

without judicial approval, for the compromise or settlement of any action or claim where the amount of such settlement or compromise does not exceed Ten Thousand (\$10,000) Dollars.

Section 11. If, after the establishment of such fund, the Board of Supervisors of the County of Nassau determines that such fund is no longer needed, the monies remaining in such fund may be transferred to any other reserve fund of the County of Nassau authorized by the General Municipal Law that is comprised of monies which were raised on the same tax base as the monies in the reserve fund established under this Chapter, only to the extent that the monies in this fund shall exceed the sum sufficient to pay all liabilities incurred or accrued against it. Prior to the discontinuance of such fund, the County Treasurer and the County Attorney shall certify to the Board of Supervisors the amount that may be necessary to retain in such fund to satisfy all liabilities incurred or accrued against it and such sum shall be retained in the fund for payment of such amounts or until later certified that such funds are no longer needed.

(Title 13 added by Local Law No. 9 - 1986, in effect June 16, 1986.)

TITLE 14

DEFACING PROPERTY/AEROSOL PAINT CAN AND BROAD TIPPED MARKERS

Section 1. **Legislative intent.** It is the intention of the Board of Supervisors of the County of Nassau to promote the health, safety and welfare of the residents of the County by strengthening the laws designed to deter the defacing of public and private property with aerosol spray paint cans and broad tipped markers.

§ 2. Definitions.

a. The term "deface" shall mean to mar the face or surface of, disfigure, injure or spoil the appearance of.

b. The term "broad tipped marker" shall mean any felt tip marker or similar implement containing a fluid or coloring matter, and which has a flat or angled writing surface of one-quarter square inch.

§ 3. Defacement of property, possession and sale of aerosol spray paint cans and broad tipped markers prohibited in certain instances.

a. No person shall write, paint or draw any word, inscription, design, figure or mark of any type on any public or private building or other structure or any other real or personal property owned, operated or maintained by the County of Nassau or any agency or instrumentality thereof or by any person, firm or corporation unless the express permission of the owner or operator of the property has been obtained.

b. No person shall carry an aerosol spray paint can or broad tipped marker into any public and/or private building or other public and/or private facility with the intent to violate the provisions of subdivision a. of this section.

c. No person shall knowingly or having reason to know that the purchaser of an aerosol spray paint can and/or broad tipped marker is under eighteen years of age and/or who intends to use said paint and markers for an illegal purpose sell or offer to sell such product or products to any such purchaser.

d. Any person selling or offering for sale aerosol spray paint cans or broad tipped markers shall post in a conspicuous place a sign which clearly states;

“It is unlawful to sell aerosol spray paint cans or broad tipped markers to any person under the age of eighteen years.”

e. Any person selling or offering for sale aerosol paint cans shall only display and/or offer for sale aerosol paint cans in a secure enclosed display or behind a sales counter which is not accessible to the public.

§ 4. Penalty for violation. Any person who violates the provisions of subdivisions a, b or c of section three of this title shall be guilty of a class A misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year, or both. The Court may consider a conditional discharge upon the condition that, with the consent of the owner, the defendant restore the property so defaced to its original condition

by means of the defendants own labor or on the condition of monetary restitution in an amount not to exceed the cost of said restoration. Any person who violates the provisions of subdivision d and e of section three of this title for a first offense shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars, and for a second or subsequent offense shall be guilty of a Class B misdemeanor punishable by a fine of not more than five hundred dollars or three months imprisonment or both.

§ 5. Civil Liability.

a. The parent or legal guardian, other than the state or local social services department or foster parent of any minor over the age of ten and under eighteen that violates any provision of this law shall be held liable for any damages and/or clean-up costs that result from a violation of subdivisions a, b, c of section three of this title.

b. If anyone sells a broad tipped marker and/or aerosol spray paint can to a minor or anyone he knew or should have known would use it for an illegal purpose shall be held liable for any damages and/or clean-up costs that result from the violation.

§ 6. Separability. If any clause, sentence, paragraph, section or part of any section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

(Title 14 added by Local Law No. 14-1986, Sections 1 and 2 and subdivisions a and b of Section 3, in effect November 17, 1986, subdivisions c and d of Section 3, in effect January 17, 1987; amended by Local Law No. 3-1993, in effect June 8, 1993.)

TITLE 15

LAND PRESERVATION

Chapter 1. Perpetual preservation of County owned natural environmental, recreational, historical and scenic resources.

Section 1. LEGISLATIVE INTENT. It is the intention of this

legislation which is to become a new Title 15 in the Miscellaneous Laws of Nassau County to protect and preserve in perpetuity the natural, environmental, historical and scenic resources of the County of Nassau. While other statutory authority exists to allow the County to purchase and maintain land in a natural and open state, there is no existing statutory authority to protect County owned recreational, historical, natural preserves or environmental areas, either currently owned or hereafter acquired from encroachment from development inconsistent with the intent of this statute. This legislation seeks to strike a balance between controlled growth and environmental and parkland preservation for both this and future generations of Nassau County residents. This legislation shall ensure that no improvement, alteration or modification of the County's 5600 acres of park and natural resources land, any other County land now owned and hereafter designated as such, or any land hereafter acquired by the County for natural, environmental, historical or other purposes, would be undertaken by the County or any other person, firm, municipality, corporation or any other successor in interest if such improvements were not consistent with the recreational, historical and environmental purposes of the land. By implementing this protective legislation, the County of Nassau can insure that the valuable acres of Nassau County land, either currently owned or hereafter acquired will be protected and preserved forever.

Section 2. PERPETUAL PRESERVATION OF DESIGNATED COUNTY LAND. Consistent with the Program of Open Space Preservation within Nassau County, there shall be a designation of certain County owned real property as "Perpetual Preservation Land". Those lands of the County now owned, or hereafter acquired, because of their natural beauty, wilderness character, historical significance, geological significance, or ecological and environmental significance may be so designated as hereinafter provided.

The dedication or acquisition of such "Perpetual Preservation Land" shall be preserved and administered for the use and enjoyment of the people, and the management and use of such real property shall be for the sole purpose of preserving and maintaining the natural beauty, wilderness character, historical, geological or ecological and environmental significance, or other

natural physical condition of the aforesaid land.

Section 3. a. Hereafter and from time to time the County Executive after study and report shall recommend parcels of County land now or hereafter acquired for designation as "Perpetual Preservation Land".

b. Upon such recommendation by the County Executive and after a public hearing, the Board of Supervisors may designate such County land as "Perpetual Preservation Land" to be held as such in perpetuity.

A designation of "Perpetual Preservation Land" shall be by ordinance, which shall be forthwith duly recorded in the office of the Clerk of the County of Nassau.

Section 4. A designation of County land as "Perpetual Preservation Land" shall be extinguished only by an exercise of the power of eminent domain or an enactment of a general law adopted at two separate sessions of the State Legislature.

Section 5. Nothing herein shall prevent the County from regulation of public access or public use of designated land.
(Land Law No. 5, 1988, in effect November 28, 1988.)

TITLE 16

NASSAU COUNTY BOARD OF PAROLE

Section 1. Definitions.

As used in this title, the following terms shall have the following meanings:

A. "Correctional Center" shall mean the Nassau County Correctional Center.

B. "County" shall mean the County of Nassau.

C. "Division" shall mean the Division of Probation and Correctional Alternatives.

D. "Parole Board" shall mean the Nassau County Board of Parole (Conditional Release Commission) as mandated by Chapter 79 of the Laws of 1989.

E. "Probation Department" shall mean the Nassau County Probation Department.

Section 2. Organization.

A. There shall be a Parole Board consisting of three members who shall be appointed by the County Executive with the advice and consent of the Nassau County Board of Supervisors. Compensation for members, if any, may be fixed by ordinance. Each member of the Parole Board shall have graduated from an accredited four year college or university and shall have had at least five years of experience in the field of criminology, administration of criminal justice, law enforcement, probation, parole, law, social work, social science, psychology, psychiatry or corrections.

B. The term of office of each member of the Parole Board shall be for four years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom the person is to succeed. Vacancies caused by expiration of term or otherwise shall be filled in the same manner as original appointments.

C. No member of the Parole Board shall serve as a representative of any political party, on an executive committee or other governing body thereof, as an executive officer or employee of any political committee, organization or association, nor be a judge or justice, a sheriff or district attorney.

D. Any member may be removed by the County Executive for cause, after notice and an opportunity to be heard.

Section 3. Function, Powers and Duties. The Parole Board shall:

A. have the power and duty of determining which persons sentenced within the County and serving a definite sentence of imprisonment and eligible for conditional release pursuant to subdivision two of section 70.40 of the Penal Law may be released on conditional release and when and under what conditions in accordance with Section 4 of this title;

B. determine, as each inmate applies for conditional release, the need for supplemental investigation of the background of such inmate and cause such investigation as may be necessary to be made as soon as practicable. The Parole Board may require that the Probation Department conduct such supplemental investigation. The results of such investigation together with all other information compiled by the Correctional Center and the complete criminal record and family court record of such inmate shall be readily available when the conditional release of such inmate is being considered. Such information shall include a complete statement of the crime for which the inmate has been sentenced, the circumstances of such crime, all presentence memoranda, the nature of the sentence, the court in which such inmate was sentenced, the name of the judge and district attorney and copies of such probation reports as may have been made as well as reports as to the inmate's social, physical, mental and psychiatric condition and history;

C. have the legal custody of persons conditionally released and placed under the supervision of the Probation Department until the expiration of the maximum term or period of sentence or return to the custody of the Correctional Center, as the case may be;

D. have the power to revoke the conditional release of any person in the legal custody of the Parole Board and to issue declarations of delinquency and authorize the issuance of a warrant for the retaking of such person, as provided for in Section 5 of this title;

E. for the purpose of any investigation necessary in the performance of its duties, have the power to issue subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of its inquiry;

F. have the power to authorize any members thereof to administer oaths and take the testimony of persons under oath;

G. notify in writing the Probation Department prior to release of a conditionally released person of such department's responsibilities to supervise such person;

Such notice shall include the name and residence of the person, the date of release, the conditions of release, and all necessary records maintained on such persons to aid the Probation Department in the performance of its responsibilities pursuant to subdivision 6 of section two hundred fifty-six of the executive law; and

H. have the power to transfer the legal custody of persons conditionally released in accordance with the provisions of Section 6 of this title.

Section 4. Conditional Release; Procedures for Application and Determinations.

A. Any inmate who is eligible for conditional release by the Parole Board pursuant to subdivision two of section 70.40 of the penal law and who has served a minimum period of thirty days in the Correctional Center may apply for conditional release. Application shall be made in writing, on forms prescribed by the Division, to the Parole Board.

B. The Parole Board shall review and make a determination on each application within thirty days of receipt of such application. No determination granting or denying such application shall be valid unless made by a majority vote of the members.

C. If conditional release is granted, the Parole Board shall set

the conditions for release of the person in accordance with rules and regulations promulgated by the Division. Such person shall be given a copy of the conditions of release. Such conditions shall, where appropriate, include a requirement that the person comply with any restitution order previously imposed by a court of competent jurisdiction that applies to the person.

D. No person who has been granted conditional release shall be released until such person has served a minimum period of incarceration of sixty days, in accordance with subdivision two of Section 70.40 of the penal law, and unless such person has agreed in writing to the conditions set by the Parole Board. Such agreement shall state in plain, easily understandable language the consequences of a violation of one or more of the conditions of release.

E. Persons who have been granted conditional release shall, while on conditional release, be in the legal custody of the Parole Board until the expiration of the maximum term or period of sentence, or return to the custody of the Correctional Center, as the case may be. The Probation Department shall have the duty of supervising the person during the period of such conditional release.

F. If conditional release is not granted, the Parole Board shall inform the person in writing of the factors and reasons for such denial of conditional release within fifteen days of the decision. Such reasons shall be given in detail and not in conclusory terms. Inmates denied conditional release are eligible to reapply sixty days after the date of submission of the denied application.

Section 5. Conditional Releases; Procedures For Violation, Delinquency, Warrants and Revocation.

A. If at any time during the period of conditional release, the Parole Board, or any member thereof, has reasonable cause to believe that a person who has been conditionally released has lapsed into criminal ways or company, or has violated one or more

conditions of conditional release, the Parole Board or such member may declare such person delinquent and issue a written declaration of delinquency. Upon such declaration, such Parole Board or such member may issue a warrant for the retaking and temporary detention of such person.

B. A warrant issued pursuant to this section shall constitute sufficient authority to the chief administrative officer of any local correctional facility to whom it is delivered to hold in temporary detention of such person.

C. A warrant issued pursuant to this section may be executed by any probation officer or any officer authorized to serve criminal process or any peace officer, who is acting pursuant to his or her special duties, or any police officer. Any such officer to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such person and having him or her detained as provided for in this section.

D. The alleged violator shall, within three days of the execution of the warrant, be given written notice of the time, place and purpose of the hearing. The notice shall state what conditions of conditional release are alleged to have been violated and in what manner and shall inform the alleged violator of his or her right to counsel as provided for in subdivision G of this section.

E. The alleged conditional release violator shall appear before the Parole Board, or any member thereof, within fifteen days of the execution of the warrant. At the time of such appearance the Parole Board or such member shall ask the alleged violator whether he or she wishes to make any statement with respect to the violation. If the alleged violator makes a statement, the Parole Board or such member may accept it and base a decision thereon. If the Parole Board or such member does not accept it, or if the alleged violator does not make a statement, the Parole Board or such member shall proceed with the hearing.

F. The Parole Board, or any member thereof, may receive any relevant evidence. The alleged violator may cross examine witnesses and may present evidence on his or her own behalf.