

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u> - 0.5*</u>	_____	_____	_____	_____

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes _____ No _____

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact: No Fiscal Impact*

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Laura Neary 11/7/13 Dr. J. Jacobson 11/15/13
 OFMB Contract Dev. and Control
 11/7/13 11/7/13

B. Legal Sufficiency:

Paula Eidelberger 11/7/13
 Assistant County Attorney

C. Other Department Review:

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

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ORDINANCE NO. 2013-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING PALM BEACH COUNTY CODE, CHAPTER 9, ARTICLE I, CODIFYING ORDINANCE NO. 72-2, AS AMENDED, "THE PALM BEACH COUNTY CONSUMER AFFAIRS ORDINANCE," RELATING TO CONSUMER AFFAIRS AND UNFAIR OR DECEPTIVE TRADE PRACTICES; AND ADOPTING A NEW CONSUMER AFFAIRS ORDINANCE; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR SCOPE OF ORDINANCE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR A CONSUMER AFFAIRS DIVISION; PROVIDING FOR A DIRECTOR OF CONSUMER AFFAIRS; PROVIDING FOR POWERS OF DIRECTOR; PROVIDING FOR COMPLAINTS; PROVIDING FOR THE PROHIBITION OF UNFAIR OR DECEPTIVE TRADE PRACTICES; PROVIDING FOR A CONSUMER AFFAIRS HEARING BOARD; PROVIDING FOR POWERS OF THE CONSUMER AFFAIRS HEARING BOARD - PROCEEDINGS AT HEARING; PROVIDING FOR ASSURANCE OF VOLUNTARY COMPLIANCE; PROVIDING FOR CEASE AND DESIST ORDER OF DIRECTORS; PROVIDING FOR ORDER TO SHOW CAUSE; PROVIDING FOR STATUTES ADOPTED; PROVIDING FOR ENFORCEMENT AND CIVIL PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND, PROVIDING FOR AN EFFECTIVE DATE.

37 **WHEREAS**, Section 125.01, Florida Statutes, as amended, authorizes the Board of
38 County Commissioners of Palm Beach County to provide and maintain for the citizens and
39 visitors of said County, standards which will insure their health, welfare, and well being; and

40 **WHEREAS**, Section 125.01, Florida Statutes, provides that the Board of County
41 Commissioners of Palm Beach County may adopt ordinances and resolutions as may be
42 necessary to the exercise of their powers; and

43 **WHEREAS**, the protection of the citizens and visitors of Palm Beach County from
44 unfair and deceptive trade acts or practices is necessary in the general interest of the public and
45 to promote the general welfare; and

46 **WHEREAS**, it is the intent of the Board of County Commissioners of Palm Beach
47 County to continuously improve consumer protection in Palm Beach County while maximizing
48 the efficient utilization of available resources; and

1 WHEREAS, since the date of adoption and implementation of the original enactment of
2 the Consumer Affairs Ordinance, No. 72-2, it has been necessary to amend it from time to time
3 in order to best serve the citizens of Palm Beach County and provide for their general safety and
4 welfare; and

5 WHEREAS, a Consumer Affairs Hearing Board was established in 1977 to assist, advise
6 and cooperate with the Board of County Commissioners and local, state, and federal agencies
7 and officials to protect the interest of the consumer public; and to carry out the adjudicatory
8 functions pertaining to alleged unfair or deceptive trade acts or practices; and

9 WHEREAS, the Board of County Commissioners of the Palm Beach County adopted
10 Resolution 2013-0193 on March 1, 2013, which imposes specific requirements on members of
11 County advisory boards; and

12 WHEREAS, the Consumer Affairs Hearing Board is subject to the provisions of
13 Resolution 2013-0193; and

14 WHEREAS, due to the substantial procedural and substantive changes made to this
15 ordinance to bring it into compliance with other County ordinances, since it was last amended in
16 1977, it is more efficient and in the best interest of the Board of County Commissioners to repeal
17 and replace the Consumer Affairs Ordinance in its entirety.

18 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
19 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

20 **Section 1. The Consumer Affairs Ordinance.**

21 Chapter 9, Article I, of the Palm Beach County Code, "The Consumer Affairs Ordinance,"
22 (Ordinance No. 72-2, as amended), is hereby repealed and the Palm Beach County Consumer
23 Affairs Ordinance of 2013 is hereby adopted as follows;

24
25 **Section 2. Title.**

26 This Ordinance shall be designated and may be cited as the "Palm Beach County Consumer
27 Affairs Ordinance of 2013."

28
29 **Section 3. Definitions.**

30 The following words when used in this Ordinance shall have the following meanings ascribed to
31 them unless the text requires or specifies a different meaning:

- 32
33 (a) "Board" shall mean the Consumer Affairs Hearing Board of Palm Beach
34 County;
35
36 (b) "Consumer" means a purchaser or lessee or prospective purchaser or lessee of
37 consumer goods or services or consumer credit, including a co-obligor or
38 surety;
39
40 (c) "Consumer goods, services, credit and debts" means goods, services, credit
41 and debts which are primarily for personal, household, or family purposes;

- 1
2 (d) "Consumer transaction: means a sale, lease, assignment, award by chance or
3 other commercial disposition of any item of goods, a consumer service or an
4 intangible instrument or commodity to any individual for purposes that are
5 primarily personal, family or household, or that relate to a business
6 opportunity that requires either the consumer's expenditure of money or
7 property and/or his or her personal services on a continuing basis and in
8 which he or she has not been previously engaged, or solicitation by a supplier
9 with respect to any of the foregoing dispositions;
- 10
11 (e) "Director" shall mean the director or the manager of the Consumer Affairs
12 Division;
- 13
14 (f) "Division" shall mean the Palm Beach County Department of Public Safety
15 Consumer Affairs Division;
- 16
17 (g) "Hearing" shall mean an administrative appeal heard by the Consumer Affairs
18 Hearing Board on matters filed by person appealing the decisions of the
19 Division;
- 20
21 (h) "Meeting" shall mean a meeting of the Board and Division staff to conduct its
22 regular business as necessary;
- 23
24 (i) "Merchant" means a seller, lessor, creditor or any person who makes
25 available either directly or indirectly goods, services, or credit to consumers.
26 "Merchant" shall include manufacturers, wholesalers and others who are
27 responsible for any unfair or deceptive trade acts or practices as defined in
28 this Ordinance;
- 29
30 (j) "Person" shall include, where applicable, natural persons, corporations, trusts,
31 partnerships, limited liability companies, incorporated or unincorporated
32 associations, and any other legal business entity whatsoever; and,
- 33
34 (k) "Unfair or deceptive trade acts or practices" shall mean unfair methods of
35 competition and unfair deceptive acts or practices in the conduct of any
36 consumer transaction and shall include but are not limited to those acts
37 referenced in Section 11. Prohibition of Unfair or Deceptive Trade Acts or
38 Practices.

39
40 **Section 4. Scope of Ordinance.**

41 This Ordinance shall be applicable in both the unincorporated and incorporated areas of Palm
42 Beach County, except that it shall not apply in any municipality that has adopted and maintains
43 in effect ordinances or regulations governing the same matters.

44
45 **Section 5. Exemptions.**

46 Nothing in this Ordinance shall apply to any television or radio broadcasting station or to any
47 publisher or printer of a newspaper, magazine, or other form of printed advertising, which
48 broadcasts, publishes, or prints such advertisements, except insofar as said station or publisher or
49 printer is guilty of deception in the sale, or in the offering for sale of its own services, or to
50 actions or transactions regulated under laws administered by the state public service commission.

51
52 **Section 6. Other Rights and Remedies.**

53 Nothing herein shall prevent any person from exercising any right or seeking any private remedy
54 to which he might otherwise be entitled or from filing any complaint with any other agency.

55
56 **Section 7. Consumer Affairs Division.**

57 There is hereby created the Consumer Affairs Division under the Department of Public Safety.

1 **Section 8. Director of Consumer Affairs Division.**

2 The Director of the Consumer Affairs shall be a County employee under the supervision and
3 control of the Director of the Department of Public Safety.
4

5 **Section 9. Powers of Director.**

6 The functions and powers of the Director of the Consumer Affairs Division shall include the
7 following:
8

- 9 (a) To receive complaints from all persons complaining of unfair or deceptive
10 trade acts or practices as defined in this Ordinance;
- 11
- 12 (b) To represent the interests of consumers before administrative and regulatory
13 agencies and legislative bodies;
- 14
- 15 (c) To enforce the provisions of this Ordinance;
- 16
- 17 (d) To investigate complaints, institute actions and proceedings under this
18 Ordinance;
- 19
- 20 (e) To conduct appropriate surveys and inspections to determine whether the
21 provisions of this Ordinance are being complied with;
- 22
- 23 (f) To report to the appropriate law enforcement officers any information
24 concerning violations of any consumer protection law;
- 25
- 26 (g) To render annual reports to the Board of County Commissioners as to the
27 number of complaints filed, the nature thereof and the disposition thereof and
28 other relevant activities of the office and the Board undertaken during the
29 previous year;
- 30
- 31 (h) To publicize and disseminate information to the public concerning consumer
32 affairs and to recommend methods for improvement thereof;
- 33
- 34 (i) To enlist and encourage public support and the assistance of civic
35 organizations and the cooperation of business enterprises and organizations in
36 consumer affairs;
- 37
- 38 (j) To make periodic reports concerning the status of consumer affairs in Palm
39 Beach County and the enforcement of the provisions of this Ordinance, and
40 recommendations concerning consumer protection. Such reports shall be
41 made to the Consumer Affairs Hearing Board and to the Board of County
42 Commissioners of Palm Beach County;
- 43
- 44 (k) To prepare assurances of voluntary compliance as provided for in Section 15
45 of this Ordinance; and
- 46
- 47 (l) To assist, develop and conduct programs of consumer education and
48 information through public hearings, meetings, publications or other materials
49 prepared for distribution to the consumer.
- 50

51 **Section 10. Complaints.**

- 52
- 53 (a) Any consumer may make or file a complaint stating the name and address (if
54 known) of the person alleged to have committed the violation complained of
55 and the particulars thereof, and such other information as may be required by
56 the Consumer Affairs Division.
- 57
- 58 (b) Upon the filing of a complaint, the Director shall review the complaint and
59 supporting documentation, if any, and assign a staff investigator, if
60 appropriate. If the staff investigator determines that there are reasonable

1 grounds to believe a violation has occurred, the staff investigator may attempt
2 to conciliate the matter through conferences with all interested parties and
3 such representatives as the parties may chose to assist them, or alternatively,
4 may issue a civil citation.
5

- 6 (c) If the staff investigator determines that there are no reasonable grounds to
7 believe that a violation occurred, the investigator shall prepare a closure letter
8 for the Director to review and approve, prior to dismissing the complaint.
9

10 **Section 11. Prohibition of Unfair or Deceptive Trade Practices.**
11

12 No person shall engage in any unfair method of competition or deceptive act or practice in the
13 conduct of any consumer transaction. A person engages in an unfair method of competition or
14 deceptive trade act or practice when in the course of his or her business, vocation or occupation,
15 he or she knows, or in the exercise of care should know, that he or she in the past engaged, or is
16 now engaging in, any unfair method of competition or deceptive acts or practices in the conduct
17 of any trade or commerce as herein defined. Unfair or deceptive trade acts or practices shall
18 include, but are not limited to, the following:
19

- 20 (a) Representations that goods or services have sponsorship, approval,
21 characteristics, ingredients, uses, benefits, or quantities which they do not
22 have;
23
24 (b) Representations that a person or supplier has a sponsorship, approval, status,
25 affiliation or connection which he or she does not have;
26
27 (c) Representations that goods are original or new if in fact they are not, or if
28 they are deteriorated, altered, reconditioned, reclaimed, or second-hand;
29
30 (d) Representations that goods are of a particular standard, brand, quality, style,
31 or model, if they are of another;
32
33 (e) Representations that goods or services are those of another, if they are not;
34
35 (f) Using deceptive representations or designations of geographic origin in
36 connection with goods or services;
37
38 (g) Advertising goods or services intending not to sell them as advertised;
39
40 (h) Advertising goods or services with intent not to supply reasonable expectable
41 public demand, unless the advertisement discloses a limitation of quantity;
42
43 (i) Making false or misleading statements concerning the need for, or necessity
44 of, any goods, services, replacements, or repairs;
45
46 (j) Disparaging the goods, services, or business of another by false or misleading
47 representations of fact;
48
49 (k) Making false or misleading statements of fact concerning the reasons for the
50 existence of, or amounts of price reductions;
51
52 (l) Failing to return or refund deposits or advance payments for goods not
53 delivered or services not rendered, when no default or further obligation of
54 persons making such deposits or advance payments exists;
55
56 (m) Taking consideration for goods or services intending not to deliver such
57 goods or perform such services, or intending to deliver goods or provide
58 service materially different from those ordered or sold;
59
60 (n) Making false or misleading statements concerning the profitability, risk, or
61 any other material aspect of any home-operated business opportunity or
62 venture;

- 1
2 (o) Offering gifts, prizes, free items, or other gratuities, intending not to provide
3 them as offered in connection with a sale of goods or services to a consumer;
4
5 (p) Making false or misleading statements concerning the existence, terms, or
6 probability of any rebate, additional goods or services, commission, discount
7 offered as an inducement for the sale of goods or services;
8
9 (q) Using physical force, threat of physical force, or coercion in dealing with
10 consumers;
11
12 (r) Any violation of the Florida Deceptive and Unfair Trade Practices Act,
13 Section 501.201 et seq., Florida Statutes;
14
15 (s) Advertising, representing, or offering for sale an article of food or food
16 product as "kosher" or having the word "kosher" in any language inscribed
17 thereon if such food is not in fact kosher as sanctioned by orthodox Hebrew
18 religious requirements, and,
19
20 (t) Selling or exposing for sale in any hotel, restaurant or other place where food
21 products are sold for consumption on the premises, any meat or meat
22 preparation, or article of food, or food preparation falsely representing the
23 same to be kosher or as having been prepared in accordance with the orthodox
24 Hebrew religious requirements when the meat or meat preparation, article of
25 food or food preparation is not kosher or not prepared in accordance with
26 orthodox Hebrew religious requirements, or; or selling or exposing for sale in
27 such hotel, restaurant or such other place kosher and non-kosher food or food
28 preparation, the latter having not been prepared in accordance with Jewish
29 ritual or not sanctioned by the Hebrew orthodox religious requirements and
30 failing to conspicuously display a sign or other public notice in block letters
31 at least four inches in height "kosher and non-kosher food served here;" or
32 displaying within or outside such hotel, restaurant or other place, words or
33 letters in Hebraic characters or any sign, emblem, insignia symbol or mark in
34 simulation of same, the display of which might reasonably be calculated to
35 deceive or lead a reasonable person to believe that a representation is being
36 made that all food sold or offered for sale on the premises is kosher and
37 prepared in accordance with the orthodox Hebrew religious requirements if
38 such is not true of all the food products sold on the premises.
39

40 **Section 12. Consumer Affairs Hearing Board.**
41

- 42 (a) The Palm Beach County Consumer Affairs Hearing Board is hereby recreated
43 and reestablished. The Board shall be subject to the uniform policies and
44 procedures established by the Board of County Commissioners for Advisory
45 Boards as currently set forth in Resolution No. 2013-0193, as may be further
46 amended by action of the Board of County Commissioners.
47
48 (b) The Board shall consist of seven (7) members appointed at-large by the Board
49 of County Commissioners. The members of this Board shall be residents of
50 Palm Beach County at the time of appointment and while serving on the
51 Board. At least one (1) member shall be an attorney, licensed to practice in
52 the State of Florida, and all other appointments shall be made by the Board of
53 County Commissioners on the basis of experience or interest in the field of
54 consumer affairs. All Board appointments shall be for a term of three (3)
55 years, with a limit of three (3) consecutive terms. Terms shall begin on
56 October 1st, and end on September 30th. Existing member's terms shall end
57 on September 30th of the year in which their term expires. Vacancies
58 occurring during a term shall be filled for the unexpired portion of the term,
59 and shall not count toward a member's term limits. Members serve without
60 compensation. Members shall be governed by the applicable provisions of
61 the State Ethics Code and the applicable provisions of the Palm Beach County
62 Code of Ethics, as may be amended.

- 1
2 (c) Members shall be automatically removed for lack of attendance. Lack of
3 attendance is defined as failure to attend three (3) consecutive meetings or a
4 failure to attend more than one-half of the meetings scheduled during a
5 calendar year. Participation for less than three-fourths of a meeting shall be
6 the same as a failure to attend a meeting. Members removed pursuant to this
7 paragraph shall not continue to serve on the Board and such removal shall
8 create a vacancy. Vacancies shall be filled in the same manner as the original
9 appointments for the remainder of the vacant term.
10
11 (d) Members shall appoint a chairperson and a vice-chairperson. The chairperson
12 and the vice-chairperson shall be elected by a majority vote of the Board and
13 shall serve for a term of one (1) year. The vice-chairperson shall perform the
14 duties of the chairperson in the absence of the chairperson. In the absence of
15 both the chairperson and the vice-chairperson, the Division director or
16 manager may conduct the meeting or hearing. Meetings and hearings shall be
17 governed by Robert's Rules of Order, and shall be open to the public, duly
18 advertised and otherwise comply with all applicable requirements of Florida's
19 "Sunshine" law as set forth in Chapter 286, Florida Statutes. A majority of
20 the members currently appointed shall constitute a quorum and action may be
21 taken by the Board upon a vote of a majority of the members present. At any
22 meeting or hearing, the Board may fix and call a meeting or hearing on a
23 future date. The Board shall meet on a regular basis to conduct its business
24 and as necessary to conduct administrative hearings filed by persons
25 appealing the decisions of the Division.
26
27 (e) Any appeal of a decision rendered by the Consumer Affairs Hearing Board
28 regarding a violation of Chapter 501 Florida Statutes shall be directed to the
29 Florida Office of the Attorney General with subsequent judicial review
30 through the District Courts of Appeal. Adjudications of the Consumer Affairs
31 Hearing Board of substantive violations of this Ordinance shall be appealed to
32 the Circuit Court of the Fifteenth Judicial Court by Writ of Certiorari.
33

34 **Section 13. Powers of the Consumer Affairs Hearing Board.**

35
36 The Consumer Affairs Hearing Board shall have the following authority and power:

- 37
38 (a) To assist, advise, and cooperate with the Board of County Commissioners and
39 local, state, and federal agencies and officials to protect the interests of the
40 consumer-public;
41
42 (b) To hear appeals by persons aggrieved by actions of the Consumer Affairs
43 Division not already referred to the state attorney for criminal prosecution;
44 the Board shall reach a prompt decision on all such appeals and may affirm or
45 reverse the action or decision appealed from, provided that such decision shall
46 not be in conflict with the provisions of this Ordinance; and,
47
48 (c) To exercise and perform such other functions, powers and duties as may be
49 deemed necessary or appropriate to protect and promote the welfare of county
50 consumers.
51

52 **Section 14. Consumer Affairs Hearing Board – Proceedings at Hearing.**

- 53
54 (a) The Board shall give probative effect to the evidence which would be
55 admissible to civil proceedings in the courts of this state but in receiving
56 evidence due regard shall be given to the competent, reliable and technical
57 evidence which will aid the Board in making a fair determination of the
58 matter, regardless of the existence of any common law or statutory rule which
59 might otherwise make improper the admission of such evidence.
60

- 1 (b) The rules of privilege shall be effective to the same extent that they are now
2 or hereafter may be recognized in civil action. Irrelevant and unduly
3 repetitious evidence shall be excluded.
4
- 5 (c) At the hearing the parties may present testimony and evidence, and the right
6 to cross examine witnesses shall be preserved. All testimony and evidence
7 shall be given under oath or by affirmation.
8
- 9 (d) The Board shall keep a full record of the hearing, which record shall be public
10 and open to inspection by any person; and upon request by any principal party
11 to the proceedings the Board shall furnish such party a copy of the hearing
12 record, at such cost as the Board of County Commissioners deems
13 appropriate.
14
- 15 (e) The general procedure for the hearing shall be as set forth above, and as well,
16 each party shall have the following rights:
17
- 18 (1) To call and examine witnesses;
 - 19 (2) To introduce exhibits;
 - 20 (3) To cross examine opposing witnesses on any relevant matter
21 even though the matter was not covered under direct
22 examination;
 - 23 (4) To impeach any witness regardless of which party first called
24 him to testify; and,
 - 25 (5) To rebut the evidence.
26

27 **Section 15. Assurance of Voluntary Compliance.**
28

- 29 (a) In the enforcement of this Ordinance, the Director may accept an Assurance
30 of Voluntary Compliance with respect to any method, act or practice deemed
31 to be violative of law from any person who has engaged or was about to
32 engage in such method, act or practice. Any such assurance shall be a formal
33 written agreement between the Consumer Affairs Division and the merchant,
34 approved as to form and legal sufficiency by the County Attorney's Office
35 and filed with the Clerk of the Circuit Court. Such Assurances of Voluntary
36 Compliance may be conditioned on a commitment to reimburse consumers or
37 any other appropriate corrective action such as the voluntary payment by the
38 merchant of the costs of the investigation by the Consumer Affairs Division.
39 An Assurance of Voluntary is not evidence of prior violation of this section,
40 however, unless an Assurance of Voluntary has been rescinded by agreement
41 of the parties or voided by the court for good cause. Subsequent failure to
42 comply with the terms of an Assurance of Voluntary shall be deemed prima
43 facie evidence of a violation of this Ordinance. No such Assurance of
44 Voluntary shall act as a limitation upon any action or remedy available to a
45 person aggrieved by a violation of this Ordinance.
46
- 47 (b) Every merchant desiring to negotiate an Assurance of Voluntary Compliance
48 shall be apprised of his right to have his case heard by the Board in the event
49 he does not wish to enter into such Assurance of Voluntary Compliance.
50

51 **Section 16. Cease and Desist Order of Director.**
52

- 53 (a) If the Director, after due investigation, has reason to believe that a person has
54 been or is violating any of the provisions of this Ordinance, then the Director
55 shall cause to be served upon such person a demand to cease and desist,
56 stating the charges and containing a notice of hearing to be held not sooner
57 than ten (10) days and not later than thirty-one (31) days after service of the
58 demand.
59
- 60 (b) Official notice of hearing, which shall be by personal service, certified mail or
61 posting in a conspicuous place at the merchant's place of business, shall
62 incorporate and set out the following:

- 1
- 2 (1) The name of the complainant;
- 3 (2) The alleged charge and approximate date of the commission
- 4 of the act;
- 5 (3) The section of this Ordinance alleged to be involved;
- 6 (4) Notification as to the time and place of the Board hearing which
- 7 shall be held not sooner than ten (10) days and not later than
- 8 thirty-one (31) days after service of the demand;
- 9 (5) Notice to the respondent that he may be represented by counsel,
- 10 and that he may bring all original documents and other data
- 11 pertinent to the case; and,
- 12 (6) That the respondent will be given an opportunity to present
- 13 witnesses and evidence he may deem appropriate.
- 14

15 **Section 17. Order to Show Cause.**

16
17 The person against whom a complaint is filed under this Ordinance shall have the right to appear
18 at the place and time so fixed and show cause why the demand for the Cease and Desist Order
19 should not be upheld by the Board.
20

21 **Section 18. Statutes Adopted.**

- 22
- 23 (a) All statutes of the state and rules adopted there under defining and
- 24 prohibiting false advertising and offenses relating to consumer protection,
- 25 trade standards, and weights and measures, defined by state law, are adopted
- 26 and incorporated by reference as part of this Ordinance to the same extent
- 27 and the same effect as if the provisions of each such statute were set out in
- 28 full herein, defining and prohibiting each such offense against the state to be
- 29 prohibited by, or an offense in violation of this Ordinance. This shall
- 30 include, but is not limited to Part II of Chapter 501, Florida Statutes, and all
- 31 rules adopted pursuant to section 501.205, Florida Statutes, Chapter 817,
- 32 Florida Statutes, is hereby adopted by reference. It is the intent of this
- 33 Ordinance that due consideration and great weight be given to the
- 34 interpretations of the Federal Trade Commission and the federal courts
- 35 relating to section 5(a)(1) of the Federal Trade Commission Act (15 USC
- 36 45(a)(1)), as from time to time amended.
- 37
- 38 (b) Rules having the force and effect of law as authorized under sections 4, 5,
- 39 and 6 of the Fair Packaging and Labeling Act (P.L. 89-755) that supersede
- 40 state and local laws which are less stringent than or require information
- 41 different from such act, are hereby adopted by reference, as published in the
- 42 Federal Register as part of this Ordinance. No person shall distribute or
- 43 cause to be distributed, offer for sale, or sell, in this county any packaged
- 44 consumer commodity unless in conformity with the Fair Packaging and
- 45 Labeling Act and/or the rules which shall be established by the
- 46 promulgating authority.
- 47

48 **Section 19. Enforcement and Civil Penalties.**

- 49
- 50 (a) It shall be the duty and responsibility of all law enforcement officials to
- 51 assist in the enforcement of this Ordinance to the extent that it is within their
- 52 jurisdiction to do so.
- 53
- 54 (b) Whenever any person has been issued a civil citation by a staff investigator
- 55 and has been found to have engaged in any acts or practices which constitute
- 56 a violation of any provision of this Ordinance, the person shall be required
- 57 to pay Palm Beach County a civil penalty not to exceed Two Hundred Fifty
- 58 Dollars (\$250) for the first violation and Five Hundred Dollars (\$500) for
- 59 each repeat violation.
- 60
- 61
- 62

1
2 **Section 20. Repeal of Laws in Conflict.**

3
4 All local laws and ordinances applying to the unincorporated area of Palm Beach County in
5 conflict with any provision of this article are hereby repealed to the extent of any conflict.
6

7 **Section 21. Savings Clause.**

8
9 All complaints, investigations, orders, hearing processes, and all other functions of the Consumer
10 Affairs Division, or the Consumer Affairs Hearing Board, initiated or completed pursuant to
11 Ordinance 72-2, as amended, shall remain in full force and effect.
12

13 **Section 22. Severability.**

14
15 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
16 held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of
17 County Commissioners that such holding shall not affect the remainder of this Ordinance.
18

19 **Section 23. Inclusion in the Code of Laws and Ordinances.**

20
21 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
22 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
23 or re-lettered to accomplish such, and the word "ordinance" may be changed to "section,"
24 "article," or any other appropriate word.
25

26 **Section 24. Captions.**

27
28 The captions, section headings, and section designations used in this Ordinance are for
29 convenience only and shall have no effect on the interpretation of the provisions of this
30 Ordinance.
31

32 **Section 25. Effective Date.**

33
34 The provisions of this Ordinance shall become effective upon filing with the Department of
35 State.
36

37 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
38 County, Florida, on this the ____ day of _____, 20 ____.

39
40
41 **SHARON R. BOCK, CLERK**

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

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45 By: _____
46 Deputy Clerk

By: _____
Mayor/Chair

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48 **APPROVED AS TO FORM AND
49 LEGAL SUFFICIENCY**

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52 By: _____
53 County Attorney

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56 EFFECTIVE DATE: Filed with the Department of State on the ____ day of
57 _____, 20 ____.

**BRIEF SUMMARY OF SUBSTANTIVE CHANGES
IN THE CONSUMER AFFAIRS ORDINANCE**

1. **Changes affecting the Consumer Affairs Hearing Board (“CAHB”):**
 - a. Board membership is reduced from 9 members to 7 members.
 - b. With the exception of at least one member having a current license to practice law in Florida, all other special/technical qualifying categories have been eliminated, leaving the only “requirement” for appointment an interest in the field of consumer affairs.
 - c. With respect to hearing administrative appeals stemming from the decision of the Consumer Affairs Division Manager to deny various business operating permits or driver identification applications, the CAHB’s authority is limited to either “affirm” or “reverse” the manager’s decision; the option to “modify” has been eliminated.
 - d. Members must comply with the State Ethics Code and PBC Code of Ethics.
 - e. The uniform policies and procedures established by Resolution 2013-0193 concerning County Advisory Boards (i.e., term limits, attendance, removal, and the like) has been specifically incorporated into the Code.
2. **Elimination of the reference to “Consumer Advocate” as the assistant county attorney** designated to represent the office of consumer affairs, as well as the elimination of certain legal functions required to be handled by the “Consumer Advocate.”
3. **Expanded and Restructured Definition Section.** For clarification purposes, several terms used in the Code, such as “hearing” and “meeting” have been defined in the definition section. In addition, the specific definitions relating to “unfair or deceptive trade practices” have been moved from the definition section to the section in the Code entitled “Prohibition of Unfair or Deceptive Trade Practices.”
4. **Authority of Staff Investigators to issue Civil Citations** upon the findings of code violations after investigation of consumer complaints of deceptive and unfair trade practices.
5. **Updating the reference to the Office of Consumer Affairs** as a Division of the Department of Public Safety.