

description or representation in whatever form of a heinous crime, an element of a heinous crime or a heinous criminal, when it:

1. Considered as a whole, appeals to the depraved interest of minors in crime; and

2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

3. Considered as a whole, lacks serious literary, artistic, political and scientific value for minors.

Section 3. Disseminating Indecent Crime Material to Minors. A person is guilty of disseminating indecent crime material to minors when, with knowledge of its character and content, he sells or loans to a minor for monetary consideration in Nassau County any trading card which depicts a heinous crime, an element of a heinous crime, or a heinous criminal and which is harmful to minors. Disseminating indecent crime material to minors shall be a Class A misdemeanor.

Section 4. Presumption and Defense.

A. A person who engages in the conduct prescribed by Section 3 of this Title is presumed to do so with knowledge of the character and content of the material sold or loaned.

B. In any prosecution for disseminating indecent crime material to minors, it is an affirmative defense that:

1. The defendant had reasonable cause to believe that the minor involved was seventeen years old or more; and

2. Such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was seventeen years old or more.

Section 5. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or 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 part of this Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

(Title 19 added by Local Law No. 11-1992, in effect June 16, 1992.)

TITLE 20

FEEES FOR PROBATION DEPARTMENT SERVICES

- Section 1.**
- 1. Legislative Intent**
 - 2. Administrative Fee**
 - 3. Investigation Fee**
 - 4. Fee Usage**
 - 5. Severability**

Section 1. Legislative Intent. Chapter 55 of the Laws of 1992 provides the County of Nassau with the power to impose a probation administrative fee on those individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime under Article 31 of the Vehicle and Traffic Law in relation to alcohol and drug-related motor vehicle matters as well as the power to impose a probation investigation fee for investigations ordered by the Family Court in custody and visitation proceedings. The Board of Supervisors finds it to be in the best interests of the County of Nassau to permit the Probation Department to collect such fees.

Section 2. Administrative Fee.

A. An individual currently serving or who shall be sentenced to a period of probation upon conviction of any crime under Article 31 of the Vehicle and Traffic Law shall pay the Probation Department an administrative fee of thirty dollars per month.

B. The provisions of Subdivision 6 of Section 420.10 of the Criminal Procedure Law shall govern for purposes of collection of the administrative fee.

C. The administrative fee authorized by this section shall not constitute nor be imposed as a condition of probation.

D. The Probation Department shall waive all or part of the administrative fee where, because of the indigence of the offender, the payment of said administrative fee would work an unreasonable hardship on the person convicted, his or her immediate family, or any other person who is dependent on such person for financial support.

E. In the event of non-payment of any fees which have not been waived, the County may seek to enforce payment in any manner permitted by law for enforcement of a debt.

Section 3. Investigation Fee.

A. When ordered to conduct an investigation pursuant to Section 653 of the Family Court Act involving custody and visitation proceedings, the Probation Department shall receive an investigation fee of not less than fifty dollars and not more than five hundred dollars from the parties in such proceeding for performing such investigation.

B. Such fee shall be based on the parties' ability to pay the fee and the schedule for payment shall be fixed by the court issuing the order for investigation, pursuant to the guidelines issued by the Director of the Division of Probation and Correctional Alternatives.

C. The court shall apportion the fee between the parties based upon the respective financial circumstances of the parties and the equities of the case.

D. The court, at its discretion, may waive the investigation fee when the parties lack sufficient means to pay the fee.

Section 4. Fee Usage. Fees collected pursuant to this Title shall be utilized for local probation services.

Section 5. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

(Title 20 added by Local Law No. 10-1992, in effect June 15, 1992.)

TITLE 21

CERTAIN PERSONS CONVICTED OF VIOLATING NASSAU COUNTY LOCAL LAWS OR ORDINANCES — REIMBURSEMENT OF ACTUAL INVESTIGATORY AND INCARCERATION COSTS

- Section
1. Legislative Intent
 2. Definitions
 3. Investigatory Costs
 4. Incarceration Costs
 5. Waiver of Investigatory and Incarceration Costs
 6. Severability

Section 1. Legislative Intent. With the rising costs of both investigation of violations of Nassau County local laws or ordinances as well as post-conviction incarceration costs at the Nassau County Correctional Center, it is in the best interests of the County of Nassau to require certain persons who are convicted of violating a Nassau County local law or ordinance as well as those persons who are sentenced to serve a term of incarceration in the Nassau County Correctional Center for violating a Nassau County local law or ordinance to reimburse the County of Nassau for all actual costs of investigation and incarceration.

Section 2. Definitions.

A. "Investigatory Costs" shall mean all actual costs incurred by the County of Nassau, its agencies and departments in obtaining a conviction against a person for a violation of a Nassau County local law or ordinance.

B. "Incarceration Costs" shall mean all actual costs incurred by the Sheriff's Department in housing a person convicted of a violation of a Nassau County local law or ordinance including, but not limited to, room, board, medical expenses, educational expenses, etc.

C. "Person" shall mean a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.

Section 3. Investigatory Costs. A person convicted of a violation of a Nassau County local law or ordinance shall reimburse the County of Nassau for all actual investigatory costs incurred in conjunction with the investigation and prosecution of such violation of a Nassau County local law or ordinance. All monies reimbursed shall be proportionately appropriated to each County agency or department that incurred an investigatory cost.

Section 4. Incarceration Costs. Any person convicted of a violation of a Nassau County local law or ordinance who is sentenced to serve a term of incarceration in the Nassau County Correctional Center shall reimburse the Sheriff's Department for

all actual costs incurred in conjunction with the incarceration of such person. All monies reimbursed shall be appropriated to the Sheriff's Department.

Section 5. Waiver of Investigatory and Incarceration Costs. The Nassau County Probation Department may waive all or part of the investigatory costs and incarceration costs where, because of the indigence of the person convicted of a violation of a Nassau County local law or ordinance, the reimbursement of said costs would work an unreasonable hardship on the person convicted, his or her immediate family or any other person who is dependent on such individual for financial support.

Section 6. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

(Title 21 added by Local Law No. 16-1992, in effect October 26, 1992.)

TITLE 22

EMPLOYEE COMMUTE OPTIONS (ECO) PROGRAM

- Section 1.**
- 1. Legislative Intent**
 - 2. Definitions**
 - 3. Registration and Correspondence**
 - 4. Average Passenger Occupancy (APO) Surveys**
 - 5. Calculation of the Average Passenger Occupancy (APO)**
 - 6. Compliance Plan and Maintenance Report Filing**
 - 7. Compliance Plan and Maintenance Report Review Process**
 - 8. Local Administrative Fees**
 - 9. Auditing and Recordkeeping**
 - 10. Penalties**
 - 11. Employer Petitions**
 - 12. Rules and Regulations**
 - 13. SEQRA Findings**
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Section 1. Legislative Intent.

Section 182(d)(1)(B) of the Federal Clean Air Act Amendments, 42 U.S.C. Section 7511a(d)(1)(B), as amended by Public Law 101-549, November, 15, 1990, 104 Stat. 2399, requires States having severe nonattainment areas for ozone to submit a State Implementation Plan revision requiring Employers in such nonattainment areas to implement programs to reduce work related vehicle travel by Employees.

The United States Environmental Protection Agency (EPA) has designated the County of Nassau as a severe nonattainment area for ozone within New York State.

Pursuant to Section 14(31) of the Transportation Law the New York State Department of Transportation has promulgated regulations to implement the Employee Commute Options (ECO) Program of the Federal Clean Air Act Amendments.

In general, Employers of one hundred or more persons at Worksites in a severe nonattainment area for ozone, as designated by the EPA, shall increase the Average Passenger Occupancy (APO) per Vehicle of its Employees in commuting trips between home and the Worksite during Peak Travel Periods to at least twenty-five (25) percent above the Average Vehicle Occupancy (AVO) Standard for all such trips. Such Standard shall be established in accordance with the Federal Clean Air Act Amendments and with guidance issued by the EPA (entitled "Employee Commute Options Guidance," United States Environmental Protection Agency, Office of Air and Radiation, December, 1992).

The New York State Transportation Law and the regulations promulgated pursuant thereto require the ECO Program to be administered by New York City and the Counties which are wholly or partially designated as severe nonattainment areas for ozone.

The Board of Supervisors finds it to be in the best interests of the County of Nassau to enact a Local Law for implementation of the ECO Program consistent with Section 14(31)(b), (c) and (d) of the New York State Transportation Law and 17 NYCRR Part 38.

Section 2. Definitions. For the purposes of the ECO Program, the definitions set forth in 17 NYCRR Part 38 shall apply, provided, however, that in this Chapter:

A. "Board" means the three member body established to review petitions filed by Affected Employers to appeal the decisions of the Local Administrative Agency.

B. "Department" shall mean the Nassau County Department of Planning;

C. "Local Administrative Agency" shall mean the Nassau County Department of Planning, Division of Transportation.

Section 3. Registration and Correspondence. In accordance with the provisions of 17 NYCRR Part 38.3, Affected Employers shall register with the Local Administrative Agency or notify the Local Administrative Agency of the reasons why that Employer may be exempt from the requirements of this Chapter, and shall comply with requirements with respect to correspondence set forth therein.

Section 4. Average Passenger Occupancy (APO) Surveys. In accordance with the provisions of 17 NYCRR Part 38.5, Affected Employers shall conduct Worksite APO Surveys, utilizing forms provided by the Local Administrative Agency or may utilize other APO Survey forms upon approval of the Local Administrative Agency and report the results of such Worksite APO Survey to the Local Administrative Agency, as part of the required Compliance Plan or Maintenance Report.

Section 5. Calculation of the Average Passenger Occupancy (APO). In accordance with the provisions of 17 NYCRR Part 38.6, Affected Employers shall calculate the Worksite APO and strive to achieve the Target APO.

Section 6. Compliance Plan and Maintenance Report Filing.

A. In accordance with the provisions of 17 NYCRR Part 38.7, each Affected Employer shall prepare and file Initial Compliance Plans and Compliance Plan Updates or Maintenance Reports.

B. For each Affected Worksite, by November 15, 1994, the Affected Employer shall file with the Local Administrative Agency an Initial Compliance Plan for each Affected Worksite.

C. An employer that becomes an Affected Employer after April 6, 1994 shall have six months from the date it becomes an Affected Employer to file an Initial Compliance Plan and two years from filing to implement its Initial Compliance Plan.

Section 7. Compliance Plan and Maintenance Report Review Process. In accordance with the provisions of 17 NYCRR Part 38.8:

A. Affected Employers shall implement approved Plans or Reports and revise rejected Plans or Reports.

B. Affected Employers may appeal Plan or Report rejection by the Local Administrative Agency.

Section 8. Local Administrative Fees.

A. Each Affected Employer shall be required to submit its annual fee on the date its Initial Compliance Plan is due to be submitted and thereafter on each subsequent anniversary of such date.

B. Fees are as follows:

1) for each employer's Worksite with more than one thousand (1,000) Affected Employees, the fee shall be two thousand dollars (\$2,000.00).

2) for each employer's Worksite with five hundred and one (501) to one thousand (1,000) Affected Employees, the fee shall be twelve hundred dollars (\$1,200.00).

3) for each employer's Worksite with two hundred fifty one (251) to five hundred (500) Affected Employees, the fee shall be six hundred dollars (\$600.00).

4) for each employer's Worksite with one hundred (100) to two hundred fifty (250) Affected Employees, the fee shall be three hundred dollars (\$300.00).

C. Fees shall be reduced by fifty percent (50%) of the amount due for all Affected Employers submitting plans not later than 90 days prior to the date a submission is due. Fees shall be reduced by thirty-three and one third percent (33-1/3%) of the amount due for all Affected Employers submitting plans not later than 60 days