for the protection of the public health and safety. Nothing in this title limits the power of a city, town or village to adopt any system of permits requiring submission to and approval by the city, town or village of plans and specifications for an installation prior to the commencement of construction of the installation or of inspection of work done.

§ 21-11.4 **Home improvement business Licenses; requirements.**

1. The maintenance of a bona fide establishment at a definite location within the state shall be a prerequisite for the issuance of a home improvement business license.

The use of a telephone answering service shall not constitute a location for purposes of this section.

2. (a) An applicant for a home improvement contractor's license must establish that he is the real owner and possesses title to or is entitled to the possession of the establishment and will conduct, engage in and transact a home improvement business. He must furnish satisfactory evidence of a good moral character and financial responsibility.

   (b) All applicants for a home improvement license shall be fingerprinted by the Nassau County Police Department. The cost for fingerprinting shall be an expense payable by the applicant.

   (c) All applicants must furnish certificates of public liability and property damage insurance in the amount of one hundred thousand dollars ($100.000) per person,

three hundred thousand dollars ($300.000) per occurrence, bodily injury and fifty thousand dollars ($50.000) each occurrence and aggregate, property damage.
(Subdivision 2 amended by Local Law No. 3-1987, in effect July 27, 1987.)

3. The Commissioner may require an application for a license or a renewal application to be accompanied by a bond, approved as to form by the County Attorney, executed by a bonding or surety company authorized to do business in the State of New York, in an amount to be set by the Commissioner, but in no event to exceed one hundred thousand dollars, conditioned upon the assurance that during the term of such license, the licensee will continue to comply with the provisions of this title to assure that upon default in the performance of any contract the advance payments made thereon, less the reasonable value of services actually rendered to the date of such default, of the reasonable costs of completion of the contract in the event of noncompletion thereof, will be refunded to the purchaser, owner or lessee with whom such contract was made. Such bond shall run to the County of Nassau for the use and benefit of any person or persons intended to be protected thereby. The filing of the required bond in the office of the clerk of the Board of Supervisors, after approval as to form by the County Attorney, shall be deemed sufficient compliance with this section. The Commissioner may require a bond at any time during the term of the license based on the licensee's performance during such term.
(Subdivision 3 amended by Local Law 1-1972, in effect February 4, 1972; Local Law No. 5, 1980, in effect June 9, 1980; Local Law No. 3-1987, in effect July 27, 1987.)

§ 21-11.5 **Licenses; display; renewals; duplicates.**

1. All licenses, except temporary licenses, shall be for a period of two years from the date of issuance and shall expire on the last day of the twenty-fourth month following issuance.
(Subdivision 1 amended by Local Law 1-1972, in effect February 4, 1972; Local Law No. 18-1990, in effect November 26, 1990.)

2. No license shall be assignable or transferable except as hereinafter provided. A license to conduct a home improvement business issued to an individual may be assigned or transferred for the remainder of the license period to a partnership or corporation if such individual is a member of such partnership or a stockholder of such corporation owning not less than twenty five per cent of the outstanding stock at the time of such assignment or transfer. A license issued to a partnership may be assigned or transferred for the remainder of the license period to any one member of such partnership provided he obtains the consent of all of the other members of such partnership. The application for such transfer or assignment must be accompanied by proof satisfactory to the Commissioner that the requirements herein provided have been complied with. No assignment or transfer shall become effective unless and until the endorsement of the transfer or assignment has been made on the face of the license by the Commissioner and such license, so endorsed, has been returned to the assignee or the transferee. All such endorsements shall be made upon a payment fee of fifty dollars ($50.00).
(Subdivision 2 amended by Local Law No. 20-2002, in effect November 15, 2002.)

3. Each license issued pursuant to this title shall be posted and kept posted in some conspicuous place in the home improvement business.

4. Any license except a temporary license, which has not been suspended or revoked, may, upon the payment of the renewal fee prescribed by this title, be renewed for an additional period of two years from its expiration, upon filing of an application for such renewal on a form to be prescribed by the Commissioner. Failure to make application for such renewal within fifteen (15) days shall subject the licensee to a penalty of thirty dollars ($30.00) which shall be paid prior to the issuance of the renewal.
(Subdivision 4 amended by Local Law No. 1-1972, in effect March 16, 1972; Local Law No. 3-1987, in effect July 27,

1987: Local Law No, 18-1990, in effect November 26, 1990; Local Law No. 20-2002, in effect November 15, 2002.)

5. A duplicate license may be issued for one lost, destroyed or mutilated upon application therefore a form prescribed by the Commissioner and the payment of the fee prescribed therefore by this title. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

6. A supplementary license may be issued for each additional place of business maintained by a licensee within the County of Nassau upon application therefore on a form prescribed by the Commissioner and the payment of the fee prescribed therefore by this title. Each such supplementary license shall have the word "supplementary" stamped across the face thereof and shall bear the same number as the original.
(Subd. 6 added by Local Law No. 1-1972, in effect February 4, 1972.)

§ 21-11.6 **Fees.**

1. The fee for a license to conduct a home improvement business shall be four hundred dollars ($400.00) and for each renewal thereof the fee shall be four hundred dollars ($400).
(Subd. 1 of 21-11.6 amended by Local Law No. 5-1986, in effect June 2, 1986; Local Law No. 18-1990, in effect November 26, 1990; Local Law No. 20-2002, in effect November 15, 2002.)

2. The fee for issuing each supplementary license shall be fifty dollars ($50.00) or twenty dollars ($20.00) for a duplicate license for one lost, destroyed or mutilated.
(Subd. 2 amended by Local Law No. 1-1972, in effect February 4, 1972; Local Law No. 3-1987, in effect July 27, 1987; Local Law No. 20-2002, in effect November 15, 2002.)

3. The fees hereinabove set forth shall be those for licenses issued for a period of two (2) years.
(Subd. 3 amended by Local Law No. 1-1972, in effect February 4, 1972: Local Law No. 18-1990, in effect November 26, 1990; Local Law No. 20-2002, in effect November 15, 2002.)

4. The Commissioner shall refund the fee paid by any applicant in the event that the applicant for the license [is denied, or the applicant for the license]* has predeceased its issuance, or has been inducted into the military service prior to its issuance. The Commissioner shall refund half of the fee paid by any applicant in the event that the application is denied, such refunds shall, upon approval by the Commissioner and after audit by the Comptroller, be paid from any monies received from the operation of this title.
(Subd. 4 amended by Local Law No. 20-2002, in effect November 15, 2002.)
(Editor's note- As in original. The intent of the brackets is unclear.)

§ 21-11.7 **Powers of the Commissioner.** In addition to the powers and duties elsewhere prescribed in this title, the Commissioner shall have power:

1. To appoint such officers and employees, within the appropriation therefore as he shall deem necessary for the performance of his duties;

2. To examine into the qualifications and fitness of applicants for licenses under this title;

3. To keep records of all licenses issued, suspended or revoked;

4. To adopt such rules and regulations not inconsistent with the provisions of this title as may be necessary with respect to the form and content of applications for licenses, the receipt thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to his powers and duties as prescribed by this title and for the proper administration and enforcement of the provisions of this title, and to amend or repeal any

of such rules and regulations:

5. In the event that an applicant for a home improvement license has outstanding examinations, hearings, investigations, complaints or proceedings with the Office of Consumer Affairs, the Commissioner shall be authorized, after review, to issue a temporary license. Said temporary-license shall be for a period and under conditions to be determined by the Commissioner. Said temporary license shall have no effect upon the merits of the outstanding matters of the applicant pending in the Office of Consumer Affairs.
(Subd. 5 added by Local Law No. 3-1987, in effect July 27, 1987.)

6. The Commissioner or commissioner's designee shall be authorized to suspend the license of any person pending payment of such fine, penalty or pending compliance with any order of the Commissioner or the Office of Consumer Affairs or with any other lawful order of the office.
(Subd. 6 added by Local Law No. 3-1987, in effect July 27, 1987.)

7. The Commissioner or the Office of Consumer Affairs may arrange for the redress of injures or damage caused by any violation of this article and may otherwise provide for compliance with the provisions and purposes of this article.
(Subd. 7 added by Local Law No. 3-1987, in effect July 27, 1987.)

§ 21-11.8 **Refusal, suspension and revocation of license; fines.** A license to conduct, operate, engage in and transact a home improvement business as a home improvement contractor may be refused, suspended or revoked by the Commissioner, or a fine not exceeding five thousand dollars ($5,000.00), or both, may be imposed by the Commissioner or an authorized officer or employee of the Commissioner for anyone or more of the following causes:

1. Fraud, misrepresentation or bribery in securing a license.

2. The making of any false statement as to a material matter in any application for a license.

3. The contractor is not financially responsible.

4. The person or the management personnel of the contractor are untrustworthy or not of good character.

5. The business transactions of the contractor have been marked by a failure to perform its contracts.

6. The willful manipulation of assets or accounts by the contractor.

7. Failure to display the license as provided in this title.

8. Failure to resolve a valid complaint registered in the Office of Consumer Affairs.

9. Violation of any provision of this title, or of any rule or regulation adopted hereunder.
(Unnumbered paragraph amended by Local Law No. 1, 1975, in effect 45 days after its adoption on December 16, 1974; amended by Local Law No. 20-2002, in effect November 15, 2002; subdivision 3 re-numbered 4 and amended, new subdivision 3 added, subdivision 4 re-numbered 5 and amended, subdivision 5 re-numbered and amended, new subdivision 6 re-numbered 8 and amended, new subdivision 6 added by Local Law No. 2-1984, in effect January 4, 1984; amended by Local Law No. 18-1990, in effect November 26, 1990.)

10. A home, improvement contractor who has had a license suspended and/or revoked in another jurisdiction shall report said suspension or revocation to the Office of Consumer Affairs within ten (10) days of said action. Upon receipt of notification, the Commissioner, or his designee, may order a hearing to determine the continued validity of the contractor's ability to

operate as home improvement licensee in Nassau County.

Any failure on the part of the contractor to report another jurisdiction's actions, shall be deemed a willful failure to report and will result in the immediate suspension and/or revocation of the contractor's home improvement license in Nassau County.
(New subsection 10 added by Local Law No. 12-1992, in effect January 1, 1993.)

§ 21-11.9 **Prohibited acts.** The following acts are prohibited:

1. Abandonment or willfully failure to perform, without justification, any home improvement contract or project engaged in or undertaken by a contractor;
(Editor's note- So In original, probably should be "willful".)

2. Making any substantial misrepresentation in the procurement of a home improvement contract, or making any false promise likely to influence, persuade or induce;

3. Any fraud in the execution of or in the material alteration of any contract, mortgage, promissory note or other document incident to a home improvement transaction;

4. Preparing or accepting any mortgage, promissory note or other evidence of indebtedness upon the obligations of a home improvement transaction with knowledge that it recites a greater monetary obligation than the agreed consideration for the home improvement work;

5. Directly or indirectly publishing any advertisement relating to home improvements which contains an assertion, representation or statement of fact which is false, deceptive or misleading, provided that any advertisement which is subject to and complies with the then existing rules, regulations or guides of the Federal Trade Commission shall not be deemed false, deceptive or misleading; or by any means of advertising or purporting to offer the general public any home improvement work with the intent not to accept contracts for the particular work or at the price which is advertised or offered to the public;

6. Willful or deliberate disregard and violation of the building, sanitary and health laws of this state or of any political municipal subdivision thereof;

7. Willful failure to notify the Commissioner, in writing, of any change or control in ownership, management or business name or location;

8. Conducting a home improvement business in any name other than the one in which the contractor is licensed;

9. Willful failure to comply with any order, demand or requirement made by the Commissioner pursuant to provisions of this title;

10. As part of or in connection with the inducement to make a home improvement contract, no person shall promise or offer to pay credit charges or allow to a buyer any compensation or reward for the procurement of a home improvement contract with others;

11. No contractor shall offer or pay a loan as an inducement to enter into a home improvement contract;

12. No acts, agreements or statements of a buyer under a home improvement contract shall constitute a waiver of any provisions of this title intended for the benefit or protection of the buyer;

13. Any transaction or agreement which fails to provide that the buyer can cancel same at any time prior to midnight on the third business day after the date of such agreement without penalty and every home improvement contract, excluding contracts signed in the seller's retail

business establishment, shall contain a "Notice of Cancellation" in such form as provided by the Commissioner pursuant to such rules and regulations as he promulgates;
(Subd. 13 added by Local Law No. 2-1984, in effect January 4, 1984.)

14. A willful deviation from or disregard of plans or specifications in any material respect without the consent of the owner.
(Subd. 14 added by Local Law No. 3-1987, in effect July 27, 1987.)

§ 21-11.10 **Exceptions.** No contractor's license shall be required of any person when acting in the particular capacity or particular type of transaction set forth in this section:

1. An individual who performs labor or services for a contractor as an employee thereof.

2. A plumber, electrician, architect, professional engineer, or any other such person who is required by state or local law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he is currently licensed pursuant to such other law.

3. This title shall not apply to a home improvement contract otherwise within the purview of this local law which is made prior to the effective date of the respective provisions of this title governing such contracts.
(Amended by Local Law No. 12-1992, in effect January 1, 1993.)

§ 21-11.11 **Completion Date.** Every home improvement contract shall provide for a completion date on which date all labor, services and materials to be furnished and performed is to be completed and in no event shall such work be completed any later than thirty days after said contract completion date.
(§ 21-11.11 repealed and new § 21-11.11 added by Local Law 2-1984, in effect January 4, 1984; amended by Local Law No. 3-1987, in effect July 27, 1987.)

§ 21-11.12 **Issuance, refusal and renewal of licenses; temporary licensing.**

1. When an application or renewal application has been filed with the Commissioner in proper form the Commissioner shall, within a period of ninety days from the date thereof, issue or refuse the appropriate contractor's license to the applicant. If an application for a license is refused, the Commissioner shall send to the applicant a written statement setting forth the reasons for the refusal to grant the license.

2. The Commissioner shall prescribe and furnish such forms as he may deem appropriate In connection with applications for licenses and the issuance, renewal or termination thereof.

3. An applicant for any license required by the provisions of this title shall file with the Commissioner a written application which shall be signed and under oath. As a part of or in connection with such application, the applicant shall furnish information concerning his true identity, residence, personal history, home improvement business and any other pertinent facts which the Commissioner may require. The Commissioner may require the names of owners, stockholders, partners, directors and officers of any applicant, and the business addresses and trade names of any applicant.
(Subd. 3 amended by Local Law No. 3-1987, in effect July 27, 1987.)

4. Every contractor licensee shall immediately after a change of control in ownership or of management or a change of address or trade name, notify the Commissioner in writing of such changes.

5. Licenses of all contractors shall expire two years from the date of issuance unless prior

thereto the license is revoked or suspended by the Commissioner. Upon payment of the bi-annual license fee, as prescribed by Section 21.11.6 of this title, prior to the expiration date, a license may be renewed in the discretion of the Commissioner for another two years: and the authority to do business shall continue in effect until such time within the two years as the Commissioner revokes or suspends the license.

(Subd. 5 amended by Local Law No. 3-1987, in effect July 27, 1987; Local Law No. 18-1990, in effect November 26, 1990.)

6. Temporary licenses may be issued in accordance with such rules or regulations as the Commissioner may prescribe to any applicant for a license who files an application in proper form and pays the bi-annual license fee thereof. A temporary license shall automatically expire at the time the Commissioner either refuses to issue or grants the license.

(Subd. 6 amended by Local Law No. 18-1990, in effect November 26, 1990.)

7. The Commissioner may, at any time, require reasonable information of an applicant or licensee, and may require the production of books of accounts, financial statements or other records which relate to the home improvement activity, qualification or compliance With this title by the licensee.

§ 21-11.13 **Hearings on charges; decisions.**

a. No license shall be revoked until after a hearing had before an officer or employee of the Commissioner designated for such purpose by the Commissioner upon notice to the licensee of at least ten days except as otherwise provided in this section. The notice shall be served by registered or certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the licensee: and, if the licensee fails to attend such hearing, the Commissioner shall revoke the license of said licensee. The licensee shall be heard in his defense either in person or by counsel and may offer evidence on his behalf. A stenographic record of the hearing shall be taken. The person conducting the hearing shall make a written report of his findings and a recommendation to the Commissioner for decision. The Commissioner shall review such findings and the recommendation and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation. For the purpose of this title, the Commissioner or any officer or employee of the department designated by him may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of the investigation.

b. A license may be suspended or fine imposed after a hearing had before an officer or employee of the Commissioner designated for such purpose by the Commissioner upon notice to the licensee of at least ten (10) days except as otherwise provided in this section. The notice shall be served by registered or certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the licensee, and if the licensee fails to attend such hearing, the Commissioner shall revoke the license of said licensee. The licensee shall be heard in his defense either in person or by counsel and may offer evidence on his behalf. For the purpose of this title, the Commissioner or, any officer or employee of the department designated by him may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of investigation.

c. Any fine authorized by section 21-11.8 may be waived or compromised by the Commissioner or his designated representative.

(§ 21-11.13 amended by Local Law No. 1, 1915, section two, in effect 45 days after its adoption on December 16, 1915; Local Law No. 2-1984, in effect January 4, 1984; Local Law No. 8-1994, in effect August 1, 1994.)

§ 21-11.14 **The Home Improvement Industry Board.**

1. Board: The Commissioner of Consumer Affairs shall appoint a seven-member home improvement contracting board to serve for a three-year term. Said board shall be composed of individuals having a personal knowledge and interest in home improvement contracting such as representatives of labor, management, trade or government. The Commissioner shall serve as a non-voting ex officio member of each board. Three members of the Board shall be appointed for a three-year term, two members for a two-year term, and two members for a one-year term. All appointments thereafter shall be for a three-year term.

2. Compensation: No member of the Board shall be compensated for performing the duties of said board. Reasonable and necessary expenses incurred by a member carrying out the duties defined herein shall be compassable by the County of Nassau.

3. Powers and Duties: The Board shall have the following powers and duties:

(1) To hold bi-monthly meetings in the Office of Consumer Affairs for the efficient discharge of the responsibilities and duties of the Board.

(2) To make rules for the conduct of its meetings and keep a minute book of its proceedings, including a record of its examinations and other official actions.

(3) To conduct meetings and, after a hearing at which all interested parties are afforded a sufficient opportunity to be heard, submit recommendations to the Commissioner relating to the home improvement industry.

(4) To formulate and recommend to the Commissioner and Office of Consumer Affairs standards for the issuance, suspension, and revocation of licenses and identification cards, including the conditions for the issuance of same, the type of examination required, the terms and fees, and the conditions upon and the circumstances under which the same may be revoked or suspended.

(§ 21-11.14 amended by Local Law No. 1.1972, in effect March 6.1972; Local Law No. 5-1980, in effect June 9, 1980,;§1-11.5 renumbered by Local Law No. 3-1987, in effect Jury 27, 1987; new §1.1114 added by Local Law No. 3-1987, in effect July 27, 1987.)

**§ 21-11.15 Violations and penalties.**

1. Any person who shall own, conduct or operate a home improvement business without obtaining a license therefore or who shall violate any of the provisions of this title or any rules promulgated hereunder, or having had a valid license which has been suspended or revoked, shall continue to engage in such business, shall be guilty of a class A misdemeanor, and subject to the punishment provided therefor. Each such violation shall be deemed a separate offense.

2. In addition to the penalties provided by paragraph 1 of this section and those provided by sections 21-10.2 of this code, any person who violates any of the provisions of this title shall be liable for a penalty of not more than five thousand dollars ($5,000) for each such violation.

3. In addition to the penalties provided by paragraphs 1 and 2 of this section and those provided by sections 21-10.2 of this code, any person who uses a false or invalid license number, or falsely states or implies that he or she is licensed, under this title, in any advertisements or in dealings with consumers whether oral or written, shall be subject to a penalty for a deceptive trade practice, in accordance with the provisions of section 21-10.2 of this code.

4. The County Attorney may bring an action in the name of the County to restrain or prevent any violation of this subdivision or any continuance of any such violation.

5. Where any violation of this subdivision is found to be willful or where such violation has posed a threat to the health or safety of the persons residing at the property at which the contractor has performed the work, the Commissioner may order the contractor to pay to the owner of such property, or other person for whom the contractor has performed the work, an amount which shall not exceed three times the actual amount of damages sustained by such owner or other person as a result of such violations.
(Amended by Local Law No. 20-2002, in effect November 15, 2002.)

**§ 21-11.15-a** a. A police officer or authorized officer, employee or agent of the office of consumer affairs or the sheriff's department may, upon service on the operator of a vehicle of a notice of violation for operating without a license required by section 21-11.2 of this title, seize and impound any vehicle, tool or other implement which such officer has reasonable cause to believe is being used in connection with such violation. Any vehicle, tool or implement seized pursuant to this section shall be delivered into the custody of the office of consumer affairs.

(i). A person from whom a vehicle has been seized and impounded pursuant to this section shall receive notice at the time of such seizure and by certified mail, return receipt requested, as soon thereafter as practical informing such person how and when the vehicle may be reclaimed and whether the vehicle is subject to a civil forfeiture proceeding pursuant to subdivision e of this section. In the event that the person from whom the vehicle was seized is not the registered owner of the vehicle, separate notice shall be provided by certified mail, return receipt requested, to the registered owner of the vehicle. Notice shall also be provided to any lienholder. For purposes of this section, the term "lienholder" shall, in the case of a vehicle, mean any person, corporation, partnership, firm, agency, association or other entity who at the time of an seizure pursuant to this section has a financial interest recorded as a lien with the department of motor vehicles of New York state or any other state, territory, district, province, nation or other jurisdiction, except that "lienholder" shall not mean an entity that leases vehicles pursuant to a written agreement subject to the New York state personal property law or the uniform commercial code. Nothing in this provision shall be construed to prevent a lienholder whose lien is not so recorded from intervening in any action or proceeding under this section.

(ii) The commissioner or the designee of the commissioner shall hold a hearing to adjudicate the violation underlying the seizure and impoundment within five business days after the date of such seizure and impoundment and shall render his or her determination immediately following the conclusion of such hearing.

b. A vehicle, tool or other implement seized and impounded pursuant to this section may be released prior to the hearing provided in subdivision a of this section upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the impoundment and all reasonable costs for removal and storage of such vehicle, tool or implement; provided, however that such release shall be conditioned on presentation of, in the case of (i) a vehicle, proof of ownership or authorization from the owner of the vehicle as ownership is defined by section three hundred eight-eight of the vehicle and traffic law, or (ii) in the case of a tool or other implement or equipment, proof of ownership or authorization by the owner satisfactory to the commissioner.

c. Following an adjudication that has resulted in a determination that the vehicle, tool or other implement was used in connection with unlicensed activity in violation of section 21-11.2 of this code, release of such vehicle, tool or other implement may be obtained upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage and upon

proof of ownership as provided in subdivision b of this section.

d. Notwithstanding the provisions of subdivisions b and c of this section, no person shall obtain release of a vehicle, tool or other implement pursuant to such section unless and until such person submits an application for a home improvement contractor license, or reinstatement of such a license, as appropriate, to the commissioner in the form and containing the information required by the commissioner. A vehicle, tool or implement released pursuant to this subdivision or subdivision b of this section may be used for home improvement activities pending the determination of the commissioner on the license application. In the event that the commissioner denies such application, such use shall cease upon notification of the commissioner's determination. Continuation of such use following notification of denial of a license shall constitute unlicensed activity subject to the fines and other penalties provided in this title. Notwithstanding the provisions of this section, in the event that the owner of the vehicle, tool or other implement is not the person who was found to be in violation of the provisions of section 21-11.2 of this code, such owner may obtain release upon payment of fines and penalties and reasonable costs of removal as provided herein and upon execution of a sworn statement, subject to the provisions of the penal law relative to false statements and satisfactory to the commissioner, that he or she will not permit the person who has violated such provisions to operate the vehicle, tool or other implement in violation of section 21-11.2 of this code.

e. In addition to any other fine, penalty or sanction for violation of section 21-11.2 of this code, the county of Nassau may commence a civil action for forfeiture to such county of any vehicle as such term is defined in subdivision fourteen of section 10.00 of the penal law or any tool or implement when such vehicle is operated or such tool or implement is used by a person who has been found at least two times within any five year period, commencing after effective date of the local law that added this section to have engaged in unlicensed activity in violation of section 21-11.2 of this code and each such determination has included findings that a vehicle, or tool or implement similar to the tool or implement seized was used in connection with such violations. The interest of a lienholder in such property shall not be subject to forfeiture pursuant to this provision, provided, however, that this provision shall not be construed to entitle a lienholder to more than the outstanding balance of the lien.

f. The county may, pending final resolution of the forfeiture proceeding, retain a vehicle, tool or implement subject to forfeiture pursuant to subdivision e of this section and shall apply to the court, after having provided notice as required to the persons or entities set forth in subparagraphs a and d of this section paragraph, within fifteen days of seizure for a prompt hearing to request the court to take measures to protect the public from unlicensed home improvement businesses and to protect the vehicle from destruction or sale during the pendency of the forfeiture proceeding. At such hearing the court shall determine the probable validity of the retention of the vehicle by the county, or other such appropriate measures, including but not limited to an order prohibiting the use of the vehicle, tool or equipment in home improvement activities, the posting of a bond or an order restraining the sale or transfer of title of the vehicle. The hearing shall take into consideration, but not be limited to: (i) the existence of probable cause for the underlying seizure; (ii) the liklihood of success on the merits of the forfeiture action; and (iii) determinations of unlicensed home improvement activities within the past five years.

Notice pursuant to this paragraph to an owner or lienholder shall be to the address recorded with the department of motor vehicles by certified mail, return receipt requested.

g. It shall be an affirmative defense to forfeiture pursuant to this subdivision that a person who claims an interest in a vehicle, tool or implement, establishes to the satisfaction of the court that 1) the use of the vehicle, tool or implement for the conduct that was the basis for seizure occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by doing all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in

the vehicle in order to avoid the forfeiture of such vehicle, or (ii) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle tool or implement while such vehicle, tool or implement was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

h. The county may, after judicial determination of forfeiture, at its discretion either retain such vehicle for official use by the county; or (ii) sell such vehicle at public sale, the proceeds of which shall be deposited into the general fund.

(Added by Local Law No. 10-2004).

§ 21-11.16 **Home Improvement Restitution Fund.**

1. There shall be a fund administered by the Office of Consumer Affairs known as the Home Improvement Restitution Fund.

2. Every home improvement contractor who applies for a license or a renewal of a license pursuant to this title on or after the effective date of this local law, shall pay a one-time fee of $50.00 into the Home Improvement Restitution Fund.

3. The Nassau County Treasurer is hereby authorized, empowered and directed to deposit the collected funds into a separate account and is hereby further authorized to invest the proceeds of this account into any instrument authorized for the investment of reserve funds pursuant to Section 6-F of the General Municipal Law. All proceeds and earnings of such investments shall be retained in the Home Improvement Restitution Fund and shall be utilized solely and exclusively for this account.

4. The proceeds of the Home Improvement Restitution Fund shall be used to compensate an owner or owners who have obtained a judgment from a court of law or final award in arbitration against a licensed home improvement contractor but which is incapable of execution.

5. Payment of Claims from the Home Improvement Restitution Fund.

(A) The Commissioner is hereby authorized to approve a payment from the Home Improvement Restitution Fund in an amount not to exceed $10,000 for any owner who complies with the following conditions:

(1) The owner first files a complaint with the Office of Consumer Affairs against a licensed home improvement contractor subsequent to the effective date of this title.

(2) The owner provides the Commissioner with a certified copy of a final judgment of a court of competent jurisdiction, or a final award in arbitration, with all rights of appeal exhausted, in which the court or arbitrator has found on the merit that the owner is entitled to monetary relief in a sum certain, or a default judgment rendered against the home improvement contractor that the owner is entitled to monetary relief in a sum certain which shall be verified to the satisfaction of the Commissioner by the production of receipts of payments by the owner or owners or other such proof.

(Amended Local Law No. 20-2002, in effect November 15, 2002.)

(B) The Commissioner may authorize payment from the Home Improvement Restitution Fund in an amount not to exceed $10,000 to compensate for monetary damages certified in the

aforementioned judgment or award for non-performance, partial performance, or performance in an unworkmanlike manner by a licensed home improvement contractor.

(C) No compensation from the Home Improvement Restitution Fund shall be made for the following: attorney fees, court costs, personal injury awards; consequential, incidental or punitive damage; loss of income; loss of time.

(D) If, at any time, the amount on deposit in the Home Improvement Restitution Fund, is insufficient to satisfy any approved claim, the Commissioner when a sufficient amount has been deposited in the Home Improvement Restitution Fund, shall satisfy the unpaid claims in the order in which they were received by the Commissioner.

(E) A claim for compensation from the Home Improvement Restitution Fund shall be brought by an owner within 2 years from the date that the judgment or award upon which the claim is made has been filed with the County Clerk.

(F) The Commissioner may pay up to $60,000 from the Home Improvement Restitution Fund where:

(1) The contractor has not maintained sufficient liability insurance to cover the loss; and

(2) The contractor has abandoned the project in such a way as to crate an emergency situation that jeopardizes the health, safety and welfare of the homeowner or residents of the home; and

(3) the Homeowner has made new arrangement with another contractor to ameliorate the dangerous conditions and complete the project; and

(4) The homeowner has otherwise complied with all requirements of Home Improvement Restitution Fund eligibility.

6. Consumer Affairs Review and Disciplinary Actions.

(A) Neither the pendency of a claim or the satisfaction or a claim against the Home Improvement Restitution Fund shall limit the authority of the Commissioner to investigate and to take any action consistent with this title against a contractor.

(B) A contractor whose actions have resulted in the payment of a claim from the Home Improvement Restitution Fund, shall not be issued a home improvement license or a renewal thereof, until the full amount of said claim shall be repaid to the Home Improvement Restitution Fund. Said payment shall not include the $50.00 fee established in this title.

(C) No home improvement contracting license or a renewal thereof shall be issued to a contractor while a claim against the Home Improvement Restitution Fund is pending.

(New section 21-11.16 added by Local Law No. 12-1992, in effect January 1, 1993; paragraph B of subdivision 5 amended, and paragraph F of subdivision 5 added by Local Law10-2005.)

## Title D-2
## Privilege Tax on Coin Operated
## Amusement Devices

(Title D-2 [§ 21-12.0 to 21-12.18] added by Local Law No. 2 1979 in effect April 23, 1979 amended by Local Law No. 10-1984 In effect June 21, 1984; REPEALED by Local Law No. 20-2003, in effect December 31, 2003.)

## Title D-3
## Sale of Water Contaminated
## Gasoline

§ 21.13.0 **Definitions.** For the purposes of this local law, the following words and phrases shall have the meanings indicated.

1. Person. Any natural person, corporation, unincorporated association, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.

2. Operator. The person in charge of a motor-fuel dispensing facility. This term shall specifically include, but not necessarily be limited to, the owner, lessee, manager, assistant manager, or any other person in charge of the operations or activities of a motor-fuel dispensing facility.

3. Motor Fuel. Liquid used as fuel for internal-combustion engines. This term shall specifically include, but not necessarily be limited to gasoline, diesel fuel, and gasohol.

4. Motor Fuel device. A device designed for the measurement and delivery of motor fuel.

5. Motor Vehicle. Shall mean such term as it is or may be defined by the New York State Vehicle and Traffic Law.

6. Motor-Fuel Dispensing facility. Any gasoline station, service station, repair shop, or other place or premises where motor fuel is sold, offered for sale, or allowed to be sold, to the general public at retail.

7. Calendar Day. The time from midnight to midnight, including Sundays and holidays, and as such term is or may be defined and construed by and under the New York State General Construction law §9.

8. Commissioner. The Commissioner of the Nassau County Office of Consumer Affairs.

§ 21-13.1 **Duties of Operator of Motor-Fuel Dispensing Facility.**

A. The operator of a motor-fuel dispensing facility shall be required to measure the level of water contained in each motor fuel storage tank located at such facility at least once each calendar day, on any calendar day during which the facility is open to the public for any portion of such day.

B. In addition to the requirement contained in 21-13.1(A) hereof, the operator of a motor fuel dispensing facility shall also be required to measure the level of water contained in each motor-fuel storage tank located at such facility within one hour after a delivery of motor fuel has been made to any such storage tank, except that if a delivery of motor-fuel is made while a motor-fuel dispensing facility is not open to the public then the obligations of this subsection may be fulfilled by measuring the level of water contained in each storage tank into which motor fuel was delivered within one hour after the motor-fuel dispensing facility opens to the public.

§ 21-13.2 **Prohibitions.**

A. No person shall sell or offer for sale motor fuel from a motor-fuel dispensing facility, unless the operator of such facility has complied with the duties set forth in § 21-13.0 hereof.

B. No person shall sell or offer for sale motor fuel from a motor-fuel device, which draws from a storage tank at a motor-fuel dispensing facility, which contains more than two inches of water.

C. No person shall sell or offer for sale motor fuel from a motor-fuel device which draws from any storage tank during the time in which a delivery of motor fuel is being made to or into such storage tank, unless the operator of the motor fuel dispensing facility shall have measured the level of water contained in any such storage tank immediately before the delivery begins, and determined that the storage tank contains no more than two inches of water.

§ 21-13.3 **Penalties.**

A. The Commissioner or his designated representative shall have the power to impose upon any person who shall violate any of the provisions of this local law a civil penalty of not less than fifty dollars nor more than five hundred dollars for each such violation.

B. No penalty shall be imposed until after a hearing has been held before the Commissioner or his designated representative upon at least five business days' notice to the alleged violator. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the alleged violator, and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations. The alleged violator may be represented by counsel and may produce witnesses in his own behalf.

C. All monies received by the Office pursuant to the provisions of this local law, shall be remitted to the County Treasurer for deposit in the general fund of the County within thirty days after receipt.

§ 21-13.4 **Enforcement.**

This local law shall be enforced by the Nassau County Office of Consumer Affairs.

§ 21-13.5 **Separability.**

If any part of or provisions of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

(Title D-3 Added by Local Law No. 3, 1982, in effect March 8, 1982.)

## Title D-4
## Fuel Delivery Vehicle Identification

§ 21-14.0 **Definitions.**

1. Person. Any natural person, corporation, unincorporated association, firm partnership, joint venture, joint stock association, or other entity or business organization of any kind.

2. Fuel. Any liquid petroleum-based product used for residential heating, which shall include, but not be limited to, kerosene, diesel oil, and those products commonly referred to as #1, #2, #4 and #6 oil.

3. Fuel delivery vehicle. Any motor vehicle as such term is or may be defined in the New York State Vehicle & Traffic Law, which is used to deliver, sell, or offer for sale fuel, as defined herein, for residential home heating use.

4. Commissioner. The Commissioner of the Nassau County Office of Consumer Affairs.

5. Owner. A person, other than a lien holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a fuel delivery vehicle subject to a security interest in another person and also includes any lessee or bailee of a fuel delivery vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

§ 21-14.1 **Vehicle identification.**

1. Required information. Every fuel delivery vehicle shall conspicuously display the following information:

A. The name of the owner. If the owner is a corporation, the name displayed shall be the actual corporate name. If the owner is not a corporation, then the name displayed shall be the complete name under which the business is conducted.

B. The street address of the owner, including the street number, community, and zip code.

C. The telephone number, including the area code, of the owner.

D. If the owner owns or operates more than one fuel delivery vehicle, then each such truck owned or operated by him shall display a number assigned by the owner to the vehicle, which shall be a different number for each such vehicle so owned and operated.

2. Size. All numbers and letters used to display the information required by §21-14.1 (1) hereof shall be legible, clearly visible, and be at least two inches in height and two inch in width.

3. Location. The information required by §21-14.1 (1) hereof shall be displayed upon the driver and the passenger doors of the front or passenger cab or compartment, of the fuel delivery vehicle.

4. Exceptions.

A. The requirements of § 21-14.1 (B) and § 21-14.1 (C) hereof, for the display of street address and telephone number, shall not apply in any case where the owner's name is displayed in accordance with § 21-4.1 (A) hereof, and where the owner's street address and phone number are listed in any current edition of the Nassau County telephone directory, under the owner's name as it is displayed on the fuel delivery vehicle.

B. The requirements of § 21-14.1 (3) hereof concerning the location of the information required to be displayed by. § 21-14.1 (1) hereof shall not apply where the required Information is displayed elsewhere on the fuel delivery vehicle, and the Commissioner grants written approval in accordance with § 21-14.1 (2) hereof.

§ 21-14.2 **Enforcement.**

1. This local law shall be enforced by the Nassau County Office of Consumer Affairs.

2. The Commissioner of the Nassau County Office of Consumer Affairs shall have the power to adopt, after due notice and public hearing, rules and regulations for the enforcement and administration of this local law, including, but not limited to, rules and regulations governing the granting of approval for the display of the information required by § 21-14.1(1) and § 21-14.1(2) hereof, in locations other than that required by § 21-14.1(3) hereof.

§ 21-14.3 **Penalties.**

1. The Commissioner or his designated representative shall have the power to impose upon any person who shall violate any of the provisions of this local law a civil penalty of not less than fifty dollars not more than five hundred dollars for each such violation.

2. No penalty shall be imposed until after a hearing has been held before the Commissioner or his designated representative upon at least five business days' notice to the alleged violator. Such notice shall be the last known address of the alleged violator, and shall state the date and place of hearing as well as enumerate the grounds constituting the allegations. The alleged violator may be represented by counsel and may produce witnesses in his own behalf.

3. All monies received by the Office pursuant to the provisions of this local law, shall be remitted to the County Treasurer for deposit in the general fund of the County within thirty days after receipt.

§ 21-14.4 **Separabillty.**

If any part of or provisions of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or application directly involved In the controversy in which such judgment shall have been rendered and shall affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances.

(Title D-4 added by Local Law No. 1, 1982, in effect February 22, 1982.)

## Title D-5
## Sale of Adulterated Motor Fuel

§ 21-15.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police power to promote the general health, safety and welfare of the residents and inhabitants of the County by enacting this Local Law, since it is the finding of the Board of Supervisors that the marking and content of motor fuel is a desirable consumer practice to insure the safety and the protection of Nassau County consumers against motor fuel being offered for sale which is improperly marked with respect to octane level and lead content.

§ 21-15.1 **Definitions:** As used in this section:

(a) "Consumer," shall mean any person, individual, purchaser or recipient, or prospective purchaser or recipient of motor fuel.

(b) "Merchant" shall mean any person, individual, partnership, firm or corporation who offers for sale motor fuel to consumers.

(c)"Commissioner" shall mean the Nassau County Commissioner of Consumer Affairs.

(d) "Motor Fuel Pump" shall mean any dispenser, or machine to dispense motor fuel.

(e) "Adulterated Motor Fuel" shall mean the mixing of a lesser grade of octane or lead fuel with a higher grade of octane or lead fuel resulting in a lower quality motor fuel.

(f) "Distributor" shall mean any person who transports, stores or causes the transportation or storage of motor fuel.

(g) "Motor Vehicle" shall have the same definition as that which is set forth in New York State Vehicle and Traffic Law.

(h) "Octane Rating" shall mean the measurement of certain characteristics of motor fuel which are determined by the American Society for Testing and materials analytical method, more properly described as the R+M octane rating.

(i) "Motor Fuel" shall mean any fuel sold for the use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline, including diesel fuel.

(j) "Unleaded Gasoline" shall mean gasoline containing not more than a 0.05 gram of lead per gallon and not more than a 0.005 gram of phosphorus per gallon.

(k) "Leaded Gasoline" shall mean gasoline which is produced with the use of any lead additive or which contains more than a 0.05 gram of lead per gallon or more than a 0.005 gram of phosphorus per gallon.

(l) "Motor Fuel Product Storage Identification" shall mean the fill connection for any motor fuel product storage ground tank or vessel supplying motor fuel, used by the merchant, shall be permanently, plainly, and visibly marked as to the product contained. When the fill connection is marked by means of color code, the code key shall be conspicuously displayed at the place of business.

§ 21-15.2 **Marking of Motor Product Fuel Pumps.**

(a) Each merchant shall mark every motor fuel pump with an octane rating sticker which shall indicate the octane rating of the motor fuel as prescribed by the rules and the regulations promulgated by the Commissioner.

(b) All merchants must maintain accurate records establishing the source of delivery of motor fuel to their stations for a period of one (1) year to insure the security and accessibility for Inspection by weights and measures officials.

§ 21-15.3 **Penalties.**

(a) Any merchant who is found to be offering for sale Adulterated Motor Fuel will be strictly liable for his actions.

(b) Any merchant who fails to comply with Section 21-15.2 (a), (b) and (c) shall be guilty of a misdemeanor, subject to a penalty of one thousand ($1,000.00) dollars per occurrence, plus the cost of the investigation.

§ 21-15.4 **Enforcement.** This Local Law and the provisions thereof shall be enforced by the

Nassau County Office of Consumer Affairs. Upon presentation of appropriate credentials, Consumer Affairs shall have the right to enter upon any retail outlet, or the premises or property of any distributor in Nassau County, and shall have the right to make inspection, take samples and conduct tests to determine compliance with this part of the Local Law. The Commissioner shall have authority to determine the facts and hold a hearing upon application by the merchant against whom any penalty has been assessed. The Commissioner, or his designee, may remit, compromise, mitigate, settle or release any such forfeiture upon all such applications, after a hearing.

§ 21-15.5 **Separabillty.** If any part of or provisions of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law, or the application thereof to other persons or circumstances.
(Title D-5 Added by Local Law No, 8.1985, in effect September 24, 1985.)

## Title D-6
## Licensing of School Bus Companies

§ 21-16.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police power, to promote the general health, safety and welfare of its residents by enacting this legislation, since it is the finding of the County Executive and the Board of Supervisors that the licensing of school bus companies is a desirable practice to insure the safety and the protection of its residents with respect to the safe operation of school buses within the County of Nassau.

§ 21-16.1 **Definitions.**

(a) "Commissioner" shall mean the Commissioner of Consumer Affairs.

(b) “County" shall mean the County of Nassau, the County Executive or the Board of Supervisors of the County of Nassau.

(c) "License shall mean a license issued by the Commissioner to a school bus company for the purpose of transporting all individuals to and from a school within the County of Nassau.

(d) "Management Personnel" shall mean persons who are principals in a school bus company or who are employed by a school bus company and are responsible for assisting in the business of a school bus company and vested with such discretion and judgment as to accomplish the business purpose of a school bus company.

(e) "School" shall mean every place of academic, vocational or religious service or Instruction and places of higher education. It shall include every childcare center, day treatment center, every institution for the care or training of the mentally or physically handicapped and every day camp.

(f) "School Bus" shall mean every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, teachers and other persons and those acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, teachers and other persons or those acting in a supervisory capacity to or from school or school activities.

(g) "School Bus Company" shall mean a person, company, corporation or any other legal entity which owns, leases or operates a transportation service within the County of Nassau in

the business of transporting individuals to and from a school pursuant to a contract with a municipality, school district or any other school, whether public, private, parochial or person. It shall also include a school district which owns, leases or operates its own buses.

(h) "School District" shall mean an entity as defined in Section 3621 or Section 1950 of the Education Law.

§ 21-16.2 **Licenses Required.** No school bus company shall own, maintain, conduct, operate or engage in a transportation service for individuals, or hold itself out as being able to do so after the effective date of this Title, unless it is licensed in accordance with the provisions of this Title.

§ 21-16.3 **Applications for Licenses.** Applications for licenses shall be made in writing to the Commissioner, be verified under oath and shall be in such form and contain such information as the Commissioner may require including, but not limited to:

(a) The name and address of the applicant, address of the place from which school buses are proposed to be garaged and dispatched, specifying, in the case of any unincorporated association or partnership, the names and addresses of each member or partner thereof and In the case of any corporation, the names and addresses of each officer.

(b) All crimes of which the applicant or any member or partner thereof, if any, unincorporated association or partnership or any officer, if a corporation, has been convicted, stating the name, and location of the Court and the date on which such convictions were had and the penalties imposed therefore.

(c) The experience of the applicant in the transporting of individuals to and from schools and school activities.

(d) Any, facts which tend to prove that the general health, safety and welfare of individuals being transported to and tram school and school activities requires the granting of a license to the applicant.

(e) The names and addresses of all schools the applicant is presently transporting for or anticipates transporting for at the time a license may be issued.

(f) The number of vehicles proposed to be operated by the applicant and a description of each such vehicle, including the make, model, year of manufacture, New York State registration number, vehicle identification number, and bus number thereof.

(g) The location of any and all depots and terminals proposed to be used by the applicant.

(h) Certificates of insurance evidencing public liability and property damage coverage in limits required by law.

(i) Any other relevant information which the Commissioner may require.

§ 21-16.4 **Licenses; Decals; Renewals; Duplicates; Hearings.**

(a) All licenses, except temporary licenses, shall be for a period of one year from the date of issuance and shall expire on the last day of the twelfth month following issuance.

Notwithstanding the foregoing, licenses issued on or before July 31, 1988 shall expire on that date and all further renewals or new licenses shall take effect on the first day of August of the year of issuance or such other date that the Commissioner determines.

(b) No license shall be assignable or transferable except as hereinafter provided. A license

issued to an individual may be assigned or transferred for the remainder of the license period to a partnership or corporation if such individual is a member of such partnership or a stockholder of such corporation owning not less than twenty-five percent of the outstanding stock at the time of such assignment or transfer. A license issued to a partnership may be assigned or transferred for the remainder of the license period to any one member of such partnership provided he obtains the consent of all of the other members of such partnership. The application for such transfer or assignment must be accompanied by proof satisfactory to the Commissioner that the requirements herein provided have been complied with. No assignment or transfer shall become effective unless and until the endorsement of the transfer or assignment has been made on the face of the license by the Commissioner and such license, so endorsed, has been returned to the assignee or transferee. All such endorsements shall be made upon payment of a fee of two hundred fifty dollars.

(c) Upon the issuance of a license to an applicant, a decal shall be issued for each vehicle set forth in the application pursuant to § 21-16.3(f) of this title, which decal shall be conspicuously displayed on the vehicle beneath the first passenger window on the left side of the vehicle. No school bus shall be permitted to operate within the County of Nassau without a decal.

(d) Any license which has not been suspended or revoked, may, at the discretion of the Commissioner, upon the payment of the renewal fee prescribed by this title, be renewed for an additional period of one year from its expiration, upon filing of an application for such renewal on a form to be prescribed by the Commissioner. Failure to make application for such renewal within fifteen days after the expiration date of the license shall subject the licensee to a penalty of ten percent of the annual license fee which shall be paid prior to the issuance of the renewal.

(e) A duplicate license may be issued for one lost, destroyed or mutilated upon application therefore on a form prescribed by the Commissioner and the payment of a fee of one hundred dollars prescribed therefore by this Title. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

(f) The Commissioner shall issue replacement decals to a school bus company only in the event that a school bus company notifies the Commissioner in writing that a decal has been lost, mutilated or stolen or that a vehicle covered by the license has been removed from service and replaced by another vehicle. The school bus company must include in its notification letter the New York State registration number, vehicle identification number and bus number for any vehicle requiring a replacement or new decal as well as for any vehicle being removed from service. A fee of ten dollars shall be paid by a school bus company for each replacement decal issued by the Commissioner.

(g) The Commissioner may, in his discretion, before the issuance of a license under this Section, require the applicant and any others having knowledge of the facts to submit to an examination under oath and to produce evidence relating thereto.

(h) The Commissioner shall determine the month in which a school bus company shall renew any license issued under this Title.

§ 21-16.5 **Fees.**

(a) Notwithstanding any other fees set forth in this Title, a fee of five hundred dollars shall be paid to the County of Nassau to obtain a license. Additionally, there shall be a fee of ten dollars for each decal required by an applicant.

(b) The fees set forth in subdivision (a) of this section shall be those for licenses issued for the license period of one year.

(c) The Commissioner shall refund the fee paid by any applicant in the event the application for a license is denied, less an administrative fee of two hundred fifty dollars which shall be retained by the Commissioner. No refund shall be made to school bus companies which have had their licenses suspended or revoked in accordance with the provisions of this Title.

(d) Notwithstanding the provisions of this section the fees set forth herein shall not be applicable to a school district which owns, leases or operates its own buses.

§ 21-16.6 **Powers of the Commissioner.** In addition to the powers and duties elsewhere prescribed in this Title, the Commissioner shall have the power:

(a) To appoint such officers and employees, within the appropriation therefore, as he shall deem necessary for the performance of his duties;

(b) To examine into the qualifications and fitness of applicants for licenses under this Title;

(c) To keep records of all licenses issued, suspended or revoked;

(d) After a public hearing. to adopt such rules and regulations not inconsistent with the provisions of this Title as may be necessary with respect to the form and content of applications for licenses, the receipt thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to his powers and duties as prescribed by this Title and for the proper administration and enforcement of the provisions of this title, and to amend or repeal any of such rules and regulations;

(e) In the event that an applicant for a license has outstanding examinations, hearings, investigations, complaints or proceedings with the Office of Consumer Affairs, to issue a temporary license. Said temporary license shall be for a period and under conditions to be determined by the Commissioner. Said temporary license shall have no effect upon the merits of the outstanding matters of the applicant pending in the Office of Consumer Affairs;

(f) To subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this Title and to examine them in relation thereto;

(g) To extend the time for the affixation of decals as required by § 21-16.4(c) for a period of not more than thirty days.

(h) To obtain information from any law enforcement agency regarding the criminal history of any owner, partner, member, officer and/or employee of a school bus company including but not limited to any driver or matron.

§ 21-16.7 **Bus Inspections.** The Commissioner, his designee and/or the Nassau County Police Department shall be empowered to, conduct physical inspections of all school buses operating in Nassau County whether or not the school buses display the appropriate decal. These inspections shall take place at any time during which the school bus is in service or at such other times as may be prescribed by the Commissioner. The inspection and testing may consist of, but not be limited to:

(a) Proper documentation in possession of the school bus driver

(b) Seatbelt installation and usage, seats securely fastened, car seats where required

(c) Horn

(d) Windshield, windshield wipers, defroster

(e) Brakes, brake linings

(f) Lights: headlights, taillights, brake lights, plate light, back-up lights, interior lights, emergency flashers, directional

(g) Fuel tank and fuel lines (h) Fire extinguisher, first aid kit

(i) Mirrors, windows, safety glass

(j) Electrical system, wiring, battery cables

(k) Flares and/or reflectors

(l) Exhaust system, pollution control devices

(m) Radios where required

(n) Rear emergency doors and buzzers

(o) School bus signs

(p) Tires, wheels, lug nuts

(q) Emergency windows and buzzers

(r) Color: National School Bus Chrome (s) Steering mechanism

(t) Floor, floor covering, interior body panels (u) Undercarriage, suspension drive shaft

(v) Axles, frame

(w) Dash board-no unsecured items

(x) Transmission fluid, oil-no leaks

(y) Wheelchairs where required

(z) Other apparatus where for use by handicapped passengers

Failure, inadequacy, excessive deterioration or absence of any of the above equipment or any other equipment failures may result in the issuance of appearance tickets. Additionally, such violations shall be recorded with the Commissioner and shall be considered at the time of a license application, renewal or hearing.

§ 21-16.8 **General Provisions.**

(a) School bus companies shall certify to the Commissioner under oath in writing at the time application is made for new license, a renewal license or a duplicate license that it is in full compliance with all federal, state and local laws and regulations including, but not limited to Article 73 of the Education Law of the State of New York, the New York Transportation Law, the New York Mental Hygiene Law and the New York Vehicle and Traffic Law.

(b) School bus companies licensed pursuant to this Title shall notify the Commissioner of pre-service instruction courses and all refresher courses given to its drivers. The notice shall be in writing to the Commissioner and must be provided at least ten days prior to the conducting of

any course. The Commissioner, his designee and/or the Nassau County Police Department shall have the absolute right to attend and monitor any courses given. School bus companies shall certify to the Commissioner under oath in writing that the courses referred to in this section have been completed by their drivers. A list of the drivers completing the courses shall be made a part of the certifications.

(c) School bus companies shall provide the Commissioner with a list of schools they are transporting for together with the name(s) and telephone number(s) of contact person(s) at each school. This list shall be updated by the school bus companies as changes occur upon any addition or deletion of a school.

(d) School bus companies shall have all vehicles used by them for school transportation inspected by inspectors certified by the New York State Department of Transportation at intervals not to exceed six months. School bus companies shall certify to the Commissioner under oath in writing, semi-annually, that such inspections have taken place. The names of the inspectors shall be included in the certification, together with the vehicle bus numbers.

(e) School bus companies shall maintain precise records of all complaints and accidents involving any of their licensed motor vehicles. Additionally, all traffic infractions committed by their drivers in the performance of their duties shall be immediately reported to the Commissioner.

(f) School bus companies shall provide each licensed motor vehicle with a pre-trip inspection log. There shall also be a medical summary sheet for passengers, where available and necessary. The pre-trip inspection log and medical summary sheet shall be in the form approved by the Commissioner. It shall be the responsibility of the school bus companies and/or their drivers to certify compliance with all items contained on the pre-trip inspection log prior to a licensed motor vehicle being place in service each day.

§ 21-16.9 **Refusal, Suspension and Revocation of Licenses.** A license to conduct, operate or engage in the transportation of individuals to and from a school as previously set forth in this Title may be refused, suspended or revoked by the Commissioner or his designee or fines imposed as hereinafter set forth for anyone or more of the following causes:

(a) Fraud, misrepresentation or bribery in securing a license or renewal thereof.

(b) The making of any false statement as to a material matter in any application for a license or renewal thereof.

(c) The school bus company is not financially responsible.

(d) The management personnel and/or drivers or matrons of the school bus company are untrustworthy or not of good moral character.

(e) The management personnel and/or drivers fail to comply with the provisions of the New York State Vehicle and Traffic Law.

(f) The business transactions of the school bus company have been marked by a failure to perform its transportation contracts.

(g) The willful manipulation of assets or accounts by the school bus company.

(h) Failure to display the decals on the school buses as required.

(i) Repeated violations of any provision of this Title, or of any rule or regulation adopted hereunder.

§ 21-16.10 **Hearings on charges; decisions.** No license shall be suspended or revoked nor a fine imposed until after a hearing had before an officer or employee of the Commissioner designated for such purpose by the Commissioner upon notice to the school bus company of at least ten days except otherwise provided in this section. The notice shall be served by registered or certified mail and shall state the date and place of hearing and set forth the ground or grounds constituting the charges against the school bus company, and if the school bus company fails to attend such hearing, the Commissioner shall revoke the license of said school bus company licensee. The school bus company shall be heard in its defense either in person or by counsel and may offer evidence on its behalf. A stenographic record of the hearing shall be taken. The person conducting the hearing shall make a written report of his findings and a recommendation to the Commissioner for decision. The Commissioner shall review such findings and the recommendations and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation. For the purpose of this Title, the Commissioner or any officer or employee of the department designated by him may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of investigation, pursuant to Section twenty-two hundred thirteen of the County Government Law of Nassau County.

§ 21-16.11 **Fines.** A violation of any provision of this Title shall be a violation which shall be punishable by a fine of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for the second and each subsequent violation.

§ 21-16.12 **Violations and Penalties.** Any school bus company which provides school transportation as set forth in this Title without having obtained a license therefore, or having had a valid license which has been suspended or revoked, shall be guilty of a Class A Misdemeanor and subject to the punishment provided therefore. Each such violation shall be deemed a separate offense.

§ 21-16.13 **Separability.** If any part of, or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances.

(Title D-6 added by Local Law No. 4-1987, in effect October 15, 1987.)

(Note- Title D-6 was declared invalid in the case of Board of Education of the Farmingdale Union Free School District v. Gulotta, 157 A.D.2d 642 (Second Department 1990) on the grounds that it was preempted by state law.)

## Title D- 7
## Required Posting of Tax-exempt Foods and Drugs

§ 21-17.0 **Legislative Intent.** It is the intent of the County of Nassau, as an exercise of its police power, to promote the general health, safety and welfare of its residents by enacting this title. It is further determined that it is the finding of the County Executive and the Board of Supervisors that the posting of tax-exempt food and drug items is a good consumer practice necessary to avoid County residents and others from being overcharged for items purchased in retail establishments in Nassau County.

§ 21-17.1 **Conditions.**

(a) "Commissioner" shall mean the Commissioner of Consumer Affairs.

(b) "County" shall mean the County of Nassau.

(c) "Person" shall mean any individual, partnership, corporation, joint venture, joint stock company, corporate entity of any type, an unincorporated association or any other person acting In a judiciary or representative capacity, whether appointed by a court or otherwise and any combination thereof.

(d) "Office" shall mean the Nassau County Office of Consumer Affairs.

(e) "Retail Establishment" shall mean any legal entity which sells food to the public for human consumption or sells drugs and medicines intended for use internally or extremely, in the cure, mitigation, treatment or prevention of illness or diseases in human beings and is responsible for the collection of New York State retail sates tax imposed under subdivision (a) of section eleven hundred five and section eleven hundred ten of the Tax Law of the State of New York Except that any retail sales establishment which shall have less than $3,000,000 gross sales on an annualized basis shall be exempt unless such retail establishment is a part of a network, franchise, affiliate or other owned or member stores under direct or common control which has gross sales in excess of $3,000,000 annually. Also excluded from this definition shall be any legal entity which has less than three (3) percent of gross sates, by dollar value, of tax-exempt items.

(f) "List" shall mean an official publication of the New York State Department of Taxation and Finance numbered 820, 822 and 880 and/or their successors or replacements containing the description of taxable and exempt foods or drugs and medicines.

(g) "Posting" shall mean to place in full public view by pinning, tacking, gluing or otherwise displaying in a prominent, clear, unobstructed location where viewing thereof by employees and the public can be had in the area of the vicinity of the "check out area" or in such area near any cash register where consumers may purchase their goods, a list of foods or drugs and medicines, as the case may be, the receipts of which shall be exempt from New York State Sales and Use Taxes.

§ 21-17.2 **General Provisions.**

(a) Any retail establishment within the County of Nassau shall be required to post or otherwise make available to the public, a list of those foods or drugs and medicines, as the case may be, the receipts of which shall be exempt from the tax on retail sales imposed under subdivision (a) of section eleven hundred five and the compensating use tax imposed under section eleven hundred ten of the Tax Law of the State of New York, as amended.

(b) It shall be the duty of the retail establishment to obtain and post or otherwise to make available to the public the list received from the New York State Department of Taxation and Finance. Any updated list issued by the New York State Department of Taxation and Finance shall be posted or otherwise made available to the public within six months of availability.

(c) No retail establishment which is not required by law to collect sales and use tax under subdivision (a) of section eleven hundred five and section eleven hundred ten of the Tax Law of the State of New York shall be affected by these provisions.

§ 21-17.3 **Enforcement.** The provisions of this title shall be enforced by the Office. Upon presentation of appropriate credentials, the Office shall have the night to enter upon the premises of any retail establishment to make an inspection and to determine compliance with the provisions of this title.

§ 21-17.4 **Hearing.** A hearing shall be had on each violation at a date to be scheduled not

less than five (5) business days after notification to the person involved of such hearing and the charges and specifications thereof. Such hearing shall be conducted by an officer or employee designated by the Commissioner for such purpose. The person conducting the hearing shall make a written determination. Such determination may be appealed to the Commissioner who, after due deliberation, shall issue an order accepting, modifying or rejecting such determination.

Notice shall be served upon such person either personally or by certified mail and shall state the time, date and place of such nearing and shall set forth the ground or grounds constituting the charges.

The person against whom the charges are pending has the right to be heard in his defense and be represented by counsel, or have counsel appear on his or her behalf and such person or the attorney for such person shall have the right to call witnesses and produce evidence on behalf of such person. For the purpose of this title, the Commissioner or any officer or employee of the Office designated by him may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of the investigation, pursuant to section twenty-two hundred thirteen of the County Government Law of Nassau County.

§ 21-17.5 **Penalty for Violations.** Any retail establishment violating any provisions of this title shall be issued a warning for the first violation and shall have ten days to comply. Thereafter, a violation shall be punishable by a civil penalty to the County of Nassau of not more than $50.00 for a second violation or the failure to correct the first violation and not more than $250.00 for any subsequent violations.

§ 21-17.6 **Settlements.**

(a) In lieu of instituting or continuing an action or proceeding, the Commissioner may accept written assurance of discontinuance of any act or practice in violation of this title.

(b) An assurance entered into pursuant to this title shall not be deemed an admission of a violation unless it does so by its terms. Violation of an assurance entered into pursuant to this title shall be treated as a violation and shall be subject to all the penalties provided therefore.

§ 21-17.7 **Separability.** If any part of, or provisions of this title or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined In its operation to the part of or the provision of or application directly Involved in the controversy In which such judgment shall nave been rendered and shall not affect or impair the validity of the remainder of this title or the application thereof to other persons or circumstances.

(Title D-7 added by Local Law No. 5, 1989, in effect June 19, 1989.)

## Title D-8
## Item Pricing and Pricing Accuracy


| | | |
|---|---|---|
| Section | 21-18.0 | Legislative Intent |
| | 21-18.1 | Definitions |
| | 21.18.2 | Item Pricing |
| | 21-18.3 | Pricing Accuracy |
| | 21-18.3.1 | Waiver from Item Pricing |
| | 21.18.4 | Enforcement |
| | 21-18.5 | Regulations |
| | 21-18.6 | Separability |

§ 21-18.0 **Legislative intent.** The Board of Supervisors recognizes that clear, accurate Item pricing is a basic consumer right that is not protected under current state law. It is further determined that it is the intent of this legislation to ensure that consumer goods offered for sale in the County of Nassau are clearly, accurately and adequately marked as to selling price.

§ 21-18.1 **Definitions.**

(a) "Commissioner" shall mean the Commissioner of Consumer Affairs.

(b) "County" shall mean the County of Nassau.

(c) "Person" shall mean an individual, firm, partnership, association or corporation.

(d) "Office" shall mean the Nassau County Office of Consumer Affairs.

(e) "Computer, assisted checkout system" shall mean any electronic device, computer system or machine which determines the selling price of a stock keeping item by interpreting its universal product code, or by use of its price look-up function.

(f) "Inspector" shall mean the Commissioner or authorized agent to enforce the provisions of this Title.

(g) "Item price" shall mean the tag, stamp or mark affixed to a stock keeping item which sets forth, in Arabic numerals, the retail price.

(h) "Price look-up function" shall mean the capability of any checkout system to determine the retail price of a stock king item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

(i) "Retail store" shall mean a store selling stock keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with member pursuant to this section a retail store shall not include any store which:

1.) has as its only full-time employee the owner thereof, or the parent, or the spouse or child of the owner, or in addition thereto, not more than two full-time employees; or

2.) had annual gross sales in a previous calendar year of less than three million dollars, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous calendar year of three million dollars or more; or

3.) engages primarily in the sale of food for consumption on the premises or in a specialty trade which the Commissioner determines, by regulation, would be inappropriate for item pricing.

(j) "Sale Item or weekend special" shall mean stock keeping item offered for sale for a period of seven days or less in a retail store at a price below the price, that the item is usually sold for in such drugstore

(k) "Stock keeping unit" shall mean each group of items offered for sate of the same brand name, quantity of contents, retail price, and variety within the following categories:

1.) food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose; and

2.) napkins, facial tissues, toilet tissues, and any disposable wrapping or container for the storage, handling or serving of food; and

3.) detergents, soaps, other cleansing agents, and cleaning implements; and

4.) non-prescription drugs, feminine hygiene products and health and beauty aids.

(l) "Stock keeping item" shall mean each item of a stock keeping unit offered for sale.

(m) "Universal product coding" shall mean any system of coding which entails electronic pricing.

§ 21-18.2 **Item Pricing.**

(a) notwithstanding the provision of any local law or regulation to the contrary, every person who sells, offers for sale or exposes for sale in a retail store a stock keeping unit that bears a universal product code shall disclose to the consumer the item price of each stock keeping item as defined in section 21-18.1(g).

(b) Certain items exempted. The following stock keeping items need not be item priced as provided in subdivision a of this section provided that a shelf price adjacent to the display is maintained for such stock keeping items:

(1) Stock keeping items which are under three cubic inches in size, and weigh less than three ounces, and are priced under fifty cents.

(2) Items sold through a vending machine.

(3) Milk.

(4) Eggs.

(5) Loose fresh produce.

(6) Stock keeping items which are offered for sale in single packages and weighing three ounces or less.

(7) Stock keeping items offered as a sale item or weekend special.

(8) Strained and junior size baby foods packaged in jars.

(9) Single cans or bottles of soda where the selling price for different flavors packaged in identical sizes or quantities is the same.

(10) Stock keeping items which are displayed for sale in bulk which are either packaged for or by the consumer.

(11) Snack foods such as cakes, gum, candies, chips and nuts offered for sale In single packages and weighing five ounces or less.

(12) Food sold for consumption on premises, and

(13) Frozen juice and ice cream.

(c) The provisions of this section may be subsequently modified or amended by order of the Commissioner, either by adding or deleting stock keeping units from the list of exemptions or by further directing the manner in which the selling price of exempted stock keeping units shall be posted.

§ 21-18.3 **Pricing Accuracy.**

(a) No retail store shall charge a retail price for any exempt or non-exempt stock keeping item which exceeds the lower of any item, shelf, sale or advertised price of such stock keeping item. In the event that the price exceeds the lowest price a store is permitted to charge for a stock keeping unit, the store will be subject to a penalty as described in section 21-18.4.

(b) In a store with a laser scanning or other computer assisted checkout system, the inspector shall be permitted to compare the item, shelf, sale, or advertised price of anyone stock keeping item within a stock keeping unit sold in the store with the programmed computer price.

21-18.3.1 **Waiver from Item Pricing**

(a) Every person, store, firm, partnership, corporation, or association which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in section 21-18.2 of this Title may make an application in writing to the Commissioner for a waiver of said item pricing requirement. A separate application shall be required for each store. Each application shall be subject to a non-refundable waiver fee based upon the gross square[2] of each store as set according to the following schedule:

| Gross store size | Waiver fee |
|---|---|
| Under 3,000 sq. ft. | $ 500.00 |
| Between 3,001 and 10,000 Sq. Ft. | $1,000.00 |
| Between 10,001 and 30,000 Sq. Ft. | $3,000.00 |
| Over 30,001 Sq. Ft. | $5,000.00 |

(b) Waiver applications and the required fee must be received at the Office of Consumer Affairs on or before May 1, 2003, and on or before each May 1, thereafter. Stores that fail to comply will be subject to §21-18.2 of this code. New stores or establishments which did not previously hold waivers may apply after the May 1 deadline and the application fee and the length of waiver will be prorated accordingly.

(c) Upon receipt of an application and fee as provided in subsection (a) of this section, the Commissioner shall cause to be conducted two scanner accuracy inspections of the store for which the application has been submitted. These inspections shall be conducted on two separate days, and in the manner prescribed by the Commissioner. A minimum of one hundred stock keeping units shall be checked at each inspection. If, considering both inspections together, the number of stock keeping units found to be in violation does hot exceed two percent of all those stock keeping units inspected, the Commissioner shall grant to the applicant a one year revocable waiver from the item pricing requirement. Any store with a current waiver shall be exempt from the requirements of §21-18.2 of this code.

(d) A waiver from item pricing shall be valid for a period of one year from the date of

[2] So in Local Law

issuance. Stores must reapply annually for renewal of waiver at the rates established in subsection (a) of this section. The waiver fee and two inspections shall be required for each annual renewal application, as required for an original waiver application.

(e) In the event that total violations in excess of two percent are discovered in the inspections provided for herein, the Commissioner shall not grant a waiver to the applicant. Such a store may reapply for a waiver and pay an additional waiver fee equal to one-half of the initial waiver fee to the Commissioner within five business days after being notified of the failure. Stores which do not reapply must be in compliance with all the requirements of this code within thirty days from the date of failure.

(f) In the event that the Commissioner is unable to conduct inspections pursuant to subsection (c) of this section within ninety days of receipt of a complete waiver application and proper waiver fee, the Commissioner shall grant a temporary waiver pending completion of the inspections. The Commissioner shall cause said inspections to be completed as soon as practicable. If, upon completion, the inspections detect a violation rate of less than two percent, the Commissioner shall issue a regular waiver with an expiration date one year from the date of the temporary waiver. If the inspections detect a violation rate in excess of two percent, the temporary waiver shall be immediately revoked and the provisions of subsection (e) shall apply.

(g) As a condition of the waiver from item pricing pursuant to this section, each store which accepts a waiver must agree to meet the following requirements, and no regular or temporary waiver shall be granted to a store which has not agreed to these requirements in writing:

(i) The store shall designate and make available price check scanners to enable consumers to confirm the price of the stock keeping item. These price check scanners shall be in locations convenient to consumers with signs of sufficient sized lettering to identify the units to the consumers. Stores will submit their proposed sign and device locations to the Commissioner for approval; and

(ii) The store shall not charge any customer a price for any stock keeping item which exceeds the item, shelf, sale, or advertised price, whichever is less; and

(iii) The store shall make prompt payment to consumers who have been overcharged and shall correct all pricing errors identified by consumers.

(h) The Commissioner may revoke a waiver from item pricing for any of the following reasons:

(i) Failure to comply with any provisions of this code;

(ii) Deliberate overcharging of any consumer;

(iii) Material misrepresentation in the application for a waiver.

(Added by Local Law No. 20-2002, in effect November 15, 2002.)

§ 21-18.4 **Enforcement.**

(a) The provisions of this section shall be enforced by the Office. Upon presentation of appropriate credentials, the Office shall have the right to enter upon the premises of any retail store to make an inspection and to determine compliance with the provisions of this Title.

(b) Item pricing inspection procedures. For the purposes of determining a store's compliance with the requirements of section 21-18.2, an inspection shall be conducted of a sample at no less than twenty-five stock keeping units.

(c) For the purpose of a violation of section 21-18.2(a), no item shall be cited more than once in a forty-eight hour period.

(d) With respect to the item price of any exempt item, the Commissioner, in his discretion, may direct a retail store to post a sign in a conspicuous and unobstructed location in the manner and form prescribed by him.

(e) Laser scanner accuracy inspection procedures. For any inspection under section 21-18.3, the store representative shall afford the inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.

(f) Stop removal order. The inspector shall have the authority to issue a stop removal order with respect to any stock keeping unit being used, handled, or offered for sale in violation of sections 21-18.2 and 21-18.3. Any such order shall be in writing and direct that the stock keeping item shall be removed from sate pending correction.

(g) A violation pursuant to section 21-18.2(a) shall exist any time three or more items within a stock keeping unit are found not to be property item priced. If a stock keeping unit consists of less than three items, failure to item price one or more items shall constitute a violation.

(h) Penalties for violations. Any person who fails to comply with the provisions of this title or any regulation or order promulgated thereunder with the exception of section 21-18.4(d) of this title, shall be subject to civil penalties of not more than fifty dollars per violation, not to exceed one thousand dollars per inspection. A person who fails to comply with the provisions of section 21-18.4(d) shall be subject to a civil penalty of not more than one hundred fifty dollars per violation, not to exceed one thousand dollars per inspection. Such civil penalties may be recovered after a hearing. For additional violations during a subsequent inspection In a twelve month period, the above civil penalties shall be doubled.

(i) Settlement.

1.) In lieu of instituting or continuing a hearing to recover a civil penalty or penalties, the Commissioner may release, settle or compromise any alleged violation by accepting written assurance of discontinuance of any act or practice in violation of this Title.

2.) An assurance entered into pursuant to this Title shall not be deemed an admission of a violation unless it does so by its terms. Violation of an assurance entered into pursuant to this Title shall be treated as a violation and shall be subject to all the penalties provided therefore.

(j) Hearing.

1.) A hearing held on any violation or violations of the provisions of this Title shall be scheduled on a date not less than five (5) business days after notification to the person involved, of such hearing. The hearing shall be conducted by an officer or employee designated by the Commissioner for such purpose. The person conducting the hearing shall make a written determination. Such determination may be appealed to the Commissioner who, after due deliberation, shall issue an order accepting, modifying or rejecting such determination.

2.) Notice shall be served upon such person either personally or by certified mail and shall contain a concise statement of the facts constituting the alleged violation or violations as well as setting forth the date, time and place the hearing will be held.

3.) At the hearing conducted by the officer or employee designated by the Commissioner, the Office shall be authorized to recover any penalty imposed as the result of a finding of a violation of the provisions of this Title.

4.) The person against whom the charges are pending has the right to be heard in his defense and be represented by counsel, or have counsel appear on his or her behalf and such person or the attorney for such person shall have the tight to call witnesses and produce evidence on behalf of such person. For the purpose of this title, the Commissioner or any officer or employee of the Office designated by him may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents pertinent to the subject of the investigation, pursuant to section twenty-two hundred thirteen of the County Government Law of Nassau County.

§ 21-18.5 **Regulations.** In addition to the powers and duties elsewhere prescribed in this title, the Commissioner shall have the power to adopt, amend or rescind after a public hearing, such regulations as may be necessary to effectuate the purposes of this title with respect to item pricing and pricing accuracy. At least seven days prior notice of such public hearing shall be published in the official newspaper of the County. A copy of the regulations adopted hereunder and any amendments thereto shall be filed in the office of the Clerk of the Board of Supervisors.

§ 21-18.6 **Separability.** If any part of or provision of this title or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or the provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Title or the application thereof to other persons or circumstances.
(Title D-6 added by Local Law No. 11, 1991, in effect October 7, 1991.)

## Title D-9[3]
## Tax Assessment Reduction Services


| | | |
|---|---|---|
| Section | 21-19.0 | Legislative Intent |
| | 21-19.1 | Definitions |
| | 21-19.2 | Unlawful Activity |
| | 21-19.3 | Penalties |
| | 21-19.4 | Enforcement of Contracts and Agreements |
| | 21-19.5 | Title Not Exclusive Remedy |
| | 21-19.6 | Separability |


(Title redesignated D-9 and sections renumbered by Local Law No. 20-2002, in effect November 15, 2002.)

§ 21-19.0 **Legislative Intent.**

The Board of Supervisors hereby finds that homeowners within the County of Nassau have been victimized in a significant amount by services which offer, for a fee or other compensation, to assist homeowners in obtaining a reduction in the assessed valuation of their residences. These tax assessment reduction services, have, in many instances, among other things: taken retainers for services which were never rendered; failed to clearly state their fee schedule; misrepresented themselves as part of or affiliated with a governmental agency; and falsely stated or implied that such a service was required to be retained in order for a tax assessment

[3] There are two Titles D-9

to be reduced.

The Board of Supervisors finds that these and other improper activities by tax assessment reduction services threaten the financial well being of the residents of this county and impede the proper functioning of this county government.

Therefore, the purpose of this title is to regulate the conduct of tax assessment reduction services which do business in Nassau County so as to deter if possible and, where necessary, appropriately punish, the types of abuses previously described in part in this title, all in order to protect the welfare of the residents of this county.

§ 21-19.1 **Definitions.**

A. "Person" shall mean any natural person, individual, firm, partnership, association, entity or corporation.

B. "Dwelling" shall mean a one, two or three family owner-occupied structure, including a separately secured or occupied unit within such a structure, used primarily for residential purposes.

C. "Owner" shall mean the last person in whose name the affected dwelling appears in the records of the Nassau County Clerk as certified by an abstract company licensed by the State of New York. "Owner" shall include the authorized agent of an owner, a contract vendee, the estate of a decedent owning a dwelling and any person who has entered into a contract or agreement with a tax assessment reduction service for the purpose of obtaining a reduction in the assessed valuation of a dwelling.

D. "Tax Assessment Reduction Service" shall mean any person who provides or offers to provide, for any compensation or consideration, whether direct or indirect, any service to assist the owner or the authorized agent of the owner of any dwelling located within Nassau County in obtaining a reduction in the assessed valuation of such premises from the Nassau County Department of Assessment.

§ 21-19.2 **Unlawful Activity.**

No tax assessment reduction service shall:

A. Claim or otherwise hold itself out, whether directly or indirectly, to be a governmental entity or a part thereof or to be affiliated with an entity of government; or

B. Claim or imply, directly or indirectly, that an owner is overpaying real property taxes, unless such service shall have supported such allegations by furnishing the owner with detailed and specific information, directly relating to the affected parcel of real estate; or

C. Claim or imply, directly or indirectly, that the only effective method by which an owner may receive a tax assessment reduction is through use of a tax assessment reduction service; or

D. Charge an owner any fee or retain any fee previously paid to it by an owner unless such service has made reasonable efforts to fully communicate to such owner the terms of any offer of settlement made to such service by the County in the course of a tax assessment review proceeding, other than a hearing or trial, with respect to the affected parcel of real estate; or

E. Enter into a contract or agreement with an owner unless such contract or agreement shall contain, conspicuously and clearly written:

(1) A schedule of the fees charged by such service; and

(2) A provision permitting the owner, at any time within three days after having entered into such contract or agreement, to completely cancel such contract or agreement and receive a full and prompt refund of any fee or deposit already paid by such owner to such tax assessment reduction service. Any provision in a contract or agreement that purports or attempts to nullify, vacate or in any manner restrict the night of cancellation described in this paragraph shall be completely void and unenforceable; and

(3) A provision requiring the prompt refund by the service to the owner of all fees paid by the owner to the service, other than disbursements already paid by such service on behalf of such owner as evidenced by a receipt or other indicia of payment issued to such service by a court or government agency if the efforts of the service do not achieve a tax assessment reduction for the owner; and

(4) A notification that an owner is not required to use a tax assessment reduction service in order to file for and/or receive a tax assessment reduction; and

(5) The date on which such contract or agreement was entered into; and

(6) A provision stating that the service is required by law to make reasonable efforts to fully communicate to the owner the terms of any offer of settlement made by Nassau County to the service in the course of a tax assessment review proceeding, other than a hearing or trial, with respect to the affected parcel of real estate; and

(7) A provision stating: "Only: 1. a person named in the records of the Nassau County Clerk as a homeowner; or 2. that person's authorized agent; or 3. a person who has contracted to buy a home; or 4. the estate of a deceased homeowner, is eligible under the law to receive a tax assessment reduction and a property tax refund. If you are not in any of these four categories, you will not be able to receive a property tax refund and you should not sign this agreement."

§ 21-19.3 **Penalties.**

A. A violation of subdivisions A through D of section 21-19.2 of this title shall, upon conviction, be punishable as a class A misdemeanor.

B. A first violation of subdivision E of section 21-19.2 of this title shall be punishable by a civil penalty of not more than $1,000.

C. A second or subsequent violation of subdivision E of section 21-19.2 of this title, committed at any time after the imposition of a civil penalty for a prior violation of the same subdivision, shall, upon conviction, be punishable as a class A misdemeanor.

D. In addition to any other penalty, fine, right, cause of action or claim provided by this title or any other law, a violation by a tax assessment reduction service of any of the provisions of this title, other than a first violation of subdivision E of section 21-19.2, shall render such violator liable for the payment to Nassau County of a civil penalty, recoverable in an action brought in a court of competent jurisdiction in the sum of not more than one thousand dollars for each such violation.

§ 21-19.4 **Enforcement of Contracts and Agreements.**

Any contract or agreement entered into in violation of subdivision E of section 21-19.2 of this title shall be unenforceable by a tax assessment reduction service as against an owner and shall be voidable at the option of the owner.

§ 21-19.5 **Title Not Exclusive Remedy.**

This title shall not be construed to exclude any other remedy or right, civil, criminal or administrative, provided by law.

§ 21-19.6 **Separability.**

If any clause, sentence, paragraph, subdivision, section or other part of this title or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or other part of this title, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgment shall have been rendered.
(Added by Local Law No. 4-1995, in effect August 28, 1995.)

## TITLE D-9[4]

## REGISTRATION OF TAXICABS AND LIMOUSINES

§21-19.0 **Definitions.**

(a) "For-hire vehicle" shall mean a taxicab, limousine or private livery vehicle carrying passengers for hire.

(b) "Limousine" shall mean a chauffeured for-hire vehicle seating not fewer than seven nor more than ten persons, including the driver, used solely for hire in connection with funerals, weddings, proms, social events, sports and similar functions on a prior agreement, fixed-rate basis.

(c) "Private Livery Vehicle" shall mean a for-hire vehicle seating five or six persons, including the driver, operating only by prior arrangement.

(d) "Taxicab" shall mean a for-hire vehicle, other than a private livery vehicle, having a seating capacity of not more than eight persons, including the driver.

§21-19.1 **Registration of for-hire vehicles.** The Commissioner of consumer affairs shall register and regulate for-hire vehicles as authorized by ordinance.

(Title D-9 [§ 21-19.0 to 21-19.5] REPEALED and a new Title D-9 re-enacted by Local Law No. 21-2003, in effect December 29, 2003.)

[4] There are two Titles D-9

Title D-10
Disclosure Requirements for Refund Anticipation Loans

**§21-20.0 Legislative Intent.**

The Legislature has found that tax preparers and other persons are increasingly offering to consumers "instant refunds", which essentially allow consumers to obtain what purports to be the proceeds of the consumers' anticipated tax refunds on an expedited basis. Tax preparers and others who offer such "instant refunds" often do no disclose complete and accurate information to consumers concerning these financial transactions. The Legislature has found that the characterization of these financial transactions as "instant refunds" is misleading, and that these transactions are instead loans or non-loan type bank products payable against the consumer's tax refund, which accrue interest, fees and other administrative costs. Consumers are often not aware that an "instant refund" being offered by the tax preparer and other persons is, in fact, a loan and/or a non-loan type bank product and that the consumer will be charged substantial fees and interest. Additionally, many consumers are under the impression that they are not liable for the full amount of the loan if they do not receive all or part of their tax refund from the IRS.

This Legislature has found that Refund Anticipation Loans ("RAL's") drain billions of dollars from the pockets of American consumers. Tax preparers, and facilitators of these transactions often target the working poor who receive the Earned Income Tax Credit ("EITC"). To be eligible for this credit, an individual's income cannot exceed between $11,230 and $34,692 depending on individual eligibility. In 2002, fifty-five percent (55%) of those consumers who received RALs also received the EITC. These loans cost American workers $1.14 billion in loan fees in 2002, plus an additional $406 million in other fees. (Chi Chi Wu and Jean Ann Fox, "Quick Tax Loans Drain Over a Billion from American Workers", National Consumer Law Center and Consumer Federation of America, January 29, 2004).

This Legislature seeks to provide consumers with certain protections, to require complete disclosure about these transactions and, to provide a private right of action to recover against those tax preparers, facilitators, and others who violate this law.

**§21-20.1 Title and scope.**

1. This law shall be known and cited as the Refund Anticipation Loan Disclosure Law. This law shall be liberally construed to effectuate its purpose. The purpose of this law is to protect consumers who enter into refund anticipation loan and refund anticipation check ("RAC") transactions and to require tax preparers, facilitators, and other persons who offer or facilitate such loans to completely disclose all fees and charges for RALs and RACs facilitated or processed in this County.
2. No person (including any tax preparers, facilitators, and other person) may individually or in conjunction or cooperation with another person: (a) solicit the execution of, process, receive, or accept an application or agreement for a RAL and/or RAC, or (b) in any other manner facilitate the making of a RAL and/or RAC unless the person has complied with the provisions of this section.

**Section §21-20.2 Definitions.**

1. "Person" shall mean an individual, a firm, a partnership, an association, a corporation or another entity.
2. "Tax preparer" or "preparer" means a person, who for valuable consideration advises or assists or offers to advise or assist in the preparation of income tax returns for another.

3. "Facilitator" shall mean a person who individually or in conjunction or cooperation with another person: (i) solicits the execution of, processes, receives, or accepts an application or agreement for a RAL and/or RAC, or (ii) in any other manner substantially assists in the making of a RAL and/or RAC.
4. "Creditor" shall mean any person who makes a RAL or who takes an assignment of a RAL.
5. "Consumer" shall mean any natural person who, singly or jointly with another consumer, is solicited to apply for, applies for, or receives the proceeds of a RAL or RAC.
6. "Refund anticipation check" shall mean a check or other payment mechanism: (i) representing the proceeds of the consumer's tax refund; (ii) that is not a loan; (iii) which was issued by a depository institution or other person that has or will have received a direct deposit of the consumer's tax refund from the Internal Revenue Service; and (iv) for which the consumer has paid a fee or other consideration for such payment mechanism.
7. "Refund anticipation loan" shall mean a loan that is secured by and that creditor arranged to be repaid directly or indirectly from the proceeds of the consumer's income tax refund and includes the payment of interest, and/or RAL fees by the consumer. A RAL shall also includes any sale, assignment, or purchase of a consumer's tax refund at a discount or for a fee, whether the consumer is required to repay the buyer or assignee if the Internal Revenue Service denies or reduces the consumer's tax refund.
8. "Refund anticipation loan fee" shall mean the charges, fees, or other consideration charged or imposed directly or indirectly by the tax preparer or facilitator for the making of or in connection with a RAL. This term includes any charge, fee, or other consideration for a deposit account, if the deposit account is used for receipt of the consumer's tax refund to repay the amount owed on the loan. This term does not include any charge, fee, or other consideration usually charged or imposed by the facilitator or tax preparer, in the ordinary course of business, such as fees for tax return preparation and fees for electronic filing of tax returns, if the same fees in the same amount are customarily charged to the facilitator's customers who do not receive RALs.
9. "Commissioner" shall mean the Nassau County Commissioner of Consumer Affairs.
10. "Consumer Affairs" shall mean the Nassau County Office of Consumer Affairs.
11. "County" shall mean the County of Nassau.

**§21-20.3 Refund anticipation loans.**

1. Any tax preparer or facilitator who advertises the availability of a RAL shall not directly or indirectly represent such a loan as a tax refund. Any advertisement which mentions, refers, relates, or discusses and/or describes a RAL, and/or proceeds of such loan must state explicitly and conspicuously that the monies being, referred to, related to, mentioned, discussed, described, and/or offered as represented in such advertisements, are in fact a loan, and not a tax refund, and that a refund anticipation fee and/or interest will be charged by the tax preparer, facilitator, or other person offering or issuing such loan. The advertisement must also disclose the name of the person, lender, tax preparer, creditor, or facilitator providing the RAL.

2. Before any consumer enters into a RAL transaction, the tax preparer, facilitator or creditor as applicable shall disclose to the consumer the following disclosure in writing, in English and Spanish, in a form separate from the application, containing a legend, centered, in bold, capital letters and in 18 point type stating NOTICE; and stating the following language in at least 14-point type:

- THIS IS A LOAN.
- SPECIFICALLY, THIS IS A REFUND ANTICIPATION LOAN.
- YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

IF YOU DO SIGN A CONTRACT FOR A REFUND ANTICIPATION LOAN YOU WILL BE TAKING OUT A LOAN, AND YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE IN YOUR TAX REFUND. IF YOUR TAX REFUND IS LESS THAN EXPECTED, YOU MUST STILL REPAY THE ENTIRE AMOUNT OF THE LOAN.

IF YOU *DO NOT* TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU ARE ELIGIBLE TO RECEIVE A GROSS TAX REFUND OF APPROXIMATELY $_[insert amount].

- IF YOU *DO* TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU WILL BE RESPONSIBLE TO PAY $ [insert amount] IN INTEREST AND FEES FOR THE LOAN. AFTER THESE FEES ARE PAID, YOU WILL RECEIVE APPROXIMATELY $ [insert amount].
- IF YOUR REFUND IS DELAYED, YOU MAY HAVE TO PAY ADDITIONAL FEES AND INTEREST.

THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR REFUND ANTICIPATION LOAN IS _[insert amount]%. THIS IS BASED ON THE ESTIMATED AMOUNT OF TIME YOU WILL HAVE BORROWED MONEY THROUGH THIS REFUND ANTICIPATION LOAN.

IF YOU *DO* TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO RECEIVE YOUR LOAN IN APPROXIMATELY ONE TO TWO DAYS.

IF YOU *DO NOT* TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN STILL RECEIVE YOUR TAX REFUND QUICKLY. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND RECEIVE YOUR TAX REFUND THROUGH THE MAIL, YOU CAN EXPECT TO RECEIVE YOUR REFUND IN APPROXIMATELY FIFTEEN TO TWENTY-TWO DAYS. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND HAVE YOUR TAX REFUND DIRECTLY DEPOSITED INTO A BANK ACCOUNT, YOU CAN EXPECT TO RECEIVE YOUR REFUND IN APPROXIMATELY EIGHT TO FIFTEEN DAYS.

3. In addition, the following disclosure must be made to the consumer in writing, in both English and Spanish, in connection with the RAC, in a form separate from the RAC, and from the application, containing a legend, centered, in bold, capital letters and in 18 point type stating NOTICE; and stating the following language in at least 14-point type:
YOU ARE PAYING [insert the amount of the fee] TO GET YOUR REFUND CHECK THROUGH [insert name of issuer of refund anticipation check]. YOU CAN AVOID THIS FEE AND STILL RECEIVE YOUR REFUND IN EIGHT TO FIFTEEN DAYS BY HAVING THE IRS DEPOSIT YOUR REFUND DIRECTLY INTO YOUR OWN BANK ACCOUNT OR IN FIFTEEN TO TWENTY-TWO DAY BY HAVING THE IRS MAIL THE CHECK.

4. All language, figures, etc. to be inserted in §2 and §3 herein shall be inserted by the tax preparer or facilitator, as applicable.

5. In the event that the taxpayer does not understand English or Spanish, the tax preparer and or facilitator shall also provide a point-by-point oral explanation of the required disclosure in a language understood by the taxpayer and such explanation can be provided through the use of a translator.

6. It shall be the obligation of the tax preparer, or facilitator to complete the required disclosure accurately and thoroughly, inclusive of all relevant information to provide the required point-by-point oral explanation when necessary; and to ensure that the completed disclosure form is signed by the consumer before the consumer consummates the RAL and/or RAC transaction.

**§21-21.4. Posting of Fee Schedule and Disclosures.**

1. Every tax preparer, and facilitator who offers RALs and RAC's, shall display a a current fee schedule for RALs and RACs, and for the electronic filing of the consumer's tax return.
2. Every tax preparer, and/or facilitator who offers RALs and RAC's, shall also prominently display on each fee schedule: (i) a legend centered in bold, capital letters, and in one-inch letters stating: NOTICE CONCERNING REFUND ANTICIPATION LOANS; and (ii) the following verbatim statement: "When you take out a refund anticipation loan, you are borrowing money against your anticipated tax refund. If your tax refund is less than expected, you must still repay the entire amount of the loan which includes interest and fees. If your refund is delayed, you may have to pay additional costs. You can have your tax return filed electronically and you refund directly deposited into your own bank account without obtaining a loan or paying loan fees."
3. The postings required by this section shall be made in no less than 28-point type on a document measuring no less than 16 inches by 20 inches. The postings required in this section shall be displayed in a prominent location at each office where the tax preparer, or facilitator is processing the RALs and/or RAC's.
4. No tax preparer or facilitator may process or caused to be processed a RAL or RAC, unless (i) the disclosure required by this section is displayed; (ii) the fee actually charged for the RAL or RAC is the same as the fee displayed on the schedule.

**§21-21.5. Penalties.**

Any violation under this section shall be deemed a deceptive trade practice and shall be subject to the penalties set fort in section 21-10.2 (4)(a) as amended by Local Law 25-2000. The Office of Consumer Affairs shall be charged with enforcing this law and shall promulgate the necessary rules and regulations for its implementation and enforcement.

**§21-20.6. Civil Cause of Action.**

Any person claiming to be injured by the failure of a tax preparer or facilitator to act in accordance with this subchapter shall have a cause of action against such tax preparer or facilitator in any court of competent jurisdiction for any or all relief applicable under the law.

**§21-20.7. Severability**

If any provision, clause, sentence or paragraph of this local law, or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application if the provisions of this local law which can be given effect without the invalid provision or application and, to this end, the provisions of this local law are hereby declared to be severable.

(Added by Local Law No. 6-2004; amended by Local Law 13-2004)

**Title D-12**
**Automated Teller Machine Safety**

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|---|---|---|
| **Section** | **21-22.0** | **Short title** |
| | **21-22.1.** | **Legislative findings and intent** |
| | **21-22.2** | **Definitions** |
| | **21-22.3** | **Applicability** |
| | **21-22.4** | **Registration of private automated teller machines** |
| | **21-22.5** | **Requirements for operation of automated teller machines registered in accordance with this title** |
| | **21-22.6** | **Safety rules for private automated teller machines** |
| | **21-22.7** | **No impact on banking regulations; not to supersede EFT regulations** |
| | **21-22.8** | **Facilities not subject to this article; exemptions** |
| | **21-22.9** | **No waiver** |
| | **21-22.10** | **Penalties** |
| | **21-22.11** | **Reporting to federal authorities; guidance to victims** |
| | **21-22.12** | **Identity theft public education and awareness effort** |
| | **21-22.13** | **County not liable** |


**§ 21-22.0 Short title** This law shall be known as the "Automated Teller Machine Safety Act."

**§ 21-22.1. Legislative findings and intent**. Identity theft is recognized as one of the fastest-growing crimes in America. The Federal Trade Commission has reported that between 1998 and 2003, 27.3 million Americans became victims of identity theft, which is often associated with other serious crimes including mail fraud, narcotics, organized crime, money laundering, weapons trafficking, computer crimes and terrorism. The use of automated teller machines enables consumers to access funds conveniently without having to go to a bank, but it also provides an opportunity for identity thieves. Indeed, people who use the unenclosed automated teller machines found in many buildings such as supermarkets and convenience stores, whose functions are unrelated to banking activities, are particularly vulnerable because such machines are not regulated by federal or state law. These machines can be the setting for unscrupulous machine operators or third parties to obtain the personal bank information of persons conducting financial transactions. While automated teller machines located at banking institutions provide certain safety enhancements, such as rearview mirrors or security cameras, 'non-bank' automated teller machines are currently not legally required to do so. Moreover, because such machines are not at present licensed or otherwise registered in New York State, their operators are often untraceable, making it difficult for law enforcement trying to solve identity theft crimes involving automated teller machine fraud. This local law implements measures to combat identity theft and protect citizens' personal information at those automated teller machines that are not currently regulated by federal or state law.

§ **21-22.2 Definitions.** As used in this Title:

"Automated teller machine" shall mean a device which is linked to the accounts and records of a banking institution and which enables consumers to carry out banking transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and loan payments.

"Operator" shall mean a person, organization, or company, including but not limited to one who owns, invests in, or leases an automated teller machine and is responsible for the maintenance, functioning, and operation of such machine, which is located in any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, restaurants, bars, and convenience stores, airports, school buildings, and public buildings.

"Automated teller machine placement agreement" shall mean an agreement between a merchant and a private automated teller machine operator authorizing the location and

providing the terms of operation of a private automated teller machine at a specified site, including the merchant's place of business.

"EFT Network" shall mean an electronic funds transfer network that enables the transfer of funds in and out of a person's bank account when such person completes a transaction at an automated teller machine.

"Enforcing Agent" shall refer to the Nassau County Office of Consumer Affairs or the Nassau County Police Department.

"Transaction" shall mean the act of accessing an account at a financial institution with a credit card, debit card, or other bankcard at a private automated teller machine for the purpose of making cash withdrawals, balance inquiries, deposits, fund transfers from or to the account, or engaging in any other transaction.

**§ 21-22.3 Applicability.** The provisions of this Title shall apply to any unenclosed automated teller machine located in any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, restaurants, bars, convenience stores, airports, school buildings, and public buildings, where such automated teller machine is available for use only during the regular hours of operation of the building, structure, or space in which such machine is located.

**§ 21-22.4 Registration of private automated teller machines.** (a) No automated teller machine shall be operated in Nassau county without first being registered in accordance with the provisions of this title, except as otherwise expressly provided in this title.

(b) Every operator of an automated teller machine operated in Nassau County shall, except as otherwise expressly provided, apply in the form and manner established by the Commissioner, to the office of Consumer Affairs, or to any agent of the commissioner, an application for registration addressed to the commissioner, and on a form to be prepared under the direction of and furnished by the Commissioner for that purpose, containing: (a) a brief description of the automated teller machine to be registered, including the name and serial number of such machine, and such other facts as the Commissioner shall require; (b) the name and address of the operator of such machine, specifying in the case of an unincorporated association or partnership, the name and address of each member or partner thereof, and in the case of any corporation, the name and address of each officer; (c) the location and identification of the automated teller machine to be registered; (d) proof that such automated teller machine is in compliance with all applicable federal and state regulations; and (e) such additional facts or evidence as the commissioner may require in connection with the application for registration, including, if the operator is also registered with at least one EFT network through a sponsorship agreement with a financial institution that is a member of the EFT network, such EFT registration information. The application shall contain or be accompanied by such evidence of the ownership of the automated teller machine to be registered as may be required by the Commissioner or his agent.

(c) The removal of any automated teller machine from a premises and its relocation to another in Nassau County shall require the re-registration of such machine in accordance with subdivision (b) above, except that such re-registration shall be charged a reduced fee, as provided herein.

(d) Times for Registration, re-registration; fees.

(i) Registrations and renewed registrations shall take effect and expire on dates determined by the Commissioner and shall be valid for a period of one year. However, where the expiration date of the registration of any automated teller machine falls on a Saturday, Sunday or county holiday, such registration shall be valid for the operation of such vehicle until midnight of the next day on which County offices shall be open for business.

(ii) The following fees shall be paid to the Commissioner, or agent, upon the registration or the renewal of a registration of an automated teller machine in accordance with the provisions of this title: for the initial registration by the operator of any automated teller machine in Nassau

County, one hundred dollars ($100); for each renewal of such registration after the initial registration of such machine, fifty dollars ($50).

(e) With respect to any automated teller machine placed into operation prior to the effective date of this local law, the operator of such machine shall, within ninety days of the effective date of this local law, comply with the registration provisions of this section; provided, however, that such registration, and each registration thereafter, shall be considered and charged a fee for a renewal under subdivision (d) of this section.

**§ 21-22.5 Requirements for operation of automated teller machines registered in accordance with this title.** (a) Notwithstanding any other provision of this law, no person or entity shall permit an unenclosed automated teller machine to be located on his or her premises without having obtained proof that such machine has been registered in accordance with the provisions of this title.

(b) Each operator of an automated teller machine registered in accordance with this Title shall:

(i) comply with all EFT network operating rules and all local, state, and federal regulations governing the operations of its private automated teller machines;

(ii) maintain comprehensive and verifiable inventory procedures and establish controls that identify the location of all of the private automated teller machines that it owns and operates in Nassau County;

(iii) when locating and installing an automated teller machine on premises owned by another person or entity, operate such machine within Nassau County only pursuant to an automated teller machine placement agreement with a person or entity who is legally authorized to conduct business in New York State and Nassau County. Such agreement shall provide the operator's full legal name and any trade name under which business is conducted, along with the operator's federal and New York income tax identification numbers, or in the case of a sole proprietor, his or her social security number, and shall be filed with the Commissioner of Consumer Affairs; and

(iv) post in a conspicuous place on the front of each private automated teller machine a notice in at least 24-point type setting forth: (1) the name of the operator of an automated teller machine registered in accordance with this Title, as well as the name and phone number of the merchant on whose premises such machine is located; (2) the telephone number of the commissioner of Consumer Affairs; and (3) the language: "Protect your PIN. Report a lost or stolen card immediately."

(c) Every operator of an automated teller machine, and any person or entity on whose premises any such machine is located and installed, shall maintain such records in relation to such machine as the commissioner of Consumer Affairs may require.

**§ 21-22.6 Safety rules for automated teller machines.** Every person or entity shall maintain the following security measures with respect to each of the automated teller machines located and installed on his or her property:

a) Adequate lighting, which permits a person using an automated teller machine to readily and easily see all other persons in the immediate vicinity of such machine; and

b) A reflective mirror or mirrors, either affixed to or standing independently of each automated teller machine, placed in such a manner as to permit a person using such machine to see behind them as they conduct their transactions.

**§ 21-22.7 No impact on banking regulations; not to supersede EFT regulations** This local law shall have no impact on or intent to affect bank accounts, federal and state banking procedures or banking regulations, and shall not be interpreted or construed to modify, amend, suspend, supersede, or cancel any EFT network rule or regulation.

**§ 21-22.8 Facilities not subject to this article; exemptions.** The provisions of this title shall not apply to any automated teller machine facility located in an area within the dominion and control of a banking institution, including any state or federally chartered bank, trust company, savings bank, savings and loan association, or credit union, that operates one or

more automated teller machines within the state of New York.

**§ 21-22.9 No waiver.** No requirement of this title shall be waived.

**§ 21-22.10 Penalties.** (a) Any operator of an automated teller machine found to be in violation of any provision of this title shall be subject to a civil penalty of up to five thousand dollars ($5,000), which may be recovered following notice and an opportunity to be heard in a proceeding before the Commissioner of Consumer Affairs. Each period of fifteen days that such violation remains uncorrected shall constitute a separate distinct offense.

(b) Any person or entity who permits an automated teller machine to be located and installed and to operate on his or her premises in violation of any provision of this title shall be subject to a civil penalty of up to two hundred fifty dollars ($250), which may be recovered following notice and an opportunity to be heard in a proceeding before the Commissioner of Consumer Affairs. Each period of fifteen days that such violation remains uncorrected shall constitute a separate distinct offense.

(c) Any civil penalty imposed pursuant to this section shall not limit or preclude any cause of action available to any person or entity injured or aggrieved by such action.

**§ 21-22.11 Reporting to federal authorities; guidance to victims.** The Commissioner of Consumer Affairs or the Commissioner of Police of Nassau County shall, upon learning of an instance of possible identity theft, report such information to the Federal Trade Commission or other appropriate federal and state authorities, and provide guidance to victims.

**§ 21-22.12 Identity theft public education and awareness effort.** The Treasurer shall receive all monies resulting from the operation of this title and shall allocate and credit such monies, as follows:

All of the monies received from the collection of fees and the imposition of fines pursuant to this title shall be credited to the General Fund for the Office of Consumer Affairs to reimburse such office for the administration and enforcement of this title.

**§ 21-22.13 County not liable.** Nothing in this title shall be deemed to impose any civil or criminal liability upon Nassau County or any of its officials, employees or agencies.

(Added by Local Law No.2-2005, passed on March 7, 2005, signed on March 11, 2005, effective 120 days after it shall have become a law)

## Title D-13
## Selling, Loaning or Distributing Video Games

**§ 21-23.1. Legislative Intent**. This Legislature finds that while video game producers and retailers have implemented rating systems to inform buyers of the nature of video game content, such rating systems are not always easily accessible to consumers. This title ensures that anyone buying a video game will have sufficient access information about video game content to be able to make an informed decision about whether any such game is appropriate for that consumer.

**§ 21-23.2 Definitions.**

"County" means County of Nassau.

"Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, console, or other technology.

"Video game retailer" means a person who sells or rents video games to the public.

**§ 21-23.3. Display of rating system information.** Every video game retailer within the county shall post a sign providing information to consumers about any video game rating system which appears on a video game offered by such retailer. Such information shall include, but not be limited to any store policy, relevant rating symbols, and content descriptors. The sign shall be posted in a conspicuous place within the portion of the establishment dedicated to the

display or advertisement of video games. Each video game retailer shall make available to consumers, upon request, written information explaining each such rating system.

**§ 21-23.4. Penalty.** Any person violating the provisions of this title shall be subject to a civil penalty in an amount not less than $250.00 and not more than $500.00 for each violation, which may be recovered following notice and an opportunity to be heard in a proceeding before the Commissioner of Consumer Affairs. Each day in violation of this subsection shall constitute a separate offense.

(Title D-13 added by Local Law 16 - 2006, passed on November 13, 2006 and signed on December 13, 2006.)

## Title E
## Nassau County Traffic Safety Board

**§ 21-50.0 Board. Established.** There is hereby established the Nassau County Traffic Safety Board to be composed of thirty members Interested in traffic safety and traffic problems appointed by the County Executive subject to confirmation by the Board of Supervisors.
(Amended by Local Law No. 8-1972, in effect June 14, 1972, and amended by Local Law No. 10-1986, in effect August 11, 1986.)

2. Each member shall be a resident and qualified elector of the County. At least one but no more than three members shall be a resident or residents of each city of the County and the balance of members shall be appointed from the County at large.

3. The term of office of each member shall be three years, except that the members first appointed shall be appointed as follows: five for a term of one year, five for a term of two years and five for a term of three years. Upon the expiration of the term of office of any member, his successor shall be appointed to membership for a term of three years.

4. Members shall receive no compensation for services but shall be entitled to reasonable and necessary expenses, incurred in the performance of their duties within the appropriation made for that purpose.

§ 21-50.1 **Organization and reports by the Board.** The Traffic Safety Board shall:

1. Meet and organize within fifteen days after its members are appointed.

2. Elect annually a Chairman, a First Vice-Chairman, two Vice-Chairmen and a Secretary from its members.

3. Adopt rules for the conduct of its business.

4. Within the limits of the appropriations made therefor by the Board of Supervisors, authorize the employment of such personnel as may be necessary to properly perform the functions and carry out the objectives of this title.

5. Appoint an executive secretary who shall be the executive and administrative officer *of* the Board.

6. Render annually to the Board of Supervisors, and from time to time as required, a verified account of all moneys received and expended by it or under its direction and an account of its proceedings and of other pertinent matters in such form and manner as may be required by such board.
(Subdivision 2 of Section 21-50.1 amended by Local Law No. 10-1986, in effect August 11, 1986.)

§ 21-50.2 **Functions of the Board.** The Board is authorized:

1. To promote and encourage street and highway traffic safety.

2. To formulate countywide highway safety programs and coordinate efforts of interested parties and agencies engaged in traffic safety education.

3. To cooperate with local officials within the County in the formulation and execution of traffic safety programs and activities.

4. To study traffic conditions on streets and highways within the County, study and analyze reports of accidents and causes thereof, and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders, regulations and existing law as the Board may deem advisable.

5. To conduct meetings within the County whenever and wherever the Board shall deem it advisable and to invite to such meetings parties and agencies, public and private, interested in traffic regulation, control and safety education.

6. To promote safety education for drivers and pedestrians.

7. To obtain and assemble motor vehicle accident data, and to analyze, study and consolidate such data for educational and informational purposes.

§ 21-50.3 **Executive Secretary of Board.** The Executive Secretary of the Board shall:

1. Subject to the supervision and control of the Board perform the functions necessary to property and efficiently carry out the provisions and purposes to this title.

2. Be a citizen of the United States.

3. Receive such salary and expenses as the Board of Supervisors may fix and properly account for such expenses.

4. Furnish an official undertaking in an amount and in such form and with such sureties as shall be approved by the Board of Supervisors.

(Title E added by local Law No. 13-1967, in effect September 7, 1967.)

## Title F
## Environmental Management Council

§ 21-60.0 **Legislative intent and declaration of policy.** The management and conservation of our environment is essential to the health and well-being of the people of the County. Land densities resulting from spectacular population growth, technological and mechanical advances causing emission of air contaminating pollutants, aircraft noise problems, and societal demands in general are but some of the factors endangering and adversely affecting our ecological balance. It is in the best interests of the County of Nassau to engage in a program of responsible action designed to maintain, conserve, and improve its own natural and man-created environmental resources for the protection *of* our present and future citizens. This may best be accomplished by establishing a County Environmental Management Council which shall work in concert, under the theory *of* partnership government, with the cities, towns and villages of the County so that a unified governmental effort may be instituted concerning the complete spectrum of environmental resources throughout the County and for development of a

total program of preservation, conservation and improvement of our ecological integrity.

§ 21-60.1 **Council established.** There is hereby established a county council to be known as the Nassau County Environmental Management Council, hereinafter called the Council.

§ 21-60.2 **Membership.**

(a.) i. The Council shall consist of the members appointed by the County Executive or otherwise designated as provided in this section. The County Executive shall appoint nine (9) members, subject to confirmation by the Board of Supervisors, who shall be persons other than members of city and town commissions for conservation of the environment residing within the County of Nassau and who are interested in the improvement and preservation of environmental quality. Of these members so appointed, at least one, but not more than four, shall be between the ages of sixteen and twenty-one.

ii. In addition to the nine (9) members appointed by the County Executive, as provided for in sub-paragraph i of this subdivision, one member from each commission for conservation of the environment that has been established by the governing bodies of the cities and towns within the County of Nassau shall serve on the Council. The governing body or appointing authority, as the case may be, of the city or town shall designate the member from its commission who shall be a Council member.

iii. The Commissioner of Health, the Executive Director of the Planning Commission, the Commissioner of Public works, the County Attorney, the Commissioner of Consumer Affairs and the Commissioner of Recreation, Parks and Support Services shall be ex officio members of the Council.

(Section 21-60.2 (a)(iii), amended by Local Law No 7-1971; amended by Local Law No. 7-1974, in effect July 2, 1974; amended by Local Law No. 43-2000, effective January 1, 2001.)

(b.) The County Executive shall designate one of the appointive members as chairman of the Council. The Board of Supervisors may appropriate sufficient sums to meet the expenses of such council. The Council may employ such personnel as it deems necessary to carry out its work, within the appropriations therefor. The County Executive, upon the request of the Council may from time to time, and for designated purposes, assign or detail public employees to perform work for the Council.

§ 21.60.3 **Term of office.** The term of office of the appointive members shall be two years. The terms of members appointed from city and town commissions for conservation of the environment shall be concurrent with their terms on such city or town commissions not to exceed a period of two years. Vacancies on the Council shall be filled in the same manner as the original appointment except that a vacancy occurring through circumstances other than by expiration of term of office shall be filled only for the remainder of the unexpired term. However, of the nine (9) members first appointed by the County Executive to the Council five shall be appointed for a term of one year and four shall be appointed for a term of two years.

§ 21-60.4 **Powers and duties.** The Council shall have the following powers and duties:

1. Advise the County Executive and the Board of Supervisors on matters affecting the use and conservation of the natural man-created conditions relating to the environment of the County and, in the case of man's activities and developments, with regard to threats posed to environmental quality.

2. Seek to enlist the cooperation and assistance of all local governments and municipal

entities within the County, including public authorities, commissions and other public entities in the development and promotion of programs on an inter-municipal cooperation basis designed to institute and coordinate sound methods of planning and conserving the environmental quality of the entire county.

3. To engage in studies, surveys, investigations and to consult with public or private agencies in the development of programs.

4. To maintain a liaison with the Nassau-Suffolk County Planning Agency, Metropolitan Regional Planning Association, water resource agencies or organizations and other public agencies in efforts to encourage area development of desirable environmental conditions.

5. Prepare and distribute books, maps, charts, pamphlets, and other literature on matters of environmental concern consistent with the purposes of this title.

6. Keep records and indexes of all open areas of the County, natural and scenic resources and features and recommend, from time to time, to the Board of Supervisors and the County Executive such areas or features having natural beauty and esthetic value which should be considered for public dedication or ownership.

7. To cooperate and coordinate with all county departments and agencies having jurisdiction in matters relating to the environmental quality of the County.

8. To prepare a County environmental plan and to issue an annual environmental status report.
(Subdivision 8 added by Local Law No. 7-1971, in effect September 13, 1971.)

§ 21-60.5 **Compensation and expenses.** Unless otherwise provided by recommendation of the County Executive and ordinance of the Board of Supervisors, the members of the Council shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder.
(Title F added by Local Law No. 5-1971, in effect July 1, 1971.)

## Title G

(REPEALED by Local Law 7-1982.)

## Title H
## Advisory Council for Senior Citizen Affairs

§ 21-80.0 **Council established.** There is hereby established an Advisory Council for Senior Citizen Affairs consisting of at least fifteen but not more than twenty representatives who shall be residents of the County and appointed by the County Executive, subject to confirmation by the Board of Supervisors. At least one-half of the members *of* the Council shall be actual consumers of services under the area agency on aging for Nassau County plan. One member shall be designated as chairman by the County Executive. Each member shall be appointed for a term of three years provided, however, that of the members first appointed one-third shall be appointed for one year, one-third for two years and the remainder for three years. Vacancies on the Council shall be filled for the unexpired term in the same manner as original appointments. Members shall receive no compensation for services but shall be entitled to reasonable and necessary expenses incurred in the performance *of* their duties within the appropriation made for that purpose. The Council shall assist and advise the director on programs for senior citizens.

(Added by Local Law No. 7-1972, amended by Local Law No. 6-1974, in effect May 7, 1974.)

## Title I
## Nassau County Water Resources Board

§ 21-90.0 **Legislative intent and declaration of policy.** The Board of Supervisors of the County of Nassau being cognizant of the steady growth in the consumption of water within the County due to population growth and the danger *of* deterioration In ground water quality deems It In the best interests *of* the County of Nassau to establish the Nassau County Water Resources Board. The objective of this board is to review and consider supplemental water supply sources and act as liaison between the proposed regional suppliers, the County, and all existing water systems in the County.

§ 21-90.1 **Board established.** There is hereby established a county board to be known as the Nassau County Water Resources Board, hereinafter called the Board.

§ 21-90.2 **Membership.**

(a) i. The Board shall consist of at least five and not more than nine members appointed by the County Executive subject to confirmation by the Board of Supervisors. Such members shall serve at the pleasure of the County Executive. As far as may be practicable, the members shall be citizens possessing outstanding qualifications in the various disciplines associated with public water supply and related fields.

ii. The Deputy County Executivefor local government relations, the Commissioner of Public Works, the Commissioner of Health and the County Attorney shall be ex officio members of the Board and shall possess the same voting privileges as the member designated in paragraph i of this subdivision.

b. The County Executive shall designate one of the appointive members as chairman of the Board. The Board of Supervisors may appropriate sufficient sums to meet the expenses of the Board. The Board shall employ such personnel as may be provided by ordinance. The County Executive, upon the request of the Board may, from time to time, and for designated purposes, assign or detail public employees to perform work for the Board.

§ 21-90.3 **Powers and duties.** The Board shall have the following powers and duties:

1. to review and consider the report of the engineering firm of Greeley and Hansen with special regard to the supplemental water supply sources discussed in the report.

2. to consider such other reports, studies and surveys as may be pertinent to the duties of the Board.

3. to inquire into and assemble data relating to any other water supply sources available to the County.

4. to report to the County Executive and the Board of Supervisors from time to time and make such recommendations as the Board deems appropriate concerning the matters authorized for its study and action.

5. to submit an annual report to the County Executive and the Board of Supervisors on or before December fifteenth of each year.

§ 21-90.4 **Compensation and expenses.** Unless otherwise provided by ordinance of the

Board of Supervisors, the members of the Board shall receive no compensation *for* their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder.
(Title I added by Local Law No. 12-1974, in effect October 28, 1974.)

## TITLE J
## Nassau County Cultural Development Board

(Repealed by Local Law No. 43-2000, in effect December 28, 2000.)

## Title K
## Nassau County Public Utility Agency

§ 21-110.0 **Legislative intent and declaration of policy.** The Board of Supervisors of the County of Nassau does hereby find and determine that there may be inexpensive sources of electric power available in the near future to the County of Nassau from the Power Authority of the State of New York and/or other New York State Agencies, other municipal corporations or other public corporations and that there is a need for the Board of Supervisors of the County of Nassau to authorize the establishment of a Public Utility Service on behalf of eligible electric consumers In Nassau County so as to pass on a cost savings to those consumers.

§ 21-110.1 **Agency Established.** There is hereby established a County agency to be known as the Nassau County Public Utility agency, hereinafter referred to as agency.

§ 21-110.2 **Membership.** The agency shall consist of nine members consisting of the County Executive or his designee who shall be the Chair, a Deputy County Executive, and the County Attorney, each of whom shall serve by virtue of their office and for the term of their office, three members who shall be appointed by the County Executive and three members who shall be appointed by the County Legislature. All members so appointed shall serve at the pleasure of their respective appointing authority. A quorum of six members shall be required for any action of the Agency and such action shall require the affirmative vote of a majority of the members of the Agency.
(Amended by Local Law No. 15-2003, in effect October 28, 2003; added by Local Law No. 23-1984.)

§ 21-110.3 **Powers and duties**. The Agency shall have the following powers and duties:

1. To act on behalf of the County of Nassau as a public utility service as such term is defined in section three hundred sixty of the General Municipal Law, which authorizes such public utility service to establish, construct, lease, purchase, own, acquire, use and/or operate facilities within or without the territorial limits of Nassau County for the purpose of furnishing to itself or for compensation to its inhabitants any service similar to that furnished by any public utility company specified in article four of the Public Service Law.

2. To enter into agreements to purchase all available power from the Power Authority of the State of New York, the State of New York or any New York State Agency, any other municipal corporation or other public corporation or any other available source at such price as may be negotiated by them and such other entity not to exceed, however, the price thereof allowable by law.

3. To enter into agreements to lease or otherwise contract to use the electric transmission distribution system of the Long Island Lighting Company, hereinafter referred to as LILCO, and

of any other utilities as are necessary to deliver such electric service. The amount to be paid under such an arrangement shall not exceed the cost incurred by LILCO or such other utility for transmitting the power purchased from the Power Authority of the State of New York or such other entity through the systems of such utilities, the costs of leasing such incidental connecting facilities and metering devices as may be required and related administrative costs. Any such arrangement shall contain assurances that such power purchased by Nassau County shall be distributed to any eligible consumers of electricity in Nassau County desiring such power subject to the rules and regulations of LILCO relating to the extension of its system to consumers desiring electric service.

4. To enter Into agreements to sell the power it purchases from the Power Authority of the State of New York, or any other entity as authorized hereby, to the eligible consumers of electricity in Nassau County at a price not to exceed the cost of such eclectic power, the system leasing, operating, administrative and transmission costs relating to such power, including the cost of utilizing LILCO's billing and collection systems and the administrative costs that may be Incurred by Nassau County In the purchase and sale of such power but In no case shall the price to title consumer provide for a profit to Nassau County.

§ 21-110.4 **Rates and Agency Costs.** Nassau County's rates will be fixed in tariff proceedings before the Public Service Commission in which both Nassau County and LILCO will participate. It is estimated that the rates as fixed by the Public Service Commission for the electric service to be furnished to eligible consumers will be sufficient to reimburse the agency for all of its costs in furnishing such electric service and that accordingly, the operation of this public utility service will be at no net cost to the agency.

§ 21-110.5 **Eminent Domain.** Nothing contained in this title shall be construed as a limitation on the power of the County of Nassau to exercise the right of eminent domain in connection with the acquisition of the plant, transmission or distribution sources of LILCO or any other utility as may be authorized by subsequent legislation and subject to a subsequent mandatory referendum of the voters of Nassau County.

§ 21-110.6 **Compensation and Expenses.** Unless otherwise provided by ordinance of the Board of Supervisors, the members of the agency shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder.
(Local Law No. 23-1984, in effect November 5, 1984.)

## Title L
## Nassau County Department of Probation

§ 21-120.0 **Petty Cash Fund.** The Board of Supervisors may authorize the County Treasurer to furnish the Department of Probation with a petty cash fund, in such amount as the Board of Supervisors may specify by resolution. Expenditures from this fund shall be covered by itemized vouchers or claims in the name of the fund verified by the oath of the director of probation. Upon audit of such vouchers or claims and by means of a warrant drawn on the County treasurer signed by the Comptroller, the treasurer shall reimburse such petty cash fund the same amount audited and allowed.

As approved by the director of probation, such fund shall be used for advancing the expenses that might be incurred by members of the department in the course of their assigned duties, except that expenses authorized by 77-b of the General Municipal Law also need the approval of the County Executive.

(Section 21-120.0 added by Local Law No. 7-1988, in effect June 16, 1988.)

## Title M
## Nassau County Recycling Board

§ 21-130.0 **Legislative intent and declaration of policy.** One of the issues facing the County of Nassau today is solid waste management. The recycling of discarded material is one way to significantly reduce the waste stream thereby mitigating the problem of solid waste disposal. In order to develop, assist, coordinate and encourage recycling at all levels of municipal government, the Nassau County Recycling Board is hereby established.

§ 21.130.1 **Recycling Board established.** There is hereby established a county board to be known as the Nassau County Recycling Board and hereafter known as the Board.

§ 21-130.2 **Membership.**

1. (a) The Board shall consist of nine members, including a chairperson each of whom shall be appointed by the County Executive subject to confirmation by the Board of Supervisors. The presiding supervisor of the town of Hempstead, the Supervisors of the towns of North Hempstead and Oyster Bay and the supervisors of the cities of Long Beach and Glen Cove shall each recommend one person to the County Executive for appointment. The remaining four members of the Board shall be appointed by the County Executive subject to the confirmation of the Board of Supervisors. As far as may be practicable, the members of the Board shall possess outstanding qualifications in the various disciplines associated with solid waste management or environmental preservation.

   (b) All members of the Board shall be Nassau County residents.

   (c) All members shall be voting members.

   (d) The term of office of each member shall be three years, except that the members first appointed shall be appointed as follows: three for a term of one year; three for a term of two years and three for a term of three years. Upon the expiration of the term of office of any member, his successor shall be appointed for a term of three years.

2. The County Executive shall designate, subject to confirmation by the Board of Supervisors, one of the appointive members as chairman of the Board.

3. Members shall serve without compensation. The Board of Supervisors may appropriate sufficient sums to meet the expenses of the Board. The Board shall employ such personnel as may be provided by ordinance. The County Executive, upon the request of the Board may, from time to time, and for designated purposes, assign or detail public employees to perform work for the Board.

§ 21-130.3 **Powers and duties.** The Board shall have the following powers and duties:

1. Promote and encourage the development of recycling markets.

2. Promote education and research on recycling.

3. Coordinate recycling programs with other municipalities.

4. Report to the County Executive and the Board of Supervisors from time to time and make such recommendations concerning recycling as the Board deems appropriate.

5. Promote the establishment of required recycling programs and facilities.

6. Recommend county policies and procedures related to recycling and solid waste management.

7. Perform analyses of and maintain current information on recycling costs, marketability and methods.

8. Provide recycling Information and assistance to other municipalities.

9. Develop recycling programs to be directly undertaken by Nassau County.

10. Direct the work of the Nassau County Recycling Coordinator.

§ 21-130.4 **Establishment of the position of Recycling Coordinator.**

(a) The County Executive shall appoint a Recycling Coordinator, which appointment shall be subject to confirmation by the Board of Supervisors. The Recycling Coordinator shall serve at the pleasure of the County Executive. The Recycling Coordinator shall receive compensation as fixed by ordinance. The Board of Supervisors may authorize by ordinance the employment of such personnel as is appropriate to assist the Recycling Coordinator.

§ 21-130.5 **Powers and duties of the Recycling Coordinator.** The Recycling Coordinator shall have the following powers and duties.

1. Develop and implement programs to, wherever practicable, recycle county waste products and enable the County to purchase items made from recycled materials.

2. Develop and implement programs for the dissemination of information and public education regarding all aspects of recycling.

3. Develop and encourage recycling markets in and for Nassau County.

4. Coordinate Nassau County recycling programs with the recycling and solid waste management programs of other municipalities in the region.

5. Prepare recycling proposals and grant applications.

6. Supervise collection of data and research on the composition of waste streams and their suitability for recycling.

7. Develop and promote economic incentives to encourage recycling.

8. Evaluate technology relating to recycling programs.

9. Assist local municipalities in the implementation of recycling programs.

10. Coordinate and promote the establishment of facilities and programs for recycling by private industry and local municipalities.

§ 21-130.6 **Separability.** If any part of or provision of this local law or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall be rendered and

shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

(Title M added by Local Law No. 2-1989, in effect June 5, 1989.)

# CHAPTER XXII
# GENERAL PROVISIONS

## Title A. In General


| | | |
|---|---|---|
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(Sections 22-16 to 22-17 added by Local Law No. 14-2003, in effect July 28, 2003.)

## Title A
## In General

§ 22-1.0 **Definition.** As used in this code, unless otherwise expressly stated or unless the context or subject matter otherwise requires:

1. The term "charter" means the County Government Law of the County of Nassau.

2. The term "county" means the County of Nassau.

3. The term "Board of Supervisors" means the Board of Supervisors of the County of

Nassau.

4. The term "administrative code" or "code" means the Nassau County Administrative Code.

5. The term "municipal corporation" means any town, village or city in the County of Nassau.

6. The term "district" means any special or school district In the County of Nassau.

7. The term "superintendent of public works" means the state superintendent of public works.

8. The term "Commissioner of Public Works" means the Commissioner of Public Works of the County of Nassau.

9. The term "agency" means any department, bureau, or office of the County of Nassau.

10. The term "person" means a natural person, copartnership, firm, company, association, joint-stock association, corporation or other like organization.

11. The term "real property" includes real estate, lands, tenements and heriditaments, corporeal or incorporeal.

§ 22-2.0 **Powers of heads of agencies over subordinates.** The heads of all agencies, except as otherwise provided by law, shall have power to appoint and remove, subject to the provisions of article thirteen of the charter, all chiefs of bureaus and all other officers, employees and subordinates in their respective departments, bureaus or offices, and to assign to them their duties.

§ 22-2.1 **Personal liability of heads of agencies.** No head of any agency shall be liable to respond in damages to the County or to any other person for any act or omission of any employee of the County employed within the agency of which he is such head. Any lawful claims which but for this section would be claims against such heads of an agency shall be lawful claims against the County and shall be deemed to be the liability of the County. Nothing contained herein, however, shall be deemed to relieve the head of any agency of liability to the County or to any other person for his own act or omission to act, nor be deemed to impose any new liability upon the County for any act or omission of such head of agency to which the County was not lawfully subject prior to the taking effect of this act.
(Added by L. 1940 Ch. 734 § 1, in effect April 25, 1940.)

§ 22-2.2 **Facsimile signatures.**

a. When the head or executive officer of any county department, institution, office or agency is required to execute or approve any paper or document, he shall do so by affixing his name thereto in his own handwriting, or by causing such name, or the name of his duly authorized deputy, to be affixed in such deputy's handwriting. Copies of any such paper or document may be executed or approved by means of a facsimile of such signature.

b. A facsimile signature may be employed for the execution or approval of original papers or documents on written authorization of the County Executive. Such authorization shall state the specific classes or types of documents or papers which are the subject of the authorization and bear an imprint of the facsimile to be used. Any such authorization shall remain in effect until rescinded in writing by the County Executive. All such authorizations or revocations snail be filed with the clerk of the Board of Supervisors.

c. Whenever duplicate originals of any paper or document are prepared, the term "original", as used in this section, shall mean the ribbon copy, and the term "copy" shall be deemed to include duplicate originals.
(Added by Local Law No. 2-1952, in effect October 6, 1952.)

§ 22-2.3 **Attendance of officers and employees at conference, conventions and schools.** Any county officer or employee may attend a conference or convention of municipal officers or employees or a school for the betterment of municipal government, whether the same be official or unofficial when authorized in writing by the County Executive. When so authorized, such officer or employee shall be reimbursed by the County for his actual and necessary expenses of travel, meals and lodging.
(Added by Local Law No. 3-1953, in effect July 13, 1953.)

§ 22-2.4 **Fiduciary bonds.** The County shall obtain the following fiduciary bonds:

a. A bond in the amount of one hundred thousand dollars, indemnifying the County against losses caused by failure of a county employee to faithfully perform his duties or to property account for monies or property received or in his control by virtue of his position or employment. The one hundred thousand dollar coverage under the bond shall apply separately to each employee where more than one employee is involved in any loss whether by collusion or otherwise. Payment of a loss or losses shall not reduce the liability of the surety for other or additional losses sustained during the term of the bond. The bond shall include all personnel of the County, except officers and employees who are required by law to furnish an individual bond or undertaking to qualify for office and the personnel covered by the bond required in subdivision b hereof.

b. A bond in the amount of one hundred thousand dollars, indemnifying the County against losses caused by the failure of any employee In the Department of Police or of any county employee whose primary duty is the operation of automotive equipment, to properly account for monies or property received or in his control by virtue of his position or employment. The one hundred thousand dollar coverage under the bond shall apply separately to each employee where more than one employee is involved in any loss whether by collusion or otherwise. Payment of a loss or losses shall not reduce the liability of the surety for other or additional losses sustained during the term of the bond.

c. The County Executive shall procure and renew the bonds required by this section on a three year basis and premiums shall be a county charge.
(Added by Local Law No. 11-1964, in effect December 30, 1964.)

§ 22-2.5 **Individual official undertakings.** Unless otherwise provided by law, wherever an officer or employee of the County is required to file an individual official undertaking such undertaking shall be procured on a three year basis in the amount of one hundred thousand dollars, except that the official undertaking of the treasurer shall be in the amount of two hundred fifty thousand dollars, and the official undertaking of the County Clerk shall be in the amount of three hundred twenty-five thousand dollars, and all premiums thereon shall be a county charge.
(Added by Local Law No. 17-1965, in effect January 1, 1966; amended by Local Law No. 2-1978, in effect February 6, 1978.)

§ 22.2.6 **Notary public commissions.** The County Executive may, for the convenience of the County, designate certain named county officers and employees to apply for notary public commissions and each such designation shall be filed in the office of the clerk of the Board of Supervisors. The necessary fees therefore shall be paid from county funds. No fee shall be charged or collected by such officer or employee for any notarial act performed by him.

Added by Local Law No. 7-1967, in effect May 22, 1967.)

§ 22-2.7 **Group automobile insurance payroll deduction.** Where a group automobile Insurance plan has been authorized by the provisions of an agreement between the County of Nassau, and a recognized or certified employee organization of the County, the Comptroller is hereby authorized to deduct from the wage or salary of any municipal officer or employee once each month, or upon such other periodic basis as the Comptroller may determine, such amounts for the payment of group automobile premiums as such officer or employee may specify in a writing filed with the Comptroller and to transmit such amounts so deducted to the insuring company. Any such written authorization may be withdrawn by such officer or, employee at any time upon filing written notice of such withdrawal with the Comptroller.
(Added by Local Law No. 3-1972, In effect March, 1972.)

§ 22-2.8 **Defense and indemnification of County officers and employees.**

1. As used in this section, unless the context otherwise requires the terms "County officer" and "County employee" shall mean any person holding a position by election, appointment or employment in the service of the County, whether or not compensated, or a volunteer expressly authorized to participate in a county sponsored volunteer program, but shall not include an independent contractor. For the purposes of this law the terms "County Officer" and "County Employee" shall include members of all boards and commissions of the County, the members of the Board of trustees of Nassau Community College, the Board of managers of Nassau County Medical Center, the members of the Nassau County Industrial Development Agency, the members of the Nassau County Local Development Corporation and the members and directors of the Nassau County Tobacco Settlement Corporation. The terms County Officer and County employee shall also include a former employee member or director, his estate or judicially appointed personal representative.
(Amended by Local Law 15-1999, effective October 20, 1999.)

2. (a) Upon compliance by the employee with the provisions of subdivision four of this section, the County shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the County.

   (b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the County Attorney, provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the County Attorney determines based upon his investigation and review of the facts and circumstances of the case that representation by the County Attorney would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The County Attorney shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The County Attorney may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of

this section, the County Attorney shall so certify to the Comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the County to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the Comptroller. Any dispute with respect to representation of multiple employees by a single counselor, the amount of litigation expenses .or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(c) Where the employee delivers process and a request for a defense to the County Attorney as required by subdivision four of this section, the County Attorney shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of subdivision two of this section on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

3. (a) The County shall indemnify and save harmless its employees in the amount of any judgment including punitive or exemplary damages obtained against such employees in any state or federal court, or in the amount of any settlement of a claim for lawful damages provided that the act or omission from which such judgment or settlement arose, occurred while the employee was acting within the scope of his public employment or duties; the determination of an act within the scope of public employment shall be determined by a majority vote of a panel consisting of one member appointed by the Nassau County Board of Supervisors, one member appointed by the County Executive and the Director of Personnel for the County of Nassau.

(Amended by Local Law No. 10-1991, in effect October 7, 1991.)

(b) An employee represented by private counsel shall cause to be submitted to the head of the department, commission, division, office or agency in which he is employed any proposed settlement which may be subject to indemnification by the County and if not inconsistent with the provisions of this section such head of the department, commission, division, office or agency in which he is employed shall certify such settlement, and submit such settlement and certification to the County Attorney. The County Attorney shall review such proposed settlement as to form and amount, and shall give his approval if in his judgment the settlement is in the best interest of the County. Nothing in this subdivision shall be construed to authorize the County to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the County Attorney.

(c) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the head of the department, commission, division, office or agency in which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such head of the department, commission, division, office or agency. If the County Attorney concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the Comptroller.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the County Attorney by the employee of the original or a copy of

any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the County based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the County provide for his defense pursuant to this section.

5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the Workers Compensation Law.

6. This section shall not in any way affect the obligation of any claimant to give notice to the County under section 50-e of the General Municipal Law or any other provision of law.

7. The provisions of this section shall not be construed to impair, alter, limit or modify the nights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the County or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provisions of state, county or federal statutory or common law.

10. If any provisions of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or In part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.
(Amended by Local Law No. 2-1980, in effect April 30, 1980.)

§ 22.3.0 **Rule, and regulations.** Each head of an agency, except as otherwise provided by law, may make rules and regulations for the conduct of his office or department.

§ 22-3.1 **Destruction of books, accounts and papers.** The head of any agency shall have the right and power to destroy such books, accounts, letters, maps, charts, papers or other writings which have been retained in his office over six years, upon consent of the Commissioner of Education of the State of New York and when specifically authorized so to do by ordinance of the Board of Supervisors.
(Amended by L. 1949 Ch. 247, in effect March 22, 1949.)

§ 22-4.0 **Official oaths.** Every officer of the County shall take and file an oath of office before he shall be entitled to enter upon the discharge of his official duties.

§ 22-4.1 **County agencies relieved from payment of fees to county and town officers.**

a. It shall be unlawful for any salaried officer of the County or of the towns within the County or of the supreme court held in and for Nassau County or of the surrogate's court of Nassau County or of the County court of Nassau County or of the district court of Nassau County or for any public officer who is required by law to deposit fees collected in his office in the County treasury, to receive from the head of any agency, any fee for levy, service or return of executions or other mandate or order or for entering, filing, docketing, registering, recording or issuing any paper, record, mandate, precept or document required by law to be filed in or issued out of his office.

b. Every such officer must upon application therefor, furnish to the head of any agency, a certified or photostatic copy, extract or transcript of any paper, record, mandate, precept or document on file in his office, or of the return upon an execution, mandate, or order without receiving therefore the fee prescribed by law.
(Added by L. 1940 Ch. 220 §, in effect March 21, 1940.)

§ 22-4.2 **Code of Ethics.**

1. CONFLICTS OF INTEREST PROHIBITED.

(a) No officer or employee of the County of Nassau, whether paid or unpaid, shall:

(1) Be or become interested directly or indirectly in any manner whatsoever, except by operation of law, in any business or professional dealings with the County or any agency thereof.

(2) Act as attorney, agent, broker, representative or employee in business or professional dealings with the County or any agency thereof for any person, firm or corporation directly or indirectly in any manner whatsoever.

(3) Accept other employment or engage in any business transactions or make any investments directly or indirectly which create a conflict with his official duties.

(b) Notwithstanding the provisions hereinbefore set forth, any person serving the County or any agency thereof without compensation shall not be deemed to be in violation of subsection (a) above by reason of financial, professional or business interests unless such interest is in conflict with the proper discharge of his official duties.

(c) Notwithstanding the provisions hereinbefore set forth, an officer or employee of the County shall not be deemed to be in violation of subsection (a) above for reason of making a contract with the County to serve as a foster parent unless the making of such contract is in conflict with the proper discharge of his official duties.
(Subdivision c added by Local Law No. 4-1964, in effect August 19, 1964.)

2. GIFTS AND FAVORS. No officer or employee of the County of Nassau, whether paid or unpaid, shall accept any valuable gift, whether in the form of services, loan, thing or promise or any other form, from any person, firm or corporation which to his knowledge is interested directly or Indirectly in any manner whatsoever in business or professional dealings with the County or any agency thereof.

3. DISCLOSURE OF INTEREST.

(a) Any officer or employee of the County of Nassau, whether paid or unpaid, who has a direct or indirect financial or other private interest in any matter being considered by the Board of Supervisors or by any other official board, agency, officer or employee of the County of Nassau, and who participates in discussions before or gives opinions to such board, agency or individuals, shall publicly disclose on the official record the nature and extent *of* such interest.

(b) Any officer or employee of the County of Nassau, whether paid or unpaid, who has knowledge of any matter being considered by any board, agency, officer or employee of the County of Nassau in which he has any direct or indirect financial or other private interest, shall be required to disclose in writing his interest in such board, agency, officer or employees, and the nature and extent thereof.

(c) A copy of every disclosure required under section (a) and (b) above including a copy of

every transcript containing such a disclosure shall be promptly transmitted by the Board, agency, officer or employee receiving such disclosure to the Clerk of the Board of Supervisors who shall file and maintain same as a public record.

4. DISCLOSURE OF CONFIDENTIAL INFORMATION. No officer or employee of the County of Nassau whether paid or unpaid shall disclose confidential information concerning the property, government or affairs of the County or any other confidential information of an official character except when permitted or required by law, nor shall he use such information to advance the financial or other private interests of himself or others.

5. FUTURE EMPLOYMENT. No person who has served as an officer or employee of the County of Nassau shall within a period of two years after the termination of such service or employment, appear before any board or agency of the County or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned or in which he presently participated during the period of his service or employment or which was under his active consideration.

6. PENALTIES. A violation of any of the provisions of this code shall constitute cause for forfeiture of pay, suspension or removal from office or employment in the form and manner as provided by law. Nothing in this section shall limit any other penalties which may be provided by law.

7. BOARD OF ETHICS. There is hereby created and established a Board of Ethics consisting of five (5) members to be appointed by the County Executive, subject to the confirmation of the Board of Supervisors, all of whom shall reside in the County of Nassau and who shall serve without compensation at the pleasure of the County Executive. A majority of such members shall not be officers or employees of the County of Nassau or any municipality wholly or partially located in the County. The County Attorney of Nassau County shall be one of the members of the Board. The members of the Board shall elect a chairman.

(See Charter § 2218(6) for the present composition of the Board of ethics.)

The Board shall render advisory opinions with respect to this code, such opinions to be rendered only to the officer or employee or to the head of his department, agency, or commission. All requests for opinions most be submitted to the Board in writing. Opinions shall be rendered only to the person duly requesting it.

Such board upon its formation shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and proceedings.
(Subdivision 7 amended by Local Law No. 9-1973, in effect October 1, 1973.)

8. EXEMPTIONS.

(a) Notwithstanding the foregoing provisions of this section, any textbook authored by a member of the faculty at Nassau community college may be sold at the college and a royalty or other financial remuneration may be paid to such author, provided the sale of such a faculty authored textbook shall be made in accordance with the rules and regulations promulgated by the Board of Trustees of the college.
(Added by Local Law No. 2-1976, in effect February 3, 1976.)

(b) Notwithstanding the foregoing provisions of this section, a county officer or employee may be a member of a membership corporation or other voluntary nonprofit corporation or association doing business with the County, or hold a policy making position with such corporation or association, provided such person receives no financial remuneration either

directly or indirectly for such membership or position with the corporation or association other than expenses actually and necessarily incurred in the performance of duties in addition to reasonable compensation for personal services as may be provided by written contract between the officer or employee and said corporation or association which agreement shall be disclosed to the respective department, agency or commission and approved prior thereto by the Board of Ethics and any officer or employee receiving such approval shall be required to comply with the provisions of § 22-4.3 of said Code for each year during the existence of such agreement.
(Subd. b added by Local Law No. 4-1977, in effect April 18, 1977; amended by Local Law No. 7-1992, in effect May 4, 1992.)

(c) Notwithstanding the foregoing provisions of this section an attending physician or dentist who is employed at the Nassau County Medical Center for teaching purposes, may, nonetheless, enter into a contractual relationship with Nassau County for the purpose of providing medical and dental care and/or treatment to patients for which he may receive financial remuneration directly from the patient cared for and/or treated by him at the Nassau County Medical Center.
(Subd. c added by Local Law No. 15-1984, in effect August 6, 1984.)

(Local Law No. 9-1963, adding section 22-4.2, in effect July 22, 1963.)

§ 22-4.3 **Financial Disclosure.**

1. DEFINITIONS. As used in this section:

(a) The term "county" shall mean Nassau County.

(b) The term "elected official" shall mean an elected official of the County and shall include the Supervisors of the Board of Supervisors.

(c) The term "officer or employee" shall mean:

(1) the heads (other than elected officials) of any department, agency, board or commission of the County and their deputies and assistants;

(2) the officers and employees of such County departments, agencies, boards or commissions who hold policy-making positions, as annually determined by the Board of Supervisors and set forth in a resolution of said Board of Supervisors which shall be filed with the Board of Ethics on or about February 15th of each year.

(d) The term "reporting individual" shall mean the person required by this section to file an Annual Financial Disclosure Statement.

(e) The term "spouse" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement.

(f) The term “political party official" shall mean any chairman of a county, city, town or village committee elected pursuant to the election law or designated by the rules of a county, city, town or village political committee as the "County Leader" or "Chairman of the Executive Committee," city leader, town leader, village leader or by whatever title designated, pursuant to the rules of such county, city, town or village committee or, in actual practice, possesses or performs the principal political executive and administrative functions of said county, city, town or village

committee or has the power of general management over the affairs of such county, city, town or village committee or the power to exercise the powers of the chairman of such county, city, town or village committee in accordance with the rules of such county, city, town or village committee.

(g) The term "relative" shall mean the spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

(h) The term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter under the age of 18, unmarried and living in the household of the reporting individual.

(i) The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

2. FINANCIAL DISCLOSURE STATEMENT REQUIREMENTS.

(a) Every elected official, including elected officials on the Board of Supervisors, officer or employee and political party official and every candidate for county elected official, including elected official on the Board of Supervisors, in office or employ on or after May 15 of any year including, but not limited to, those set forth in subdivision 4 of this section, shall file an Annual Statement of Financial Disclosure containing such information and in such form as is set forth in subdivision 3 of this section. Such statement shall be filed on or before the fifteenth day of May with respect to the preceding calendar year, except that:

(1) A person who is subject to the reporting requirements of this subdivision and who has timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;

(2) A person who is required to file an annual financial disclosure statement with the Board of Ethics and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations on this subject, shall file such statement within the additional period of time granted;

(3) Candidates for county elected official, including elected official on the Board of Supervisors, who file designating petitions for nomination at a primary election, shall file a financial disclosure statement seven days after the last day allowed by law for the filing of designating petitions naming said candidates for the next succeeding primary election;

(4) Candidates for independent nomination for county elected official, including elected

official on the Board of Supervisors, who have not been designated by a party to receive a nomination, shall file a financial disclosure statement within seven days after the last day allowed by law for the filing of individual nominating petitions naming said candidates as candidates for county elected official, including elected official on the Board of Supervisors, in the next succeeding general or special election; and

(5) Candidates for county elected official, including elected official on the Board of Supervisors, who receive the nomination of a party for a special election shall file a financial disclosure statement within seven days after the date of the meeting of the party committee at which they are nominated.

(b) As used in this subdivision, the terms "party", “committee" (when used in conjunction with the term "party"), "designation", "primary", “primary election", "nomination", "independent nomination", "ballot" and "uncontested office" shall have the same meanings as those contained in section 1-104 of the election law.

(c) Each financial disclosure statement shall be filed with the Nassau County Board of Ethics, the repository for such statements.

(d) The Nassau County Board of Ethics shall obtain from the Nassau County Board of Elections lists of all candidates for county elected official, including elected official on the Board of Supervisors, and from such lists, shall determine and publish lists of those candidates who have not, within ten days after the required date for filing a financial disclosure statement, filed the statement required by this subdivision.

(e) Both political party officials and any person required to file a financial disclosure statement who commences employment after May fifteenth of any year shall file such statement within thirty days after commencing employment or of taking the position of political party official, as the case may be.

(f) A person who is subject to the filing requirements of both subdivision two of section seventy-three-a of the public officers law and of this subdivision may satisfy the requirements of this subdivision by filing, with the Nassau County Board of Ethics on or before the filing deadline provided in section seventy-three-a of said law, a copy of the financial disclosure statement filed pursuant to said section seventy-three-a notwithstanding the filing deadline otherwise imposed by this subdivision.

(g) A person who is subject to the filing of annual financial disclosure statements for more than one political subdivision within Nassau County may satisfy the requirements of this subdivision by filing only one annual financial disclosure statement with the Nassau County Board of Ethics or if such political subdivision crosses one or more county boundary lines, then such single filing may be made for any of the counties in which one of such political subdivisions is located provided, however, that the Nassau County Board of Ethics is notified of the name of the County of such compliance by the person who is subjected to the filing requirements of this subdivision, within the time limit for filing specified in this subdivision.

(h) A county elected official who is simultaneously a candidate for county elected official, including elected official on the Board of Supervisors, shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds such county elected office.

(i) A candidate whose name will appear on both a party designating petition and on an - Independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this

subdivision by complying with the earliest applicable deadline only.

3. The annual statement of financial disclosure shall contained the information and shall be in the form set forth below:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FOR
THE COUNTY OF NASSAU FOR THE YEAR _____

1. NAME AND ADDRESS

_____
Last Name Middle Initial First Name

_____
Title

_____
Department or Agency

_____
Department or Agency Address Telephone Number

_____
Residence Address Telephone Number

2. SPOUSE AND DEPENDENT CHILDREN

_____ _____
Spouse Child/Age

_____ _____
Child/Age Child/Age

NOTE: FOR QUESTIONS 3 TO 6, DO NOT REPORT EXACT DOLLAR AMOUNTS. INSTEAD, REPORT CATEGORIES OF AMOUNTS, USING THE FOLLOWING:

CATEGORY A: UNDER $5,000
CATEGORY B: $5,000 TO UNDER $20,000
CATEGORY C: $20,000 TO UNDER $60,000
CATEGORY D: $60,000 TO UNDER $100,000
CATEGORY E: $100,000 TO UNDER $250,000
CATEGORY F: OVER $250,000

3. FINANCIAL INTERESTS

a. *Business Positions.* List any office, trusteeship, directorship, partnership, or other position in any business, association, proprietary, or not-for-profit organization held by you or your spouse or dependent children, if any, during the reporting year and indicate whether these businesses have dealings with the County of Nassau in any manner.

_____ _____ _____ County Department or Agency and

| Name of Family Member | Position | Organization | Nature of Involvement |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

b. *Outside Employment.* Describe any outside occupation employment, trade, business or profession providing more than $2,500 during the reporting year for you or your spouse or dependent children, if any, and indicate whether such activities are regulated by any state or local agency.

| Name of Family Member | Position | Name, Address, and Description of Organization | State or Local Agency | Category of Amount |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

c. *Future Employment.* Describe any contract, promise, or other agreement between you and anyone else with respect to your employment after leaving your County office or position.

_____

* The "reporting year," as used throughout this form, means the calendar year, from January 1 to December 31, preceding the year in which this report is required to be filed.

d. *Past Employment.* Identify the source and nature of any income you have received in excess of $2,500 during the reporting year from any prior employer, including deferred income, contributions to a pension or retirement fund, profit sharing plan, severance pay, or payments under a buy-out agreement.

| Name and Address of Income Source | Description of Income (i.e., pension, deferred, etc.) | Category of Amount |
|---|---|---|
| | | |
| | | |
| | | |

e. *Investments.* Itemize and describe all investments in excess of $5,000 or five percent of the value in any business, corporation, partnership, or other assets, including stocks, bonds, loans, pledged collateral, and other investments, held by, or for, you or your spouse during the reporting year. list the location of all real estate within the County or

within five miles thereof, in which you or your spouse have an interest, regardless of its value.

| Name of Family Member | Name and Address of Business or Real Estate | Description of Investment | Category Of Amount |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

f. *Trusts.* Identify each interest in excess of $2,500 held by you in a trust or estate or similar beneficial interest, if reasonably ascertainable, except for IRS eligible retirement plans or interests in an estate or trust of, or for, a relative. Do not list any IRS eligible retirement plan or deferred compensation plan.

| Name of Family Member | Trustee/Executor | Description of Trust/Estate | Category Of Amount |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

g. *Other Income.* Identify the source and nature of any other income in excess of $1,000 per year from any source not described above, including teaching income, lecture fees, honoraria, consultant fees, contractual income, or other income of any nature, received by you or your spouse.

| Name of Family Member | Name and Address of Income Source | Nature of Income | Category of Amount |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

4. GIFTS AND HONORARIA

List the source of all gifts in excess of $1,000 received during the last year by you, your spouse or dependent child, excluding gifts from a relative. The term "gifts" includes gifts of cash, property, personal items, payments to third parties on your behalf, forgiveness of debt, honoraria, and any other payments that are not reportable as income. Do not list campaign contributions.

| Name of Family Member | Name and Address of Donor | Category of Amount |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

5. THIRD-PARTY REIMBURSEMENTS.

Identify and describe the source of any third-party reimbursement for travel related expenditures in excess of $1,000 for any matter that relates to your official duties. The term "reimbursement" includes any travel-related expenses provided by anyone other than the County for speaking engagements, conferences, or fact-finding events that relate to your official duties. Do not list campaign contributions.

| Source | Description | Category of Amount |
|---|---|---|
| | | |
| | | |
| | | |

6. DEBTS.

Describe all your debts and those of your spouse in excess of $5,000. Do not include: debts to relatives, debts incurred in the ordinary course of your trade, business or professional practice or that of your spouse; obligations to pay maintenance in a matrimonial action, alimony or child support payments; revolving charge accounts under $5,000; any loans issued in the ordinary course of business by a financial institution to finance education costs, the cost of home purchase or improvements for a primary or secondary residence or purchase of a personally owned motor vehicle, household furniture or appliance.

| Name of Family Member | Name and Address of Creditor | Category of Amount |
|---|---|---|
| | | |
| | | |
| | | |

7. INTEREST IN CONTRACT'S.

Describe any interest you, your spouse, or your dependent children have in any contract involving the County or any village, town or municipality located within the County.

| Name of Family Member | Contract Description |
|---|---|
| | |
| | |
| | |
| | |

8. POLITICAL PARTIES.

List any position you held within the past five years as an officer of any political party, political committee, or political organization. The term "political organization" includes any independent body or any organization that is affiliated with or a subsidiary of a political party.

_____

_____

_____

_____

Signature Date

(Subdivision 3 Amended by Local Law No. 6-2002.)

4. Persons Required to Report.

The Annual Statement of Financial Disclosure, as provided in subdivision 3 of this section, shall be completed and filed with the Nassau County Board of Ethics on or before June 30 of each year, pursuant to rules and regulations to be promulgated by such Board of Ethics, and such Financial Disclosure Statement shall be filed by the following:

(a) County elected officials.

(b) County department heads and their deputies and assistants.

(c) County officers and employees, including members of boards or commissions who receive compensation other than reimbursement for expenses incurred in the performance of their duties. The Board of Ethics shall determine annually which officers and employees hold policymaking positions and shall file a copy of the final list with the clerk of the County Legislature by May 15. The Board shall base its determination on Board of Ethics' Resolution No. 1-1991 and any subsequent resolutions adopted by the Board.

(d) Members of boards or commissions who hold policymaking positions, as determined by the Board of Ethics in accordance with the provisions of subdivision (c) above, and who do not receive compensation for their services from the County other than reimbursement for expenses incurred in the performance of their duties; provided, however, that the Board of Ethics may approve for some or all such unpaid positions an adapted disclosure form or forms setting forth such disclosure requirements as the Board determines appropriate, taking into consideration the nature and functions of such positions and the guidelines contained in Resolution No. 1-1991 and any subsequent resolution adopted by the Board.

(e) County officers and employees who have applied for and received Board of Ethics approval in accordance with §22-4.2(8) (b).

(f) (1) Any County officers and employees serving in an office or title or classification set forth below by County department, division or agency, which office, title or classification shall include, but not be limited to:

ASSESSMENT

Assistant to Chair

Chief Deputy Assessor

Deputy Assessor

Deputy Director Real Property Tax Services

Member

ASSESSMENT REVIEW

- Chair
- Member
- Secretary
- Vice-Chair

BOARD OF ELECTIONS

- Assistant to Commissioner
- Chief Clerk
- Chief Election Officer
- Chief Registrar
- Commissioner
- Counsel to Commissioner
- Deputy Chief Election Officer
- Deputy Commissioner
- Executive Assistant to Commissioner
- Executive Secretary
- Senior Election Officer
- Supervisor of Maps and Canvas

LEGISLATURE

- Legislator
- Legislative Budget Analyst
- Majority Counsel
- Staff Director for Finance
- Chief of Staff
- Deputy Press Secretary
- Press Secretary
- Staff Counsel for Majority
- Executive Director to Minority
- Minority Counsel
- Administrative Director
- Legislative Assistant
- Procurement Supervisor to the Legislature
- Clerk to the Legislature
- Deputy Clerk to the Legislature

CIVIL SERVICE

Assistant Secretary and Chief Examiner

Chair of Civil Service Commission

Civil Service Physician

Commissioner of Civil Service

Secretary and Chief Examiner

COMMUNITY COLLEGE

BOARD OF TRUSTEES

Chair

Student Trustee

Trustee

CABINET MEMBERS

Member

President

ADMINISTRATION/OFFICERS

Assistant to President

Associate Vice President

Director of Human Resources

President

DEPARTMENT CHAIRS

PROMOTION AND TENURE COMMITTEE

Chair

Member

COMMUNITY DEVELOPMENT

Assistant to Director of Community Development

Deputy

Director of Community Development

CONSUMER AFFAIRS

Assistant to Commissioner of Consumer Affairs

Commissioner of Consumer Affairs

Deputy Commissioner Consumer Affairs

COUNTY ATTORNEY

Chief Deputy County Attorney

Chief Investigator
Chief Real Estate Negotiator
County Attorney
Deputy County Attorney

COUNTY CLERK
Deputy County Clerk

COUNTY COMPTROLLER
Deputy Comptroller
Inspector

COUNTY EXECUTIVE
Chief Deputy County Executive
Chief of Staff
Counsel to County Executive
Deputy County Executive
Director of Communications
Office Supervisor
Press Secretary
Special Assistant

C.A.S.A.
Assistant Director

COMMISSIONER OF ACCOUNTS
Assistant Executive Director
Assistant to Commissioner
Assistant to Executive Director
Commissioner
Deputy Commissioner
Deputy Director
Director of Community Services
Executive Director
Project Director, Crime Victim Assistance

CULTURAL DEVELOPMENT
Assistant Director Office Cultural Development
Executive Director, Cultural Development
Special Assistant

MANAGEMENT AND BUDGET
- Deputy Director of the Budget
- Director of the Budget

PERSONNEL
- Administrator
- Assistant Staff Director
- Staff Director

PHYSICALLY CHALLENGED
- Director

TRAFFIC & PARKING VIOLATIONS AGENCY
- Executive Director

VETERANS SERVICE AGENCY
- Director of Veterans Service Agency

YOUTH SERVICES PROJECT AND SURVEY
- Executive Director, Nassau County Youth Board

COUNTY TREASURER
- County Treasurer
- Deputy County Treasurer

DISTRICT ATTORNEY
- Assistant District Attorney
- Chief Investigator
- Deputy Chief Investigator
- Public Information Officer

DRUG AND ALCOHOL
- Commissioner, Drug and Alcohol Administration
- Deputy Commissioner, Drug and Alcohol Administration
- Deputy Director Drug Enforcement-Info Clinic
- Director Drug Enforcement-Info Clinic
- Physician

FIRE MARSHAL
- Assistant
- Fire Marshal

GENERAL SERVICES

ADMINISTRATION

Assistant to Commissioner-General Services

Commissioner of General Services

Deputy Commissioner-General Services

Deputy Commissioner-General Services-Administration

DIVISION OF ENERGY

Deputy Commissioner General Services-Energy

DIVISION MOTOR VEHICLES

Deputy Commissioner-General Services

PROPERTY MANAGEMENT

Deputy Commissioner General Services-Property Management

PURCHASE AND SUPPLY

Deputy Commissioner General Services-Purchase and Supply

Secretary to Deputy Commissioner-General Services Purchase and Supply

HEALTH

ENVIRONMENT AL QUALITY

Deputy Commissioner of Health

LABORATORY RESEARCH

Physician

PERSONAL HEALTH SERVICES

Deputy Commissioner of Health

Deputy Commissioner of Health (Physician)

Resident Physician-Public Health

HOUSING AND INTERGOVERNMENTAL AFFAIRS

Assistant Federal and State Aid Coordinator

County Housing Coordinator

Housing Inspector

HUMAN RIGHTS

Assistant Director Commission on Human Rights

Assistant to Director, Job Development Center

Director, Job Development Center

Executive Director, Commission on Human Relations
Special Assistant-Community Relations
Special Assistant, Research & Development

MEDICAL EXAMINER
Assistant to Chief Medical Examiner
Chief Medical Examiner
Chief Toxicologist
Deputy Chief Medical Examiner
Deputy Chief Medical Examiner for Administration
Deputy Medical Examiner
Deputy Medical Examiner Forensic

MENTAL HEALTH
Commissioner of Mental Health
Deputy Commissioner Community Mental Health Services
Deputy Commissioner of Mental Health

OFFICE OF LABOR
Assistant Director
Assistant to Director
Commissioner
Deputy Commissioner
Director
Director Bureau of Apprenticeship, Training and Special Placements

PLANNING COMMISSION
Director

POLICE
Assistant to Commissioner
Commissioner
Police Surgeon
Public Information Officer

PROBATION
Deputy Director
Director

PUBLIC ADMINISTRATOR

Deputy Public Administrator

Public Administrator

PUBLIC WORKS

ADMINISTRATION

Assistant Commissioner of Public Works-Water Conservation Program

Assistant to Commissioner

Assistant to Commissioner Public Works Capital Programs

Assistant to Deputy Commissioner

Commissioner Public Works

Deputy Commissioner Public Works

COUNTY ROAD MAINTENANCE

Deputy Commissioner Public Works

SANITATION

Sewer Maintenance Superintendent

Superintendent of Buildings

Superintendent of Sewage Plants

RECREATION AND PARKS

Commissioner

Deputy Commissioner

SENIOR CITIZEN AFFAIRS

Commissioner

Deputy Commissioner

SHERIFF

Assistant Warden

Commissioner of Corrections

Deputy Undersheriff

Sheriff

Undersheriff

Warden

SOCIAL SERVICES

Commissioner

Physician

(2) In addition to the foregoing, any County officers and employees serving in the titles set forth below:

Administrative Officer I

Administrative Officer II

Assistant Director, Children's Shelter

Assistant Director of Data Processing

Assistant Director of Laboratories and Research

Assistant Nursing Home Administrator I

Assistant Parks Maintenance Superintendent

Assistant Secretary and Chief Examiner

Assistant Superintendent of Highway Maintenance

Attorney I

Attorney II

Attorney III

Chief Clerk, Board of Assessors

Chief Investigator

Chief Real Estate Negotiator

Civil Service Physician

Clerical Assistant Assigned to Office of President of Community College

Clerk Steno IV-Secretary to Commissioner Health

Confidential Assistant to Deputy Comptroller

Confidential Assistant to Director of Probation

Coordinator, Senior Citizen Minority Services

Coordinator, Senior Citizen Planning and Research

County Director of Accounting

County Director of Safety

Deputy Director of Probation

Director, Bureau of Building Services

Director, Bureau of Purchase and Contract Administration

Director of Environmental Programs

Director of Bureau of Real Estate & Insurance

Director of Children's Services

Director of Children's Shelter

Director of County Museums

Director of Data Processing

Director of Environmental Construction

Director of Environmental Engineering
Director of Environmental Health Laboratory
Director of Environmental Operations
Director of Family Services
Director of Management Analysis I
Director of Management Analysis II
Director of Medical Social Services
Director of Nursing I
Director of Nursing II
Director of Nursing III
Director of Office Services I
Director of Probation
Director of Protective Services for Children
Director of Public Health and Social Work
Director of Safety and Security Services
Director of Traffic Safety Board
Director of Veteran Service Agency
Director, Traffic Engineering
Executive Assistant
Field Audit Director
Fire Marshal
Intensive Case Manager I
Intensive Case Manager II
Library Director V
Manager of Energy Development and Control
Mental Health Research Director
Mosquito Control Superintendent
Office Services Supervisor, Department of Drug & Alcohol
Parks Maintenance Superintendent
Personnel Services Supervisor, Department of Drug & Alcohol
Personnel Specialist IV
Personnel Specialist V
Personnel Systems Analyst, Probation Dept.
Public Health Administrator II
Public Health Administrator IV
Sanitarian V
Social Services Law Assistant

Special Investigator IV

Superintendent of Building Maintenance

Superintendent of Facilities Planning

Superintendent of Highway Maintenance

Superintendent of Real Estate

(g) Candidates for County Elected Office
(h) Political Party Officials

(Amended by Local Law No. 8.1992, in effect May 4, 1992; subdivision 4 amended by Local Law. 6-2002, effective June 6, 2002)

5. PENALTIES

(a) A reporting individual who files an annual statement of financial disclosure after the date for filing provided in this act or In accordance with the Rules and Regulations of the Nassau County Board of Ethics; or who files an incomplete annual statement of financial disclosure; or who knowingly and/or willfully fails to file a complete annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this law may be assessed a civil penalty in an amount not to exceed ten thousand ($10,000.00) dollars. Assessment of a civil penalty may be made by the Board of Ethics with respect to persons subject to its jurisdiction. The Board of Ethics acting pursuant to the law may impose a civil penalty as aforesaid. Such a violation may also be punishable as a class A misdemeanor regardless of whether a civil penalty is imposed. This section shall not be construed to prohibit or exclude any other remedy, right, or penalty, whether criminal, civil, or administrative, provided by law.
(Amended by Local Law No. 4-1991, in effect May 1, 1991; Local Law No. 15-1991, in effect January 1, 1992: amended by Local Law No. 8-1992, in effect May 4, 1992.)

(b) A civil penalty for false filing may not be imposed hereunder in the event of a category of "value" or "amount" reported upon as required by this law is incorrect unless such reported Information is falsely understated.
(Amended by Local Law No. 4-1991, in effect May 1, 1991.)

(c) The Board of Ethics shall be deemed to be an "agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms of scope.

(d) Assessment of a civil penalty shall be final unless modified, suspended, or vacated within thirty days of imposition, and upon becoming final shall be subject to review at the instance of the affected reporting individual in proceeding against the Board of Ethics pursuant to article seventy-eight of the civil practice law and rules.

6. ADDITIONAL POWERS OF THE BOARD OF ETHICS

The Board of Ethics created and established pursuant to subdivision 7 of § 22-4.2 of the Nassau County Administrative Code shall continue and shall have and exercise such additional

powers and duties as are set forth below:

(a) Appoint an executive director who shall act in accordance with the policies of said board. Said board may delegate authority to the executive director to act in the name of said board between meetings of said board provided such delegation is in writing and the specific powers to be delegated are enumerated.

(b) Appoint such other staff as are necessary to carry out its duties under this section.

(c) Adopt, amend, and rescind rules and regulations to govern procedures of said board which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with said board may request an additional period of time within which to file such statement due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which, in all cases of justifiable cause or undue hardship, no further extension of time may be granted. Said board may utilize or modify such rules or regulations or adopt separate rules or regulations for the purposes set forth in paragraph (d) of subdivision one of section eight hundred eleven of the General Municipal Law.

(d) Promulgate guidelines to assist the Board of Supervisors in determining which persons may be deemed to hold policy-making positions for purposes of this section.

(e) Make available forms of annual statement of financial disclosure required to be filed pursuant to this section.

(f) Review completed financial disclosure statements in accordance with the provisions of this section, provided, however, that said board may delegate all or part of this review function to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of said board's delegation.

(g) Receive complaints alleging a violation of the provisions of this section or a violation of the criteria for reporting requirements established by this section.

(h) Permit any person required to file a financial disclosure statement to request said board to delete from the copy thereof made available for public inspection one or more items of information, which may be deleted by said board, after denial of a request for deletion made to the Advisory Council on Disclosure as provided in subdivision seven of this section, upon a finding, by a majority of the total number of members of said board without vacancy, that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, said board in its notification of denial, shall inform the person of the right to appeal said board's determination pursuant to its rules governing adjudicatory proceedings and appeals. Said board shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the Advisory Council.

(i) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which Item or items may be exempted by the Board after denial of a request for exemption made to the Advisory Council, upon a finding, by a majority of the total number of members of said board without vacancy, that the reporting individual's spouse, on such spouse's behalf, or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting individual's official duties. If such request for exemption is denied, said board, in its notification of denial, shall inform the person of his or her right to appeal said board's determination pursuant to its rules governing adjudicatory proceedings and appeals. Said board

shall promulgate rules and regulations governing the issuance of written decisions in connection with appeals from the Advisory Council.

(j) [DELETED]

(k) Permit any person who has not been determined to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which said board deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption, where, in the discretion of said board, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

(1) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in section seventy-three of the public officers law;

(2) the purchase, sale, rental or lease of real property, goods or services, or a contract therefore;

(3) the obtaining of grants of money or loans; or

(4) the adoption or repeal of any rule or regulation having the force and effect of law.

(l) Act as a repository for or provide by rules and regulations for the filing and retention of completed financial disclosure forms required by this section.

(m) Upon certification of a question by the Advisory Council to said board, as provided in paragraph (k) of subdivision seven of this section, the Board may determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section.

(n) Notwithstanding the provisions of article six of the public officers law, the only records of the Board which shall be available for public inspection are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to law, except the categories of value or amount which shall remain confidential, and any other item of information deleted pursuant to paragraph h of this subdivision of this section, as the case may be;

(2) Notices of Delinquency sent under paragraph (q) of this subdivision:

(3) Notices of Reasonable Cause sent under paragraph (r) of this subdivision: and

(4) Notices of Civil Assessments imposed under this section.

(o) Notwithstanding the provisions of article seven of public officers law, no meeting or proceeding of the Board of Ethics shall be open to the public, except if expressly provided otherwise by said board.

(p) Said board or the executive director and staff of the Board if responsibility therefore has been delegated, shall inspect all financial disclosure statements filed with said board to ascertain whether any person subject to the reporting requirements has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible

violation of this section.

(q) If an individual required to file a financial disclosure-statement with the Board of Ethics has failed to file a financial disclosure statement or has filed a deficient statement, said board shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen (15) day period to cure the deficiency, and, advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, said board shall send a Notice of Delinquency:

(1) to the reporting individual; and

(2) in the case of an officer or employee, to the appointing authority for such person.

(r) (1) If a reporting individual has filed a statement which reveals a possible violation of this section, or said board receives a sworn complaint alleging such a violation, or if said board determines on its own initiative to investigate a possible violation, said board shall notify the reporting individual in writing, describe the possible or alleged violation of such law, and provide the person with a fifteen (15) day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If said board thereafter makes a determination that further inquiry is justified, it shall give the reporting individual a copy of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If said board determines at any stage of the proceeding, that there is no violation or that any potential violation has been rectified, it shall so advise the reporting individual and the complainant, if any. All of the foregoing proceedings shall be confidential;

(2) If the Board determines that there is reasonable cause to believe that a violation has occurred, it shall send a Notice of Reasonable Cause:

(A) to the reporting individual;

(B) to the complainant if any; and

(C) in the case of an officer or employee, to the appointing authority for such person.

(s) A copy of any Notice of Delinquency or Notice of Reasonable Cause sent pursuant to paragraphs (q) and (r) of this subdivision shall be included in the reporting individual's file and be available for public inspection.

(t) Upon written request from any person who is subject to the jurisdiction of the Board of Ethics, said board shall render advisory opinions on the requirements of said provisions. An opinion rendered by the Board, until and unless amended or revoked, shall be binding upon the Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense, in any criminal or civil action arising out of this section. Such requests shall be confidential, but the Board may publish such opinions provided that the name of the requesting individual and other identifying details shall not be Included In the publication.

(u) In addition to any other powers and duties specified by law, the Board of Ethics shall have the further power and duty to:

(1) Administer and enforce all the provisions of this section:

(2) Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

7. ADVISORY COUNCIL ON DISCLOSURE

(a) There is established within the Board of Ethics an Advisory Council on Disclosure which shall consist of five members and shall have and exercise the powers and duties set forth in this subdivision.

(b) The members of said Advisory Council shall be appointed by the County Executive, subject to the confirmation of the Board of Supervisors, all of whom shall reside in the County of Nassau. Of the members appointed, no more than three members shall belong to the same political party and at least two members shall not be public officers or employees, or hold any public office, elected or appointed.

(c) Members of said Advisory Council shall serve for a term concurrent with the term of office of the County Executive.

(d) The members of said Advisory Council shall designate the chairman thereof. The chairman or any three members of said Advisory Council may call a meeting.

(e) Any vacancy occurring on said Advisory Council shall be filled within sixty days of its occurrence, by the County Executive, subject to the confirmation of the Board of Supervisors, in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member succeeded.

(f) Three members of the Advisory Council shall constitute a quorum, and the Advisory Council shall have power to act by majority vote of the total number of members of the Advisory Council without vacancy. Members of said Council may be removed by the County Executive, with the concurrence of the Board of Supervisors, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, inability to discharge the powers or duties of office or violation of this section after written notice and opportunity for reply.

(g) The members of the Advisory Council shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

(h) The Advisory Council shall:

(1) Permit any person required to file a financial disclosure statement to request the Advisory Council to delete from the copy thereof made available for public inspection one or more items of information which may be deleted upon a finding by a majority of the total number of members of the Advisory Council without vacancy that the information which would otherwise be available for public inspection will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the Advisory Council, in its notification of denial, shall inform the person of his or her right to appeal the Advisory Council's determination to the Board of Ethics pursuant to the Board of Ethics' rules governing adjudicatory proceedings and appeals.

(2) Permit any person required to file a financial disclosure statement to request an

exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted upon a finding by a majority of the total number of members of the Advisory Council without vacancy that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the Advisory Council, in its notification of denial, shall inform the person of his or her right to appeal the Advisory Council's determination to the Board of Ethics pursuant to the Board of Ethics' rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision six of this section.

(i) Pending any application for deletion or exemption either to the Advisory Councilor to the Board of Ethics upon appeal of an adverse determination by the Advisory Council, all information which is the subject or a part of the application shall remain confidential. Upon an adverse determination by the Board of Ethics, the reporting individual may request, and upon such request the Board of Ethics shall provide, that any information, which is the subject or part of the application, remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns his office and holds no other office subject to the jurisdiction of the Board of Ethics, the information shall not be made public and shall be expunged in its entirety.

(j) Notwithstanding the provisions of article seven of the Public Officers Law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision six of this section, shall be open to the public, except if expressly provided otherwise by the Advisory Council.

(k) Where the Advisory Council is of the opinion that a determination of a question common to a class or defined category of persons or items of information with respect to requests for deletion or exemption will prevent undue repetition of such requests or undue complication, the Advisory Council may certify the question to the Board of Ethics for resolution and disposition in accordance with paragraph (m) of subdivision six of this section.
(Section 22-4.3 added by Local Law No. 22-1990, in effect January 1, 1991.)

Section 22-4.4 Retaliatory action prohibited

1. Legislative intent. The Legislature finds it desirable to establish procedures regarding the reporting of allegations of improper government action and, in conformity with section seventy-five-b of the New York Civil Service Law (Retaliatory action by public employers) and section seven hundred forty of the New York Labor Law (Retaliatory personnel action by employers; prohibition), to protect employees who make allegations of improper government action.

2. Definitions.

"Improper governmental action" shall mean any action, including fraud, waste and abuse of authority by a County officer or employee, or an agent of such officer or employee, which is undertaken in the performance of such officer's, employee's, or agent's official duties, whether or not such action is within the scope of his or her employment, that is in violation of any federal, state or local law, rule or regulation.

"Employee" shall mean any person holding a position by appointment or employment in the service of the County whether or not compensated, or a volunteer expressly authorized to participate in a county sponsored volunteer program, but shall not include an independent contractor.

3. Reporting allegations of improper governmental actions.

(a) An employee who has information about a government action which he or she reasonably believes to be true and reasonably believes constitutes an improper governmental

action may disclose such information to a supervisor, a governmental body as defined in paragraph c of subdivision 1 of section seventy-five-b of the New York Civil Service Law, or a county government official, including, but not limited to, any of the following officials:

the Commissioner of Investigations;

the District Attorney, if the allegation involves criminal acts;

the County Compliance Officer;

the County Board of Ethics;

the Director of Human Resources;

the County Executive or a Deputy County Executive;

a member of the County Legislature;

the Presiding Officer or the Minority Leader of the County Legislature;

the County Attorney;

the County Comptroller, if the allegation involves misuse of public funds; or the head of the employee's department.

(b) Any county government official receiving such information concerning improper governmental action shall: first, review such information; and second, if such review indicates an apparent improper governmental action, take appropriate corrective measures and where appropriate, refer such information the appropriate investigative authority, including but not limited to the Commissioner of Investigations, the County Compliance Officer, District Attorney, the Comptroller or any state or federal agency with jurisdiction over the matter.

(c) All reasonable efforts shall be made to protect the anonymity and confidentiality of the employee making the allegations.

(d) Notwithstanding the provisions of this section, any employee who wishes to preserve his or her right to pursue a claim pursuant to section seventy-five-b of the civil service law shall, prior to disclosing information pursuant to subparagraph (a) of this subdivision, make a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety.

4. Use of authority or influence prohibited.

(a) A government official may not, directly or indirectly, use or attempt to use his or her official authority or influence to intimidate, threaten, coerce, command, influence or attempt to intimidate, threaten, coerce, command or influence any individual in order to interfere with such individual's right to disclose information relative to improper government action.

(b) Use of official authority or influence shall include:

(i) Promising to confer any benefit (such as compensation, grant, contract, license or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license or ruling); or

(ii) Taking, directing others to take, recommending, processing or approving any personnel action. For the purposes of this section, "personnel action" shall mean those actions set forth in paragraph (d) of subdivision (1) of section seventy-five–b of the New York Civil Service Law.

5. An employee who has been the subject of retaliatory personnel action, including discharge, suspension, demotion or other adverse personnel action, following such employee's disclosure of information concerning improper government action pursuant to this section, may, within one year of such alleged retaliatory action, commence a civil action in a court of competent jurisdiction for the following relief: (a) reinstatement of such employee to the same position he or she held before such adverse personnel action; (b) compensation for lost wages, benefits and other remuneration; and (c) payment by the employer of reasonable costs, disbursements, and attorney's fees.

6. Employer relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.

7. Notification to employees. Information about this provision and section seventy-five-b of

the Civil Service Law and section seven hundred forty of the Labor Law shall be provided to all Nassau County employees and shall be included in the informational package provided to employees upon commencement of employment with the County.

8. Other rights not affected. Nothing in this section shall be deemed to diminish or impair the rights of a public employee or employer under any law, rule, regulation or collective bargaining agreement or to mean a limitation on any grievance mechanism or right of appeal and/or judicial review currently enjoyed thereby.

(Added by Local Law No.6, 2005)

§ 22-5.0 **Construction.** This code shall be construed liberally.

§ 22-6.0 **Enumeration of power not restrictive.** The enumeration of specific powers by this code shall not operate to restrict or limit a general grant of power contained in this code or to exclude other powers comprehended in such general grant.

§ 22-7.0 **Method of numbering used herein.** The method of numbering sections of the code by reference to related articles of the charter shall not be construed to limit the application of such sections to the articles of the charter to which such sections refer.

§ 22-8.0. **No revival of laws.**

a. If in this code there shall have been incorporated any provision of law that heretofore shall have been superseded or specifically or impliedly repealed, such incorporation shall not revive such superseded or repealed provision nor shall such incorporation be construed to indicate any legislative determination that such provision had not been theretofore so superseded or repealed.

b. Subdivision a shall not apply to section 19-18.0 of the code.

§ 22-9.0 **No repeal by implication.** It is not intended by this code to repeal by implication any existing provision of law and no law shall be deemed repealed thereby unless expressly provide for herein.

§ 22-10.0 **Effect of local law.** This code shall not operate to deprive the Board of Supervisors of the power to enact local laws in relation to any matter in respect to which such power would otherwise exist, nor shall it limit such power. If this power otherwise exists, any provision of this code may be superseded, supplemented or amended by local law in the same manner and to the same extent as such provisions could be superseded, supplemented or amended had this code not been enacted.

§ 22-11.0 **Judicial notice.** All courts shall take judicial notice of all laws contained in this code and of all rules and regulations adopted pursuant to the charter or the code.

§ 22-12.0 **Effect of this code on existing law.** Insofar as the provisions of this code are the same in terms or in substance and effect as provisions of law in force when this code shall take effect relating to or affecting the County, the provisions of this code are intended to be not a new enactment but a continuation of such provisions *of* law, and this code shall be so construed and applied.

§ 22-13.0 **Separability.** If any clause, sentence, paragraph, section or part *of* this code shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 22-14.0 **Short title.** This code shall be known and may be cited as the "Nassau County Administrative Code."

§ 22-15.0 **The Nassau Community College Security Force** is hereby authorized to Issue appearance tickets for parking offenses on the Nassau Community College campus and for other offenses on the Nassau Community College campus which may be prescribed by ordinance by the Board of Supervisors of the County of Nassau.
(Added by Local Law 1-1980, in effect February 4, 1980; amended by Local Law No. 9-1984, in effect June 11, 1984.)

§ 22-15.1 The security personnel of the Department of Recreation, Parks and Support Services are hereby authorized to issue appearance tickets for parking offenses which occur in County installations.
(Added Local Law No, 3-1980, in effect June 9, 1980: amended by Local Law No. 1-1983, in effect April 25, 1983.; amended by Local Law No. 43-2000, effective January 1, 2001.)

§ 22.15.2 **Hospital Safety Force Appearance Tickets.** The Nassau County Health Care Corporation is hereby authorized to issue appearance tickets for parking offenses on the Nassau Health Care Corporation premises.

(Added Local Law No. 1-1985, in effect January 14, 1985; amended by Local Law No. 2-1993, in effect May 10, 1993; amended by Local Law 14-1999, effective October 4, 1999.)

§ 22-15.3 Parking Enforcement Aides of the Nassau County Police Department are hereby authorized to Issue appearance tickets for parking offenses which occur In Nassau County.
(Added by Local Law No. 7-1990, in effect July 30, 1990.)

§ 22-16.0 **Screening of employees.**

a) Any applicant for employment with the County and any employee who has not heretofore been fingerprinted by the County shall be fingerprinted, in accordance with rules established by the director of human resources if, in the course of county employment, such person will be required to come into unsupervised or regular and substantial contact with minors. For purposes of this section, a minor is any person under eighteen years of age.

b) Fingerprints taken pursuant to this section shall be submitted to DCJS for a criminal history record check. Where the criminal history of a current employee reveals a conviction of a crime, the County may terminate such employee or otherwise remove such employee from any position or duties involving unsupervised or regular and substantial contact with minors, consistent with Article 23-A of the correction law, the civil service law and applicable collective bargaining agreements. Where the criminal history of an applicant reveals a conviction for a crime, such applicant may be denied employment in a position requiring unsupervised or regular and substantial contact with minors, consistent with article 23-A of the correction law.

c) The director of human resources, with the assistance of department heads, shall, within sixty days of the effective date of this local law and on or before July first of every year thereafter, file with the Clerk of the Legislature a list of all positions and titles for which such fingerprinting is required based on a determination that the position or title is likely to require the employee to come into unsupervised or regular and substantial contact with minors. The director may amend the list at any time as new positions or titles are created or upon receipt of new information about a title or position.

d) A fee of $12, or as otherwise determined by the processing agency, shall be charged each applicant for fingerprinting conducted by the police department pursuant to this section; provided however that such fee shall not be applicable to current employees required to submit to fingerprinting.

e) The director of human resources shall notify all applicable current employees and applicants of the fingerprinting requirement. The director of human resources shall develop a form to be provided to all applicants and current employees who will be required to submit to fingerprinting. Such form shall inform the applicants and current employees of the purpose of the fingerprinting requirement, and that the County will review such information pursuant to this section. Such form shall also inform the applicants and current employees of the right and procedure necessary to obtain, review and seek correction of his or her criminal history information and shall provide a space for the current employee or applicant to indicate his or her consent to such request for fingerprints. Within the bounds of applicable law, the County may, in its discretion, deny employment of an applicant, or terminate employment of a current employee who does not consent to the County's fingerprint request.

f) Notwithstanding the foregoing provisions of this section, the director of human resources shall waive the requirement for the taking of fingerprints of current employees in order to obtain criminal history records if such requirement is in contravention of a current labor agreement and the County is unable to reach agreement with the appropriate unions concerning such fingerprinting.

g) Notwithstanding the foregoing provisions of this section, employees may be temporarily assigned to positions involving contact with minors while the results of the criminal history record check are pending, but shall not be permitted to have unsupervised contact with minors during such time.

(Added by Local Law No. 14-2003, in effect July 28, 2003.)

§ 22-17.0 **Screening of personnel of service providers.**

a) To the extent permitted by federal and state law, all contracts with the County of Nassau shall provide as follows: that all current and prospective personnel of the contractor who, in carrying out the contract, will have unsupervised or regular and substantial contact with minors, shall be fingerprinted by the Nassau County police department; that for the purposes of this section, the final determination of whether contact with a minor constitutes "unsupervised or regular and substantial contact" shall be made by the head of the department charged with administering the contract; that fingerprints taken pursuant to this section shall be submitted to DCJS for a criminal history record check; and that where the criminal history record of any personnel reveals a conviction for a crime, the head of the department charged with administering the contract may direct the provider to remove such personnel from duties involving unsupervised or regular and substantial contact with minors, consistent with article 23-A of the correction law; that within five (5) business days of making any changes that involve adding or removing personnel who have unsupervised or regular and substantial contact with minors, the contractor shall notify the County department from which it is receiving funding in writing that such addition or removal has occurred, and the basis for such addition or removal; and that failure of the contractor to comply with any of the provisions of this subdivision or a lawful order of a department head to remove

personnel from duty pursuant to this subdivision, shall constitute a material breach of the contract. For purposes of this section, "personnel" shall include any owner, employee, volunteer, board member, officer, or other person carrying out services on behalf of the contractor in furtherance of the County contract and "minor" is any person under the age of eighteen.

b) A fee of $12, or as otherwise determined by the processing agency, shall be charged each applicant for fingerprinting conducted by the police department pursuant to this section, providing; however, that such fee shall not be applicable to current employees required to submit to fingerprinting.

c) Notwithstanding the foregoing provisions of this section, the head of the department charged with administering a contract may temporarily approve a contractor's assignment of personnel to positions involving contact with minors while the results of the criminal history record check are pending, but shall not allow such person to have unsupervised contact with minors during such time.

(Added by Local Law No. 14-2003, in effect July 28, 2003. Note: “DCJS” as used throughout these section refers to the New York State Division of Criminal Justice Services)

## CHAPTER XXII-A
## ABATEMENT OF PUBLIC NUISANCES


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§ 22A-1.0 **Legislative Intent.** The Board of Supervisors hereby finds that within Nassau County there has been a proliferation of buildings known as "crack houses," which are used for the sale of controlled substances. The recent expansion of these "crack houses" has brought to the Board's attention that real estate used for improper purposes can have a devastating effect on the surrounding community. This chapter is intended to guard the Nassau County community against real estate being employed for any improper purposes that constitute a public nuisance. These public nuisances exist in both occupied and vacant buildings and on developed and undeveloped land. The public nuisances exist as a result of the operation of certain businesses, establishments and the use of property in flagrant violation of pertinent

provisions of the state penal law; health laws: licensing laws: environmental saws; and laws relating to the sale and consumption *of* alcoholic beverages. All of these illegal activities threaten to cause substantial deterioration in the quality of life and community environment, property values, and the public health, safety, and welfare of the residents of this county.

The Board of Supervisors further finds that the existence of "crack houses" and real estate where "crack" is sold in this county, together with other public nuisances, is detrimental to the health, safety, welfare of the people of the County of Nassau and to the businesses thereof and visitors thereto.

Therefore, the purpose of this law is to create one standardized procedure for securing legal and equitable remedies, without prejudice to the use of procedures available under any other existing and/or subsequently enacted laws: to strengthen existing laws so as to assist the Board of Supervisors, County Executive, District Attorney, County Attorney, County Police Department, and city and village police departments in Nassau County in preventing buildings, residences, premises and real estate within Nassau County from being used in such a way as to constitute a public nuisance.

§ 22A-2.0 **Definitions.**

A. "County Attorney" shall mean the County Attorney of Nassau County and shall include any Deputy County Attorney of Nassau County.

B. "Notice" shall mean the following:

1) “First notice" that prohibited conduct has occurred shall be given to an owner of the affected real estate by means of registered mail, return receipt requested. Where there are multiple owners, said notice shall be sent to at least one of the owners’ addresses as recorded with the Nassau County Clerk. If for any reason the return receipt is not received by the County of Nassau, then the notice requirement shall be fulfilled by: affixing the notice to the door of at least one of the owners’ addresses, as recorded with the Nassau County Clerk; affixing the notice to the door of the affected property; and by mailing said notice to the aforesaid addresses. The notice must contain a statement of the date or dates upon which prohibited conduct took place on the property and a listing of all such prohibited conduct or occurrences and the nature thereof. The notice must inform the owner of his obligation to cause the prohibited conduct to cease and it must advise the owner that upon the further occurrence of any prohibited conduct, action pursuant to this nuisance abatement law will life commenced by the County of Nassau.

2) "Final notice" shall be sent to owner when there is a further occurrence of prohibited conduct within one year of the first notice being given to an owner. The final notice must be sent by the methods authorized for a first notice and must contain the same information as contained in the first notice. In addition, the final notice must inform an owner of the further occurrence of prohibited conduct and that such owner is required within five (5) days to cause the prohibited conduct to cease and, if necessary, to make an application to a court of appropriate jurisdiction to accomplish the abatement of the prohibited conduct by any and all non-owner occupants. The notice must further state that if an owner does not take such action within five (5) days of the final notice, or does not in good faith diligently pursue any necessary litigation the County of Nassau, pursuant to the provisions of this chapter, will bring necessary proceedings for any remedies set forth in this chapter as though the County were the owner of the premises.

C. "Owner" shall mean the last person, as that term is defined in subdivision F of this

section, in whose name the affected real estate appears in the records of the Nassau County Clerk as certified by an abstract company licensed by the State of New York.

D. "Prohibited conduct" shall mean the following:

(1) Any conduct or occurrence that is in violation of one or more of the following articles or sections of the New York State penal law:

Article 220 (Controlled substances);
Article 230 (Prostitution);
Article 225 (Gambling);

Article 221.40, 221.45, 221.50, 221.55 (Criminal sale of marijuana in the fourth degree through first degree); sections 165.45, 165.50, 165.52, 165.54 (Criminal possession of stolen property in the fourth degree through the first degree); section 165.09, 165, 10 (Auto stripping in the second and the first degrees); section 170.65, (Forgery of a vehicle identification number);
Section 170.70 (Illegal possession of a vehicle identification number plate); or

(2) Any conduct either unlawful in itself or unreasonable under all the circumstances that creates or results in the maintaining of a condition which endangers the safety or health of a considerable number of persons or creates or results in the maintenance of any premises or place where persons gather for the purpose of engaging in unlawful conduct.

E. "Public nuisance" shall mean any building, residence, premises or place where an owner thereof has been given first notice that prohibited conduct has occurred therein or thereon and within a period of one (1) year after said first notice has been given, there is an addition occurrence of any prohibited conduct therein or thereon.

F. "Person" shall mean any natural person, individual, firm, partnership, association, entity or corporation.

§ 22A-3.0 **Nassau County government determination.**

A. Upon the request of: the Office of the District Attorney or the County Police Department by affidavit or affirmation, as is appropriate, detailing the occurrence of prohibited conduct, the County Attorney is authorized to send notice that prohibited conduct has occurred.

B. After first notice has been sent, the office of the District Attorney or the County Police Department shall inform the County Attorney, by affidavit or affirmation, as is appropriate, detailing the recurrence of prohibited conduct at the affected premises. Thereafter, the County Attorney shall send final notice, as provided in section 22A-2.0, to an owner of the affected premises. If no corrective measures are diligently pursued by the owner(s) within the five (5) day time period provided in such final notice, the County Attorney is authorized to bring and maintain a civil action or proceeding in the name of the County of Nassau in any court of appropriate jurisdiction to seek remedies as hereinafter provided in this chapter.

§ 22A-4.0 **Remedies and Enforcement.**

The County Attorney is authorized to bring and maintain a civil action or special proceeding in the name of the County in a court of competent jurisdiction for necessary relief including but not limited to temporary, preliminary and/or permanent equitable remedies, which may include

orders to make improvements and/or alterations to a premises; eviction of tenants; ejection of occupants; imposition of civil penalties; and the recovery of the costs of the action including but not limited to investigative costs, litigation expenses and reasonable attorneys' fees, or for such other remedies as may be necessary to prevent or enjoin any public nuisance from existing at any building, residence, premises or place within the County of Nassau. These remedies may be sought singly or in combination with each other in a court of competent jurisdiction. The owner, lessor and lessee of a building, residence, premises or place where a public nuisance is being conducted, maintained or permitted shall be named as defendants or respondents in the action or special proceeding. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this chapter. The County shall be required to furnish an undertaking in connection with any action or proceeding brought pursuant to this chapter. The County, if it is an unsuccessful party in any action or proceeding brought pursuant to this chapter, shall not be liable to any other party in such action or proceeding for any costs, expenses or disbursements, whether actual or statutory. The enforcement of all remedies obtained pursuant to this chapter shall be carried out by the County Attorney; the County Police Department or any city or village police department in the County; and/or the County Sheriff, and in the case of any criminal prosecution, by the Office of the District Attorney.

§ 22A-5.0 **Permanent Injunction.**

A. **Summons or Notice.** The County Attorney shall name as defendants or respondents the building, residence, premises or place wherein a public nuisance exists because prohibited conduct is being conducted, maintained or permitted, by describing it by block, lot number, street address, and by naming at least one (1) of the owners of some part of or interest in the property.

B. **In Rem Jurisdiction.** In rem jurisdiction shall be complete over a building, residence, premises or place wherein a public nuisance exists because prohibited conduct is being conducted, maintained, or permitted, by affixing the summons or notice to the door of such building, residence, premises or place and by mailing the summons or notice by certified or registered mail, return receipt requested, to at least one of the owners of some part of or interest in the property. Proof of service shall be filed within two (2) days thereafter with the Clerk of the Court designated in the summons or notice. Service shall be complete upon such filing.

C. **Service of Summons or Notice on other Defendant or Respondents.** Defendants or respondents, other than the building, residence, premises or place wherein a public nuisance exists because prohibited conduct is being conducted, maintained or permitted, and any persons in possession of the affected premises, shall be served with a summons or other process as provided by the applicable law of the State of New York.

D. **Notice of Pendency.** With respect to any action or proceeding commenced or to be commenced pursuant to this section, the County Attorney may file a notice of pendency pursuant to the provisions of article sixty-five of the New York civil practice law and rules.

E. **Presumption of Ownership.** The person, as that term is defined in section 22A-2.0 of this chapter, who is recorded in the office of the County Clerk as being the owner of the real estate or premises affected by the action or special proceeding shall be presumed to be the owner thereof.

F. **Presumption of Employment or Agency.** Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way in charge of the premises at the time a public nuisance exists because prohibited conduct is being conducted, maintained, or permitted, such evidence shall be presumptive evidence that he or she was an agent or employee of the owner or lessee of the building, residence, premises or place.

G. **Seizure and Removal.** A judgment awarding a permanent injunction pursuant to this chapter may direct the County Sheriff to seize and remove from the building, residence, premises, or place all personal property used in the creation and maintenance of the public nuisance and shall direct the sale by the County Sheriff of such personal property in the manner provided for the sale of personal property under execution pursuant to the provisions of the New York civil practice law and rules. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid Into the general fund of the County to facilitate the continued enforcement of this chapter.

H. **Closure and Posting.** A judgment awarding a permanent injunction pursuant to this chapter may direct the closing of the building, residence, premises, or place by the County Sheriff, to the extent necessary to abate the nuisance, and shall direct the County Sheriff to post a copy of the judgment and the printed notice of such closing conforming to the requirements of Subdivision D of section 22A-9.0 of this chapter. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment or remedy prescribed by law shall be prosecutable by the office of the District Attorney and punishable, on conviction as a violation by a fine of not more than two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment, provided such judgment contains therein a notice of such penalty. The closing directed by the judgment shall be for such period as the court may direct but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this subdivision. If the owner shall file a bond in an amount equal to the assessed value of the property ordered to be closed or in such other amount as may be fixed by the court and shall submit proof to the court by a preponderance of the evidence that the nuisance has been abated and will not be reestablished, maintained or permitted for such period of time as the building, residence, premises, or place has been directed to be closed in the judgment, the court may vacate the provisions of the judgment directing the closing of the building, residence, premises or place. Any closing by the Sheriff pursuant to the provisions of this section shall not constitute an act of possession, ownership or control of the closed premises by the sheriff.

I. **Disobedience of Judgment; Criminal Penalties.** Intentional disobedience of any provision of a judgment awarding a permanent injunction pursuant to this law, in addition to any other punishment or remedy, civil or criminal, prescribed by law, shall be prosecutable by the office of the District Attorney and punishable, on conviction, as an unclassified misdemeanor with a fine of not more than five hundred ($500.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment.

J. **Civil Penalties.** If upon an order or judgment in an action or special proceeding under this chapter, the County Attorney shall show by a preponderance of the evidence that the defendant or respondent therein has intentionally conducted, maintained or permitted a public nuisance as defined in this chapter, a civil penalty, to be included in the judgment, may be awarded in an amount not to exceed one thousand dollars ($1,000.00) for each day it is found that the defendant or respondent intentionally conducted, maintained or permitted prohibited conduct to exist at the building, residence, premises or place. Upon recovery, such penalty shall be paid into the general fund of the County. Defendants or respondents shall be jointly and severally liable for such penalty. Any penalty awarded under this subdivision shall be in addition to any other punishment or remedy, civil or criminal, prescribed by law.

K. **Judgment to Constitute a Lien.** A judgment awarding a permanent injunction pursuant to this law shall constitute a lien upon the building, residence, premises, or place named in the complaint in such action, and such lien shall exist from the time of filing a notice of lis pendens in the office of the Clerk of the County wherein the building, residence, premises or place is located.

L. **Costs, Expenses and Disbursements.** A judgment awarding a permanent injunction pursuant to this law may be granted upon proof by the County Attorney by a preponderance of the evidence. Such judgment shall provide for the costs and disbursements allowed by the New York civil practice law and rules, and in addition, the County shall be entitled, upon proof by a preponderance of the evidence, to its actual costs, expenses, and disbursements in investigating, bringing and maintaining the action. The defendants and/or respondents in such action shall be jointly and severally liable for any such costs, expenses and disbursements.

§ 22A-6.0 **Preliminary Injunction.**

Pending a request for any remedy as provided for under this chapter, the County Attorney may apply for and the court may grant, upon a showing by the County Attorney by a preponderance of the evidence, a preliminary injunction enjoining a public nuisance as defined by this chapter and the person or persons engaging in or permitting prohibited conduct from further engaging in or permitting such prohibited conduct. A temporary closing order and/or a temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a public nuisance as defined by this chapter exists because prohibited conduct is being engaged in, conducted, maintained or permitted.

§ 22A-7.0 **Temporary Closing Order.**

A. Generally. If, on a motion for a preliminary injunction pursuant to section 22A-8.0 of this chapter, the County Attorney shall show by clear and convincing evidence that a public nuisance as defined by this chapter exists because prohibited conduct is being conducted, maintained, or permitted, and that the public health, safety, or welfare immediately requires a temporary closing order, as provided in section 22A-9.0 of this chapter, such an order closing part or parts of the building, residence, premises, or place wherein such public nuisance exists may be granted ex parte, pending an order of the court granting or denying the preliminary injunction and until further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing on the application for the preliminary injunction at the earliest possible time.

B. **Service of Temporary Closing Order.** Unless the court orders otherwise, a temporary closing order together with the papers upon which it was based, and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the New York civil practice law and rules.

§ 22A-8.0 **Temporary Restraining Order.**

A. **Generally.** If on a motion for a preliminary injunction pursuant to section 22A-6.0 of this chapter, the County Attorney shall show by clear and convincing evidence that a public nuisance within the scope of this law exists because prohibited conduct is being conducted, maintained or permitted, and that the public health, safety or welfare immediately requires a temporary restraining order, such temporary restraining order may be granted ex parte restraining the defendants and all persons from removing or in any manner Interfering with the furniture, fixtures, and movable property used in concluding, maintaining or permitting the public nuisance, pending order of the court granting or denying the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a nearing for the preliminary injunction at the earliest possible time.

B. **Service of the Temporary Restraining Order.** Unless the Court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for a preliminary injunction shall be personally served in the same manner as a summons as

provided in the New York civil practice law and rules.

§ 22A-9.0 **Temporary Closing Order and Temporary Restraining Order; Procedures and Penalties.**

A. **Generally.** If on a motion for a preliminary injunction, the County Attorney shall show by clear and convincing evidence that either/or both a temporary closing order and a temporary restraining order are warranted, the court shall accordingly grant either/or both such orders.

B. **Inventory upon Service of Temporary Closing Orders and Temporary Restraining Orders.** The officers serving a temporary closing order and/or a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining or permitting a public nuisance as defined in this chapter and shall enter upon the building, residence, premises or place for such purpose. Such inventory shall be taken in any manner including, but not limited to photography, which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory.

C. **Closing of Premises Pursuant to Temporary Closing Order.** The officers serving a temporary closing order shall, upon service of the order, command all persons present in the building, residence, premises, or place to vacate the same forthwith. The building, residence, premises, or place being vacated shall then be securely locked and all keys delivered to the officers serving the order. Those officers shall thereafter deliver the keys to the fee owner, lessor, or lessee at the building, residence, premises, or place involved. If the fee owner, lessor, or lessee is not at the building, residence, premises, or place when the order is being executed, the officers shall securely padlock the premises and retain the keys until the fee owner, lessor, or lessee of the building is ascertained, in which event, the officers shall deliver the keys to such owner, lessor or lessee.

D. **Posting of Temporary Closing Order, and/or Temporary Restraining Order.** Upon service of a temporary closing order and/or a temporary restraining order, the officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of the premises involved. In addition, where a temporary closing order has been granted, the officers shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that the premises have been closed by court order, which notice shall contain the legend "CLOSED BY COURT ORDER" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued, and the name of the office or agency posting the notice. Furthermore, where a temporary restraining order has been granted, the officers shall affix, in the same manner, a notice similar to the notice provided for in relation to a temporary closing order, except that the notice shall contain the legend "REMOVAL OF PROPERTY PROHIBITED BY COURT ORDER" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued, and the name of the office or agency posting the notice. Such notice shall also state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. Mutilation or removal of such a posted order or notice while it remains in force, in addition to any other remedy or punishment prescribed by law, shall be prosecutable by the office of the District Attorney and punishable, on conviction, as a violation by a fine of not more than two hundred fifty dollars ($250.00) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment, provided such order or notice contains therein a notice of such penalty.

E. **Intentional Disobedience of a Temporary Closing Order, and/or a Temporary Restraining Order.** In addition to any other punishment or remedy, civil or criminal, prescribed by law, the intentional disobedience of a temporary closing and/or temporary restraining order

shall be prosecutable by the office of the District Attorney and punishable, on conviction, as an unclassified misdemeanor by a fine of not more than five hundred dollars ($500.00) or imprisonment not exceeding six (6) months, or by both such fine and imprisonment.

§ 22A-10.0 **Temporary Closing and Restraining Orders; Defendants' and Respondents' Remedies.**

A. A temporary closing order or a temporary restraining order shall be vacated, by a motion brought upon notice to the County Attorney, if the defendant or respondent shows by a preponderance of the evidence that the public nuisance as defined by this law has been abated. An order vacating a temporary closing order shall include a provision authorizing agencies of the County to inspect the building, residence, premises, or place which is the subject of an action pursuant to this law, periodically and without notice, during the pendency of the action for the preliminary injunction in order to determine if the public nuisance has resumed. Any defendant or respondent applying to the court for an order vacating a temporary closing order or a temporary restraining order must prove by a preponderance of the evidence that the intended occupants of the premises involved have been advised of and consent to a provision authorizing an agency of the County to inspect without notice as provided herein. Intentional disobedience of an inspection provision of an order vacating a temporary closing order or a temporary restraining order, in addition to any other remedy or punishment prescribed by law, shall be prosecutable by the office *of* the District Attorney and punishable, on conviction, as an unclassified misdemeanor by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding six (6) months, or by both such fine and Imprisonment.

B. A temporary closing order or a temporary restraining order may be vacated by the court, by a motion brought upon notice to the County Attorney, if the defendant or respondent gives an undertaking and the court is satisfied, based on a preponderance of the evidence, that the public health, safety, or general welfare will be protected adequately during the pendency of the action. The undertaking shall be in an amount equal to the assessed valuation of the building, residence, premises, or place which is the subject of the order, or in such other amount as may be fixed by the court.

§ 22A-11.0 **Vacatur of Preliminary Injunction.**

When the defendant or respondent gives an undertaking in an amount fixed by the court, together with costs, disbursements, and the projected actual costs of the prosecution of the action to be determined by the court, upon a motion on notice to the County Attorney, a preliminary injunction may be vacated by the court. The provisions of the New York civil practice law and rules governing undertakings by defendants or respondents shall be applicable to this section.

§ 22A-12.0 **Action or Proceeding for Ejectment or Eviction.**

A. Pursuant to the provisions of this chapter, the County Attorney is authorized to commence and maintain an action or proceeding for the ejectment or eviction of the occupant(s) or tenant(s) at any building, residence, premises or place where a public nuisance exists. A court may grant an order of ejectment or eviction if it is satisfied, based on a preponderance of the evidence, that such relief is warranted.

B. In any action or proceeding for ejectment or eviction, brought by the County Attorney pursuant to this section, at least one of the owners, and any person(s) in possession of the premises involved, shall be named and served as defendants or respondents.

C. Prior to the commencement of an action or proceeding pursuant to this section, the County Attorney shall complete all notice requirements provided for in subdivision 8 of section 22A-2.0. Upon the failure of the owner or landlord of the premises involved to act pursuant to the requirements set forth in the notice provisions of subdivision B of that section, the County Attorney is authorized to commence an action or proceeding in accordance with this chapter and as set forth in said notices.

D. A court granting an eviction or ejectment pursuant to this section may, in addition to any other order or remedy provided by law, make an order imposing and requiring the payment by the defendant or respondent of a civil penalty not exceeding one thousand dollars ($1.000.00) for each day, after first notice has been given, that the public nuisance was allowed to continue and may also order the payment of the costs to the County in investigating, bringing and maintaining the action, and the recovery of reasonable attorneys' fees by the County. In any such case, multiple defendants or respondents shall be jointly and severally liable for any payment so ordered and the amounts of such payments shall constitute a lien upon the subject building, residence, premises or place. Any penalties or fees shall be payable to Nassau County and shall be paid into the general fund of the County.

E. The commencement of a proceeding under this section shall not be construed to exclude any other remedy or right provided by law.

§ 22A-13.0 **Temporary Receiver.**

A. **Generally.** In any action or special proceeding under this chapter, the court may, upon a motion on notice by the plaintiff or petitioner, appoint a temporary receiver to manage and operate the property during the pendency of the action or proceeding. A temporary receivership shall not continue after final judgment unless specifically so directed by the court. Upon the motion of any party, including the temporary receiver, or on its own initiative, the appointing court may remove a temporary receiver at any time. Any fees due and owing the receiver for services rendered shall be chargeable to the defendant or respondent.

B. **Powers and Duties.** The temporary receiver shall have such powers and duties as the court shall direct, including, but not limited to: collecting and holding all rents due from tenants; leasing or renting all or portions of the building or structure; making or authorizing other persons to make necessary repairs or to maintain the property; hiring security or other personnel necessary to maintain the premises safely; prosecuting or defending suits flowing from his or her management of the property and retaining counsel therefor, and expending funds from the collected rents in furtherance of the foregoing powers.

C. **Oath.** A temporary receiver, before entering upon his or her duties, shall be sworn or shall otherwise affirm to faithfully and fairly discharge the trust committed to such receiver. The oath or affirmation may be administered by any person authorized to take acknowledgments of deeds by the real property law. The oath or affirmation may be waived upon consent of all parties.

D. **Undertaking.** A temporary receiver shall give an undertaking, in an amount to be fixed by the court making the appointment, that such receiver will faithfully discharge his or her duties.

E. **Account.** A temporary receiver shall keep written accounts itemizing receipts and expenditures, and describing the property and naming the depository of receivership funds, which shall be open to inspection by any person having an apparent interest in property. Upon motion of the temporary receiver or of any person having an apparent interest in the property, the Court may require the keeping of particular records or direct or limit inspection or require presentation of a temporary receiver's accounts. Notice of motion for the presentation of a

temporary receiver's accounts shall be served upon the sureties on the temporary receivers undertaking as well as upon each party.

§ 22A-14.0 **SEQRA Determination.**

The Board of Supervisors, being a state environmental quality review act (SEQRA) lead agency, hereby finds and determines that this law constitutes a type II (two) action pursuant to title 6, section 617.13(d)(21) of the New York code of rules and regulations (NYCRR) and within the meaning of section 8-0109(2) of the New York environmental conservation law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Board of Supervisors adopts the findings of the Nassau County Planning Commission, acting as agent *for* the Board of Supervisors, that chapter XXII-A in relation to the abatement of public nuisances is a type II (two) action and that no further environmental review or action is required in this matter.

§ 22A-15.0 **Chapter Not Exclusive Remedy.**

This chapter shall not be construed to exclude any other remedy or right, civil or criminal, provided by law.

§ 22A-16.0 **Separability.**

If any clause, sentence, paragraph, subdivision, section or other part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or other part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

(Chapter XXII-" adopted by Local Law No. 7-1989, in effect September 25, 1989.)

# CHAPTER XXIII
# ELECTIONS

CHAPTER XXIV
DISTRICT COURT; ORGANIZATION AND JURISDICTION

Title A
Nassau County Traffic and
Parking Violations Agency


| | | |
|---|---|---|
| Section | 24-1.0 | Legislative intent |
| | 24-1.1 | Nassau County Traffic and Parking Violations Agency established |
| | 24-1.2 | Traffic Prosecutor selection and oversight |
| | 24-1.3 | Responsibilities of the District Attorney's Office |
| | 24-1.4 | Separability |


§ 24-1.0 **Legislative Intent.**

(a) Chapter 496 of the Laws of 1990 enables the Board of Supervisors of the County of Nassau to establish a Traffic and Parking Violations Agency. The Board of Supervisors deems it to be in the best interests of the County of Nassau to establish such an agency to assist the Nassau County District Court in the administration and disposition of traffic and packing violations.

(b) Notwithstanding any contrary provisions of section 24-1.1 and subdivision (a) of this section, the Board of Supervisors declares that due to the severe fiscal crisis currently facing the County of Nassau, and until the implementation of the Nassau County Traffic and Parking Violations Agency, but in no event later than December 31, 1992, it is in the best interests of the County and its taxpayers for the Office of the District Attorney to conduct all prosecutions which otherwise could have been conducted by traffic prosecutors pursuant to section 374 of the general municipal law and for the Office of the District Attorney to have the power to collect any fines, penalties or surcharges for any traffic or parking infraction except those described in paragraphs (a) through (f) of subdivision two of section 311 of the general municipal law.
(Amended by Local Law No. 5-1992, in effect April 6, 1992.)

§ 24-1.1 **Nassau County Traffic and Parking Violations Agency established.** Subject to the provisions of section 24-1.0 of this title and article fourteen-B of the General Municipal Law, there shall be a department of the Nassau County government known as the Nassau County Traffic and Parking Violations Agency, which shall operate under the control and direction of the County Executive to assist the Nassau County District Court in the disposition and administration of infractions of traffic and parking laws, ordinances, rules and regulations, except that said agency shall not have jurisdiction over those matters which are specifically excluded by section 371 (2) of the General Municipal Law.
(Amended by Local Law No. 5-1992. in effect April 16, 1992; amended by Chapter 527 of the Laws of 2002.)

§ 24-1.2 **Traffic Prosecutor selection and oversight.**

(a) The County Executive shall, subject to the confirmation of the County Legislature, appoint a person to serve as the Executive Director of the Nassau County Traffic and Parking Violations Agency. The Executive Director shall be responsible for the oversight and administration of the agency and shall hire such staff, subject to the appropriations therefor and subject to the provisions of subdivision b of this section governing the qualificiations of traffic prosecutors, and shall establish such rules, regulations, procedures and forms as he or she may deem necessary to carry out the functions of the agency, including but not limited to the requirements of subdivision three of section three hundred seventy-one of the General

Municipal Law. The Executive Director shall be prohibited from appearing in any capacity in any part of the Nassau County District Court on any matter relating to traffic or parking violations and shall be further prohibited from appearing in any capacity in any other court of administrative tribunal on any matter relating to traffic or parking violations.

(b) The Executive Director of the Nassau County Traffic and Parking Violations Agency shall select and may contract with or hire one or more persons who are attorneys, duly admitted to the practice of law in New York State, for the prosecution of any traffic and parking infraction, except such violations described in paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section three hundred seventy-one of the General Municipal Law, to be heard, tried, or otherwise disposed of by the district court of Nassau County. Such persons shall be known as "traffic prosecutors," as that term is defined in section three hundred seventy-a of the General Municipal Law and shall be subject to the provisions of subdivision (a) of section three hundred seventy-four of the General Municipal Law.
(Amended by Chapter 527 of the Laws of 2002.)

§ 24-1.3 **Responsibilities of the District Attorneys Office.**

(a) Until the implementation of the Nassau County Traffic and Parking Violations Agency, but in no event later than December 31, 1992, the Office of the District Attorney shall have the responsibility and all powers necessary to conduct any prosecution which otherwise could have been conducted by a traffic prosecutor pursuant to section 374 of the General Municipal Law.

(b) Until the implementation of the Nassau County Traffic and Parking Violations Agency, but in no event later than December 31, 1992, the Office of the District Attorney shall have the power to collect any fine. penalty or surcharge which could have been collected by a traffic prosecutor pursuant to section 374 of the general municipal law for any traffic or parking infraction except those described in paragraphs (a) through (f) of subdivision two of section 371 of the General Municipal Law.

(c) The provisions of this section shall not in any manner diminish, impede or impair the existing lawful authority of any public officer, agency or unit of government or any duly appointed representative thereof, to collect any fine, penalty or surcharge described in subdivision (b) of this section.
(Amended by Local Law No. 5-1992, in effect April 6, 1992.)

§ 24-1.4 **Separabillty.** If any section or subdivision of this title is held to be wholly or partially invalid by a final decree of a court of competent jurisdiction, to the extent that it is not invalid, this title shall be valid and no other section or subsection shall be deemed invalid.
(Chapter XXIV amended by adding Title A by Local Law No. 1-1991, in effect January 28, 1991.)

# CHAPTER XXVI
# TRANSITORY PROVISIONS

## Title A. Savings Clauses


Section 26-1.0 Pending actions and proceedings.
26-2.0 Acts legalized or validated not affected.
26-3.0 Municipalities outside county not affected.
26-3.5 School district taxes; City of Long Beach.
26-4.0 Existing rights and remedies preserved.


## Title B Temporary Provisions

### Article 1. Taxes


26-5.0 Collection of taxes.


### Article 2. Roads and Parkways


26-6.0 Abandonment of state highways; county roads; resolutions.
26-7.0 Abandonment of county roads to the state; resolutions.


### Article 3. Board of Statutory Consolidation and revision


26-8.0 Board of Statutory Consolidation and revision.
26-9.0 Powers and duties.
26-10.0 Transfer of papers.
26-11.0 Reports.
26-12.0 Employees; expenses.
26-13.0 Duration of board.
26-14.0 "Municipal corporations" defined.


## Title A
## Savings Clauses

§ 26-1.0 **Pending actions and proceedings.** No action or proceeding, civil or criminal, pending at the time when this act shall take effect, brought by or against the County or any agency or officer thereof, shall be affected or abated by the passage of this act or by anything therein contained.

§ 26-2.0 **Acts legalized or validated not affected.** The repeal by this act of any statute legalizing or invalidating any act done or committed shall in no way affect or Impair such legalization or validation.

§ 26-3.0 **Municipalities outside county not affected.** Nothing contained in this act shall be construed to affect any existing provision of law relating to any municipality outside the County of Nassau.

§ 26-3.5 **School district taxes; City of Long Beach.** The assessment and collection of taxes In the city school district of the City of Long Beach, as provided by this code, shall not be affected by any contrary provision of a general, special or local law, it being the legislative intent that the Nassau County Administrative Code shall constitute the exclusive law in such matters. (Added by L. 1958 Ch, 960, § 8, in effect October 1, 1959.)

§ 26-4.0 **Existing rights and remedies preserved.** No existing right or remedy of any

character shall be lost or impaired or affected by reason of any provision of this act.

Title B
Temporary Provisions

Article 1 TAXES

§ 26-5.0 **Collection of taxes.**

a. Taxes assessed and levied prior to the fourth day of April, nineteen hundred thirty-four shall be collected in the same manner, subject to the same penalties and be otherwise controlled in all respects, except as hereinafter provided, as before such date.

b. A warrant issued by the Board of Supervisors under the provisions of section seventy-seven-f of chapter five hundred forty-one of the laws of nineteen hundred sixteen as added by chapter six hundred nineteen of the laws of nineteen hundred thirty-two, as amended, prior to such date and which was not returned to the County Treasurer on such date, shall be deemed amended in accordance with the provisions of chapter one hundred sixty-seven of the laws of nineteen hundred thirty-four.

c. Taxes assessed and levied prior to the time chapter six hundred thirty-nine of the laws of nineteen hundred thirty-three took effect shall be collected in the same manner as before the time such act took effect.

Article 2 ROADS AND PARKWAYS

§ 26-6.0 **Abandonment of state highways; county roads; resolutions.**

a. The state Department of Public Works may abandon to the County, for the purposes of future maintenance by the County, the following highways:

| Highway Number | Name of Highway | Oyster Bay | North Hempstead | Hempstead | Total Mile |
|---|---|---|---|---|---|
| 270 | Birch Hill | 1.16 | | | 1.16 |
| 434 | Arrandale-Bayview | …… | 1.69 | …… | 1 69 |
| 435 | South Glenwood-Meeting House | 1.84 | 0.10 | …… | 1.94 |
| 436 | Plainview-Hicksville-Woodbury road | 1.95 | …… | …… | 1.95 |
| 545 | Syossett Cold Spring Harbor | 2.62 | …… | …… | 2.62 |
| 547 | Willet-East Williston-Westbury Pond | 0.15 | 6.28 | …… | 6.43 |
| 548 | Berry Hill, part 1 | 4.74 | | …… | |
| 988 | New Hyde Par1, Great Neck | …… | 0.22 | 13 | 3.50 |
| 1201 | Huntington Town Line-Farmingdale part 2 | 0.61 | …… | …… | 0.61 |
| 1202 | Plainview-Massapequa Turnpike | 4.39 | …… | …… | 4.39 |
| 1342 | Roslyn-Port Washington | …… | 5.24 | …… | 5.24 |
| 1343 | Westbury-Hicksvlile | 1.32 | 1.77 | …… | 3.05 |
| 1344 | Green Corner-Francis Pond | 3.38 | …… | …… | 3.38 |
| 1584 | Westbury Hamlet-Union Avenue | …… | 0.45 | …… | 0.45 |
| 5051 | Little Neck-Old Westbury, part 3 | …… | 1.96 | …… | 1.96 |
| 5106 | Little Neck-Old Westbury, parts 1 and 4 | …… | 2.46 | …… | 2.46 |
| 5280 | Little Neck-Old Westbury, part 2. | …… | 1.57 | …… | 1.57 |
| 5505 | Wheatley-East Norwich, part 1 | 2.41 | 0.52 | …… | 2.93 |
| | | 24.34 | 17.02 | 13 | 46.96 |

b. The state Department of Public Works, in exchange for the highways enumerated in subdivision a, may take over for maintenance the designated parts of the following roads:

| Name of Road | Miles |
|---|---|
| Glen Cove-Massapequa road, Glen Cove city line to Massapequa | 16.26 |
| Jericho-Oyster Bay | 5.93 |
| Jericho turnpike, Floral Park village to Jericho | 8.39 |
| Middle Neck road from North Hempstead turnpike at car barn to county highway No. 1342 | 3.70 |
| North Hempstead turnpike, city line to county highway No, 898 | 12.68 |
| Total | 46.96 |

c. The County may abandon to the state Department of Public Works, for the purposes of future maintenance by such department, the parts of roads enumerated in subdivision b of this section. The County, in exchange for such roads, may take over for future maintenance the highways enumerated in subdivision a of this section.

d. The superintendent of the state Department of Public Works shall prepare a resolution carrying out the provisions of this section and shall submit such resolution to the Board of Supervisors. In the event of the approval of such resolution by the Board its approval shall be certified to such superintendent. Upon such certification an official order shall be entered. Certified copies of such order shall be filed with the County Executive, the clerk of the Board of Supervisors, the County Clerk, the County Commissioner of Public Works and the State Comptroller.

§ 26-7.0 **Abandonment of county roads to the state; resolutions.**

a. The County may abandon to the superintendent of the state Department of Public Works who is hereby authorized to take over for future maintenance at the expense of the state the following roads now maintained by the County:

| Name of Road | Town | Miles |
|---|---|---|
| Farmingdale-Maywood | Oyster Bay | 1.23 |
| Nassau boulevard extension | North Hempstead | 5.80 |

(from Nassau boulevard at city line to Guinna town road via Power House road)

b. The superintendent of the state Department of Public Works shall prepare resolutions to carry out the provisions of subdivision a and shall submit such resolutions to the Board of Supervisors. If such board approves such resolutions its approval shall be certified to the superintendent of the state Department of Public Works. If the latter approves such resolutions, he shall make an official order and file certified copies of such order with the County Executive, the clerk of the Board of Supervisors, the Commissioner of Public Works of the County and the State Comptroller.

Article 3
Board of Statutory Consolidation and Revision

§ 26-8.0 **Board of Statutory Consolidation and Revision.** The Board of Statutory Consolidation and Revision of Nassau County is continued. Such board shall consist of the County Executive, the County Attorney, the Comptroller, and the Board of Supervisors of the County.

§ 26-9.0 **Powers and duties.** The powers and duties of such board shall include the codification, consolidation, simplification, compilation and revision of the statutes, local laws and ordinances affecting and relating to the County and the municipal corporations therein and the recommendations to the Legislature, from time to time, of such codification, consolidation, simplification, compilation and revision for enactment. However, nothing herein contained shall be construed to include the codification, consolidation, simplification, compilation and revision of any statutes affecting or relating to the villages or cities in the County so as to transfer functions to or create rights in the County which functions and rights are now possessed by such villages or cities.

§ 26-10.0 **Transfer of papers.** The County Attorney shall transfer to the Board such ledgers, documents, books, reports and all other papers and property in his office that may be of aid and assistance to such board in the performance of its powers and duties.

§ 26-11.0 **Reports.** The Board shall cause a copy of any such legislation that it shall propose for enactment by the Legislature to be filed, from time to time, in the office of the clerk of the Board of Supervisors. It shall report, from time to time, to such Board of Supervisors upon the progress of its work.

§ 26-12.0 **Employment; expenses.**

a. The members of the Board of Statutory Consolidation and Revision shall serve without compensation.

b. The Board of Supervisors and the County Executive are hereby authorized, by contract or otherwise, to employ experts, clerks and assistants to assist the Board of Statutory Consolidation and Revision and fix the salary or compensation of such experts, clerks and assistants.

c. Such Board of Supervisors is hereby further authorized, from time to time, to appropriate and otherwise make available as in the case of county expenses, sums sufficient to pay such salaries or compensation and such other expenses as may be necessarily incurred by such board, which expenses such board is hereby authorized to incur. Such moneys shall be paid out in the same manner as county expenses on the requisition of a person designated for such purpose by the Board.

§ 26-13.0 **Duration of board.** Nothing contained in any law shall be construed to prevent the County Executive, the County Attorney, the Comptroller, and the members of the Board of Supervisors from serving on such board. The Board of Statutory Consolidation and Revision shall expire two years after the seventh day of February, nineteen hundred thirty-nine.

§ 26-14.0 **"Municipal corporations" defined.** As used in this article, the term "municipal corporations", shall mean or include the towns, villages, cities, and districts contained in the County.

Section 2. **Law repealed.**

a. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column, is hereby repealed.

b. The term "part relating to Nassau County" when used in the schedule of laws repealed hereto annexed, shall mean and include such part of the provision of law which relates to any agency or area of the County or any municipal corporation or department therein, or any part thereof.

Section 3. **Time of taking effect.** This act shall take effect immediately.

NASSAU COUNTY ADMINISTRATIVE CODE
SCHEDULE OF LAWS REPEALED

Revised Statutes... Part 1, chapter 5, title 1, section 1 open paragraph (4) paragraph 10 of page 100, part relating to Nassau County

Revised Statutes... Part 1, chapter 11, title 7, section 4, part relating to Nassau County

Revised Statutes... Part 1, chapter 11, title 7, section 16

Revised Statutes... Part 1, chapter 17, title 2, article 2, section 40, part relating to Nassau County

Revised Statutes... Part 1, chapter 17, title 2, article 4, section 94, part relating to Nassau County

Revised Statutes... Part 1, chapter 19, title 2, section 37

Revised Statutes... Part 1, chapter 20, title 16, sections 7.8.9

Revised Statutes... Part 3, chapter 1, title 5, section 20

(2)

| Laws of | Chapter | Section | |
|---|---|---|---|
| 1778 | 39 | Preamble § 5, 5 | (1st Session) |
| 1780 | 28 | All | (3rd Session) |
| 1783 | 54 | 1 | (6th Session) |
| 1784 | 3 | All, part relating to Nassau County | (1st Session) |
| 1784 | 5 | Preamble § 2, 2, 3, part relating to Nassau County | (7th Session) |
| 1784 | 6 | All, part relating to Nassau County | (1st Session) |
| 1784 | 29 | Preamble, 1-2, part relating to Nassau County | (1st Session) |
| 1784 | 35 | 23 | (1st Session) |
| 1784 | 38 | All | (7th Session) |
| 1184 | 58 | Preamble, 1, 4-11, preamble §8,18 | (7th Session) |
| 1785 | 16 | Preamble, 1-4, preamble § 5, 5, 7 | (8th Session) |
| 1785 | 30 | All | (8th Session) |
| 1785 | 44 | Preamble, 106 | (8th Session) |
| 1785 | 46 | All, part relating to Nassau County | (8th Session) |
| 1785 | 55 | All | (8th Session) |

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| 1785 | 60 | 8, 13 | (8th Session) |
| 1786 | 30 | Preamble, 1, 3, 4, part relating to Nassau County | (9th Session) |
| 1786 | 46 | Preamble, 1-3 | (9th Session) |
| 1787 | 10 | 1, 2, 4, 6, part relating to Nassau County | (10th Session) |
| 1181 | 17 | 1, 3, 4, 5, part relating to Nassau County | (10th Session) |
| 1788 | 63 | 2, 5 | (11th Session) |
| 1789 | 37 | All, part relating to Nassau County | (12th Session) |
| 1790 | 27 | 2 | (13th Session, 2nd meeting) |
| 1791 | 9 | All | (14th Session) |
| 1791 | 22 | Preamble, 1-3, 8, 9, part relating to Nassau County | (14th Session) |
| 1792 | 29 | All | (15th Session) |
| 1792 | 60 | 1, 2, preamble §3, 3-7 part relating to Nassau County | (15th Session) |
| 1793 | 29 | All | (16th Session) |
| 1793 | 53 | Preamble 4, 4-6, 14 part relating to Nassau County | (16th Session) |
| 1795 | 29 | All | (18th Session) |
| 1796 | 20 | 3 | (19th Session) |
| 1796 | 37 | All, part relating to Nassau County | (19th Session) |
| 1797 | 54 | Preamble § 2, 2-5 | (20th Session) |
| 1798 | 83 | All | (21st Session) |
| 1799 | 54 | 1, 2, part relating to Nassau County | (22nd Session) |
| 1801 | 191 | 5, 6; 2, part relating to Nassau County | (24th Session) |
| 1801 | 106 | All, part relating to Nassau County | (24th Session) |
| 1801 | 110 | 9, part relating to Nassau County | (24th Session) |
| 1801 | 123 | 2, 4; 1, part relating to Nassau County | (24th Session) |
| 1804 | 93 | 4 | |
| 1808 | 93 | All | |
| 1808 | 105 | All | |
| 1808 | 124 | All | |
| 1809 | 148 | 1-3 | |
| 1810 | 119 | Preamble, 1, preamble § 2.2-8 | |
| 1812 | 37 | All | |
| 1812 | 154 | 1, part relating to Nassau County | |
| 1813 | 77 | All | |
| R.L. 1813 | 39 | 2, par, 3 | |
| R.L. 1813 | 86 | 45-58, part relating to Nassau County | |
| 1814 | 70 | All | |
| 1815 | 87 | 1 | |
| 1815 | 183 | All | |
| 1816 | 176 | All | |
| 1817 | 52 | All, part relating to Nassau County | |
| 1817 | 65 | All | |
| 1817 | 188 | All | |
| 1818 | 20 | All | |
| 1818 | 59 | Preamble § 5,5 | |

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| 1818 | 252 | All |
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| 1828 | 219 | All, part relating to Nassau County |
| 1829 | 133 | All |
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| 1830 | 88 | All |
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| 1833 | 219 | All |
| 1833 | 113 | All |
| 1833 | 258 | All |
| 1834 | 73 | All |
| 1835 | 201 | All |
| 1835 | 218 | All |
| 1836 | 5 | All |
| 1836 | 9 | All |
| 1836 | 496 | All |
| 1837 | 288 | All |
| 1838 | 106 | All |
| 1839 | 173 | All |
| 1839 | 217 | 3 |
| 1840 | 41 | All |
| 1840 | 77 | All |
| 1840 | 120 | All |
| 1840 | 182 | All |
| 1840 | 367 | All |
| 1841 | 26 | All |
| 1842 | 54 | All |
| 1844 | 109 | All |
| 1845 | 55 | All |
| 1845 | 201 | All |

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| 1845 | 352 | 1-9, part relating to Nassau County |
| 1847 | 10 | All |
| 1848 | 168 | All |
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| 1851 | 414 | All |
| 1851 | 415 | All, part relating to Nassau County |
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| 1853 | 83 | All |
| 1854 | 34 | 2, part relating to Nassau County |
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| 1860 | 110 | All |
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| 1860 | 422 | All |
| 1861 | 146 | All |
| 1861 | 286 | All, part relating to Nassau County |
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| 1864 | 274 | All, part relating to Nassau County |
| 1864 | 310 | All |
| 1864 | 514 | All |
| 1865 | 6 | All, part relating to Nassau County |
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| 1867 | 538 | All |
| 1867 | 682 | All |
| 1868 | 591 | All |
| 1868 | 765 | All |
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| 1868 | 864 | All |
| 1869 | 275 | All |

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| 1869 | 282 | All |
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| 1871 | 721 | 1.28 |
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| 1872 | 361 | All |
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| 1873 | 82 | All |
| 1873 | 435 | 2 |
| 1873 | 515 | 7, part relating to Nassau County |
| 1873 | 801 | All |
| 1874 | 95 | All |
| 1874 | 118 | All |
| 1874 | 341 | All |
| 1874 | 409 | All |
| 1874 | 511 | 1 |
| 1875 | 74 | All |
| 1875 | 105 | All |
| 1875 | 123 | All |
| 1875 | 222 | All |
| 1815 | 236 | All |
| 1815 | 257 | All |
| 1875 | 458 | All |
| 1875 | 556 | All |
| 1875 | 588 | All |
| 1875 | 604 | Title, 1.6.8 |
| 1876 | 81 | All |
| 1876 | 220 | All |
| 1876 | 234 | All |
| 1876 | 420 | All |
| 1877 | 3 | All |
| 1877 | 268 | All |

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| 1877 | 401 | 1, 2, part relating to Nassau County |
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| 1878 | 220 | All |
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| 1880 | 463 | 1.2.3.4.6 |
| 1880 | 531 | 3 |
| 1881 | 430 | All |
| 1881 | 695 | 3, part relating to Nassau County |
| 1883 | 126 | All, part relating to Nassau County |
| 1883 | 140 | All |
| 1883 | 249 | All |
| 1883 | 417 | All |
| 1884 | 29 | All |
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| 1885 | 237 | All |
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| 1885 | 485 | All |
| 1886 | 194 | 1 |
| 1886 | 630 | All |
| 1887 | 135 | All |
| 1888 | 501 | All |
| 1888 | 542 | All |
| 1889 | 539 | All |
| 1890 | 16 | All |
| 1890 | 136 | All |
| 1890 | 311 | 1, 2, 4, part relating to Nassau County |
| 1890 | 533 | All |
| 1890 | 569 | 150 |
| 1891 | 368 | All |
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| 1893 | 629 | All |
| 1893 | 633 | All |
| 1893 | 637 | All |
| 1894 | 98 | All |
| 1894 | 114 | 3;1, 2, 4, part relating to Nassau County |
| 1894 | 210 | ALL |
| 1895 | 34 | All, part relating to Nassau County |
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| 1896 | 144 | All |
| 1896 | 193 | All, part relating to Nassau County |
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| 1897 | 62 | All |
| 1897 | 64 | All |
| 1897 | 151 | All |
| 1897 | 353 | All, part relating to Nassau County |
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| 1898 | 118 | All, part relating to Nassau County |
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| 1900 | 286 | All |
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| 1900 | 605 | All |
| 1900 | 610 | All |
| 1901 | 19 | All |
| 1901 | 91 | 1, part amending L. 1900 Ch. 20, § 103, 105, 108, § 2 |
| 1901 | 148 | All |
| 1901 | 177 | All |
| 1901 | 209 | 1.3 |
| 1901 | 337 | 2.3 |
| 1902 | 320 | All |
| 1903 | 14 | All |
| 1903 | 155 | All |
| 1903 | 256 | 3 |
| 1903 | 315 | All |
| 1903 | 324 | All |

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| 1903 | 492 | All |
| 1904 | 124 | All |
| 1904 | 198 | All |
| 1904 | 329 | All |
| 1904 | 381 | All |
| 1904 | 586 | All |
| 1904 | 588 | 2 |
| 1905 | 337 | All |
| 1906 | 62 | All |
| 1906 | 294 | 1.2.4, part relating to Nassau County |
| 1907 | 687 | All |
| 1908 | 130 | 76, 86, 149, 167-170, 170a, 171-178, 180-182, 202, 208, 209 |
| 1908 | 471 | 1, part amending L, 1908 Ch, 130, §74 |
| 1908 | 501 | All |
| 1909 | 584 | All |
| 1910 | 564 | All |
| 1911 | 254 | 2: 1,3, part relating to Nassau County |
| 1911 | 598 | All |
| 1913 | 473 | All |
| 1915 | 331 | All |
| 1915 | 365 | All |
| 1915 | 432 | All |
| 1916 | 153 | All |
| 1916 | 408 | All, part relating to Nassau County |
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| 1916 | 54 | All |
| 1917 | 79 | All |
| 1917 | 297 | All |
| 1917 | 790 | All |
| 1918 | 221 | All |
| 1918 | 295 | All |
| 1919 | 154 | All |
| 1920 | 123 | All |
| 1920 | 223 | All |
| 1920 | 779 | All |
| 1921 | 189 | All |
| 1921 | 265 | All |
| 1921 | 400 | 1, 3: 2, 4, part relating to Nassau County |
| 1921 | 487 | All, part relating to Nassau County |
| 1922 | 76 | All |
| 1922 | 93 | All |
| 1922 | 196 | All, part relating to Nassau County |
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| 1922 | 561 | All |
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| 1923 | 479 | All |
| 1923 | 862 | All |
| 1923 | 863 | All |
| 1924 | 291 | All |
| 1924 | 431 | 2: 1,3-5, part relating to Nassau County |
| 1924 | 470 | All |
| 1925 | 104 | All |
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| 1925 | 448 | All |
| 1925 | 449 | All |
| 1925 | 451 | All |
| 1925 | 452 | All |
| 1925 | 504 | All |
| 1925 | 546 | |
| 1925 | 687 | All |
| 1926 | 3 | All |
| 1926 | 181 | All |
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| 1926 | 384 | All |
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| 1926 | 595 | Title, 6.7 |
| 1926 | 609 | All |
| 1927 | 94 | All |
| 1927 | 115 | 1; 2, part amending L. 1926 Ch. 595, § 6 |
| 1927 | 133 | All |
| 1927 | 167 | All |
| 1927 | 168 | All |
| 1927 | 190 | All, part relating to Nassau County |
| 1927 | 281 | All |
| 1927 | 376 | All |
| 1927 | 377 | All |
| 1927 | 529 | All |
| 1928 | 82 | All, part relating to Nassau County |
| 1928 | 108 | 2 |
| 1928 | 201 | 1 (2d sentence of Subdivision 36 of § 12, of county law), part relating to Nassau County |
| 1928 | 248 | All |
| 1928 | 249 | All |
| 1928 | 513 | All |
| 1928 | 514 | All |
| 1928 | 541 | All |
| 1928 | 576 | All |
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| 1929 | 536 | 1, 2 |
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| 1929 | 586 | All, part relating to Nassau County |
| 1929 | 587 | All |

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| 1930 | 158 | All | |
| 1930 | 210 | All | |
| 1930 | 253 | All, part relating to Nassau County | |
| 1930 | 336 | All, part relating to Nassau County | |
| 1930 | 848 | All | |
| 1931 | 172 | All, part relating to Nassau County | |
| 1931 | 278 | All | |
| 1931 | 342 | All | |
| 1931 | 391 | All, part relating to Nassau County | |
| 1931 | 401 | All, part relating to Nassau County | |
| 1931 | 544 | All, part relating to Nassau County | |
| 1932 | 146 | All | |
| 1932 | 447 | All | |
| 1932 | 448 | All, part relating to Nassau County | |
| 1932 | 477 | All | |
| 1932 | 619 | All | |
| 1933 | 165 | All | |
| 1933 | 242 | All | |
| 1933 | 566 | All, part relating to Nassau County | |
| 1933 | 639 | All | |
| 1933 | 728 | All | |
| 1934 | 167 | All | |
| 1934 | 345 | All | |
| 1934 | 499 | All, part relating to Nassau County | |
| 1934 | 553 | All | All |
| 1934 | 554 | All | |
| 1934 | 629 | All | |
| 1934 | 887 | All | |
| 1935 | 938 | All | |
| 1936 | 30 | All, part relating to Nassau County | |
| 1936 | 31 | All, part relating to Nassau County | |
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| 1936 | 677 | All | |
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| 1937 | 640 | All | |
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| 1937 | 803 | All | |
| 1938 | 79 | All | |
| 1938 | 167 | All, part relating to Nassau County | |
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| 1939 | 5 | All |