

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

BOARD APPOINTMENT SUMMARY

Meeting Date: September 18, 2018

Department: Public Safety / Division of Consumer Affairs

Advisory Board: Consumer Affairs Hearing Board (CAHB)

I. EXECUTIVE BRIEF

Motion & Title: Staff recommends motion to approve: reappointment of two (2) nominees to Consumer Affairs Hearing Board (CAHB) for the term of October 1, 2018 to September 30, 2021 as follows:

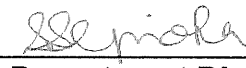
<u>Seat</u>	<u>Appointment</u>	<u>Seat Requirement</u>	<u>Nominated by</u>
5	Frank Lewis	Resident	Mayor McKinlay Comm. Valeche Comm. Burdick Comm. Kerner Comm. Abrams Comm. Berger
6	Harold Moldoff	Resident	Mayor McKinlay Comm. Kerner Comm. Valeche Comm. Burdick Comm. Abrams Comm. Berger


Summary: The Consumer Affairs Ordinance was approved by the Board of County Commissioners (BCC) on December 17, 2013, and codified in Chapter 9, Article I of the Palm Beach County Code. The Consumer Affairs Ordinance established a seven (7) member CAHB. The CAHB serves in both an advisory capacity to the County Commissioners and as an Appeals Hearing Board to hear and act on consumer concerns about unfair/deceptive business practices and appeals relating to the towing, vehicle for hire, moving, home caregiver, adult entertainer, water taxi, and consumer affairs ordinances. Members are selected from various businesses, professions and the general public. Members' terms are for three years with a limit of three consecutive terms. A memo was sent to the BCC on June 27, 2018 seeking nominations for the above two (2) at-large seats. The CAHB has seven (7) members with seat number five (5) and six (6) slated to expire on September 30, 2018. The two nominees are both Caucasian males and both agreed to serve their last term. With the reappointment to these seats, the CAHB will have seven (7) seats filled. The CAHB will have a diversity count as follows: Asian: 2 (29%) African American: 1 (14%) and Caucasian: 4 (57%). The gender ratio (male: female) will be 7:0. Countywide (LDC)

Background and Justification: The BCC initially created the CAHB in 1972. The CAHB assists with carrying out the respective requirements of the seven (7) ordinances administered by the Consumer Affairs Division. The CAHB consists of seven (7) members, at least one member shall be an attorney licensed to practice in the State of Florida, and all other appointments shall be made by the BCC on the basis of experience or interest in the field of consumer affairs. Members of the CAHB serve three (3) year terms with a limit of three (3) consecutive terms.

Attachments:

1. Memorandum requesting nominations
2. Board/Committee Application, Ethics Acknowledgement, and Resume for F. Lewis
3. Board/Committee Application, Ethics Acknowledgement, and Resume for H. Moldoff
4. Current CAHB Membership List
5. Consumer Affairs Ordinance 2013-035

Recommended by:  8/20/18
Department Director **Date**

Legal Sufficiency:  8/23/18
Assistant County Attorney **Date**

II. REVIEW COMMENTS

A. Other Department Review:

Department Director



MEMORANDUM

To: Melissa McKinlay, Mayor, and Members of the Board of County Commissioners
From: Rob Shelt, Division Manager, Consumer Affairs
Date: June 27, 2018
RE: **Consumer Affairs Hearing Board (CAHB) Request for Reappointment of Two (2) Incumbent Members**

Department of Public Safety
Division of Consumer Affairs
50 S. Military Trail, Suite 201
West Palm Beach, FL 33415
Main Office (561) 712-6600
South and West County: 1-888-852-7362
Fax: (561) 712-6610
www.pbcgov.com/safety/consumeraffairs

The purpose of this memo is to request a nomination for the reappointment of two (2) members to the CAHB as shown below:

Nominee	Initial Appointment	Term Expiration	Requirement
Frank Lewis	4/23/13	9/30/2021	County Resident
Harold Moldoff	4/23/13	9/30/2021	County Resident

Attached is a completed application and biography/resume for the interested and qualified individuals. If you wish to endorse the nomination, please sign Section III of the attached application and return it to me by **July 17, 2018**. The nominations for re-appointment will be placed on the September 18, 2018, Board of County Commissioners meeting.

If you would like to nominate other candidates, please forward names and contact information to me at your earliest convenience. I will contact the candidates and work with them to complete the application form.

Pursuant to the Ordinance 2013-035, the CAHB shall consist of seven members. At least one member shall be an attorney, licensed to practice in the State of Florida, and all other appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of consumer affairs. All Board members shall be for a term of three years with a limit of three consecutive terms.

■

Palm Beach County Board of County Commissioners
Melissa McKinlay, Mayor
Mack Bernard, Vice Mayor
Hal R. Valeche
Paulette Burdick
Dave Kerner
Steven L. Abrams
Mary Lou Berger

County Administrator
Verdenia C. Baker

"An Equal Opportunity Affirmative Action Employer"

Attachment # 1
Page 1 of 2

The CAHB serves in both an advisory capacity to the BCC and as an Appeals Hearing Board to carry out the functions pertaining to alleged unfair or deceptive trade acts or practices as provided for in Palm Beach County Code Chapter 9 Consumer Affairs, article 1. CAHB members assist, advise and cooperate with the Board of County Commissioners and local, state, and federal agencies, protect the interest of Palm Beach County consumers, and hear appeals from administrative action taken against companies believed to be in violation of one of the regulatory ordinances assigned to Consumer Affairs: Towing, Vehicle for Hire, Moving, Home Caregivers, Adult Entertainer, and Water Taxi.

Any additional candidates will be presented to the Board for appointment at a later date. If you should have any questions, please feel free to contact me at 561-712-6605.

Attachments: Board/Committee Application and Resume for F. Lewis
Board/Committee Application and Resume for H. Moldoff
Composition and Diversity of CAHB
2018 Meeting Schedule

Copy: Stephanie Sejnoha, Public Safety Department Director
Faye Johnson, Assistant County Administrator
Denise Coffman, Assistant County Attorney

Attachment # 1
Page 2 of 2

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**

The information provided on this form will be used in considering your nomination. Please **COMPLETE SECTION II IN FULL**. Answer "none" or "not applicable" where appropriate. Please attach a biography or résumé to this form.

Section I (Department): (Please Print)

Board Name: Consumer Affairs Hearing Board Advisory Not Advisory

At Large Appointment or District Appointment / District #: _____

Term of Appointment: 3 Years. From: 10/1/2018 To: 9/30/2021

Seat Requirement: Resident; at-large member Seat #: 5

*Reappointment or New Appointment

or to complete the term of _____ Due to: resignation other

Completion of term to expire on: _____

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: _____

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Lewis Frank D.
Last First Middle

Occupation/Affiliation: _____

Owner Employee Officer

Business Name: Retired

Business Address: _____

City & State _____ Zip Code: _____

Residence Address: 6812 CALLE DEL PAZ NORTH

City & State BOCA RATON Zip Code: 33433

Home Phone: 561-391-1514 Business Phone: () Ext. _____

Cell Phone: (561)-706-0294 Fax: ()

Email Address: FRANK - LSS @ YAHOO. COM

Mailing Address Preference: Business Residence

Attachment # 2

Have you ever been convicted of a felony: Yes _____ No

Page 1 of 4

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
<u>Example: (R/XX-XX/PO XX)</u>	<u>Parks & Recreation</u>	<u>General Maintenance</u>	<u>10/01/00-09/30/2100</u>
_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)
OR

NONE NOT APPLICABLE/ (Governmental Entity)

ETHICS TRAINING: All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the State Guide to the Sunshine Amendment, Article XIII, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Ethics training is on-going, and pursuant to PPM CW-P-79 is required before appointment, and upon reappointment.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

By watching the training program on the Web, DVD or VHS on 6-22-2018
 By attending a live presentation given on _____, 20____

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: Frank D. Lewis Printed Name: FRANK LEWIS Date: 6/22/18

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 355-1915.

Return this FORM to:
 Palm Beach County Board of County Commissioners
 Rob Shelt, Division of Consumer Affairs
 50 South Military trail, Suite 201
 West Palm Beach, FL 33415

Attachment # 2
 Page 2 of 4

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: _____ Date: _____

Pursuant to Florida's Public Records Law, this document may be reviewed and photocopied by members of the public.

Revised 02/01/2016

Frank D. Lewis
6812 Calle del Paz North
Boca Raton, Fl. 33433
561-391-1514

SUMMARY:

An experienced manager and administrator with extensive background in the following areas. Project management, budget planning, contract negotiations, human resources, and general office operations.

EDUCATION:

University of Baltimore
Bachelor of Science in Business Management

EXPERIENCE:

Florida Health Choice, Inc. Delray Beach, Florida
Human Resources Manager, January 1994 to June 2000

Responsible for all HR policy at Florida Health Choice. Established employee handbook, procedures, and policy for recruiting, employee relations, benefits administration, position descriptions, and salary administration.

IBM Corporation - Boca Raton, Florida
Administration Manager, 1986 - 1993

Supported the VP of Marketing in all aspects of Human Resources including, salary, performance reviews, manpower planning and coordination of marketing program budget reviews, EOP, and accounts receivable. Established controls for hardware and software loaner programs for the Manufacturing Industry.

Personnel Manager - 1983 - 1985

Negotiated the internal placement and relocation of more than 2000 employees transferring within the corporation. Managed a \$14 million dollar moving and living budget.

Attachment # 2

Page 3 of 4

Branch Operations Manager - 1978 - 1982
Richmond, Virginia

Recruited and organized a staff of sixteen people to operate the administrative functions of the Richmond Branch Office. Responsibilities included all order entry, accounts receivable, accounts payable, library maintenance, and affirmative action programs. Fostering a cooperative team spirit for marketing, systems engineers and the support staff to work in a harmonious and efficient operation was my most important contribution.

IBM Corporation - 1969 - 1978

Various nonexempt positions with IBM in Baltimore and Washington, D. C.

Page 2

Attachment # 2
Page 4 of 4

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BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**

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Section I (Department): (Please Print)

Board Name: Consumer Affairs Hearing Board Advisory Not Advisory
 At Large Appointment or District Appointment /District #: _____
 Term of Appointment: 3 Years. From: 10/1/2018 To: 9/30/2021
 Seat Requirement: Resident; at-large member Seat #: 5
 *Reappointment or New Appointment
 or to complete the term of _____ Due to: resignation other
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Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Lewis Frank D.
 Last First Middle
 Occupation/Affiliation: _____
 Owner Employee Officer
 Business Name: Retired
 Business Address: _____
 City & State _____ Zip Code: _____
 Residence Address: 6812 CALLE DEL PAZ NORTH
 City & State BOCA RATON Zip Code: 33433
 Home Phone: 561-391-1514 Business Phone: () Ext. _____
 Cell Phone: 561-706-0294 Fax: () _____
 Email Address: FRANK - L55@YAHO.COM

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
<u>Example: (R#XX-XX/PO XX)</u>	<u>Parks & Recreation</u>	<u>General Maintenance</u>	<u>10/01/00-09/30/2100</u>
_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)
OR

NONE



NOT APPLICABLE/
(Governmental Entity)



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 West Palm Beach, FL 33415

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Commissioner's Signature: Mary Lou Berger Date: 9/11/18

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Revised 02/01/2016

PALM BEACH COUNTY
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Seat Requirement: Resident; at-large member Seat #: 6

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or to complete the term of _____ Due to: resignation other

Completion of term to expire on: _____

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Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Moldoff Harold _____
Last First Middle

Occupation/Affiliation: RETIRED
Owner Employee Officer

Business Name: _____

Business Address: _____

City & State _____ Zip Code: _____

Residence Address: 2450 PRESIDENTIAL WY APT # 305

City & State W. PALM BEACH FL Zip Code: 33401

Home Phone: 561-855-7954 Business Phone: () Ext.

Cell Phone: 561-531-0927 Fax: ()

Email Address: HMOLDOFF@COMCAST-NET

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
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_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)
OR

NONE

NOT APPLICABLE/
(Governmental Entity)

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 By attending a live presentation given on _____, 20____

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: [Signature] Printed Name: HAROLD MOLDOFF Date: 06/23/2018

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 355-1915.

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West Palm Beach, FL 33415

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Commissioner's Signature: _____ Date: _____

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Revised 02/01/2016

BIO – VOLUNTEER ACTIVITIES

HAROLD MOLDOFF

- 2011-2012 VOLUNTEER, NEW HAMPSHIRE AARP CONSUMER PROTECTION SPEAKERS BUREAU**
- ASSISTED IN FORMAT OF FORMAL PRESENTATIONS OF CONSUMER AWARENESS OF FRAUDS AND SCAMS**
- ASSISTED IN DEVELOPMENT OF SPEAKERS BUREAU, CURRENTLY AT 15, SPEAKING TO SENIOR GROUPS THROUGHOUT NEW HAMPSHIRE**
- 1996-2012 ZONING BOARD OF ADJUSTMENT, RYE BEACH, NH PRECINCT, CHAIRMAN FROM 2003-2012**
- 1992-2012 ACTIVE VOLUNTEER COUNSELOR WITH S.C.O.R.E. (SERVICE CORPS OF RETIRED EXECUTIVES)**
- SERVED AS CHAPTER CHAIR AND MARKETING COORDINATOR FOR SIX NEW ENGLAND STATES**
- 1992-2011 VOLUNTEER CONSUMER AFFAIRS SPECIALIST WITH NH ATTORNEY GENERAL'S OFFICE, CONCORD, NEW HAMPSHIRE**
- ASSISTED IN DEVELOPMENT AND PRESENTATION OF STATEWIDE PROGRAMS TO CIVIC AND SENIOR GROUPS ON "HOW TO AVOID CONSUMER FRAUD"**
- SIMILAR PROGRAM DIRECTED TO HIGH SCHOOL STUDENTS MAKING THEM AWARE OF POTENTIAL PROBLEMS WHEN BUYING A USED CAR, CREDIT CARD DEBT AND BUYING ON THE INTERNET**

AWARDS

- 2004 SBA SCORE COUNSELOR OF THE YEAR FOR STATE OF NEW HAMPSHIRE**
- 2005 NH DEPARTMENT OF HEALTH AND HUMAN SERVICES AND STATE COMMISSION ON AGING – JOSEPH D. VAUGHN AWARD**
- 2011 CITATION FROM NEW HAMPSHIRE GOVERNOR JOHN LYNCH FOR VOLUNTEER SERVICE**

Attachment # 3

Page 3 **of** 4

BIOGRAPHY - HAROLD MOLDOFF

1952-54 U. S. ARMY

1957 GRADUATE: BOSTON UNIVERSITY, SCHOOL OF BUSINESS BS IN BA

**1954-1982 CAREER IN RETAIL MANAGEMENT INCLUDING FILENE'S; SEARS;
ZAYRE; INTERSTATE STORES AND KINGS DEPARTMENT STORES**

**1982-1990 OWNER/OPERATOR SIX (6) RETAIL DISCOUNT STORES IN
NEW HAMPSHIRE AND MASSACHUSETTS.**

1990 RETIRED

Attachment # 3

Page 4 of 4

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BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**

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Owner Employee Officer

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City & State _____ Zip Code: _____

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Revised 02/01/2016



**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
CONSUMER AFFAIRS HEARING BOARD**

I. AUTHORITY :

Ordinance 2013-035, adopted December 17, 2013.

II. APPOINTING BODY :

Board of County Commissioners

III. COMPOSITION, QUALIFICATIONS, TERMS & REMOVAL :

The Board shall consist of seven members. At least one member shall be an attorney, licensed to practice in the State of Florida, and all other appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of consumer affairs. All Board members shall be for a term of three years with a limit of three consecutive terms. Terms shall begin on October 1st and end on September 30th. Vacancies occurring during a term shall be filled for the unexpired portion of the term, and shall not count towards a member's term limits. Members shall be residents of Palm Beach County at the time of appointment and while serving on the Board. Members serve without compensation.

EXTENDED COMPOSITION :

IV. MEETINGS :

The Board shall meet on a regular basis to conduct its business and as necessary to conduct administrative hearings.

V. FUNCTIONS :

To assist, advise, and cooperate with the BCC and local, state, and federal agencies and officials to protect the interests of the consumer-public; to hear appeals by persons aggrieved by actions of the Consumer Affairs Division not already referred to the state attorney for criminal prosecution; the Board shall reach a prompt decision on all such appeals and may affirm or reverse the action or decision appealed from, provided that such decision shall not be in conflict with the provisions of the Ordinance; and to exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to protect and promote the welfare of county consumers.

VI. LIAISON INFORMATION :

<u>LIAISON DEPARTMENT</u>	<u>CONTACT PERSON</u>	<u>ADDRESS</u>
Public Safety	Rob Shelt	50 S Military Tr Ste 201 West Palm Beach FL 33415 Phone # 561-712-6605

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* indicates a member having an action pending



CONSUMER AFFAIRS HEARING BOARD

SEAT ID	CURRENT MEMBER	ROLE TYPE	RACE CODE	GENDER	BUSINESS / HOME PHONE	SEAT REQUIREMENT	APPOINT DATE	REAPPOINT DATE	EXPIRE DATE
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Appointed By : At-Large/Palm Beach County Board of County Commissioners

1	Steven Goldberg goldyesq@aol.com 360 Azalea Street Palm Beach Gardens, FL 33418	Member	C	M	561-632-9100	Attorney	07/10/2018		09/30/2020
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NOMINATED BY :

2	George J. Kinoshita gjkinoshita@yahoo.com 2777 Muskegon Way West Palm Beach FL 33411	Member	AS	M	561-345-4173	Resident of Palm Beach County	07/12/2016	10/01/2016	09/30/2019
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NOMINATED BY :

3	David Shane dshane@injury lawyers.com 423 Waterside Drive Hypoluxo, FL 33462	Member	C	M	561-346-2525	Resident of Palm Beach County	07/10/2018		09/30/2020
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NOMINATED BY :

4	Manohar L Athaval mathavale@msn.com 8712 S Kendale Cir Lake Worth FL 33467	Member	AS	M	561-304-2533	Resident of Palm Beach County	05/04/2011	05/15/2018	09/30/2020
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NOMINATED BY :

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* indicates a member having an action pending

Appointed By : At-Large/Palm Beach County Board of County Commissioners

5 Frank D. Lewis Member CA M 561-391-1514 Resident of Palm Beach County 04/23/2013 10/01/2015 09/30/2018
frank_l55@yahoo.com

6812 Calle del Paz N
Boca Raton FL 33433

NOMINATED BY :

6 Harold Moldoff Member CA M 561-855-7754 Resident of Palm Beach County 04/23/2013 10/01/2015 09/30/2018
hmoldoff@comcast.net

2797 Muskegon Way
West Palm Beach FL 33411 5779

NOMINATED BY :

7 Courtney Shippey Member AA M 561-385-2146 Resident of Palm Beach County 05/15/2018 N/A 09/30/2020
shippeyclw@aol.com

800 Clematis Street
West Palm Beach, FL 33411

NOMINATED BY :

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* indicates a member having an action pending

Chapter 9 - CONSUMER AFFAIRS¹¹

Footnotes:

--- (1) ---

Cross reference— Building contractors, § 7-16 et seq.; marking prices of consumer goods, § 17-1; motor fuel price signs, § 17-2; secondhand dealers, § 17-126 et seq.

State Law reference— Home rule powers of chartered counties, Fla. Const., art. VIII, § 1(g); consumer protection, F.S. ch. 501.

ARTICLE I. - IN GENERAL¹²

Footnotes:

--- (2) ---

Editor's note— Ord. No. 2013-035, adopted Dec. 17, 2013, repealed Art. I and enacted a new article as set out herein. The former Art. I, §§ 9-1—9-19, pertained to similar subject matter and derived from Ord. No. 72-2, §§ 1—7, 10—13, 15—19, 21, adopted Jan. 18, 1972; Ord. No. 74-4, §§ 1—4, 6—14, adopted Jan. 29, 1974; Ord. No. 74-22, § 1, adopted Sept. 10, 1974; Ord. No. 75-1, § 1, adopted Jan. 16, 1975; and Ord. No. 77-10, §§ 1—16, 18, adopted Dec. 27, 1977.

Sec. 9-1. - Title.

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

(Ord. No. 2013-035, § 2, 12-17-13)

Sec. 9-2. - Definitions.

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

Board shall mean the Consumer Affairs Hearing Board of Palm Beach County.

Consumer means a purchaser or lessee or prospective purchaser or lessee of consumer goods or services or consumer credit, including a co-obligor or surety.

Consumer goods, services, credit and debts means goods, services, credit and debts which are primarily for personal, household, or family purposes.

Consumer transaction means a sale, lease, assignment, award by chance or other commercial disposition of any item of goods, a consumer service or an intangible instrument or commodity to any individual for purposes that are primarily personal, family or household, or that relate to a business opportunity that requires either the consumer's expenditure of money or property and/or his or her personal services on a continuing basis and in which he or she has not been previously engaged, or solicitation by a supplier with respect to any of the foregoing dispositions.

Director shall mean the director or the manager of the Consumer Affairs Division.

Division shall mean the Palm Beach County Department of Public Safety Consumer Affairs Division.

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Hearing shall mean an administrative appeal heard by the Consumer Affairs Hearing Board on matters filed by person appealing the decisions of the Division.

Meeting shall mean a meeting of the Board and Division staff to conduct its regular business as necessary.

Merchant means a seller, lessor, creditor or any person who makes available either directly or indirectly goods, services, or credit to consumers. "Merchant" shall include manufacturers, wholesalers and others who are responsible for any unfair or deceptive trade acts or practices as defined in this article.

Person shall include, where applicable, natural persons, corporations, trusts, partnerships, limited liability companies, incorporated or unincorporated associations, and any other legal business entity whatsoever.

Unfair or deceptive trade acts or practices shall mean unfair methods of competition and unfair deceptive acts or practices in the conduct of any consumer transaction and shall include but are not limited to those acts referenced in section 9-10, Prohibition of unfair or deceptive trade acts or practices.

(Ord. No. 2013-035, § 3, 12-17-13)

Sec. 9-3. - Scope.

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

(Ord. No. 2013-035, § 4, 12-17-13)

Sec. 9-4. - Exemptions.

Nothing in this article shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine, or other form of printed advertising, which broadcasts, publishes, or prints such advertisements, except insofar as said station or publisher or printer is guilty of deception in the sale, or in the offering for sale of its own services, or to actions or transactions regulated under laws administered by the State Public Service Commission.

(Ord. No. 2013-035, § 5, 12-17-13)

Sec. 9-5. - Other rights and remedies.

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

(Ord. No. 2013-035, § 6, 12-17-13)

Sec. 9-6. - Consumer Affairs Division.

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

(Ord. No. 2013-035, § 7, 12-17-13)

Sec. 9-7. - Director of Consumer Affairs Division.

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

(Ord. No. 2013-035, § 8, 12-17-13)

Sec. 9-8. - Powers of director.

The functions and powers of the director of the Consumer Affairs Division shall include the following:

- (a) To receive complaints from all persons complaining of unfair or deceptive trade acts or practices as defined in this article;
- (b) To represent the interests of consumers before administrative and regulatory agencies and legislative bodies;
- (c) To enforce the provisions of this article;
- (d) To investigate complaints, institute actions and proceedings under this article;
- (e) To conduct appropriate surveys and inspections to determine whether the provisions of this article are being complied with;
- (f) To report to the appropriate law enforcement officers any information concerning violations of any consumer protection law;
- (g) To render annual reports to the Board of County Commissioners as to the number of complaints filed, the nature thereof and the disposition thereof and other relevant activities of the office and the board undertaken during the previous year;
- (h) To publicize and disseminate information to the public concerning consumer affairs and to recommend methods for improvement thereof;
- (i) To enlist and encourage public support and the assistance of civic organizations and the cooperation of business enterprises and organizations in consumer affairs;
- (j) To make periodic reports concerning the status of consumer affairs in Palm Beach County and the enforcement of the provisions of this article, and recommendations concerning consumer protection. Such reports shall be made to the Consumer Affairs Hearing Board and to the Board of County Commissioners of Palm Beach County;
- (k) To prepare assurances of voluntary compliance as provided for in section 9-14 of this article; and
- (l) To assist, develop and conduct programs of consumer education and information through public hearings, meetings, publications or other materials prepared for distribution to the consumer.

(Ord. No. 2013-035, § 9, 12-17-13)

Sec. 9-9. - Complaints.

- (a) Any consumer may make or file a complaint stating the name and address (if known) of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Consumer Affairs Division.
- (b) Upon the filing of a complaint, the Director shall review the complaint and supporting documentation, if any, and assign a staff investigator, if appropriate. If the staff investigator determines that there are reasonable grounds to believe a violation has occurred, the staff investigator may attempt to conciliate the matter through conferences with all interested parties and such representatives as the parties may choose to assist them, or alternatively, may issue a civil citation.

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

(Ord. No. 2013-035, § 10, 12-17-13)

Sec. 9-10. - Prohibition of unfair or deceptive trade practices.

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

- (a) Representations that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have;
- (b) Representations that a person or supplier has a sponsorship, approval, status, affiliation or connection which he or she does not have;
- (c) Representations that goods are original or new if in fact they are not, or if they are deteriorated, altered, reconditioned, reclaimed, or second-hand;
- (d) Representations that goods are of a particular standard, brand, quality, style, or model, if they are of another;
- (e) Representations that goods or services are those of another, if they are not;
- (f) Using deceptive representations or designations of geographic origin in connection with goods or services;
- (g) Advertising goods or services intending not to sell them as advertised;
- (h) Advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement discloses a limitation of quantity;
- (i) Making false or misleading statements concerning the need for, or necessity of, any goods, services, replacements, or repairs;
- (j) Disparaging the goods, services, or business of another by false or misleading representations of fact;
- (k) Making false or misleading statements of fact concerning the reasons for the existence of, or amounts of price reductions;
- (l) Failing to return or refund deposits or advance payments for goods not delivered or services not rendered, when no default or further obligation of persons making such deposits or advance payments exists;
- (m) Taking consideration for goods or services intending not to deliver such goods or perform such services, or intending to deliver goods or provide service materially different from those ordered or sold;
- (n) Making false or misleading statements concerning the profitability, risk, or any other material aspect of any home-operated business opportunity or venture;
- (o) Offering gifts, prizes, free items, or other gratuities, intending not to provide them as offered in connection with a sale of goods or services to a consumer;

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- (p) Making false or misleading statements concerning the existence, terms, or probability of any rebate, additional goods or services, commission, discount offered as an inducement for the sale of goods or services;
- (q) Using physical force, threat of physical force, or coercion in dealing with consumers;
- (r) Any violation of the Florida Deceptive and Unfair Trade Practices Act, F.S. § 501.201 et seq.;
- (s) Advertising, representing, or offering for sale an article of food or food product as "kosher" or having the word "kosher" in any language inscribed thereon if such food is not in fact kosher as sanctioned by orthodox Hebrew religious requirements; and
- (t) Selling or exposing for sale in any hotel, restaurant or other place where food products are sold for consumption on the premises, any meat or meat preparation, or article of food, or food preparation falsely representing the same to be kosher or as having been prepared in accordance with the orthodox Hebrew religious requirements when the meat or meat preparation, article of food or food preparation is not kosher or not prepared in accordance with orthodox Hebrew religious requirements; or selling or exposing for sale in such hotel, restaurant or such other place kosher and non-kosher food or food preparation, the latter having not been prepared in accordance with Jewish ritual or not sanctioned by the Hebrew orthodox religious requirements and failing to conspicuously display a sign or other public notice in block letters at least four (4) inches in height "kosher and non-kosher food served here;" or displaying within or outside such hotel, restaurant or other place, words or letters in Hebraic characters or any sign, emblem, insignia symbol or mark in simulation of same, the display of which might reasonably be calculated to deceive or lead a reasonable person to believe that a representation is being made that all food sold or offered for sale on the premises is kosher and prepared in accordance with the orthodox Hebrew religious requirements if such is not true of all the food products sold on the premises.

(Ord. No. 2013-035, § 11, 12-17-13)

Sec. 9-11. - Consumer Affairs Hearing Board.

- (a) The Palm Beach County Consumer Affairs Hearing Board is hereby recreated and reestablished. The Board shall be subject to the uniform policies and procedures established by the Board of County Commissioners for advisory boards as currently set forth in Resolution No. 2013-0193, as may be further amended by action of the Board of County Commissioners.
- (b) The Board shall consist of seven (7) members appointed at-large by the Board of County Commissioners. The members of this Board shall be residents of Palm Beach County at the time of appointment and while serving on the Board. At least one (1) member shall be an attorney, licensed to practice in the State of Florida, and all other appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of consumer affairs. All Board appointments shall be for a term of three (3) years, with a limit of three (3) consecutive terms. Terms shall begin on October 1, and end on September 30. Existing member's terms shall end on September 30 of the year in which their term expires. Vacancies occurring during a term shall be filled for the unexpired portion of the term, and shall not count toward a member's term limits. Members serve without compensation. Members shall be governed by the applicable provisions of the State Ethics Code and the applicable provisions of the Palm Beach County Code of Ethics, as may be amended.
- (c) Members shall be automatically removed for lack of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or a failure to attend more than one-half (½) of the meetings scheduled during a calendar year. Participation for less than three-fourths (¾) of a meeting shall be the same as a failure to attend a meeting. Members removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall create a vacancy. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term.

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- (d) Members shall appoint a chairperson and a vice-chairperson. The chairperson and the vice-chairperson shall be elected by a majority vote of the Board and shall serve for a term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the Division director or manager may conduct the meeting or hearing. Meetings and hearings shall be governed by Robert's Rules of Order, and shall be open to the public, duly advertised and otherwise comply with all applicable requirements of Florida's "Sunshine" law as set forth in F.S. Ch. 286. A majority of the members currently appointed shall constitute a quorum and action may be taken by the board upon a vote of a majority of the members present. At any meeting or hearing, the Board may fix and call a meeting or hearing on a future date. The Board shall meet on a regular basis to conduct its business and as necessary to conduct administrative hearings filed by persons appealing the decisions of the Division.
- (e) Any appeal of a decision rendered by the Consumer Affairs Hearing Board regarding a violation of F.S. Ch. 501 shall be directed to the Florida Office of the Attorney General with subsequent judicial review through the district courts of appeal. Adjudications of the Consumer Affairs Hearing Board of substantive violations of this article shall be appealed to the Circuit Court of the Fifteenth Judicial Court by Writ of Certiorari.
- (f) Alternatively, the Division shall have the option to utilize a Special Master to hear matters for appeal, instead of scheduling those appellate matters before the Consumer Affairs Hearing Board. The Division shall establish policies and procedures governing the Special Master process prior to said utilization.

(Ord. No. 2013-035, § 12, 12-17-13)

Sec. 9-12. - Powers of the Consumer Affairs Hearing Board.

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

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

(Ord. No. 2013-035, § 13, 12-17-13)

Sec. 9-13. - Consumer Affairs Hearing Board—Proceedings at hearing.

- (a) The Board shall give probative effect to the evidence which would be admissible to civil proceedings in the courts of this state but in receiving evidence due regard shall be given to the competent, reliable and technical evidence which will aid the Board in making a fair determination of the matter, regardless of the existence of any common law or statutory rule which might otherwise make improper the admission of such evidence.
- (b) The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil action. Irrelevant and unduly repetitious evidence shall be excluded.
- (c) At the hearing the parties may present testimony and evidence, and the right to cross examine witnesses shall be preserved. All testimony and evidence shall be given under oath or by affirmation.

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- (d) The Board shall keep a full record of the hearing, which record shall be public and open to inspection by any person; and upon request by any principal party to the proceedings the Board shall furnish such party a copy of the hearing record, at such cost as the Board of County Commissioners deems appropriate.
- (e) The general procedure for the hearing shall be as set forth above, and as well, each party shall have the following rights:
 - (1) To call and examine witnesses;
 - (2) To introduce exhibits;
 - (3) To cross examine opposing witnesses on any relevant matter even though the matter was not covered under direct examination;
 - (4) To impeach any witness regardless of which party first called him to testify; and
 - (5) To rebut the evidence.

(Ord. No. 2013-035, § 14, 12-17-13)

Sec. 9-14. - Assurance of voluntary compliance.

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

(Ord. No. 2013-035, § 15, 12-17-13)

Sec. 9-15. - Cease and desist order of director.

- (a) If the Director, after due investigation, has reason to believe that a person has been or is violating any of the provisions of this article, then the Director shall cause to be served upon such person a demand to cease and desist, stating the charges and containing a notice of hearing to be held not sooner than ten (10) days and not later than thirty-one (31) days after service of the demand.
- (b) Official notice of hearing, which shall be by personal service, certified mail or posting in a conspicuous place at the merchant's place of business, shall incorporate and set out the following:
 - (1) The name of the complainant;
 - (2) The alleged charge and approximate date of the commission of the act;
 - (3) The section of this article alleged to be involved;

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- (4) Notification as to the time and place of the Board hearing which shall be held not sooner than ten (10) days and not later than thirty-one (31) days after service of the demand;
- (5) Notice to the respondent that he may be represented by counsel, and that he may bring all original documents and other data pertinent to the case; and
- (6) That the respondent will be given an opportunity to present witnesses and evidence he may deem appropriate.

(Ord. No. 2013-035, § 16, 12-17-13)

Sec. 9-16. - Order to show cause.

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

(Ord. No. 2013-035, § 17, 12-17-13)

Sec. 9-17. - Statutes adopted.

- (a) All statutes of the state and rules adopted there under defining and prohibiting false advertising and offenses relating to consumer protection, trade standards, and weights and measures, defined by state law, are adopted and incorporated by reference as part of this article to the same extent and the same effect as if the provisions of each such statute were set out in full herein, defining and prohibiting each such offense against the state to be prohibited by, or an offense in violation of this article. This shall include, but is not limited to F.S. Ch. 501, Pt. II, and all rules adopted pursuant to F.S. § 501.205, F.S. Ch. 817, is hereby adopted by reference. It is the intent of this article that due consideration and great weight be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5(a)(1) of the Federal Trade Commission Act (15 USC 45(a)(1)), as from time to time amended.
- (b) Rules having the force and effect of law as authorized under Sections 4, 5, and 6 of the Fair Packaging and Labeling Act (P.L. 89-755) that supersede state and local laws which are less stringent than or require information different from such act, are hereby adopted by reference, as published in the Federal Register as part of this article. No person shall distribute or cause to be distributed, offer for sale, or sell, in this county any packaged consumer commodity unless in conformity with the Fair Packaging and Labeling Act and/or the rules which shall be established by the promulgating authority.

(Ord. No. 2013-035, § 18, 12-17-13)

Sec. 9-18. - Enforcement and civil penalties.

- (a) It shall be the duty and responsibility of all law enforcement officials to assist in the enforcement of this article to the extent that it is within their jurisdiction to do so.
- (b) Whenever any person has been issued a civil citation by a staff investigator and has been found to have engaged in any acts or practices which constitute a violation of any provision of this article, the person shall be required to pay Palm Beach County a civil penalty not to exceed Two Hundred Fifty Dollars (\$250.00) for the first violation and Five Hundred Dollars (\$500.00) for each repeat violation.

(Ord. No. 2013-035, § 19, 12-17-13)

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Sec. 9-19. - Repeal of laws in conflict.

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

(Ord. No. 2013-035, § 20, 12-17-13)

Sec. 9-20. - Savings clause.

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

(Ord. No. 2013-035, § 21, 12-17-13)

Secs. 9-21—9-30. - Reserved.

ARTICLE II. - EMERGENCY MANAGEMENT¹⁹

Footnotes:

--- (3) ---

Editor's note— Ord. No. 92-37, adopted Dec. 15, 1992, effective Dec. 30, 1992, amended this Code by adding provisions designated by the editor as Art. II, §§ 9-31—9-37. The existing provisions of the chapter, §§ 9-1—9-19, were designated Art. I.

Sec. 9-31. - Short title; applicability.

- (a) This article shall be known as the "Palm Beach County Emergency Management Ordinance."
- (b) The provisions of this article shall be applicable to all areas of the county. Unless otherwise provided, nothing in this article shall be construed to relieve any person from compliance with any applicable county or municipal regulations.

(Ord. No. 92-37, § 1, 12-15-92)

Sec. 9-32. - Authority.

This article is adopted under the authority of Chapter 125, Florida Statutes; Chapter 252, Florida Statutes; and Part II of Chapter 501, Florida Statutes.

(Ord. No. 92-37, § 2, 12-15-92)

Sec. 9-33. - Purpose.

The purpose of this article is to set in place measures necessary for the protection of life and property in the county threatened as a result of natural and manmade disasters and emergencies in the event the Board of County Commissioners is unable to convene and take such action in a regular or special meeting. This article is not intended to preempt or restrict the application of other, more restrictive

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ordinances of the county already in effect, nor in this article intended to preempt or preclude the application or enforcement of local emergency management measures already in effect, or which will be effective, upon a declaration of emergency. This article is not intended and shall not be construed as imposing price controls upon lawful business activities in the county.

(Ord. No. 92-37, § 3, 12-15-92)

Sec. 9-34. - Definitions.

Average Retail Price: The term "average retail price" shall mean the average price at which similar merchandise, services, rentals or lodging were being sold or rented during the thirty (30) days immediately preceding the declaration of a local emergency.

Commission: The term "commission" shall mean the Board of County Commissioners of Palm Beach County.

Consumer Good: The term "consumer good" shall mean any service, article, product, merchandise, or commodity of any kind or class, which is customarily produced or distributed for sale or rental at retail or provided for consumption by or the use or benefit of individuals, including but not limited to foods; water; ice; clothing; lumber, hardware, chainsaws, generators, and home improvement materials; fuel products; and repairs, services, rentals or lodging.

Emergency: The term "emergency" shall mean any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Enforcement Official: The term "enforcement official" shall mean any police or law enforcement officer, any code compliance official, the personnel of the department of public safety, division of emergency management and the division of consumer affairs, and any other appropriate municipal or county official.

Fuel Product: The term "fuel product" shall mean home-heating oil, kerosene, propane, natural gas, diesel fuel, methanol, and gasoline.

(Ord. No. 92-37, § 4, 12-15-92; Ord. No. 98-23, § 1, 6-16-98)

Sec. 9-35. - Declaration of emergency.

- (a) When an emergency has placed the citizens of the county in danger of loss of life or property and a regular or special meeting of the board of county commissioners cannot practically be convened, a state of emergency shall be declared, pursuant to County Resolution Number R-89-384, by the chairman of the board of county commissioners, or the vice-chair, in the chairman's absence, or by the county administrator, in the absence of the chairman and vice-chair. A state of emergency so declared shall continue for seven (7) days, unless extended as necessary, in seventy-two-hour increments, or for the period of time that a state of emergency, as declared by the governor, remains in effect, whichever is longer.
- (b) A declaration of emergency shall activate the applicable county emergency plans and shall constitute authority for the following in lieu of the procedures and formalities otherwise required of the county by law pertaining to:
 - (1) Performance of public work, and any other prudent action necessary to ensure the health, safety, and welfare of the citizens of the county.
 - (2) Entering into contracts.
 - (3) Incurring obligations.
 - (4) Employment of permanent and temporary workers.

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- (5) Utilization of volunteer workers.
 - (6) Rental of equipment.
 - (7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities.
 - (8) Appropriation and expenditure of public funds.
- (c) The county administrator or his designee shall implement the provisions of this article in accordance with the instructions furnished by the board of county commissioners; the county administrator; and the director, department of public safety.
- (d) In order to insure the public safety during a state of emergency declared pursuant to this article, the county administrator, in collaboration with municipalities located within the county, may establish a countywide curfew or a specific area curfew, to restrict travel and movement within the county. Other restrictions including, but not limited to, the sale, purchase, or possession of alcoholic beverages or flammable substances, may be instituted by the county administrator or his designee. The duration and application of such emergency restrictions shall be tailored to meet the specific crisis and may be modified from time to time.

If a curfew is enacted, the county administrator may exempt, from all or any part of such restrictions, those persons as may be deemed essential to the preservation of public order and immediately necessary to protect the public health, safety, and welfare. The county administrator may also identify in the curfew order other exempt classes of persons as deemed necessary.

If a curfew is enacted, the curfew order shall be filed in the office of the clerk of the circuit court and delivered to appropriate news media for publication and radio and television broadcast.

- (e) Nothing in this article shall be construed to limit the authority of the commission to declare, limit, or terminate a state of emergency, and take any action authorized by law, when convened in a regular or special meeting.

(Ord. No. 92-37, § 5, 12-15-92; Ord. No. 05-043, § 1, 9-27-05; Ord. No. 2011-020, § 1, 9-13-11)

Sec. 9-36. - Prohibition on price gouging.

- (a) Upon declaration of an emergency pursuant to section 9-35, and during the duration of such emergency, it shall be prima facie evidence that an unlawful method of competition and an unfair and deceptive trade act or practice has occurred if any individual or business entity doing business in the county charges more than the average retail price for any consumer good and such price exceeds the average price at which the same or similar consumer good was readily obtainable in the county during the thirty days immediately prior to a declaration of a state of emergency; or the charges represent a gross disparity between the price of the consumer good or dwelling unit or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit or self-storage facility was rented, leased, sold or offered for rent or sale in the usual course of business during the thirty (30) days immediately prior to a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or national or international market trends; or for a person or his agent or business entity or its employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any consumer good including, but not limited to, supplies, services, provisions or equipment that is necessary for consumption or use as a direct result of the emergency.
- (b) This section does not prevent the seller of consumer goods from charging an amount in excess of the average retail price, if such higher price is the direct result of, and limited to, any increased cost due to the transportation of the consumer good during the state of emergency or any increased cost for the consumer good from the manufacturer, distributor, or wholesaler to the seller. In such

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instances, only the actual cost increase per item from the manufacturer, distributor, or wholesaler can be added to the average retail price.

- (c) A price increase approved by an appropriate government agency shall not be in violation of this section.
- (d) This section shall not apply to sales by growers, producers or processors of raw or processed food products, except for retail sales of such products to the ultimate consumer within the area of the declared state of emergency.

(Ord. No. 92-37, § 6, 12-15-92; Ord. No. 98-23, § 2, 6-16-98)

Sec. 9-37. - Enforcement.

- (a) The county court shall have jurisdiction over all civil citations issued for violations of this article.
- (b) This section shall also be enforced by personnel of the department of public safety, the emergency management division, consumer affairs division, county and municipal code enforcement officials, the police agencies of the various municipalities in the county and by the county sheriff's office. When specifically authorized by the director, department of public safety, this section may be enforced by other county personnel.
- (c) The consumer affairs division shall maintain a system by which violators are given written notice of all violations. The county clerk shall accept designated fines and issue receipts therefor.
- (d) The personnel authorized to enforce the provisions of this section shall issue civil citations for fines not to exceed two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each additional violation. Each incident of a continuing violation shall be deemed a separate additional violation.
- (e) Payment shall be made, either by mail or in person, to the violations bureau within the time specified upon the citation. If such person follows this procedure, he shall be deemed to have admitted to the infraction and to have waived his right to a hearing on the issue of the commission of the infraction.
- (f) All fines collected as a result of said citations shall be paid into the county treasury and deposited in the fine and forfeiture fund.
- (g) Any person who fails to make payment within the time period specified on the citation shall be deemed to have waived his right to pay the civil penalty as set forth in the citation and shall appear before the county court.
- (h) Any person who elects to appear before the court to contest the citation shall be deemed to waive his right to pay the civil penalty. The court, after a hearing, shall make a finding as to whether a violation has occurred and may impose a civil penalty not to exceed five hundred dollars (\$500.00) plus court costs.
- (i) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and, in such case, a default judgment shall be entered and the judge shall impose a fine at that time. If the fine is paid, the case shall be dismissed. If the fine is not paid, judgment may be entered up to the maximum civil penalty of five hundred dollars (\$500.00) plus court costs.
- (j) Any person who refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided by Florida Statutes, §§ 775.082, 775.083, and 775.084.
- (k) Failure to comply with the requirements of sections 9-35(d) and 9-36 shall also constitute a violation of county ordinance, including the consumer affairs ordinance of the county (Ord. No. 77-10, as amended), and upon conviction, shall be deemed a misdemeanor of the second degree and shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per violation, or imprisonment not

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exceeding sixty (60) days, or both such fine and imprisonment, pursuant to section 125.69(1), Florida Statutes. Each incident of continuing violation and each day of noncompliance shall be considered a separate offense. In addition to the sanctions contained herein, the county may bring an action in the circuit court to enforce this article. The court in such an action shall have right to grant such relief as the court finds necessary to redress injury to persons resulting from a violation of this article and the county shall take any other appropriate legal action, including but not limited to, cease and desist orders, other administrative action and requests for temporary and permanent injunctions to enforce the provisions of this article. It is the purpose of this section to provide additional cumulative remedies.

(Ord. No. 92-37, § 7, 12-15-92; Ord. No. 98-23, § 3, 6-16-98; Ord. No. 05-043, § 2, 9-27-05)

Sec. 9-38. - Post-disaster debris recovery.

- (a) *Title.* This section shall be known as the "Palm Beach County Post-Disaster Debris Recovery Ordinance."
- (b) *Declaration of finding and intent.* The board finds that in the event of a disaster occurring in the county a public health and safety threat may result from the generation of widespread debris throughout the county, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the county, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all properties whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety, to reduce the threat of additional damage to improved property, and to promote economic recovery of the community at large.

It is the intent of this section to promote the health, welfare and safety of the residents of the county by implementing the emergency plan by providing for the collection and removal of disaster debris throughout the unincorporated public and private roads, gated communities, and public areas of the county, to eliminate an immediate threat to the life, public health and safety of the residence of the county.

- (c) *Implementation of comprehensive emergency management plan of the county.* The authority, pursuant to the Interlocal Agreement and the powers and authority invested in it by the Palm Beach County Solid Waste Act, is hereby directed to implement the provisions of the emergency plan when a local state of emergency has been declared pursuant to the emergency plan, or if declared by the state or the federal government, by acting on behalf of the county to collect and remove disaster debris throughout the unincorporated areas of the county, and to enter in and upon the public and private roads, gated communities, and public areas of the county as necessary, to eliminate any immediate threat to life, public health and safety of the residents of the county, to reduce the threat of additional damage to improved property, and to promote economic recovery of the community at large.

(Ord. No. 06-017, §§ 1—3, 8-15-06)

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