

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 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(REPEALED by Local Law No. 20-2003, in effect December 31, 2003.)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 population consisting of people of every race, color, creed, gender, age, disability, religion, source of income, sexual orientation, national origin and ethnicity, there is no greater danger to the health, morals, safety and welfare of the County and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of actual or perceived difference of race, color, creed gender, age, disability, religion, source of income, sexual orientation, national origin or ethnicity. The Nassau County Legislature hereby finds and declares that prejudice, intolerance, bigotry and discrimination threaten the rights and proper privileges of its inhabitants and menace the institutions of a free democratic state. A statutory 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.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§21-9.0-a. **Chapter to be Liberally Construed.** This chapter shall be construed liberally for the accomplishment of its purposes and any provision of this code inconsistent with any provision of this chapter shall not apply.

(Added by Local Law No. 7-2004, in effect June 28, 2004.)

§ 21-9.1 **Creation of Commission on Human Rights.** There is hereby created a commission on human rights. It shall consist of fifteen (15) members, serving without compensation, to be appointed by the County executive, 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.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§ 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) "Discrimination" shall mean any difference in treatment based on actual or perceived race, creed, color, national origin, ethnicity, gender, religion, source of income, sexual orientation, age 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.

(Amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

(b) "Religious or denominational institution" shall mean an institution which is operated for religious purposes or is operated, supervised or controlled by religious or denominational organizations.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; Subd. (a) Amended by Local Law No. 8, 1977, in effect December 1, 1977; amended by Local Law No. 7-2004, in effect June 28, 2004.)

(c) "Sexual orientation" refers to a person's actual or perceived identity as being homosexual, bisexual or heterosexual.

(Amended by Local Law No. 7-2004, in effect June 28, 2004.)

(d) "Source of income" shall mean any lawful source of income, including federal, state, local, non-profit assistance or subsidy program.

(Subd. (c) and (d) added by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§ 21-9.3 Functions of the Commission. The functions of the commission shall be:

(a) To foster mutual understanding and respect among those of different races, genders, disabilities, age, religions, ethnicity, source of income or sexual orientation in Nassau County.

(b) To encourage equality of treatment for, and prevent discrimination against those of actual or perceived different races, genders, disabilities, ages, religions, ethnicity, source of income or sexual orientation;

(c) To cooperate with governmental and non-governmental agencies and organizations having like or kindred functions: and

(d) To 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.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; Subd. (a) and (b) amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§ 21-9.4 Powers and duties. The powers and duties of the commission shall be:

(a) To work together with federal, state, city 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) To enlist the cooperation of those of different races, genders, disabilities, ages, religions, ethnicity, source of income or sexual orientation, 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) To study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship.

(d) To receive and investigate complaints and to initiate its own investigations of (a) racial, religious, gender, disability, age, source of income, sexual orientation and ethnic group tensions, prejudice, intolerance, bigotry and disorder occasioned thereby; (b) 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, except that all instances of such discrimination which are not covered by this chapter but fall within the jurisdiction of the state commission on human rights shall be referred to that commission and all instances of such discrimination within the jurisdiction of the

administrator of the fair education practices law shall be referred to the said administrator.

- (e) 1. To hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any matter under investigation or in question before the commission. 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 it 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.
- 2. The powers enumerated in subsection (e)1 above, 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) To 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) To recommend to the County executive and to the Nassau County Legislature policies and procedures to aid in carrying out the purposes of the title.

(h) To submit an annual report to the County executive and the Nassau County Legislature.

(Added by Local Law No. 5, 1963, in effect April 8, 1963. Subd. (b) and (d) amended and Subd. (g) and (h) added by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§ 21-9.5 Employments and expenses. The Nassau County Legislature may appropriate sufficient sums to meet the capital and operating expenses of said commission, and 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 therefore. 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.

(Added by Local Law No. 5, 1963, in effect April 8, 1963; amended by Local Law No. 7-2004, in effect June 28, 2004.)

§ 21-9.6 Separability. If any provision of the local law or the application of such provision to any person or circumstance shall be held invalid, the remainder of such local law 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.)

Title C-1
Open Housing

§ 21-9.7 Open housing provisions.

a. Policy.

1. In the County of Nassau, with the population consisting of people of various races, creeds, colors, genders, disabilities, ages, religions, source of income, sexual orientation, ethnicity, familial status and national origins, there is no greater danger to the health, morals, safety, and welfare of the County and its inhabitants than the existence of groups and individuals reflecting prejudice against one another and 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, 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 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, ethnicity or national origin threaten the fundamental rights and privileges of the inhabitants 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 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 or national origin.
2. 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.
3. In accordance with the policy, 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.

(Subd. (1) and (2) amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

b. Definitions. The terms defined in section 21-9.2 of this code shall have the meanings set forth therein. In addition, the following terms shall have the following meanings:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
2. The term "national origin" for the purposes of this title includes "ancestry."
3. The term "housing accommodations" includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings.
4. The term "Legislature" means the Legislature of Nassau County.

(Amended by Local Law 38-2000, effective December 13, 2000.)

5. The term "county" means the County of Nassau.

6. The term "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. The term "agent" means any person or entity, whether or not for financial consideration, with the authority to engage in any act associated with the offer for sale or rental of a housing accommodation on behalf of an owner or other person or entity in control of such accommodation. The term "agent" shall include, but not be limited to, a real estate agent or real estate broker.
8. The term "familial status" means (a) any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of eighteen years, or (b) one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals or the designee of such parent.

(Amended by Local Law No. 7-2004, in effect June 28, 2004.)

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 accommodations 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 race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin 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 race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin of such person or persons;
- ii. to discriminate against any person because of actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin in the terms, conditions or privileges of the sale, rental, or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith.
- iii. 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 race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin, or any intent to make any such limitation, specification, or discrimination.

The provisions of subparagraphs (i) through (iii) above 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 or members of his family reside in one of such housing accommodation, or (2) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and he or she or members of his or her family reside in such housing

accommodation. In addition, such provisions shall not apply to any action, refusal or discrimination on the basis of familial status where the housing accommodation or room sought is in close proximity to housing occupied by an elderly or infirm person for whom the presence of children would be a hardship. For the purposes of this section an "elderly person" shall mean a person over sixty-five years of age and an "infirm person" shall mean a person with a chronic illness.

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 actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin 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, the limitations, specification, preference, or discrimination because of actual or perceived race, creed, color, gender, disability, age, religion, source of income, sexual orientation, ethnicity, familial status or national origin.
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 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.

(Amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

d. Enforcement.

1. 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 and the complaint has not been dismissed pursuant to subdivision nine of section two hundred ninety-seven of the Executive Law. 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.

2. 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.

3. 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:

(i) 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

(ii) 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, or both.

(Amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2005, in effect June 28, 2004.)

e. Civil Cause of Action. Except where a complainant has filed a complaint with the Human Rights 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.

f. Penalties for violations.

1. Any person found to have violated any of the provisions of subdivision c of this section shall, in addition to any 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 not less than five thousand dollars nor more than ten thousand dollars and, for each subsequent offense, to a fine of not less than ten thousand nor more than twenty thousand dollars.
2. Any person who sells or rents the housing accommodations in question to anyone

other than the aggrieved person mentioned in a complaint after a court has ordered injunctive relief pursuant to subdivision d of this section, shall, in addition to any other penalty assessed under paragraph one of this subdivision, upon conviction thereof, be liable for a penalty of not less than one thousand dollars nor more than five thousand dollars to be recovered for and payable to the aggrieved and, in addition, shall be fined not less than one thousand dollars nor more than five thousand dollars.

3. The County Attorney may, upon a determination that an offense has occurred under this title, cause application to be made to a court of competent jurisdiction for an order that the respondent make available the premises involved to the aggrieved person.
4. Use of the provisions of this title as a means of harassment shall subject a complainant to a civil penalty, in an amount not less than five thousand dollars nor more than ten thousand dollars, recoverable in an action by the person aggrieved by such harassment. For the purposes of this title harassment may be found upon a finding by the commission that no reasonable basis existed for the complaint and that there was malice on the part of the complainant, and termination by the commission of the proceeding initiated by the complainant under this title

g. 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-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.)

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 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. 6-1910, in effect October 7, 1910.)

§ 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 compensable 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 July 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 likelihood 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 \$50.00 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.

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.)

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 **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 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 **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 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 placed 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 externally, 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 sales 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 sales, 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 right 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 hearing 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 have 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 square² 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 not 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 sale 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 properly 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 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 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-9³
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 right 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-9⁴

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.)

Title D-10
Disclosure Requirements for Refund Anticipation Loans

⁴ There are two Titles D-9

§ 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 not 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. Many consumers are also not aware that these "instant refunds" may be available to them without the fees, interest or administrative costs charged by the tax preparer or other persons offering these services. 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.

The 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 preparer, facilitator or 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.

§21-20.2 **Definitions.**

1. "Person" shall mean an individual, firm, partnership, association, corporation or other business 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 less applicable fees; (ii) 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 or tax credits; and (iii) 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 or tax credits and includes the payment of interest, and/or RAL fees by the consumer. A RAL shall also include any sale, assignment, or purchase of a consumer's tax refund at a discount or for a fee, regardless of 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 or RACs.
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 that mentions, refers, relates, discusses and/or describes a RAL, and/or the proceeds of such loan must state explicitly and conspicuously that the monies being referred

to, related to, mentioned, discussed, described, and/or offered 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 and/or RAC.

2. Before any consumer enters into a RAL and/or RAC transaction, the tax preparer, facilitator or creditor, as applicable, shall disclose to the consumer the following disclosure in writing, in both English and Spanish, and in a form separate from the application, containing a legend, centered in bold, capital letters and 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 AND INTEREST ARE PAID, YOU WILL RECEIVE APPROXIMATELY \$ [insert amount] AS YOUR LOAN.**
 - **ONCE YOUR REFUND IS ISSUED, YOU WILL BE REQUIRED TO REPAY THE LOAN, IN ADDITION TO THE APPLICABLE FEES AND INTEREST.**
 - **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 ACTUAL 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 WITHIN APPROXIMATELY [insert number of days] BUSINESS DAYS OF [insert date].

- **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 WITHIN APPROXIMATELY [insert number of days] BUSINESS**

DAYS OF [insert date]. 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 WITHIN APPROXIMATELY [insert number of days] BUSINESS DAYS OF [insert date].

-
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 and 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 AS FEW AS 10 DAYS BY HAVING THE IRS DEPOSIT YOUR REFUND DIRECTLY INTO YOUR OWN BANK ACCOUNT. YOU CAN ALSO WAIT FOR THE IRS TO MAIL YOU A CHECK. IF YOU DO NOT HAVE A BANK ACCOUNT, YOU MAY WISH TO CONSIDER OBTAINING ONE. See, Internal Revenue Service, Publication 17, PG. 11.

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 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.
5. 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.

§ 21-20.4 Posting of Fee Schedule and Disclosures.

1. Every tax preparer, and facilitator who offers RALs and RACs shall display 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 RACs 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 (iii) 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. Again, these costs may be more than the amount of your tax refund. You can have your tax return filed electronically and your refund directly deposited into your own bank account without obtaining a loan or paying fees for this extra service."

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 RACs.
4. No tax preparer, or facilitator may process or cause to be processed a RAL or RAC, unless (i) the disclosure required by this section is displayed; and (ii) the fee actually charged for the RAL or RAC is the same as the fee displayed on the schedule.

§ 21-20.5 **Penalties.** Any violation under this section shall be deemed a deceptive trade practice and shall be subject to the penalties set forth 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 circumstance 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.

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 Executive for 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 electric 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.)