### Clerk Item 743-09 – Amendment In the Nature of a Substitution

### Introduced by Legislator Mejias

Co-sponsored by Presiding Officer Yatauro and Legislators Abrahams, Bosworth, Corbin, Denenberg, Jacobs, Scannell, Toback and Wink

### LOCAL LAW NO. 4-2010

A LOCAL LAW to amend the Nassau County Administrative Code in relation to monitoring registered sex offenders that live or work within nursing homes and/or that are homeless and are being monitored by probation

Passed by the Nassau County Legislature on December 21, 2009

Voting: ayes: 17, nayes: 0, abstained: 0

Became a law on January 21, 2010

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

Section 1. Title K of chapter VIII of the Nassau County Administrative Code, as added by Local Law No. 4-2005, and amended by Local Law 4-2006 and Local Law 25-2009, §§ 8-130.1, 8-130.2, 180.9 and 8-130.11 are amended to read as follows:

Section	8-130.1	Legislative Intent.
مرور بسرگار در وروزو	8-130.2	Definitions.
Epolitical Carriage	8-130.3	Mandatory dissemination of information.
A. T. S.	8-130.4	Promulgation of rules and procedures.
	8-130.5	Database of entities with vulnerable populations.
A Section 1	8-130.6	Residency restrictions.
	8-130.7-a	Notification.
on a succession of the second	8-130.7-b	Hotel, Motel and Shelter Notification.
and a local contraction has	8-130.7-с	Nursing Home Screening Requirements and Notification
Americk of Konsensis	8-130.8	Exemption.
Zahan sajah ini at kacab	8-130.9	Location Monitoring.
Ja Kalabara Janggara (1	8-130.10	County Not Liable.
Berling Committee	8-130.11	Penalties.
	8-130.12	Separability.

§ 8-130.1 Legislative intent. This legislature finds that sex offenders are prone to recidivism. The community has an interest in protecting vulnerable populations from sex offenders who may relapse into criminal behavior. This public interest can best be served by disseminating

information about such offenders to groups or entities that are made up of children, seniors, women or others who are vulnerable to victimization by sex offenders. The New York State Sex Offender Registration Act ("SORA") provides for the registration of convicted sex offenders and the release of certain information about them by local law enforcement agencies. While this law is an invaluable tool for informing the public about the presence of certain convicted sex offenders in their communities, this legislature finds that it can be made more effective by requiring the county's law enforcement agencies to notify entities with vulnerable populations about such offenders residing in their vicinity. This local law is therefore necessary to ensure the widest possible dissemination of information about level 2 and level 3 sex offenders consistent with SORA.

The legislature further finds that sex offenders present a particular danger when they live in close proximity to schools and parks - areas where children learn, play, and congregate. The county's compelling governmental interest in ensuring that children do not become victims of sex crimes is best served by limiting the occasions for contact between children, especially those that were previously victimized, and registered sex offenders and the residency restriction contained in this law is therefore necessary to protect a vulnerable population from sex offenders.

This legislature further finds and determines that in order to protect the residents of Nassau County, particularly children, sex offenders who pose a high risk of repeating an offense should be electronically monitored.

This legislature further finds that residents of nursing homes are particularly vulnerable to exploitation by sex offenders due to their advanced age and/or medical condition. Although nursing homes generally require criminal background checks for their employees, some employees and volunteers are not subject to such screening. Furthermore, this Legislature also finds that nursing home operators are not required to screen their residents/patients or, if they have knowledge that a registered sex offender is residing in their facility, they are not required to notify other residents of this fact.

§ 8-130.2 Definitions. When used in this title:

"Commissioner" shall mean the commissioner of the Nassau County Police Department.

"County" shall mean the county of Nassau.

"Domicile" shall mean a person's true, fixed, permanent home or fixed place of habitation.

"Employee" shall mean any employee, volunteer or intern who is not required, pursuant to any other law or regulation, to undergo a criminal background check prior to beginning his or her employment or service in a nursing home that contracts with the County or receives direct or indirect financial support from the County.

"Entity with a vulnerable population" shall mean any community group, organization, association, or other organized collection of people whose members are potential targets of a sex offender.

"Homeless" shall mean an (1) an individual who lacks a fixed, regular, and adequate nighttime residence; or (2) an individual who has a primary nighttime residence that is (a) supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

"Level 1 offender" shall mean a sex offender who received a level one designation pursuant to Article 6-C of the New York State Correction Law because the risk of repeat offense was determined to be low.

"Level 2 offender" shall mean a sex offender who received a level two designation pursuant to Article 6-C of the New York State Correction Law because the risk of repeat offense was determined to be moderate.

"Level 3 offender" shall mean a sex offender who received a level three designation pursuant to Article 6-C of the New York State Correction Law because the risk of repeat offense was determined to be high.

"Operator" shall mean any person, corporation or other entity which owns or operates a nursing home that contracts with the County or receives direct or indirect financial support from the County.

"Nursing Home" shall mean a facility providing therein nursing care or health related services to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board that contracts with the County or receives direct or indirect financial support from the County.

"Park" shall mean any park, preserve, playground, athletic field, golf course, swimming pool, or beach operated by the county, or by the state of New York or any town, village or city within the county.

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

"Registered sex offender" shall mean a person who has been classified as a Level 1, Level 2 or Level 3 sex offender and who is required to register with the New York state division of criminal justice services, or other agency having jurisdiction, pursuant to the provisions of article 6-C of the New York State Correction Law, whether or not the sex offender has actually registered in compliance with the law or order of a court of competent jurisdiction.

"Residence" shall mean the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

"Resident" shall mean any resident or patient of a nursing home that contracts with the County or receives direct or indirect financial support from the County.

"School" shall mean a public, private or parochial elementary or secondary school, including a middle school, junior high school, high school or Board of Cooperative Educational Services (BOCES) school but not including a college, a university, a privately owned trade/vocational school or a home school.

"SORA" shall mean the New York State Sex Offender Registration Act.

### § 8-130.9 Location Monitoring.

- (a) When a sex offender is being monitored by the Probation Department and has been designated as a Level 3 offender or when a sex offender is being monitored and has been designated as either a Level 1, 2 or 3 offender and is homeless the Probation Department shall petition the court having jurisdiction over said offender to modify and enhance the conditions of probation to include that the Level 3 offender or homeless registered sex offender be monitored by the Probation Department, with an active electronic monitoring device for a period of time as determined by said court, except where:
- 1) upon a showing of good cause to the Director of Probation, such Director deems such a petition to the court to be unnecessary;
- 2) the Level 3 offender or homeless registered sex offender has been previously ordered to be monitored and is currently being monitored by such a device; or
- 3) the Level 3 offender or homeless registered sex offender is committed to the custody of the State of New York.
- (b) When a sex offender is being monitored by the Probation Department and has been designated as a Level 1 offender or Level 2 offender, the Probation Department shall, at its discretion petition the court having jurisdiction over said offender to modify and enhance the conditions of probation to include that the Level 1 offender or Level 2 offender be monitored by the Probation Department with an active electronic monitoring device for a period of time as determined by said court.
- (c) For purposes of this section, "active electronic monitoring device" means a mechanism utilized by the Probation Department in conjunction with a system that actively monitors and identifies a person's location and that timely reports or records the person's presence near or within a crime scene or prohibited area or the person's departure from a specified geographic location.
- (d) The Probation Department shall establish a system for the purpose of monitoring probationers required to wear the electronic monitoring device and shall promulgate regulations regarding the imposition and collection of fees for said electronic monitoring device consistent with Title 20 of the Miscellaneous Laws of Nassau County.

The electronic monitoring device fee shall be set by the Probation Department and shall be paid for by the probationer unless there is a further determination by the Probation Department that the probationer is financially incapable of paying the fee.

### § 8-130.11 Penalties

(a) Any intentional violation of section 8-130.6 after notification pursuant to section 8-130.7-a shall be a class A Misdemeanor punishable by a fine not exceeding one thousand dollars; or imprisonment for a term not exceeding one year; or both such fine and imprisonment.

- (b) Any violation of section 8-130.7-b or section 8-130-c shall be punishable by a fine not exceeding one thousand dollars. Each day or part of day in which a violation continues shall constitute a separate violation.
- (c) Any registered sex offender monitored pursuant to section 8-130.9 of this title who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device is guilty of a class A Misdemeanor punishable by a fine not exceeding one thousand dollars; or imprisonment for a term not exceeding one year; or both such fine and imprisonment; and shall be responsible for restitution of the electronic monitoring device.
- Section 2. Title K of chapter VIII of the Nassau County Administrative Code, as added by Local Law No. 4-2005, and amended by Local Law 4-2006 and Local Law 25-2009, is amended to add new § 8-130.7-c, to read as follows:
- 8-130.7-c Nursing Home Screening Requirements and Notification.
- (a) Screening Requirements
- 1) All operators shall make an inquiry to the New York State Sex Offender Registry to determine whether any current employee appears in said registry within sixty (60) days of the effective date of this law.
- 2) All operators shall, prior to hiring any new employee, make an inquiry to the New York State Sex Offender Registry to determine whether the prospective employee appears in said registry.
- 3) All operators shall make an inquiry to the New York State Sex Offender Registry to determine whether any current resident appears in said registry within sixty (60) days of the effective date of this law.
- 4) All nursing homes shall, prior to admitting a new resident, make an inquiry to the New York State Sex Offender Registry to determine whether the prospective resident appears in said registry.
- (b) Notification

If an operator determines that a resident of the nursing home is registered with the New York State Sex Offender Registry, the operator shall advise its employees, residents and residents' next of kin, of the resident's sex offender status. The operator shall also direct staff and residents to the State and Megan's Law Sex Offender Registries to obtain further information.

Section 3. SEQRA Determination. This legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning Commission acting in its advisory capacity to the legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary.

Section 4. Effective Date. This IDATE SEBMINETED tone hundred twenty days (120) after it shall have become a law.

DEPUTY COUNTY EXECUTIVE ACTING FOR THE COUNTY EXECUTIVE

DATE APPROVED

### Legislature

A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE IN RELATION TO MONITORING REGISTERED SEX OFFENDERS THAT LIVE OR WORK WITHIN NURSING HOMES AND/OR THAT ARE HOMELESS AND ARE BEING MONITORED BY PROBATION STATE ENVIRONMENTAL QUALITY REVIEW "UNLISTED" DESIGNATION AND NEGATIVE DECLARATION RECOMMENDATION

### NCPC SEQRA FILE NO. 43E-2009

WHEREAS, in accordance with §1611 of the Nassau County (County) Charter and acting in an advisory capacity to the NASSAU COUNTY LEGISLATURE (LEGISLATURE) the NASSAU COUNTY PLANNING COMMISSION (the COMMISSSION), may assist the Legislature and review certain proposed actions of the County and make advisory recommendations under the State Environmental Quality Review Act, and

WHEREAS, the LEGISLATURE submitted to the COMMISSION documentation in relation to a proposed Local Law; and

WHEREAS, the proposed action entails the following project: The amendment of the Nassau County Administrative code in relation to the monitoring of registered sex offenders that will provide for adequate screening of Nursing Home employees and provide for the monitoring of those registered sex offenders listed as "homeless"; and

WHEREAS, the COMMISSION considered, pursuant to Part 617 of Title 6 NYCRR and section 1611 of the County Government Law of Nassau County, the environmental impact of the proposed Local Law, based upon the documentation provided, including the description provided in the Environmental Assessment Form ("EAF"); now, therefore, be it

**RESOLVED**, that the COMMISSION recommend and does hereby recommend that the proposed action be classified as an UNLISTED action, pursuant to Part 617 of Title 6 NYCRR and §1611 of the Nassau County Government Law; and be it further

**RESOLVED**, that the COMMISSION recommend and does hereby recommend that, with regard to the proposed action, the LEGISLATURE find that:

- 1. the proposed action will not result in a substantial adverse change in existing air quality, ground or surface water or quality, and traffic or noise levels;
- 2. the proposed action will not lead to a substantial increase in solid waste production and will not create a substantial increase in the potential of erosion, flooding, leaching or drainage problems;
- 3. the proposed action will not cause substantial adverse impact on a threatened or endangered species of animal or plant. The proposed action will not impact on a significant habitat area. The proposed action will not result in any other significant adverse impact to natural resources;
- 4. the proposed action will not impair the environmental characteristics of a designated Critical Environmental Area;
- 5. the proposed action is in accordance with and will not conflict with the County's current plans or goals as officially approved or adopted;
- 6. the proposed action will not impair the character or quality of important historical archeological or architectural resources of the County, or any existing community or neighborhood character;

- 7. the proposed action will not result in major changes in the use of either the quantity or type of energy;
- 8. the proposed action will not create a hazard to human health;
- 9. the proposed action will not result in a substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses;
- 10. the proposed action will not result in the creation of a material demand for other actions that would result in any of the above consequences;
- 11. the proposed action will not change two or more elements of the environment, which when considered together could result in a substantial adverse impact on the environment; and
- 12. when considered cumulatively with other related actions, the proposed action will not have a significant adverse effect on the environment or meet any of the above criteria; and be it further

**RESOLVED,** that the COMMISSION thereby recommend and does hereby recommend that the LEGISLATURE issue a "Negative Declaration" in regard to the proposed action.

The resolution herein was, in accordance with all applicable law, duly considered, moved, and adopted by the following vote:

Jeffrey Greenfield, Chair	AYE
Michael Bellissimo, First Vice Chair	AYE
Neal Lewis, Second Vice-Chair	AYE
Leonard Shapiro	AYE
Philip Como	AYE
Mary A. McCaffery	AYE
Clara Gillens- Eromosele	AYE
Eric Sussman	AYE
Marty Glennon	AYE

The Chair declared the resolution duly adopted. Resolution of Nassau County Planning Commission- SEQRA File # 43E-2009

Adopted: December 17, 2009

This resolution may be modified to allow for the correction of any mathematical, typographical and/or clerical errors subsequent to any approval and adoption of said resolution without the necessity for a vote to be taken by the Nassau County Planning Commission if said resolution is approved and adopted by the affirmative vote of a majority of said Nassau County Planning Commission.

Resolution of Nassau County Planning Commission SEQRA File # 43E-2009 Adopted December 17, 2009

STATE OF NEW YORK )
) SS:
COUNTY OF NASSAU )

I, ROBERT A. PIAZZA, Deputy Commissioner of the Nassau County Planning Commission, do hereby certify, that I have compared the preceding with the original resolution passed by the Planning Commission of Nassau County, New York,

### on December 17, 2009

on file in my office and recorded in the record of proceedings of the Planning Commission of the County of Nassau and do hereby certify the same to be a correct transcript there from and of the whole said original.

I further certify that the resolution herein above-mentioned was passed by the concurring affirmative vote of the Planning Commission of the County of Nassau.

IN WITNESS WHEREOF, I have hereunto set my hand,

this  $2^{1}$  day of December in the year of two thousand and nine.

ROBERT A. PIAZZA, DEPUTY COMMISSIONER NASSAU COUNTY PLANNING COMMISSION

## State Environmental Quality Review (SEQR) NEGATIVE DECLARATION

Notice of Determination of Non-Significance

#### NCPC SEQRA File No # 43E-2009

Date: December 21, 2009

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Nassau County Legislature as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE IN RELATION TO MONITORING REGISTERED SEX OFFENDERS

SEQRA Status:	Type I						
· •	Unlisted	<b>v</b>					
Conditioned Negativ	ve Declaration:	. 🗆	Yes				
		~	No				

**Description of Action:** The amendment of the Nassau County Administrative code in relation to the monitoring of registered sex offenders that will provide for adequate screening of Nursing Home employees and provide for the monitoring of those registered sex offenders listed as "homeless"

Location:

County Wide, Nassau County, New York.

### Reasons supporting this determination:

Completion of the Environmental Assessment Form Parts I and II have identified no significant adverse environmental impacts.

### **Determination of Significance**

The environmental criteria set forth in §617.7 (c) are considered to be indication of significant adverse environmental impacts. Using these thresholds the Nassau County Legislature finds the following factors as its basis for the NEGATIVE DECLARATION determination:

- 1. The proposed action will not result in a substantial adverse ground or surface water or quality, air quality and traffic or noise levels; will not lead to a substantial increase in solid waste production and will not create a substantial increase in the potential of erosion, flooding, leaching or drainage problems.
- 2. The proposed action will not cause substantial adverse impact on a threatened or endangered species of animal or plant. The proposed action will not result in any other significant adverse impact to natural resources;
- 3. The proposed action will not impair the environment characteristics of a designated Critical Environmental Area;
- 4. The proposed action is in accordance with and will not conflict with the County's current plans or goals as officially approved or adopted;
- 5. The proposed action will not impair the character or quality of important historical archeological or architectural resources of the County, or any existing community or neighborhood character;
- 6. The proposed action will not result in major changes in the use of either the quantity or type of energy;
- 7. The proposed action does not create a hazard to human health;
- 8. The proposed action will not result in a substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses;
- 9. The proposed action will not result in the creation of a material demand of other actions that would result in any of the above consequences;
- 10. The proposed action will not change two or more elements of the environment, which when considered together could result in a substantial adverse impact on the environment;
- 11. When considered cumulatively with other related actions, the proposed action will not have a significant effect on the environment or meet one of the above criteria;

Therefore, the Nassau County Legislature has determined that, based upon the above findings, the proposed Local Law will not have a significant adverse impact on the environment, and that no additional environmental review or action is necessary

**Conditions:** 

None

SEQR Negative Declaration

David Gugerty Esq., Legislative Majority Counsel

Name and Title of Responsible Officer in Lead Agency

Signature of Responsible Officer

Christopher Ostuni Esq., Legislative Minority Counsel

Name and Title of Responsible Officer in Lead Agency

Signature of Responsible Officer

Donald J. Hohn, Planner III, Nassau County Planning Commission

Name and Title of Preparer

Signature of Preparer

For Further Information:

Contact Person:

David Gugerty, Esq.

Legislative Majority Counsel

Address:

Nassau County Legislature

1 West Street

Mineola, New York 11501

Telephone Number:

(516) 571-4321

For Unlisted Actions a copy must be filed with the lead agency

Applicant:

Nassau County Legislature

Other Involved Agencies:

NONE

### For Type I Actions and Conditioned Negative Declarations, a copy must be sent to:

Environmental Notice Bulletin at: enb@gw.dec.state.ny.us

ENB, NYS Department of Environmental Conservation 50 Wolf Road Room 538, Albany, NY 12233-1750

County Executive, c/o County Clerk

### 617.20 Appendix C

### State Environmental Quality Review

# SHORT ENVIRONMENTAL ASSESSMENT FORM For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by A	pplicant or Project Sponsor)
1. APPLICANT/SPONSOR	2. PROJECT NAME
Nassau County Legislature	Local Law to Amend Code on Registered Sex Offenders
3. PROJECT LOCATION:	
Municipality County Wide	County Nassau
4. PRECISE LOCATION (Street address and road intersections, prominent	landmarks, etc., or provide map)
County Wide	
5. PROPOSED ACTION IS:    V   New	n
6. DESCRIBE PROJECT BRIEFLY:	
The amendment of the Nassau County Administrative code in relate for adequate screening of Nursing Home employees and provide for	
"homeless"	if the momentum of those registered sex offenders fished as
7. AMOUNT OF LAND AFFECTED: Initially N/A acres Ultimately N/A	acres
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OT  Yes	HER EXISTING LAND USE RESTRICTIONS?
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?  V Residential V Industrial Commercial Describe:	✓ Agriculture ✓ Park/Forest/Open Space  Other
County Wide	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NO (FEDERAL, STATE OR LOCAL)?	OW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY
Yes No If Yes, list agency(s) name and pe	rmit/approvals:
•	•
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID	PERMIT OR APPROVAL?
Yes Vo If Yes, list agency(s) name and pe	rmit/approvals:
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMITIA	APPROVAL REQUIRE MODIFICATION?
Yes V No	
I CERTIFY THAT THE INFORMATION PROVIDED A Applicant/sponsor name: Nassau County Legislature	ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE  Date: 12/21/09
Signature:	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

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