

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	May 7, 2019	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Office of Equal Opportunity		
Submitted By:	Office of Equal Opportunity		

I. EXECUTIVE BRIEF

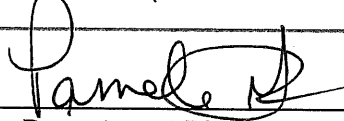

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on July 2, 2019, at 9:30 a.m.: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 15, Article III of the Palm Beach County Code (Ordinance No. 2014-019, amended by Ordinance No. 2015-035), for Housing and Places of Public Accommodation; amending the definition of sexual orientation; amending the definition of place of public accommodation; amending the definition of an aggrieved person; amending the objectives of the Fair Housing and Public Accommodation Board; amending the administrative remedies and other relief, providing for repeal of laws in conflict; providing for savings clause; providing for inclusion in the code of laws and ordinances; and providing for an effective date.

Summary: The Housing and Places of Public Accommodation Ordinance was established in 1990, to protect the interest of its citizens regarding fair treatment and equal opportunity and access in housing and places of public accommodation. The Ordinance was last amended in 2015. This amendment to the Housing and Places of Public Accommodation Ordinance is necessary to add and update definitions and to provide consistency regarding the time limit for complainants to request administrative hearings. This amendment also provides for the Office of Equal Opportunity Director's input regarding the filing of a Civil Action. Additionally, this amendment will include a provision for the Fair Housing Board to review proposals made by non-profit agencies for funding to improve accessibility and increase the public awareness for persons with disabilities and make recommendations to the Board of County Commissioners. Countywide (DO)

Background and Policy Issues: The Housing and Places of Public Accommodation Ordinance was established in 1990, to protect the interest of its citizens regarding fair treatment and equal opportunity and access in housing and public accommodation. The Ordinance was last amended in 2015 and additional amendments are necessary to provide greater consistency and understanding of certain provisions and requirements of the Ordinance. As a result, the definition for "aggrieved person" and "marital status" were added to the existing definitions in the Ordinance, and the time limit for a complainant to request an administrative hearing was re-stated for consistency with a similar provision within the Ordinance. Additionally, instead of a mandatory requirement that the County Attorney's Office shall file suit when a complainant elects for a civil action to be filed on their behalf, this amendment provides for the Director of the Office of Equal Opportunity to authorize that suit may be filed. **(Continued on Page 3)**

Attachments:

1. Proposed Ordinance Revisions (Without Delineations)
2. Proposed Ordinance Revisions (With Delineations)

Recommended By:		<u>26 April 2019</u>
	Department Director	Date
Approved By:		<u>5/3/19</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
* NET FISCAL IMPACT					
# ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item included in current budget? Yes No

Does this Item include the use of federal funds? Yes No

Budget Account No.:

Fund _____ Agency _____ Organization _____ 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 Development & Control Comments:

[Signature]
 OFMB *4/26*
4/29/19
QAM 4/29

[Signature]
 Contract Dev & Control
4/30/19 TW
4/30/19

B. Legal Sufficiency

[Signature]
 Assistant County Attorney

C. Other Department Review

 Department Director

Background and Policy Issues (Continued from Page 1): Lastly, this amendment includes a provision for the Fair Housing Board to review proposals made by non-profit agencies for funding to improve accessibility and increase the public awareness for persons with disabilities and make recommendations to the Board of County Commissioners (BCC) as to the organizations and the amount of funding that should be awarded. The function is currently performed by the Office of Equal Opportunity Handicap Accessibility and Grant Awareness Committee, established by the BCC in 1992 pursuant to Resolution R-92-1890. However, considering the duties of the Fair Housing Board in that regard and the overlap, it would be more efficient and effective to have the Fair Housing Board assume the aforementioned function and repeal the Resolution. The Fair Housing Board supports the proposed Ordinance amendment.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER 15 ARTICLE III, CODIFYING ORDINANCE NO. 2015-035, THE PALM BEACH COUNTY HOUSING AND PLACES OF PUBLIC ACCOMMODATION ORDINANCE; AMENDING THE DEFINITION OF SEXUAL ORIENTATION; AMENDING THE DEFINITION OF PLACE OF PUBLIC ACCOMMODATION; AMENDING THE DEFINITION OF AN AGGRIEVED PERSON; AMENDING THE OBJECTIVES OF THE FAIR HOUSING AND PUBLIC ACCOMMODATION BOARD; AMENDING THE ADMINISTRATIVE REMEDIES AND OTHER RELIEF, PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, it is the public policy of the United States of America to provide for fair housing and access to public accommodations throughout the United States and the policy of Palm Beach County, Florida, to also so provide; and

WHEREAS, discrimination in housing and in places of public accommodation deprives individuals of their basic right to associate, causes friction among groups in society, and adversely affects the public health, safety, and welfare; and

WHEREAS, since the Board of County Commissioners originally enacted the Housing and Places of Public Accommodation Ordinance No. 90-1, it has been necessary to amend it from time to time in order to best serve the citizens and visitors of Palm Beach County and provide for their general safety and welfare; and

WHEREAS, a Fair Housing Board was established in 1990, to assist, advise and cooperate with the Board of County Commissioners and local, state and federal agencies to protect the interest of the public regarding fair treatment and equal opportunity and access in housing and public accommodation, and to carry out adjudicatory functions pertaining to alleged unlawful discriminatory acts or practices; and

39 **WHEREAS**, Palm Beach County awards grants to non-profit organizations for projects designed to
40 improve accessibility and equal opportunity to persons with disabilities in the County and/or to conduct
41 public awareness programs in the County concerning persons with disabilities; and

42 **WHEREAS**, it is necessary to amend the Ordinance to include additional definitions, re-
43 state time limits for filing complaints and modify the provision regarding the filing of a civil action.

44 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
45 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:** Chapter 15, Article
46 III, of the Palm Beach County Code, “Housing, Places of Public Accommodation,” (Ordinance No.
47 2015-035, as amended), is hereby amended as follows:

48 **Section 15-37 Definitions.**

49 When used herein:

50 1) *Person* includes one (1) or more individuals, partnerships, associations, corporations,
51 unincorporated organizations, legal representatives, trustees and trusts, trustees in
52 bankruptcy, labor organizations, mutual companies, joint-stock companies, receivers, or
53 fiduciaries.

54 2) The term *unlawful discriminatory practice* includes only those practices specified in
55 sections 15-57 through 15-61 hereof.

56 3) The term *Board*, unless a different meaning clearly appears from the context, means
57 the Fair Housing Board, created by section 15-39.

58 4) Place of public accommodation shall include the following establishments:

59 a. Any inn, hotel, motel or other establishment which provides lodging to transient guests,
60 other than an establishment located within a building which contains not more than
61 five (5) rooms for rent or hire and which is actually occupied by the proprietor of such
62 establishment as his/her residence;

63 b. Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, or other
64 facility principally engaged in selling food for consumption on the premises,
65 including but not limited to any such facility located on the premises of any retail
66 establishment;

67 c. Any motion picture house, theater, concert hall, sports arena, stadium or other place of
68 exhibition or entertainment;

69 d. An auditorium, convention center, lecture hall or other place of public gathering;

- 70 e. A bakery, grocery store, clothing store, hardware store, shopping center, or other sales
71 or retail establishment;
- 72 f. A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair
73 service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy,
74 insurance office, health care provider, hospital or other service establishment;
- 75 g. A terminal, depot or other station used for a specified public transportation including
76 but not limited to taxis, limousines and buses;
- 77 h. A museum, library, gallery or other place of public display or collection;
- 78 i. A park, zoo, amusement park or other place of recreation;
- 79 j. A nursery, elementary, secondary, undergraduate or postgraduate private school, or
80 other place of education;
- 81 k. A day care center, senior citizen center, homeless shelter, food bank, adoption agency
82 or other social service center establishment;
- 83 l. A gymnasium, health spa, bowling alley, golf course, or other place of exercise or
84 recreation;
- 85 m. Any area or structure provided for the purpose of storing personal property; and,
- 86 n. Any establishment:
- 87 i) 1. Which is physically located within the premises of any establishment otherwise
88 covered by this subsection; or
- 89 2. Within the premises of which is physically located any such covered
90 establishment; and
- 91 ii) Which holds itself out as serving patrons of such covered establishment. Such term
92 shall not include any institution, club or place of accommodation which is in its
93 nature distinctly private and not in fact open to the public.
- 94 5) *Dwelling* or *housing* means any real property, building, mobile home or trailer,
95 structure or portion thereof which is used or occupied as, or is intended, arranged or
96 designed to be used or occupied as, the home, residence or sleeping place of one (1) or
97 more families, and any vacant land which is offered for sale or lease for the
98 construction or location thereon of any such building, structure or portion thereof.
- 99 6) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the

100 right to occupy premises not owned by the occupant.

101 7) The term *family* includes the grandparents, parents, children, brothers and sisters,
102 whether by marriage, legal adoption or blood, and their spouses and children, of
103 either the property owner or spouse of the property owner; and the term "family" also
104 includes a single individual.

105 8) The term *complainant* shall mean the person filing the complaint pursuant to this article.

106 9) The term *respondent* shall mean the person or other entity accused in the complaint of an
107 unlawful discriminatory practice and any other person or entity identified in the course
108 of investigation not named as a respondent in the initial complaint who may be joined
109 as an additional or substitute respondent upon written notice.

110 10) *Disability* means with respect to a person:

111 a. A physical or mental impairment which substantially limits one (1) or more of such
112 person's major life activities.

113 b. A record of such an impairment; or

114 c. Being regarded as having such an impairment.

115 d. Disability does not include the current illegal use or addiction to a controlled
116 substance (as defined in Section 102 of the Controlled Substance Act (21U.S.C.802)).

117 e. As used throughout this article, prohibitions against discrimination on the basis of
118 disability includes disabilities of the patron, buyer or renter, or of a person residing
119 in or intending to reside in that dwelling after it is sold, rented, or made
120 available or of any person associated with the buyer, or renter or patron.

121 11) *Familial status* means one (1) or more individuals (who have not attained the age of
122 eighteen (18) years being domiciled with:

123 a. A parent or another person having legal custody of such individual or individuals; or

124 b. The designee of such parent or other person having such custody, with the written
125 permission of such parent or other person. The protection afforded against
126 discrimination on the basis of familial status shall apply to any person who is pregnant
127 or is in the process of securing legal custody of any individual who has not attained the
128 age of eighteen (18) years.

129 12) *Sexual orientation* means heterosexuality, homosexuality, bisexuality or asexuality,

130 whether actual or perceived.

131 13) *Conciliation* means the attempted resolution of issues raised by the complaint, or by the
132 investigation of such complaint, through informal negotiations involving the complainant,
133 the respondent, and the Office of Equal Opportunity.

134 14) *Conciliation agreement* means a written agreement setting forth the resolution of the
135 issues in conciliation.

136 15) *Prevailing party* has the same meaning as such term has in section 722 of the Revised
137 Statutes of the United States (42 U.S.C. 1988).

138 16) *Multifamily dwelling* means:

139 a. Buildings consisting of four (4) or more units if such buildings have one (1) or more
140 elevators; and

141 b. Ground floor units in other buildings consisting of four (4) or more units.

142 17) *Residential real estate related transaction* means any of the following:

143 a. The making or purchasing of loans or providing other financial assistance:

144 i) for purchasing, constructing, improving, repairing or maintaining a dwelling; or

145 ii) secured by residential real estate.

146 b. The selling, brokering or appraising of residential real property.

147 c. Nothing in this article prohibits a person engaged in the business of furnishing
148 appraisals of real property to take into consideration factors other than race, sex,
149 color, religion, national origin, disability, familial status, sexual orientation, age,
150 marital status, or gender identity or expression.

151 18) *Housing for older persons* means housing:

152 a. Provided under any state or federal program that the OEO or the Board
153 determines is specifically designed and operated to assist elderly persons, as defined
154 in the state or federal program; or

155 b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older;
156 or

157 c. Intended and operated for occupancy by at least one (1) person fifty-five (55) years
158 of age or older per unit in eighty (80) percent of the units, provided that the
159 occupancy of such housing can be verified in accordance with rules established

160 by the U. S. Department of Housing and Urban Development and provided that the
161 housing facility publishes and adheres to policies and procedures that demonstrate the
162 intent to provide housing for older persons.

163 d. Housing shall not fail to be considered housing for older persons if:

164 i) A person who resides in such housing on or after September 13, 1988, does
165 not meet the age requirements of this subsection provided that any new occupant
166 meets such age requirements; or

167 ii) One (1) or more units are unoccupied, provided that any unoccupied units are
168 reserved for occupancy by persons who meet the age requirements of this
169 subsection.

170 iii) In determining whether housing meets the requirements of housing for older
171 persons, the County will utilize current federal regulations regarding criteria for
172 housing for older persons.

173 19) *Gender identity or expression* means a gender-related identity, appearance, expression or
174 behavior of an individual, regardless of the individual's assigned sex at birth.

175 20) *OEO* means the Palm Beach County Office of Equal Opportunity.

176 21) *Director* means the director of the OEO.

177 22) *Aggrieved person* includes any person who:

178 a. Claims to have been injured by a discriminatory practice in housing or a place of
179 public accommodation; or

180 b. Believes that such person will be injured by a discriminatory practice in housing or a
181 place of public accommodation that is about to occur.

182 23) *Marital status* includes any person who is married, not-married, divorced, having a
183 marriage dissolved or annulled, separated, widowed, or have any other marital status.

184 **Section 15-38 Office of Equal Opportunity (OEO).**

185 The County Administrator exercising his/her power of appointment shall employ a Director
186 (“Director”) of the OEO and such other personnel in the OEO as may be provided for in
187 the budget approved by the Board of County Commissioners and for which an appropriation
188 has been made. The staffing complement shall be referred to as the OEO. It shall be the
189 responsibility of the Director and/or the Director's designee to investigate complaints of

190 discrimination prohibited by this article, attempt to conciliate and mediate complaints of
191 discrimination, and to perform such other duties of an administrative nature as may be assigned by
192 the County Administrator.

193 **Section 15-39 Fair Housing and Places of Public Accommodation Board (Board).**

194 The Board is hereby created and established. The Board is to be comprised of nine (9) citizens of
195 the county appointed by the Board of County Commissioners to serve for terms of three (3) years.
196 There shall be a limit of three consecutive three-year terms. Terms shall begin on October 1st, and end
197 on September 30th. All Board members must be residents of Palm Beach County at the time of
198 appointment and while serving on the Board. Board appointments should reflect, to the greatest extent
199 possible, the racial, gender, disabilities and ethnic make-up of the community. Members of this Board
200 shall be the same as members of the Equal Employment Board created by the Palm Beach County
201 Equal Employment Ordinance as codified in Sections 2-261 – 2-313 of the Palm Beach County Code.
202 Seven (7) of the appointments shall be made as district appointments and two (2) of the appointments shall
203 be made at large by the Board of County Commissioners on the basis of community representation,
204 integrity, experience and interest in the area of equal opportunities. In order that the terms of office
205 of all members shall not expire at the same time, all current members of the Board shall serve the
206 remainder of their respective terms, if they so elect. Any member who elects not to serve the remainder
207 of their term shall be replaced by appointments made by the Board of County Commissioners to serve the
208 unexpired portion of the term. Vacancies shall be filled in the same manner as the original appointments
209 for the remainder of the vacant term. Each member shall serve without compensation. Travel
210 reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to
211 fulfill Board member responsibilities when sufficient funds have been budgeted and are available as set
212 forth in PPM CW-O-038. No other expenses are reimbursable except documented long distance phone
213 calls to the OEO. Approval authority for pre-authorized Board member travel is designated to the
214 County Administrator and Deputy County Administrator and shall be in accordance with Countywide Policy
215 and Procedures Memoranda (PPM) CW-F-009. Each district appointee serves at the pleasure of the
216 appointing Commissioner and may be removed without cause by the appointing Commissioner at any time,
217 and at large appointees may be removed without cause by a majority vote of the Board of County
218 Commissioners at any time. The maximum number of boards that an individual appointed by the Board
219 of County Commissioners may serve on at one time shall be three (3), however, membership on
220 the Equal Employment Board and this Board shall only be considered membership on one (1) advisory
221 board. Members shall comply with the applicable provisions of the Palm Beach County Code of

222 Ethics, as codified in Section 2-441 through 2-448 of the Palm Beach County Code and the State Code
223 of Ethics. Abstention from voting due to a conflict of interest on more than three (3) separate matters
224 during a calendar year shall result in automatic removal. Members shall be automatically removed for lack
225 of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or
226 failure to attend more than one-half ($\frac{1}{2}$) of the meetings scheduled during a calendar year. Participation
227 for less than three fourths ($\frac{3}{4}$) of a meeting shall be the same as failure to attend a meeting. Members
228 removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall
229 create a vacancy. Board members shall not be prohibited from qualifying as a candidate for elected
230 office. County employees, other than Commissioners' Aides, may not be appointed to the Board.
231 Former Board of County Commission members may not be appointed to the Board for at least two (2)
232 years following their last day in office as a County Commissioner. Members of the Board shall appoint
233 a chairperson and vice-chairperson, and the Board may promulgate rules and regulations for the conduct
234 of its meetings and affairs.

235 **Section 15-40 Board Terms, Rules and Regulations.**

236 The following rules and regulations shall govern the operation of the Board:

- 237 1) The chairperson of the Board shall be elected by majority vote of the Board and shall
238 serve for a term of one (1) year and have the following duties:
- 239 a. Call Board meetings and set the agenda for the same.
 - 240 b. Preside at Board meetings.
 - 241 c. Sign subpoenas.
 - 242 d. Perform such other functions as the Board may assign by rule or order.
- 243 2) The vice-chairperson shall be elected by majority vote of the Board and shall serve for a
244 term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in
245 the chairperson's absence and such other duties as the chairperson may assign.
- 246 3) If a vacancy occurs in the office of chairperson, the vice-chairperson shall become the
247 chairperson for the unexpired term of the chairperson. If a vacancy occurs in the office of
248 vice-chairperson, the Board will elect another member to fill the unexpired term of the
249 vice-chairperson.
- 250 4) At least three (3) members of the Board or any other odd number shall constitute a
251 hearing panel for the purpose of hearing discrimination complaints. A majority of

252 members appointed shall constitute a quorum to hold a meeting for any other purpose.
253 Board business shall be taken by a majority vote.

254 5) All meetings shall be governed by Robert's Rules of Order.

255 **Section 15-41 Board Meetings.**

256 The Board shall comply with the Sunshine Law. The Board shall meet on a regular basis
257 and as necessary to conduct administrative hearings. Reasonable notice of the time and place of
258 the meeting shall be given to all Board members and all parties scheduled to be heard, and shall
259 be made public. All meetings of the Board shall be open to the public. The chairperson may
260 call an unscheduled meeting upon not less than twenty-four (24) hours notice, and preferably
261 at least seventy-two (72) hours reasonable notice to the public, and meetings may also be
262 called by the Director upon the request of three (3) members of the Board. The County
263 Administrator shall provide such staff as may reasonably be required in his/her discretion to assist
264 the Board in the performance of its duties. The County Administrator shall provide a regular
265 meeting place for the Board.

266 **Section 15-42 Objectives of the Board.**

267 The objectives of the Board shall be:

- 268 1) To promote and encourage fair treatment and equal opportunity in housing and public
269 accommodation for all persons regardless of race, sex, color, religion, national origin,
270 disability, familial status, sexual orientation, age, marital status, or gender identity or
271 expression; to promote and encourage mutual understanding and respect among such
272 persons and to endeavor to eliminate discrimination in housing and public
273 accommodation against and antagonism between such persons;
- 274 2) To cooperate with governmental and nongovernmental agencies and organizations having
275 like or kindred functions;
- 276 3) To make such investigations and studies in the field of fair housing and public
277 accommodation as in its judgment will aid in effectuating its general purposes;
- 278 4) To assist various groups and agencies of the community to cooperate in educational
279 programs and campaigns devoted to the elimination of discrimination in housing and places
280 of public accommodation;
- 281 5) To aid in permitting the County to benefit from the fullest realization of its housing
282 and public accommodation resources;

- 283 6) To recommend to the Board of County Commissioners the acceptance of certain grants
284 and contracts from foundations and other sources for the purposes of carrying out the
285 purposes of this article;
- 286 7) To review proposals and make recommendations on the award of grant funds; and
- 287 8) To recommend to the Board of County Commissioners methods for elimination of
288 discrimination and intergroup tensions. The objectives set forth above are not to be
289 construed as duties, and the Board of County Commissioners shall have the discretion to
290 determine when each objective is implemented.

291 **Section 15-43 Powers and Duties of the Board.**

292 The powers and duties of the Board shall be:

- 293 1) To refer or accept referral of complaints when appropriate and to cause, through the
294 OEO, investigations of:
- 295 a. Tension or prejudice in relation to all housing and public accommodation matters
296 involving race, sex, color, religion, national origin, disability, familial status, sexual
297 orientation, age, marital status, or gender identity or expression.
- 298 b. Discrimination against any person by any person with regard to housing and public
299 accommodation matters on the basis of race, sex, color, religion, national origin,
300 disability, familial status, sexual orientation, age, marital status, or gender identity or
301 expression.
- 302 2) To receive, initiate, seek to conciliate, hold hearings upon and adjudicate complaints
303 alleging violations of this article; to recommend methods and alternatives for eliminating
304 injustices occasioned thereby to carry out and enforce the purpose of this article.
- 305 3) To administer oaths, subpoena witnesses, and compel production of evidence pertaining to
306 any hearing convened pursuant to the powers and duties authorized by this article.
- 307 4) To subpoena witnesses and compel production of evidence requested by the OEO relating
308 to an investigation being conducted pursuant to this article.
- 309 5) To meet and exercise its power in any place within the county.
- 310 6) To issue remedial orders prohibiting violations of this article and providing affirmative
311 relief from the effects of the violation as specified in section 15-55.

312

313 **Section 15-44 Powers and Duties of the Director.**

314 The powers and duties of the Director and/or the Director's designee shall be:

315 1) To investigate:

316 a. Tension or prejudice in relation to all housing and public accommodation matters
317 involving race, sex, color, religion, national origin, disability, familial status, sexual
318 orientation, age, marital status, or gender identity or expression.

319 b. Discrimination against any person by any person with regard to housing and public
320 accommodation matters on the basis of race, sex, color, religion, national origin,
321 disability, familial status, sexual orientation, age, marital status, or gender identity or
322 expression.

323 2) To have access during an investigation, at all reasonable times, to premises, and may
324 examine records, documents, and other evidence or possible sources of evidence, and
325 record the testimony or statements of such persons as are reasonably necessary for the
326 furtherance of the investigation provided that the Director and/or the Director's designee
327 complies with the provisions of the federal and state constitutions relating to unreasonable
328 searches and seizures.

329 3) To attempt to conciliate and mediate complaints of discrimination brought pursuant to
330 this article.

331 4) To prepare conciliation agreements embodying any agreement reached by the parties
332 relating to the complaint, and advise the Board of such agreement.

333 5) To dismiss complaints of discrimination upon a finding of no reasonable cause under
334 this article.

335 6) To administer oaths.

336 7) To exercise all powers reasonable and necessary to fulfill the purposes of this article.

337 **Section 15-45 Filing of Complaints.**

338 Any person who claims to have been injured by an unlawful discriminatory practice or who
339 believes that he/she will be injured by an unlawful discriminatory practice that is about to occur
340 may file a sworn written complaint with the OEO, which shall state the name and address of the
341 complainant and the person or persons against whom the complaint is made. It shall also
342 state the facts surrounding the alleged unlawful discriminatory practice and such other
343 information as may be required by the OEO. The Director, with the Board's approval, may

344 also file such a complaint. The complaint shall be filed not later than one (1) year after the date
345 of the alleged unlawful discriminatory practice in order to be processed under this article. The
346 complaint may be reasonably and fairly amended at any time.

347 **Section 15-46 Notice of Complaint.**

348 Upon the filing of the complaint, the Director shall serve notice upon the aggrieved person
349 acknowledging such filing and advising the aggrieved person of the time limits and choice of
350 forums provided under this article. The Director or the Director's designee shall, not later than ten
351 (10) days after such filing or the identification of an additional respondent, serve on the
352 respondent a notice, by certified mail, identifying the alleged discriminatory housing practice and
353 advising such respondent of the procedural rights and obligations of respondents under this
354 article, together with a copy of the original complaint. The respondent may file a sworn written
355 answer to the complaint within ten (10) days of receipt of the complaint. Failure to file an answer
356 by the respondent shall not result in any presumption of admission to the allegations in the
357 complaint. Any subsequent amendment to the complaint or answer thereto shall be served by
358 U.S. mail.

359 **Section 15-47 Processing Complaints.**

360 The OEO shall commence its investigation under this article within thirty (30) days
361 of the receipt of a sworn written complaint. Within one hundred (100) days of the filing of the
362 complaint as set forth in section 15-45, the staff of the OEO shall make such investigation as the
363 Director deems appropriate to ascertain facts and issues. If the OEO is unable to complete
364 the investigation within one hundred (100) days after the filing of the complaint, they shall
365 notify the complainant and the respondent in writing of the reasons for not doing so. In conducting
366 an investigation to ascertain whether or not there has been a violation of this article, the Director
367 and/or the Director's designee shall have access at all reasonable times to premises, and may
368 examine records, documents, and other evidence, or possible sources of evidence, and may
369 record the testimony or statements of such persons as are reasonably necessary for the furtherance
370 of the investigation provided that the OEO complies with the provisions of the federal and state
371 constitutions relating to unreasonable searches and seizures. The Director, the Director's designee
372 or the Board may issue subpoenas to compel access to, or the production of, such materials, or
373 the appearance of such persons, and may issue interrogatories to a respondent to the same
374 extent and subject to the same limitations as would apply if the subpoenas or interrogatories
375 were issued or served in aid of a civil action in court. In the case of a refusal to obey a subpoena

376 issued to any person, or refusal to comply with any method of discovery authorized in the
377 Florida Rules of Civil Procedure, the Board and/or the Director shall request the County Attorney
378 to make application to the appropriate court to order the witness to comply with a request for
379 discovery, or to appear before the Board and to produce evidence, if so requested, or to give
380 testimony concerning the matter in question. Failure to obey the order may be punishable by the
381 court as contempt. The Director and/or the Board may administer oaths. The OEO shall endeavor
382 to achieve final administrative disposition of the complaint within one (1) year of its filing, unless
383 it is impracticable to do so. If final administrative disposition is impractical to achieve within
384 one year of the filing of the complaint, the parties shall be provided notice which shall state
385 the reasons why it is impractical to achieve final disposition within one year.

386 **Section 15-48 Withdrawal of Complaint.**

387 A complaint filed pursuant to this article may be withdrawn at any time by the
388 complaining party upon notifying the OEO; however, the Director may continue action against
389 the respondent if the facts establish reasonable cause to support a finding of discrimination and
390 the Board approves such further action.

391 **Section 15-49 Preservation of Records.**

392 Following service of the complaint in the manner provided herein, the respondent shall
393 preserve all personnel records, property records, or any other written or documentary material
394 relating to the complaint until the complaint has been resolved.

395 **Section 15-50 Dismissal of Complaint.**

396 Any complaint filed pursuant to this article shall be dismissed by the Director or the
397 Board upon the following grounds:

- 398 1) The complainant has failed or refused to cooperate or the complainant cannot be located
399 after reasonable efforts to do so have been made and after at least ten (10) days' notice to
400 the complainant by certified mail to the complainant's last known address and the
401 complainant has failed to duly respond;
- 402 2) The complaint has not been timely filed with the OEO.
- 403 3) The Director determines that no reasonable cause exists to believe that a
404 discriminatory practice has occurred or is about to occur.

405 **Section 15-51 Investigation Procedure.**

406 After the complaint has been filed, the OEO shall conduct an investigation. The OEO

407 may utilize the services and information gathered from other public agencies charged with
408 the administration of equal opportunity laws. The following procedures shall be followed:

409 1) *Complaint verification.* As part of the investigation process, the complaining party may
410 be required to provide an additional sworn written statement, which shall include:

- 411 a. A statement of each particular harm or potential harm which the aggrieved person
412 has suffered or will suffer and the date on which each harm occurred or will occur;
- 413 b. For each harm, a statement specifying the act, policy or practice which is alleged to
414 be unlawful;
- 415 c. For each act, policy or practice alleged to have harmed the aggrieved person, a
416 statement of the facts which lead the complainant to believe that the act, policy or
417 practice is discriminatory.

418 2) *Requests for information.* In investigating the complaint, the OEO may obtain
419 information by:

- 420 a. Oral interview and/or
- 421 b. Requests for written statement or affidavit and/or
- 422 c. Any discovery methods set forth in the Florida Rules of Civil Procedure.

423 3) *Complainant's duty to cooperate.* The complainant shall appear or be available for
424 interviews and provide necessary information requested by the OEO pursuant to this
425 section. Failure to do so may result in dismissal of the complaint.

426 4) *Access to files during investigation.* Information obtained during the investigation of
427 the complaint shall be disclosed only to the complainant, the respondent, or their
428 authorized representative, or to witnesses, only when disclosure is deemed necessary
429 by the Director for the investigation or for securing appropriate disposition of the
430 complaint. The Director may direct that a particular record, document or portion thereof
431 be withheld from inspection by a party only when necessary for the protection of a
432 witness or third party, or for the preservation of a trade secret and in accordance with the
433 provisions of the Florida Public Records Law [F.S. § 119.01 et seq.].

434 **Section 15-52 Determination of Reasonable Cause: Notice.**

435 a) Upon completion of an investigation, if the issue(s) alleged in the complaint has not been
436 settled or withdrawn, the Director shall make a determination based on the facts whether
437 reasonable cause exists to believe that an unlawful discriminatory practice has occurred

438 or is about to occur.

439 b) If a notice of determination of reasonable cause is issued, the notice shall include an
440 invitation to participate in conciliation.

441 c) After service of a notice of determination, records and documents in the custody of the
442 OEO that pertain to the determination shall be open for public inspection in accordance
443 with the provisions of the Florida Public Records Law [F.S. § 119.01, et seq.].

444 **Section 15-53 Finding of Reasonable Cause; Conciliation Procedure.**

445 a) During the period beginning with the filing of the complaint and ending with the final
446 disposition, the OEO shall, to the extent feasible, engage in conciliation with respect to
447 such complaint. Where such conciliation attempts are successful, the agreement shall be
448 between the complainant, aggrieved person(s) and the respondent subject to approval by
449 the Director. The terms of the agreement shall be reduced to writing and signed by the
450 complainant, aggrieved person(s), the respondent and the Director. The original of the
451 signed agreement shall be filed with the OEO, and copies shall be sent to the respondent,
452 complainant, aggrieved person(s) and the Board.

453 b) When an agreement has not been signed, and the complaint has not been withdrawn or
454 dismissed, the Director shall send a notice of failure of conciliation to the complainant and
455 the respondent not less than thirty (30) days after issuance of a notice of determination of
456 reasonable cause.

457 c) Nothing said or done in the course of the conciliation process may be made public or
458 used as evidence in subsequent proceedings under sections 15-54 through 15-56 without
459 the written consent of the parties. Any employee of the OEO who makes public any such
460 information in violation of this provision shall be prosecuted in the same manner as a
461 misdemeanor of the second degree, punishable as provided in Florida Statutes Chapter
462 775. Final executed and approved conciliation agreements will be made public.

463 **Section 15-54 Enforcement.**

464 a) In any proceeding brought pursuant to this article, the burden of proof is on the
465 complainant.

466 b) A complainant may commence a civil action under this article whether or not the
467 complaint has been filed and without regard to the status of any such complaint.
468 However, if the OEO has obtained an agreement with the consent of a complainant, no

469 action may be filed under this article by such complainant with respect to the alleged
470 discriminatory housing practice which forms the basis for such complaint except for the
471 purpose of enforcing the terms of such an agreement.

472 c) Whenever an action filed in either federal or state court pursuant to this article, or any
473 federal or state laws protecting the same rights stated herein comes to trial, the OEO
474 and the Board shall immediately terminate all efforts to obtain voluntary compliance.

475 d) If the Board of County Commissioners concludes at any time following the filing of a
476 housing complaint that prompt judicial action is necessary to carry out the purposes of
477 this article, the Board of County Commissioners shall direct the County Attorney to
478 institute a civil action for appropriate temporary or preliminary relief pending final
479 disposition of the complaint under this article. The commencement of a civil action under
480 this subsection shall not affect the initiation or continuation of proceedings under this
481 article. The Board of County Commissioners need not have petitioned for administrative
482 hearing or exhausted the administrative remedies prior to requesting the commencement of
483 a civil action.

484 e) The court may award actual and punitive damages and may impose the following civil
485 penalties for each violation of this article:

486 1) Up to ten thousand dollars (\$10,000.00), if the respondent has not been adjudged to
487 have committed any prior discriminatory housing practice;

488 2) Up to twenty-five thousand dollars (\$25,000.00), if the respondent has been
489 adjudged by order of the Board or a court to have committed one (1) prior
490 discriminatory housing practice within the preceding five-year period ending on the
491 date of the filing of this complaint.

492 3) Up to fifty thousand dollars (\$50,000.00), if the respondent has been adjudged by order
493 of the Board or a court to have committed two (2) or more discriminatory housing
494 practices within the preceding seven-year period ending on the date of the filing of this
495 complaint; except that if the acts constituting the discriminatory housing practice that
496 is the object of the charge are committed by the same natural person who has been
497 previously adjudged to have committed acts constituting a discriminatory housing
498 practice, then the civil penalties set forth in subparagraphs (2) and (3) may be imposed
499 without regard to the period of time within which any subsequent discriminatory

500 housing practice occurred.

501 f) In imposing a fine under subsection (e), the court shall consider the nature and
502 circumstances of the violation, the degree of culpability, the history of prior violations of
503 this article, the financial circumstances of the respondent, and the goal of deterring future
504 violations of this article.

505 g) In addition to the above-stated fines, the court shall award reasonable attorney's fees
506 and costs to the County in any action in which the County prevails under this article.

507 h) The court may also grant injunctive and/or other appropriate equitable relief.

508 **Section 15-55 Administrative Remedies and Other Relief.**

509 a) A complainant, a respondent, or an aggrieved person on whose behalf a fair housing
510 complaint was filed under this article may elect to have the claims asserted in that
511 complaint decided in a civil action as provided by Section 15-56 of this article, in lieu
512 of a hearing provided by this section.

513 b) The election under this section must be made not later than the 20th day after the date of
514 issuance by the electing person of the notice of failure of conciliation, or in the case of the
515 Director, not later than the 20th day after such service. The electing person shall give notice
516 to the Director and to all other complainants and respondents to whom the complaint relates.

517 c) The complainant may request an administrative proceeding before the Board within thirty
518 (30) days after the date of issuance of the notice of failure of conciliation. Additionally,
519 if the Director is unable to obtain voluntary compliance with this article or has reasonable
520 cause to believe that a discriminatory practice has occurred, the Director may institute
521 an administrative proceeding before the Board on any Director-initiated complaint.

522 d) In conducting an administrative hearing to ascertain whether or not there has been a
523 violation of this article, the Board shall have the power to administer oaths, issue
524 subpoenas, compel the production of books, papers and other documents, and receive
525 evidence. The Board shall conduct the administrative hearing in accordance with the
526 procedure provided in section 120.57, Florida Statutes, as amended.

527 e) All recommended orders prepared by the Board as a result of such hearing or hearings
528 shall conform to the requirements for such orders as set out in section 120.57, Florida
529 Statutes, as amended.

530 f) The Board shall submit a copy of the order on each party to the administrative

531 proceedings. The recommended order shall be considered as the final order of the Board
532 as provided by section 120.57, Florida Statutes, as amended.

533 g) Any party to such administrative proceedings shall have the right to appeal the
534 administrative order described herein by filing notice of appeal pursuant to Florida
535 Appellate Rule 9.110(a)(2) within thirty (30) days of the issuance of such order by the
536 Board. Any party shall have the right to bring an action in the appropriate court to ensure
537 compliance with this order.

538 h) In case of refusal to obey a subpoena issued by the Board, the County or the person at
539 whose request it was issued may, in addition to any other remedies made available,
540 petition for its enforcement in the appropriate court.

541 i) Should any party fail or refuse to comply with the final order issued or breach a
542 conciliation agreement as provided herein, then following the expiration of the appeal
543 time provided herein, the Board shall forward such order or conciliation agreement to
544 the Board of County Commissioners with a request that the Board of County
545 Commissioners authorize the County Attorney to bring such action or actions as necessary
546 to obtain compliance with this article.

547 j) When any act is required or allowed to be done at or within a specified time by this
548 section, for cause shown, the Board, at any time in its discretion, and upon the written
549 request of a party, may order the period enlarged unless otherwise prohibited by law.

550 k) All written motions upon which a ruling is requested shall be filed at least ten (10) days
551 prior to the hearing date established by the Board. Such motions shall be considered
552 and ruled upon by the Board prior to the start of the hearing.

553 l) All motions and orders thereon shall be made a part of the record of such administrative
554 proceedings.

555 m) No appeal may be made from rulings on such motions until a final order has been issued.

556 n) If there are separately filed cases before the Board which involve similar issues of law
557 and fact and identity of parties, then such cases may be consolidated by the Director for
558 hearing before the Board.

559 o) Discovery shall be permitted and shall proceed in the manner provided by the Florida
560 Rules of Civil Procedure.

561 p) The Board may order a prehearing conference prior to any administrative hearing. Prior

562 to such conference the Board may direct that the parties submit a preconference statement
563 addressing the issues of law and fact that will be involved in such hearing, identifying the
564 witnesses that will testify, providing a list of all documents or other exhibits that will
565 be submitted, and providing such other information as requested by the Board.

566 q) The Director shall set the time and place of any administrative hearing. The Director shall
567 send notice by certified mail of such hearing to the parties no later than fourteen (14)
568 calendar days prior to the final hearing. Such notice requirement may be waived with the
569 written consent of all parties. The notice shall also contain:

570 1) A statement of the nature of the hearing;

571 2) A statement of the legal authority and jurisdiction under which the hearing is to be
572 held;

573 3) A reference to the statutes, ordinances and rules involved.

574 r) Requests for subpoenas in any administrative proceeding shall be filed with the OEO
575 and forwarded to the Board. Such request shall set forth the name and address of
576 the person whose attendance is requested and shall describe with particularity any
577 material to be produced. Such subpoenas shall be issued by the Board or the Director.
578 The requesting party shall be responsible for service of any subpoena.

579 s) Any subpoena shall be subject to a motion to quash or a motion for protective order before
580 the appropriate court.

581 t) The official transcript of a hearing shall be preserved by electronic recording or by a court
582 reporter.

583 u) Should a party elect to provide a court reporter for a hearing, that party shall be
584 responsible for entire payment of the reporter's fee.

585 v) If the Board finds that a discriminatory practice has occurred or is about to occur, it shall
586 issue an order prohibiting the practice and awarding affirmative relief from the effects of
587 the practice, including actual damages and reasonable attorney's fees and costs, and other
588 injunctive or equitable relief. To vindicate the public interest, the Board, may assess civil
589 penalties against the respondent, consistent with the provisions of section 15.54 of this
590 article. Funds recovered under this section shall be paid to the Board of County
591 Commissioners' general fund.

592 w) If a timely election is made under this section, the Director of OEO shall authorize, not

593 later than the 30th day after the election is made, that the action be filed and maintained on
594 behalf of the aggrieved person in a court of competent jurisdiction seeking relief as
595 provided by state and/or federal law. However, if a timely civil action election is not made
596 under subsection (b), the fair housing complainant may request an administrative
597 proceeding.

598 x) An aggrieved person may intervene in the civil action filed under this section.

599 **Section 15-56 Enforcement by Private Persons.**

600 a) A civil action shall be commenced no later than two (2) years after the occurrence or the
601 termination of an alleged discriminatory practice or the breach of a conciliation agreement
602 entered into under this article, whichever occurs last, to obtain appropriate relief with
603 respect to such discriminatory practice or breach. However, the court shall continue a
604 civil case brought pursuant to this article from time to time before bringing it to trial if
605 the court believes that the conciliation efforts of the OEO are likely to result in
606 satisfactory settlement of the discriminatory practice complained of in the complaint
607 made to the OEO and which practice forms the basis for the action in court.

608 b) The computation of such 2-year period shall not include any time during which the
609 investigation was pending with respect to the complaint under this article based upon
610 such discriminatory practice. This paragraph does not apply to actions arising from a
611 breach of a conciliation agreement.

612 c) Any sale, encumbrance or rental consummated prior to the issuance of any court order
613 issued under the authority of this article and involving a bona fide purchaser, encumbrance,
614 or tenant without actual notice of the existence of the filing of a complaint or civil
615 action under the provisions of this article shall not be affected.

616 d) If the court finds that a discriminatory practice has occurred, it shall issue an order
617 prohibiting the practice and providing affirmative relief from the effects of the practice,
618 including injunctive and other equitable relief, actual and punitive damages, and reasonable
619 attorney's fees and costs.

620 **Sec. 15-57 Unlawful Discriminatory Practice in Public Accommodations.**

621 It shall be an unlawful discriminatory practice for any person, being the owner, lessee,
622 proprietor, manager, superintendent, agent or employee of any place of public accommodation,
623 because of the race, sex, color, religion, national origin, disability, familial status, sexual

624 orientation, age, marital status, or gender identity or expression of any person directly or indirectly
625 to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities
626 or privileges thereof that are afforded the other customers, directly or indirectly; to publish,
627 circulate, issue, display, post or mail any written or printed communication, notice or
628 advertisement, to the effect that any of the accommodations, advantages, facilities and privileges
629 of any such place shall be refused, withheld from or denied to any person on account of race,
630 sex, color, religion, national origin disability, familial status, sexual orientation, age, marital
631 status, or gender identity or expression, or that the patronage of any person belonging to any
632 particular race, sex, color, religion, national origin, disability, familial status, sexual orientation,
633 age, marital status or gender identity or expression is unwelcome, objectionable or not acceptable,
634 desired or solicited.

635 **Section 15-58 Discriminatory Housing Practices.**

636 Except as provided in section 15-62 hereof, it shall be an unlawful discriminatory housing
637 practice:

- 638 1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate
639 for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person
640 because of race, sex, color, religion, national origin, disability, familial status, sexual
641 orientation, age, marital status or gender identity or expression.
- 642 2) To discriminate against any person in the terms, conditions or privileges of sale or
643 rental of a dwelling, or in the provisions of services or facilities in connection
644 therewith, because of race, sex, color, religion, national origin, familial status, sexual
645 orientation, age, marital status, or gender identity or expression.
- 646 3) To make, print or publish, or cause to be made, printed or published, any notice,
647 statement or advertisement, with respect to the sale or rental of dwelling that indicates any
648 preference, limitation or discrimination based on race, sex, color, religion, national origin,
649 disability, familial status, sexual orientation, age, marital status or gender identity or
650 expression, or an intention to make any such preference, limitation or discrimination.
- 651 4) To represent to any person because of race, color, religion, sex, national origin,
652 disability, familial status, sexual orientation, age, marital status or gender identity or
653 expression that any dwelling is not available for inspection, sale or rental when such
654 dwelling is in fact so available.

- 655 5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by
656 representations regarding the entry or prospective entry into the neighborhood of a person
657 or persons of a particular race, sex, color, religion, national origin disability, familial
658 status, sexual orientation, age, marital status or gender identity or expression.
- 659 6) To discriminate in the sale or rental, or to otherwise make unavailable or deny a
660 dwelling to any buyer or renter because of a disability of:
- 661 a. that buyer or renter,
- 662 b. a person residing in or intending to reside in that dwelling after it is sold, rented, or
663 made available; or
- 664 c. any person associated with that buyer or renter.
- 665 7) To discriminate against any person in the terms, conditions, or privileges of sale or
666 rental of a dwelling, or in the provision of services or facilities in connection with
667 such dwelling, because of a disability of:
- 668 a. that person; or
- 669 b. a person residing in or intending to reside in that dwelling after it is sold, rented, or
670 made available; or
- 671 c. any person associated with that person.
- 672 8) To refuse to permit, at the expense of a person with a disability, reasonable
673 modifications of existing premises occupied or to be occupied by such person if such
674 modifications may be necessary to afford such person full enjoyment of the premises,
675 except that, in the case of a rental, the landlord may, where it is reasonable to do so,
676 condition permission for a modification on the renter agreeing to restore the interior of
677 the premises to the condition that existed before the modification, reasonable wear and
678 tear excepted. The landlord may not increase for persons with disabilities any customarily
679 required security deposit. However, where it is necessary in order to ensure with
680 reasonable certainty that funds will be available to pay for the restorations at the end of
681 the tenancy, the landlord may negotiate, as part of a restoration agreement, a provision
682 requiring that the tenant pay into an interest-bearing escrow account, over a reasonable
683 period, a reasonable amount of money not to exceed the cost of the restorations. The
684 interest in any such account shall accrue to the benefit of the tenant.
- 685 9) To refuse to make reasonable accommodations in rules, policies, practices or services,

686 when such accommodations may be necessary to afford a person with a disability equal
687 opportunity to use and enjoy a dwelling.

688 10) To fail to design and construct multifamily dwellings for first occupancy after March 13,
689 1991, in such a manner that:

690 a. The public use and common use portions of such dwellings are readily accessible
691 to and usable by persons with a disability;

692 b. All the doors designed to allow passage into and within all premises within such
693 dwellings are sufficiently wide to allow passage by persons with disabilities who
694 utilize wheelchairs;

695 c. All premises within such dwellings contain the following features of adaptive design:
696 an accessible route into and through the dwelling; light switches, electrical outlets,
697 thermostats, and other environmental controls in accessible locations; reinforcements
698 in bathroom walls to allow later installation of grab bars; and usable kitchen and
699 bathrooms such that an individual who utilizes a wheelchair can maneuver about the
700 space; and,

701 d. Compliance with the appropriate requirements of the American National Standards
702 Institute for buildings and facilities providing accessibility and usability for persons
703 with physical disabilities (commonly cited as “ANSI A 117.1”) suffices to satisfy the
704 requirements of this article.

705 11) To retaliate or discriminate in any manner against a person who has opposed a practice
706 declared discriminatory by this article, or who has filed a complaint, testified, assisted or
707 participated in any manner in any investigation, proceeding, hearing or conference under
708 this article.

709 12) To aid, abet, incite, compel or coerce any person to engage in any of the practices
710 prohibited by this article; or to obstruct or prevent any person from complying with the
711 provision of this article; or any order issued there under.

712 13) To resist, prevent, impede or interfere with the Board or any of its members or
713 representatives in the lawful performance of its or their duty under this article.

714 14) To initiate maliciously, frivolously or in bad faith any complaint under the provisions
715 of this article for the purposes of harassment.

716 15) To intimidate, threaten, coerce or interfere with the exercise or enjoyment of, or on

717 account of having exercised or enjoyed, or on account of having aided or encouraged any
718 other person in the exercise or enjoyment of, any right granted or protected by this
719 article.

720 **Section 15-59 Discrimination in the Financing of Housing.**

721 It shall be an unlawful discriminatory housing practice of any bank, building and loan
722 association, insurance company or other corporation, association, firm or enterprise whose
723 business consists in whole or in part in the making of commercial real estate loans, to deny a
724 loan or other financial assistance to any person applying therefore for the purpose of purchasing,
725 constructing, improving, repairing or maintaining a dwelling or to discriminate against him/her
726 in the fixing of the amount, interest rate, duration, or other terms or conditions as such loan
727 or other financial assistance, because of the race, sex, color, religion, national origin, disability,
728 familial status, sexual orientation, age, marital status or gender identity or expression of such
729 person or any person associated with him/her in connection with such loan or other financial
730 assistance, or the purposes of such loan or other financial assistance of the present or prospective
731 owners, lessees, tenants or occupants, of the dwelling or dwellings in relation to which such loan
732 or other financial assistance is to be made or given; provided that nothing contained in this section
733 shall impair the scope of effectiveness of the exceptions set forth in section 15-62.

734 **Section 15-60 Discrimination in the Provision of Brokerage Services.**

735 It shall be an unlawful discriminatory housing practice to deny any person who is
736 otherwise professionally qualified by state law and subject to the rules and regulations of the
737 Florida Real Estate Commission, provided the local board of realtors does not discriminate in
738 its membership policies on the basis of race, sex, color, religion, national origin, disability, familial
739 status, sexual orientation, age, marital status or gender identity or expression, access to or
740 membership or participation in any multiple listing service, real estate brokers' organization or
741 other service, organization or facility relating to the business of selling or renting dwellings, or
742 to discriminate against any person in the terms or conditions of such access, membership or
743 participation, on account of race, sex, color, religion, national origin disability, familial status,
744 sexual orientation, age, marital status or gender identity or expression.

745 **Section 15-61 Discrimination in Residential Real Estate Related Transactions.**

746 It shall be an unlawful discriminatory housing practice for any person or other entity
747 whose business includes engaging in residential real estate related transactions to discriminate

748 against any person in making available such a transaction, or in the terms or conditions of
749 such a transaction because of race, sex, color, religion, national origin, disability, familial status,
750 sexual orientation, age, marital status or gender identity or expression.

751 **Section 15-62 Limitations and Exceptions – Housing Practices.**

752 a) The prohibitions set forth in sections 15-57 through 15-80 shall not apply to a
753 religious organization, association or society, or any nonprofit institution or organization
754 operated, supervised or controlled by or in conjunction with a religious organization,
755 association or society, from limiting the sale, rental or occupancy of dwellings which
756 it owns or operates for other than commercial purposes to persons of the same religion,
757 or from giving preference to such persons, unless membership in such religion is restricted
758 on account of race, sex, color, national origin, disability, familial status, sexual orientation,
759 age, marital status or gender identity or expression.

760 b) The prohibitions set forth in sections 15-58—15-60 shall not apply to rooms or units in
761 dwellings containing living quarters occupied or intended to be occupied by no more
762 than four (4) families living independently of each other if the owner actually maintains
763 and occupies one of such living quarters, provided such rooms or units are sold or rented
764 without the use in any manner of the sales or rental facilities or the sales or rental services
765 of any real estate broker or real estate salesperson or person in the business of selling
766 or renting dwellings and/or without the publication, posting or mailing of any
767 advertisement or written document in contravention of section 15-58; but this shall
768 not prohibit the use of any attorney, escrow agents, abstractors, title companies and
769 such other professional assistance as is necessary to perfect or transfer title to a dwelling.

770 c) The prohibitions set forth in sections 15-58 through 15-60 shall not apply to any
771 single-family dwelling unit sold or rented by an owner who does not own more than three
772 (3) such single-family dwelling units at any one time if such unit is sold or rented
773 without the use in any manner of the sales or rental facilities or the sales or rental services
774 of any real estate broker or real estate salesperson or person in the business of selling or
775 renting dwellings and/or without the publication, posting or mailing of any
776 advertisement or written document in contravention of section 15-58; but this shall not
777 prohibit the use of any attorney, escrow agents, abstractors, title companies and such
778 other professional assistance as is necessary to perfect or transfer title to a dwelling.

- 779 d) For the purposes of subsections (a) and (b) of this section, a person shall be deemed
780 to be in the business of selling or renting dwellings and said exceptions shall not apply
781 if:
- 782 1) That person has, within the preceding twelve (12) months, participated as principal in
783 three or more transactions involving the sale or rental of any dwelling or any interest
784 therein; or
 - 785 2) That person has, within the preceding twelve (12) months, participated as agent, other
786 than in the sale of his/her own personal residence, in providing sales or rental facilities
787 or sales or rental services in two (2) or more transactions involving the sale or rental of
788 any dwelling or any interest therein; or
 - 789 3) That person is the owner of any dwelling designed for or intended for occupancy by, or
790 occupied by, five (5) or more families.
- 791 e) The prohibitions set forth in sections 15-57 through 15-60 shall not apply to a person or
792 owner who wishes to rent a portion of a single dwelling unit to a person or persons
793 of the same sex when such persons live in the single dwelling unit.
- 794 f) Housing for older persons shall be exempted from the provisions regarding familial
795 status. Housing for older persons may also maintain only those age restrictions
796 necessary in order to be designated as housing for older persons.
- 797 g) Nothing in this article:
- 798 1) Prohibits a person engaged in the business of furnishing appraisals of real
799 property from taking into consideration factors other than race, sex, color, religion,
800 national origin, disability, familial status, sexual orientation, age, marital status, or
801 gender identity or expression.
 - 802 2) Limits the applicability of any reasonable local government restrictions regarding the
803 maximum number of occupants permitted to occupy a dwelling.
 - 804 3) Requires that a dwelling be made available to an individual whose tenancy would
805 constitute a direct threat to the health or safety of other individuals or whose
806 tenancy would result in substantial physical damage to the property of others.
 - 807 4) Prohibits conduct against a person because such person has been convicted by any
808 court of competent jurisdiction of the illegal manufacture or distribution of a
809 controlled substance as defined by Florida Statutes, Chapter 893.

810 h) An individual who engages in conduct with a reasonable good faith reliance on the
811 existence of the exemption of this article relating to housing for older persons is not
812 personally liable for money damages for a violation of this article. For the purposes of
813 this paragraph (h), a person engaged in the business or residential real estate transactions
814 is presumed to have such a good faith reliance if that person has no actual knowledge
815 that the housing facility is not or will not be eligible for the housing for older persons
816 exemption and the housing facility gives such a person a written certification stating the
817 compliance of the facility with the requirements for the housing for older persons.

818 **Section 15-63 Limitations and Exceptions – Public Accommodations.**

819 The prohibitions set forth in section 15-57 shall not be applied to:

- 820 1) Limit of the use of a restroom to persons of one (1) sex;
- 821 2) A religious organization, association or society or any nonprofit institution or organization
822 operating, supervised or controlled by or in conjunction with a religious organization,
823 association or society from limiting facilities and accommodations, which it owns or
824 operates, for other than a commercial purpose, to persons of the same religion or from
825 giving preference to such persons; and,
- 826 3) Any institution or place of accommodation that is in its nature distinctly private.

827 **Section 15-64 Limitations and Exceptions – Physical Disability.**

828 Nothing in this article requires any person renting or selling a dwelling constructed for
829 first occupancy before March 13, 1991, to modify, alter or adjust the dwelling in order to
830 provide physical accessibility except as otherwise required by law and as provided in this article.

831 **Section 15-65 Applicability.**

832 It is hereby provided that this Ordinance shall constitute a uniform law applicable in all
833 the unincorporated and incorporated areas of Palm Beach County, Florida, to the extent permitted
834 under the Florida Constitution, Article VIII, Section I.

835 **Section 15-66 Repeal of Laws in Conflict.**

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

838 **Section 15-67 Savings Clause.**

839 All complaints, investigations, orders, hearing processes, and all other functions of the
840 OEO and Board, initiated or completed pursuant to Ordinance 90-1, as amended by 07-042, shall

841 remain in full force and effect.

842 **Section 15-68 Severability.**

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

847 **Section 15-69 Inclusion in the Code of Laws and Ordinances.**

848 The provisions of this Ordinance shall become and be made a part of the Code of Laws
849 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
850 or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “article,”
851 or any other appropriate word.

852 **Section 15-70 Captions.**

853 The captions, section headings, and section designations used in this Ordinance are for
854 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

855 **Section 15-71 Short Title.**

856 The Ordinance shall be known and cited as the Palm Beach County Housing and Places of
857 Public Accommodation Ordinance.

858 **Section 15-72 Effective Date:** The provisions of this ordinance shall become effective upon
859 filing with the Department of State.

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

872 **CLERK AND COMPTROLLER** **PALM BEACH COUNTY, FLORIDA, BY ITS**
873 **BOARD OF COUNTY COMMISSIONERS**

874 **By:** _____
875 **Sharon R. Bock**

By: _____
Mack Bernard, Mayor

876
877

878 **APPROVED AS TO FORM AND**
879 **LEGAL SUFFICIENCY**

880 **By:** _____
881 **County Attorney**

882 **EFFECTIVE DATE: Filed with the Department of State on the ____ day of**
883 **_____, 20____.**

884 G:\WPDATA\ENVIR\Dottey\OEO\Fair Housing\Ordinance Revision\8. Ord 2019 (02.12.19 Tracking).Docx

ORDINANCE NO. ~~2019-~~

Deleted: 2015-035

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER 15 ARTICLE III, CODIFYING ORDINANCE NO. 2015-035, THE PALM BEACH COUNTY HOUSING AND PLACES OF PUBLIC ACCOMMODATION ORDINANCE; AMENDING THE DEFINITION OF SEXUAL ORIENTATION; AMENDING THE DEFINITION OF PLACE OF PUBLIC ACCOMMODATION; AMENDING THE DEFINITION OF AN AGGRIEVED PERSON; AMENDING THE OBJECTIVES OF THE FAIR HOUSING AND PUBLIC ACCOMMODATION BOARD; AMENDING THE ADMINISTRATIVE REMEDIES AND OTHER RELIEF, PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

Deleted: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER 15 ARTICLE III, CODIFYING ORDINANCE NO. 2014-019, THE PALM BEACH COUNTY ORDINANCE FOR EQUAL OPPORTUNITY TO HOUSING AND PLACES OF PUBLIC ACCOMMODATION; AMENDING THE DEFINITION OF PLACE OF PUBLIC ACCOMMODATIONS PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.¶

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

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

WHEREAS, it is the public policy of the United States of America to provide for fair housing and access to public accommodations throughout the United States and the policy of Palm Beach County, Florida, to also so provide; and

WHEREAS, discrimination in housing and in places of public accommodation deprives individuals of their basic right to associate, causes friction among groups in society, and adversely affects the public health, safety, and welfare; and

WHEREAS, since the Board of County Commissioners originally enacted the Housing and Places of Public Accommodation Ordinance No. 90-1, it has been necessary to amend it from time to time in order to best serve the citizens and visitors of Palm Beach County and provide for their general safety and welfare; and

WHEREAS, a Fair Housing Board was established in 1990, to assist, advise and cooperate with the Board of County Commissioners and local, state and federal agencies to protect the interest of the public regarding fair treatment and equal opportunity and access in housing and public accommodation, and to carry out adjudicatory functions pertaining to alleged unlawful discriminatory acts or practices; and

56 WHEREAS, Palm Beach County awards grants to non-profit organizations for projects designed to
57 improve accessibility and equal opportunity to persons with disabilities in the County and/or to conduct
58 public awareness programs in the County concerning persons with disabilities; and

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59 WHEREAS, it is necessary to amend the Ordinance to include additional definitions, re-
60 state time limits for filing complaints and modify the provision regarding the filing of a civil action.

61 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
62 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT: Chapter 15, Article
63 III, of the Palm Beach County Code, "Housing, Places of Public Accommodation," (Ordinance No.
64 2015-035, as amended), is hereby amended as follows:

Deleted: 2014-019

65 Section 15-37 Definitions.

66 When used herein:

- 67 1) *Person* includes one (1) or more individuals, partnerships, associations, corporations,
68 unincorporated organizations, legal representatives, trustees and trusts, trustees in
69 bankruptcy, labor organizations, mutual companies, joint-stock companies, receivers, or
70 fiduciaries.
- 71 2) The term *unlawful discriminatory practice* includes only those practices specified in
72 sections 15-57 through 15-61 hereof.
- 73 3) The term *Board*, unless a different meaning clearly appears from the context, means
74 the Fair Housing Board, created by section 15-39.
- 75 4) Place of public accommodation shall include the following establishments:
 - 76 a. Any inn, hotel, motel or other establishment which provides lodging to transient guests,
77 other than an establishment located within a building which contains not more than
78 five (5) rooms for rent or hire and which is actually occupied by the proprietor of such
79 establishment as his/her residence;
 - 80 b. Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, or other
81 facility principally engaged in selling food for consumption on the premises,
82 including but not limited to any such facility located on the premises of any retail
83 establishment;
 - 84 c. Any motion picture house, theater, concert hall, sports arena, stadium or other place of
85 exhibition or entertainment;
 - 86 d. An auditorium, convention center, lecture hall or other place of public gathering;

- 88 e. A bakery, grocery store, clothing store, hardware store, shopping center, or other sales
89 or retail establishment;
- 90 f. A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair
91 service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy,
92 insurance office, health care provider, hospital or other service establishment;
- 93 g. A terminal, depot or other station used for a specified public transportation including
94 but not limited to taxis, limousines and buses;
- 95 h. A museum, library, gallery or other place of public display or collection;
- 96 i. A park, zoo, amusement park or other place of recreation;
- 97 j. A nursery, elementary, secondary, undergraduate or postgraduate private school, or
98 other place of education;
- 99 k. A day care center, senior citizen center, homeless shelter, food bank, adoption agency
100 or other social service center establishment;
- 101 l. A gymnasium, health spa, bowling alley, golf course, or other place of exercise or
102 recreation;
- 103 m. Any area or structure provided for the purpose of storing personal property; and,
- 104 n. Any establishment:
- 105 i) 1. Which is physically located within the premises of any establishment otherwise
106 covered by this subsection; or
- 107 2. Within the premises of which is physically located any such covered
108 establishment; and
- 109 ii) Which holds itself out as serving patrons of such covered establishment. Such term
110 shall not include any institution, club or place of accommodation which is in its
111 nature distinctly private and not in fact open to the public.
- 112 5) *Dwelling or housing* means any real property, building, mobile home or trailer,
113 structure or portion thereof which is used or occupied as, or is intended, arranged or
114 designed to be used or occupied as, the home, residence or sleeping place of one (1) or
115 more families, and any vacant land which is offered for sale or lease for the
116 construction or location thereon of any such building, structure or portion thereof.
- 117 6) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the

118 right to occupy premises not owned by the occupant.

119 7) The term *family* includes the grandparents, parents, children, brothers and sisters,
120 whether by marriage, legal adoption or blood, and their spouses and children, of
121 either the property owner or spouse of the property owner; and the term "family" also
122 includes a single individual.

123 8) The term *complainant* shall mean the person filing the complaint pursuant to this article.

124 9) The term *respondent* shall mean the person or other entity accused in the complaint of an
125 unlawful discriminatory practice and any other person or entity identified in the course
126 of investigation not named as a respondent in the initial complaint who may be joined
127 as an additional or substitute respondent upon written notice.

128 10) *Disability* means with respect to a person:

129 a. A physical or mental impairment which substantially limits one (1) or more of such
130 person's major life activities.

131 b. A record of such an impairment; or

132 c. Being regarded as having such an impairment.

133 d. Disability does not include the current illegal use or addiction to a controlled
134 substance (as defined in Section 102 of the Controlled Substance Act (21U.S.C.802).

135 e. As used throughout this article, prohibitions against discrimination on the basis of
136 disability includes disabilities of the patron, buyer or renter, or of a person residing
137 in or intending to reside in that dwelling after it is sold, rented, or made
138 available or of any person associated with the buyer, or renter or patron.

139 11) *Familial status* means one (1) or more individuals (who have not attained the age of
140 eighteen (18) years being domiciled with:

141 a. A parent or another person having legal custody of such individual or individuals; or

142 b. The designee of such parent or other person having such custody, with the written
143 permission of such parent or other person. The protection afforded against
144 discrimination on the basis of familial status shall apply to any person who is pregnant
145 or is in the process of securing legal custody of any individual who has not attained the
146 age of eighteen (18) years.

147 12) *Sexual orientation* means ~~heterosexuality, homosexuality, bisexuality or asexuality,~~

Deleted: male or female homosexuality, heterosexuality or
bisexuality, by preference or practice

150 whether actual or perceived.

151 13) *Conciliation* means the attempted resolution of issues raised by the complaint, or by the
152 investigation of such complaint, through informal negotiations involving the complainant,
153 the respondent, and the Office of Equal Opportunity.

154 14) *Conciliation agreement* means a written agreement setting forth the resolution of the
155 issues in conciliation.

156 15) *Prevailing party* has the same meaning as such term has in section 722 of the Revised
157 Statutes of the United States (42 U.S.C. 1988).

158 16) *Multifamily dwelling* means:

- 159 a. Buildings consisting of four (4) or more units if such buildings have one (1) or more
160 elevators; and
- 161 b. Ground floor units in other buildings consisting of four (4) or more units.

162 17) *Residential real estate related transaction* means any of the following:

- 163 a. The making or purchasing of loans or providing other financial assistance:
 - 164 i) for purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - 165 ii) secured by residential real estate.
- 166 b. The selling, brokering or appraising of residential real property.
- 167 c. Nothing in this article prohibits a person engaged in the business of furnishing
168 appraisals of real property to take into consideration factors other than race, sex,
169 color, religion, national origin, disability, familial status, sexual orientation, age,
170 marital status, or gender identity or expression.

171 18) *Housing for older persons* means housing:

- 172 a. Provided under any state or federal program that the OEO or the Board
173 determines is specifically designed and operated to assist elderly persons, as defined
174 in the state or federal program; or
- 175 b. Intended for, and solely occupied by, persons sixty-two (62) years of age or older;
176 or
- 177 c. Intended and operated for occupancy by at least one (1) person fifty-five (55) years
178 of age or older per unit in eighty (80) percent of the units, provided that the
179 occupancy of such housing can be verified in accordance with rules established

180 by the U. S. Department of Housing and Urban Development and provided that the
181 housing facility publishes and adheres to policies and procedures that demonstrate the
182 intent to provide housing for older persons.

183 d. Housing shall not fail to be considered housing for older persons if:

184 i) A person who resides in such housing on or after September 13, 1988, does
185 not meet the age requirements of this subsection provided that any new occupant
186 meets such age requirements; or

187 ii) One (1) or more units are unoccupied, provided that any unoccupied units are
188 reserved for occupancy by persons who meet the age requirements of this
189 subsection.

190 iii) In determining whether housing meets the requirements of housing for older
191 persons, the County will utilize current federal regulations regarding criteria for
192 housing for older persons.

193 19) *Gender identity or expression* means a gender-related identity, appearance, expression or
194 behavior of an individual, regardless of the individual's assigned sex at birth.

195 20) *OEO* means the Palm Beach County Office of Equal Opportunity.

196 21) *Director* means the director of the OEO.

197 22) *Aggrieved person* includes any person who:

198 a. Claims to have been injured by a discriminatory practice in housing or a place of
199 public accommodation; or

200 b. Believes that such person will be injured by a discriminatory practice in housing or a
201 place of public accommodation that is about to occur.

202 23) *Marital status* includes any person who is married, not-married, divorced, having a
203 marriage dissolved or annulled, separated, widowed, or have any other marital status.

204 **Section 15-38 Office of Equal Opportunity (OEO).**

205 The County Administrator exercising his/her power of appointment shall employ a Director
206 ("Director") of the OEO and such other personnel in the OEO as may be provided for in
207 the budget approved by the Board of County Commissioners and for which an appropriation
208 has been made. The staffing complement shall be referred to as the OEO. It shall be the
209 responsibility of the Director and/or the Director's designee to investigate complaints of

210 discrimination prohibited by this article, attempt to conciliate and mediate complaints of
211 discrimination, and to perform such other duties of an administrative nature as may be assigned by
212 the County Administrator.

213 **Section 15-39 Fair Housing and Places of Public Accommodation Board (Board).**

214 The Board is hereby created and established. The Board is to be comprised of nine (9) citizens of
215 the county appointed by the Board of County Commissioners to serve for terms of three (3) years.
216 There shall be a limit of three consecutive three-year terms. Terms shall begin on October 1st, and end
217 on September 30th. All Board members must be residents of Palm Beach County at the time of
218 appointment and while serving on the Board. Board appointments should reflect, to the greatest extent
219 possible, the racial, gender, disabilities and ethnic make-up of the community. Members of this Board
220 shall be the same as members of the Equal Employment Board created by the Palm Beach County
221 Equal Employment Ordinance as codified in Sections 2-261 – 2-313 of the Palm Beach County Code.
222 Seven (7) of the appointments shall be made as district appointments and two (2) of the appointments shall
223 be made at large by the Board of County Commissioners on the basis of community representation,
224 integrity, experience and interest in the area of equal opportunities. In order that the terms of office
225 of all members shall not expire at the same time, all current members of the Board shall serve the
226 remainder of their respective terms, if they so elect. Any member who elects not to serve the remainder
227 of their term shall be replaced by appointments made by the Board of County Commissioners to serve the
228 unexpired portion of the term. Vacancies shall be filled in the same manner as the original appointments
229 for the remainder of the vacant term. Each member shall serve without compensation. Travel
230 reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to
231 fulfill Board member responsibilities when sufficient funds have been budgeted and are available as set
232 forth in PPM CW-O-038. No other expenses are reimbursable except documented long distance phone
233 calls to the OEO. Approval authority for pre-authorized Board member travel is designated to the
234 County Administrator and Deputy County Administrator and shall be in accordance with Countywide Policy
235 and Procedures Memoranda (PPM) CW-F-009. Each district appointee serves at the pleasure of the
236 appointing Commissioner and may be removed without cause by the appointing Commissioner at any time,
237 and at large appointees may be removed without cause by a majority vote of the Board of County
238 Commissioners at any time. The maximum number of boards that an individual appointed by the Board
239 of County Commissioners may serve on at one time shall be three (3), however, membership on
240 the Equal Employment Board and this Board shall only be considered membership on one (1) advisory
241 board. Members shall comply with the applicable provisions of the Palm Beach County Code of

242 Ethics, as codified in Section 2-441 through 2-448 of the Palm Beach County Code and the State Code
243 of Ethics. Abstention from voting due to a conflict of interest on more than three (3) separate matters
244 during a calendar year shall result in automatic removal. Members shall be automatically removed for lack
245 of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or
246 failure to attend more than one-half (½) of the meetings scheduled during a calendar year. Participation
247 for less than three fourths (¾) of a meeting shall be the same as failure to attend a meeting. Members
248 removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall
249 create a vacancy. Board members shall not be prohibited from qualifying as a candidate for elected
250 office. County employees, other than Commissioners' Aides, may not be appointed to the Board.
251 Former Board of County Commission members may not be appointed to the Board for at least two (2)
252 years following their last day in office as a County Commissioner. Members of the Board shall appoint
253 a chairperson and vice-chairperson, and the Board may promulgate rules and regulations for the conduct
254 of its meetings and affairs.

255 **Section 15-40 Board Terms, Rules and Regulations.**

256 The following rules and regulations shall govern the operation of the Board:

- 257 1) The chairperson of the Board shall be elected by majority vote of the Board and shall
258 serve for a term of one (1) year and have the following duties:
- 259 a. Call Board meetings and set the agenda for the same.
 - 260 b. Preside at Board meetings.
 - 261 c. Sign subpoenas.
 - 262 d. Perform such other functions as the Board may assign by rule or order.
- 263 2) The vice-chairperson shall be elected by majority vote of the Board and shall serve for a
264 term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in
265 the chairperson's absence and such other duties as the chairperson may assign.
- 266 3) If a vacancy occurs in the office of chairperson, the vice-chairperson shall become the
267 chairperson for the unexpired term of the chairperson. If a vacancy occurs in the office of
268 vice-chairperson, the Board will elect another member to fill the unexpired term of the
269 vice-chairperson.
- 270 4) At least three (3) members of the Board or any other odd number shall constitute a
271 hearing panel for the purpose of hearing discrimination complaints. A majority of

272 members appointed shall constitute a quorum to hold a meeting for any other purpose.

273 Board business shall be taken by a majority vote.

274 5) All meetings shall be governed by Robert's Rules of Order.

275 **Section 15-41 Board Meetings.**

276 The Board shall comply with the Sunshine Law. The Board shall meet on a regular basis
277 and as necessary to conduct administrative hearings. Reasonable notice of the time and place of
278 the meeting shall be given to all Board members and all parties scheduled to be heard, and shall
279 be made public. All meetings of the Board shall be open to the public. The chairperson may
280 call an unscheduled meeting upon not less than twenty-four (24) hours notice, and preferably
281 at least seventy-two (72) hours reasonable notice to the public, and meetings may also be
282 called by the Director upon the request of three (3) members of the Board. The County
283 Administrator shall provide such staff as may reasonably be required in his/her discretion to assist
284 the Board in the performance of its duties. The County Administrator shall provide a regular
285 meeting place for the Board.

286 **Section 15-42 Objectives of the Board.**

287 The objectives of the Board shall be:

- 288 1) To promote and encourage fair treatment and equal opportunity in housing and public
289 accommodation for all persons regardless of race, sex, color, religion, national origin,
290 disability, familial status, sexual orientation, age, marital status, or gender identity or
291 expression; to promote and encourage mutual understanding and respect among such
292 persons and to endeavor to eliminate discrimination in housing and public
293 accommodation against and antagonism between such persons;
- 294 2) To cooperate with governmental and nongovernmental agencies and organizations having
295 like or kindred functions;
- 296 3) To make such investigations and studies in the field of fair housing and public
297 accommodation as in its judgment will aid in effectuating its general purposes;
- 298 4) To assist various groups and agencies of the community to cooperate in educational
299 programs and campaigns devoted to the elimination of discrimination in housing and places
300 of public accommodation;
- 301 5) To aid in permitting the County to benefit from the fullest realization of its housing
302 and public accommodation resources;

303 6) To recommend to the Board of County Commissioners the acceptance of certain grants
304 and contracts from foundations and other sources for the purposes of carrying out the
305 purposes of this article;

306 ~~7) To review proposals and make recommendations on the award of grant funds; and~~

307 8) To recommend to the Board of County Commissioners methods for elimination of
308 discrimination and intergroup tensions. The objectives set forth above are not to be
309 construed as duties, and the Board of County Commissioners shall have the discretion to
310 determine when each objective is implemented.

Deleted: <#>To recommend to the Board of County Commissioners methods for elimination of discrimination and intergroup tensions. The objectives set forth above are not to be construed as duties, and the Board of County Commissioners shall have the discretion to determine when each objective is implemented.¶

311 **Section 15-43 Powers and Duties of the Board.**

312 The powers and duties of the Board shall be:

- 313 1) To refer or accept referral of complaints when appropriate and to cause, through the
314 OEO, investigations of:
- 315 a. Tension or prejudice in relation to all housing and public accommodation matters
316 involving race, sex, color, religion, national origin, disability, familial status, sexual
317 orientation, age, marital status, or gender identity or expression.
 - 318 b. Discrimination against any person by any person with regard to housing and public
319 accommodation matters on the basis of race, sex, color, religion, national origin,
320 disability, familial status, sexual orientation, age, marital status, or gender identity or
321 expression.
- 322 2) To receive, initiate, seek to conciliate, hold hearings upon and adjudicate complaints
323 alleging violations of this article; to recommend methods and alternatives for eliminating
324 injustices occasioned thereby to carry out and enforce the purpose of this article.
- 325 3) To administer oaths, subpoena witnesses, and compel production of evidence pertaining to
326 any hearing convened pursuant to the powers and duties authorized by this article.
- 327 4) To subpoena witnesses and compel production of evidence requested by the OEO relating
328 to an investigation being conducted pursuant to this article.
- 329 5) To meet and exercise its power in any place within the county.
- 330 6) To issue remedial orders prohibiting violations of this article and providing affirmative
331 relief from the effects of the violation as specified in section 15-55.
- 332

339 **Section 15-44 Powers and Duties of the Director.**

340 The powers and duties of the Director and/or the Director's designee shall be:

- 341 1) To investigate:
- 342 a. Tension or prejudice in relation to all housing and public accommodation matters
343 involving race, sex, color, religion, national origin, disability, familial status, sexual
344 orientation, age, marital status, or gender identity or expression.
- 345 b. Discrimination against any person by any person with regard to housing and public
346 accommodation matters on the basis of race, sex, color, religion, national origin,
347 disability, familial status, sexual orientation, age, marital status, or gender identity or
348 expression.
- 349 2) To have access during an investigation, at all reasonable times, to premises, and may
350 examine records, documents, and other evidence or possible sources of evidence, and
351 record the testimony or statements of such persons as are reasonably necessary for the
352 furtherance of the investigation provided that the Director and/or the Director's designee
353 complies with the provisions of the federal and state constitutions relating to unreasonable
354 searches and seizures.
- 355 3) To attempt to conciliate and mediate complaints of discrimination brought pursuant to
356 this article.
- 357 4) To prepare conciliation agreements embodying any agreement reached by the parties
358 relating to the complaint, and advise the Board of such agreement.
- 359 5) To dismiss complaints of discrimination upon a finding of no reasonable cause under
360 this article.
- 361 6) To administer oaths.
- 362 7) To exercise all powers reasonable and necessary to fulfill the purposes of this article.

363 **Section 15-45 Filing of Complaints.**

364 Any person who claims to have been injured by an unlawful discriminatory practice or who
365 believes that he/she will be injured by an unlawful discriminatory practice that is about to occur
366 may file a sworn written complaint with the OEO, which shall state the name and address of the
367 complainant and the person or persons against whom the complaint is made. It shall also
368 state the facts surrounding the alleged unlawful discriminatory practice and such other
369 information as may be required by the OEO. The Director, with the Board's approval, may

370 also file such a complaint. The complaint shall be filed not later than one (1) year after the date
371 of the alleged unlawful discriminatory practice in order to be processed under this article. The
372 complaint may be reasonably and fairly amended at any time.

373 **Section 15-46 Notice of Complaint.**

374 Upon the filing of the complaint, the Director shall serve notice upon the aggrieved person
375 acknowledging such filing and advising the aggrieved person of the time limits and choice of
376 forums provided under this article. The Director or the Director's designee shall, not later than ten
377 (10) days after such filing or the identification of an additional respondent, serve on the
378 respondent a notice, by certified mail, identifying the alleged discriminatory housing practice and
379 advising such respondent of the procedural rights and obligations of respondents under this
380 article, together with a copy of the original complaint. The respondent may file a sworn written
381 answer to the complaint within ten (10) days of receipt of the complaint. Failure to file an answer
382 by the respondent shall not result in any presumption of admission to the allegations in the
383 complaint. Any subsequent amendment to the complaint or answer thereto shall be served by
384 U.S. mail.

385 **Section 15-47 Processing Complaints.**

386 The OEO shall commence its investigation under this article within thirty (30) days
387 of the receipt of a sworn written complaint. Within one hundred (100) days of the filing of the
388 complaint as set forth in section 15-45, the staff of the OEO shall make such investigation as the
389 Director deems appropriate to ascertain facts and issues. If the OEO is unable to complete
390 the investigation within one hundred (100) days after the filing of the complaint, they shall
391 notify the complainant and the respondent in writing of the reasons for not doing so. In conducting
392 an investigation to ascertain whether or not there has been a violation of this article, the Director
393 and/or the Director's designee shall have access at all reasonable times to premises, and may
394 examine records, documents, and other evidence, or possible sources of evidence, and may
395 record the testimony or statements of such persons as are reasonably necessary for the furtherance
396 of the investigation provided that the OEO complies with the provisions of the federal and state
397 constitutions relating to unreasonable searches and seizures. The Director, the Director's designee
398 or the Board may issue subpoenas to compel access to, or the production of, such materials, or
399 the appearance of such persons, and may issue interrogatories to a respondent to the same
400 extent and subject to the same limitations as would apply if the subpoenas or interrogatories
401 were issued or served in aid of a civil action in court. In the case of a refusal to obey a subpoena

402 issued to any person, or refusal to comply with any method of discovery authorized in the
403 Florida Rules of Civil Procedure, the Board and/or the Director shall request the County Attorney
404 to make application to the appropriate court to order the witness to comply with a request for
405 discovery, or to appear before the Board and to produce evidence, if so requested, or to give
406 testimony concerning the matter in question. Failure to obey the order may be punishable by the
407 court as contempt. The Director and/or the Board may administer oaths. The OEO shall endeavor
408 to achieve final administrative disposition of the complaint within one (1) year of its filing, unless
409 it is impracticable to do so. If final administrative disposition is impractical to achieve within
410 one year of the filing of the complaint, the parties shall be provided notice which shall state
411 the reasons why it is impractical to achieve final disposition within one year.

412 **Section 15-48 Withdrawal of Complaint.**

413 A complaint filed pursuant to this article may be withdrawn at any time by the
414 complaining party upon notifying the OEO; however, the Director may continue action against
415 the respondent if the facts establish reasonable cause to support a finding of discrimination and
416 the Board approves such further action.

417 **Section 15-49 Preservation of Records.**

418 Following service of the complaint in the manner provided herein, the respondent shall
419 preserve all personnel records, property records, or any other written or documentary material
420 relating to the complaint until the complaint has been resolved.

421 **Section 15-50 Dismissal of Complaint.**

422 Any complaint filed pursuant to this article shall be dismissed by the Director or the
423 Board upon the following grounds:

- 424 1) The complainant has failed or refused to cooperate or the complainant cannot be located
425 after reasonable efforts to do so have been made and after at least ten (10) days' notice to
426 the complainant by certified mail to the complainant's last known address and the
427 complainant has failed to duly respond;
- 428 2) The complaint has not been timely filed with the OEO.
- 429 3) The Director determines that no reasonable cause exists to believe that a
430 discriminatory practice has occurred or is about to occur.

431 **Section 15-51 Investigation Procedure.**

432 After the complaint has been filed, the OEO shall conduct an investigation. The OEO

433 may utilize the services and information gathered from other public agencies charged with
434 the administration of equal opportunity laws. The following procedures shall be followed:

435 1) *Complaint verification.* As part of the investigation process, the complaining party may
436 be required to provide an additional sworn written statement, which shall include:

- 437 a. A statement of each particular harm or potential harm which the aggrieved person
438 has suffered or will suffer and the date on which each harm occurred or will occur;
- 439 b. For each harm, a statement specifying the act, policy or practice which is alleged to
440 be unlawful;
- 441 c. For each act, policy or practice alleged to have harmed the aggrieved person, a
442 statement of the facts which lead the complainant to believe that the act, policy or
443 practice is discriminatory.

444 2) *Requests for information.* In investigating the complaint, the OEO may obtain
445 information by:

- 446 a. Oral interview and/or
- 447 b. Requests for written statement or affidavit and/or
- 448 c. Any discovery methods set forth in the Florida Rules of Civil Procedure.

449 3) *Complainant's duty to cooperate.* The complainant shall appear or be available for
450 interviews and provide necessary information requested by the OEO pursuant to this
451 section. Failure to do so may result in dismissal of the complaint.

452 4) *Access to files during investigation.* Information obtained during the investigation of
453 the complaint shall be disclosed only to the complainant, the respondent, or their
454 authorized representative, or to witnesses, only when disclosure is deemed necessary
455 by the Director for the investigation or for securing appropriate disposition of the
456 complaint. The Director may direct that a particular record, document or portion thereof
457 be withheld from inspection by a party only when necessary for the protection of a
458 witness or third party, or for the preservation of a trade secret and in accordance with the
459 provisions of the Florida Public Records Law [F.S. § 119.01 et seq.].

460 **Section 15-52 Determination of Reasonable Cause: Notice.**

461 a) Upon completion of an investigation, if the issue(s) alleged in the complaint has not been
462 settled or withdrawn, the Director shall make a determination based on the facts whether
463 reasonable cause exists to believe that an unlawful discriminatory practice has occurred

464 or is about to occur.

465 b) If a notice of determination of reasonable cause is issued, the notice shall include an
466 invitation to participate in conciliation.

467 c) After service of a notice of determination, records and documents in the custody of the
468 OEO that pertain to the determination shall be open for public inspection in accordance
469 with the provisions of the Florida Public Records Law [F.S. § 119.01, et seq.].

470 **Section 15-53 Finding of Reasonable Cause: Conciliation Procedure.**

471 a) During the period beginning with the filing of the complaint and ending with the final
472 disposition, the OEO shall, to the extent feasible, engage in conciliation with respect to
473 such complaint. Where such conciliation attempts are successful, the agreement shall be
474 between the complainant, aggrieved person(s) and the respondent subject to approval by
475 the Director. The terms of the agreement shall be reduced to writing and signed by the
476 complainant, aggrieved person(s), the respondent and the Director. The original of the
477 signed agreement shall be filed with the OEO, and copies shall be sent to the respondent,
478 complainant, aggrieved person(s) and the Board.

479 b) When an agreement has not been signed, and the complaint has not been withdrawn or
480 dismissed, the Director shall send a notice of failure of conciliation to the complainant and
481 the respondent not less than thirty (30) days after issuance of a notice of determination of
482 reasonable cause.

483 c) Nothing said or done in the course of the conciliation process may be made public or
484 used as evidence in subsequent proceedings under sections 15-54 through 15-56 without
485 the written consent of the parties. Any employee of the OEO who makes public any such
486 information in violation of this provision shall be prosecuted in the same manner as a
487 misdemeanor of the second degree, punishable as provided in Florida Statutes Chapter
488 775. Final executed and approved conciliation agreements will be made public.

489 **Section 15-54 Enforcement.**

490 a) In any proceeding brought pursuant to this article, the burden of proof is on the
491 complainant.

492 b) A complainant may commence a civil action under this article whether or not the
493 complaint has been filed and without regard to the status of any such complaint.
494 However, if the OEO has obtained an agreement with the consent of a complainant, no

495 action may be filed under this article by such complainant with respect to the alleged
496 discriminatory housing practice which forms the basis for such complaint except for the
497 purpose of enforcing the terms of such an agreement.

498 c) Whenever an action filed in either federal or state court pursuant to this article, or any
499 federal or state laws protecting the same rights stated herein comes to trial, the OEO
500 and the Board shall immediately terminate all efforts to obtain voluntary compliance.

501 d) If the Board of County Commissioners concludes at any time following the filing of a
502 housing complaint that prompt judicial action is necessary to carry out the purposes of
503 this article, the Board of County Commissioners shall direct the County Attorney to
504 institute a civil action for appropriate temporary or preliminary relief pending final
505 disposition of the complaint under this article. The commencement of a civil action under
506 this subsection shall not affect the initiation or continuation of proceedings under this
507 article. The Board of County Commissioners need not have petitioned for administrative
508 hearing or exhausted the administrative remedies prior to requesting the commencement of
509 a civil action.

510 e) The court may award actual and punitive damages and may impose the following civil
511 penalties for each violation of this article:

512 1) Up to ten thousand dollars (\$10,000.00), if the respondent has not been adjudged to
513 have committed any prior discriminatory housing practice;

514 2) Up to twenty-five thousand dollars (\$25,000.00), if the respondent has been
515 adjudged by order of the Board or a court to have committed one (1) prior
516 discriminatory housing practice within the preceding five-year period ending on the
517 date of the filing of this complaint.

518 3) Up to fifty thousand dollars (\$50,000.00), if the respondent has been adjudged by order
519 of the Board or a court to have committed two (2) or more discriminatory housing
520 practices within the preceding seven-year period ending on the date of the filing of this
521 complaint; except that if the acts constituting the discriminatory housing practice that
522 is the object of the charge are committed by the same natural person who has been
523 previously adjudged to have committed acts constituting a discriminatory housing
524 practice, then the civil penalties set forth in subparagraphs (2) and (3) may be imposed
525 without regard to the period of time within which any subsequent discriminatory

526 housing practice occurred.

527 f) In imposing a fine under subsection (e), the court shall consider the nature and
528 circumstances of the violation, the degree of culpability, the history of prior violations of
529 this article, the financial circumstances of the respondent, and the goal of deterring future
530 violations of this article.

531 g) In addition to the above-stated fines, the court shall award reasonable attorney's fees
532 and costs to the County in any action in which the County prevails under this article.

533 h) The court may also grant injunctive and/or other appropriate equitable relief.

534 **Section 15-55 Administrative Remedies and Other Relief.**

535 a) A complainant, a respondent, or an aggrieved person on whose behalf a fair housing
536 complaint was filed under this article may elect to have the claims asserted in that
537 complaint decided in a civil action as provided by Section 15-56 of this article, in lieu
538 of a hearing provided by this section.

539 b) The election under this section must be made not later than the 20th day after the date of
540 issuance by the electing person of the notice of failure of conciliation, or in the case of the
541 Director, not later than the 20th day after such service. The electing person shall give notice
542 to the Director and to all other complainants and respondents to whom the complaint relates.

543 c) The complainant may request an administrative proceeding before the Board within thirty
544 (30) days after the date of issuance of the notice of failure of conciliation. Additionally,
545 if the Director is unable to obtain voluntary compliance with this article or has reasonable
546 cause to believe that a discriminatory practice has occurred, the Director may institute
547 an administrative proceeding before the Board on any Director-initiated complaint.

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548 d) In conducting an administrative hearing to ascertain whether or not there has been a
549 violation of this article, the Board shall have the power to administer oaths, issue
550 subpoenas, compel the production of books, papers and other documents, and receive
551 evidence. The Board shall conduct the administrative hearing in accordance with the
552 procedure provided in section 120.57, Florida Statutes, as amended.

553 e) All recommended orders prepared by the Board as a result of such hearing or hearings
554 shall conform to the requirements for such orders as set out in section 120.57, Florida
555 Statutes, as amended.

556 f) The Board shall submit a copy of the order on each party to the administrative

560 proceedings. The recommended order shall be considered as the final order of the Board
561 as provided by section 120.57, Florida Statutes, as amended.

562 g) Any party to such administrative proceedings shall have the right to appeal the
563 administrative order described herein by filing notice of appeal pursuant to Florida
564 Appellate Rule 9.110(a)(2) within thirty (30) days of the issuance of such order by the
565 Board. Any party shall have the right to bring an action in the appropriate court to ensure
566 compliance with this order.

567 h) In case of refusal to obey a subpoena issued by the Board, the County or the person at
568 whose request it was issued may, in addition to any other remedies made available,
569 petition for its enforcement in the appropriate court.

570 i) Should any party fail or refuse to comply with the final order issued or breach a
571 conciliation agreement as provided herein, then following the expiration of the appeal
572 time provided herein, the Board shall forward such order or conciliation agreement to
573 the Board of County Commissioners with a request that the Board of County
574 Commissioners authorize the County Attorney to bring such action or actions as necessary
575 to obtain compliance with this article.

576 j) When any act is required or allowed to be done at or within a specified time by this
577 section, for cause shown, the Board, at any time in its discretion, and upon the written
578 request of a party, may order the period enlarged unless otherwise prohibited by law.

579 k) All written motions upon which a ruling is requested shall be filed at least ten (10) days
580 prior to the hearing date established by the Board. Such motions shall be considered
581 and ruled upon by the Board prior to the start of the hearing.

582 l) All motions and orders thereon shall be made a part of the record of such administrative
583 proceedings.

584 m) No appeal may be made from rulings on such motions until a final order has been issued.

585 n) If there are separately filed cases before the Board which involve similar issues of law
586 and fact and identity of parties, then such cases may be consolidated by the Director for
587 hearing before the Board.

588 o) Discovery shall be permitted and shall proceed in the manner provided by the Florida
589 Rules of Civil Procedure.

590 p) The Board may order a prehearing conference prior to any administrative hearing. Prior

591 to such conference the Board may direct that the parties submit a preconference statement
592 addressing the issues of law and fact that will be involved in such hearing, identifying the
593 witnesses that will testify, providing a list of all documents or other exhibits that will
594 be submitted, and providing such other information as requested by the Board.

595 q) The Director shall set the time and place of any administrative hearing. The Director shall
596 send notice by certified mail of such hearing to the parties no later than fourteen (14)
597 calendar days prior to the final hearing. Such notice requirement may be waived with the
598 written consent of all parties. The notice shall also contain:

599 1) A statement of the nature of the hearing;

600 2) A statement of the legal authority and jurisdiction under which the hearing is to be
601 held;

602 3) A reference to the statutes, ordinances and rules involved.

603 r) Requests for subpoenas in any administrative proceeding shall be filed with the OEO
604 and forwarded to the Board. Such request shall set forth the name and address of
605 the person whose attendance is requested and shall describe with particularity any
606 material to be produced. Such subpoenas shall be issued by the Board or the Director.
607 The requesting party shall be responsible for service of any subpoena.

608 s) Any subpoena shall be subject to a motion to quash or a motion for protective order before
609 the appropriate court.

610 t) The official transcript of a hearing shall be preserved by electronic recording or by a court
611 reporter.

612 u) Should a party elect to provide a court reporter for a hearing, that party shall be
613 responsible for entire payment of the reporter's fee.

614 v) If the Board finds that a discriminatory practice has occurred or is about to occur, it shall
615 issue an order prohibiting the practice and awarding affirmative relief from the effects of
616 the practice, including actual damages and reasonable attorney's fees and costs, and other
617 injunctive or equitable relief. To vindicate the public interest, the Board, may assess civil
618 penalties against the respondent, consistent with the provisions of section 15.54 of this
619 article. Funds recovered under this section shall be paid to the Board of County
620 Commissioners' general fund.

621 w) If a timely election is made under this section, the Director of OEO shall authorize, not

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624 later than the 30th day after the election is made, ~~that the action be filed~~ and maintained on
625 behalf of the aggrieved person in a court of competent jurisdiction seeking relief as
626 provided by state and/or federal law. However, if a timely civil action election is not made
627 under subsection (b), the fair housing complainant may request an administrative
628 proceeding.

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629 x) An aggrieved person may intervene in the civil action filed under this section.

630 **Section 15-56 Enforcement by Private Persons.**

631 a) A civil action shall be commenced no later than two (2) years after the occurrence or the
632 termination of an alleged discriminatory practice or the breach of a conciliation agreement
633 entered into under this article, whichever occurs last, to obtain appropriate relief with
634 respect to such discriminatory practice or breach. However, the court shall continue a
635 civil case brought pursuant to this article from time to time before bringing it to trial if
636 the court believes that the conciliation efforts of the OEO are likely to result in
637 satisfactory settlement of the discriminatory practice complained of in the complaint
638 made to the OEO and which practice forms the basis for the action in court.

639 b) The computation of such 2-year period shall not include any time during which the
640 investigation was pending with respect to the complaint under this article based upon
641 such discriminatory practice. This paragraph does not apply to actions arising from a
642 breach of a conciliation agreement.

643 c) Any sale, encumbrance or rental consummated prior to the issuance of any court order
644 issued under the authority of this article and involving a bona fide purchaser, encumbrance,
645 or tenant without actual notice of the existence of the filing of a complaint or civil
646 action under the provisions of this article shall not be affected.

647 d) If the court finds that a discriminatory practice has occurred, it shall issue an order
648 prohibiting the practice and providing affirmative relief from the effects of the practice,
649 including injunctive and other equitable relief, actual and punitive damages, and reasonable
650 attorney's fees and costs.

651 **Sec. 15-57 Unlawful Discriminatory Practice in Public Accommodations.**

652 It shall be an unlawful discriminatory practice for any person, being the owner, lessee,
653 proprietor, manager, superintendent, agent or employee of any place of public accommodation,
654 because of the race, sex, color, religion, national origin, disability, familial status, sexual

656 orientation, age, marital status, or gender identity or expression of any person directly or indirectly
657 to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities
658 or privileges thereof that are afforded the other customers, directly or indirectly; to publish,
659 circulate, issue, display, post or mail any written or printed communication, notice or
660 advertisement, to the effect that any of the accommodations, advantages, facilities and privileges
661 of any such place shall be refused, withheld from or denied to any person on account of race,
662 sex, color, religion, national origin disability, familial status, sexual orientation, age, marital
663 status, or gender identity or expression, or that the patronage of any person belonging to any
664 particular race, sex, color, religion, national origin, disability, familial status, sexual orientation,
665 age, marital status or gender identity or expression is unwelcome, objectionable or not acceptable,
666 desired or solicited.

667 **Section 15-58 Discriminatory Housing Practices.**

668 Except as provided in section 15-62 hereof, it shall be an unlawful discriminatory housing
669 practice:

- 670 1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate
671 for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person
672 because of race, sex, color, religion, national origin, disability, familial status, sexual
673 orientation, age, marital status or gender identity or expression.
- 674 2) To discriminate against any person in the terms, conditions or privileges of sale or
675 rental of a dwelling, or in the provisions of services or facilities in connection
676 therewith, because of race, sex, color, religion, national origin, familial status, sexual
677 orientation, age, marital status, or gender identity or expression.
- 678 3) To make, print or publish, or cause to be made, printed or published, any notice,
679 statement or advertisement, with respect to the sale or rental of dwelling that indicates any
680 preference, limitation or discrimination based on race, sex, color, religion, national origin,
681 disability, familial status, sexual orientation, age, marital status or gender identity or
682 expression, or an intention to make any such preference, limitation or discrimination.
- 683 4) To represent to any person because of race, color, religion, sex, national origin,
684 disability, familial status, sexual orientation, age, marital status or gender identity or
685 expression that any dwelling is not available for inspection, sale or rental when such
686 dwelling is in fact so available.

- 687 5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by
688 representations regarding the entry or prospective entry into the neighborhood of a person
689 or persons of a particular race, sex, color, religion, national origin disability, familial
690 status, sexual orientation, age, marital status or gender identity or expression.
- 691 6) To discriminate in the sale or rental, or to otherwise make unavailable or deny a
692 dwelling to any buyer or renter because of a disability of:
- 693 a. that buyer or renter,
- 694 b. a person residing in or intending to reside in that dwelling after it is sold, rented, or
695 made available; or
- 696 c. any person associated with that buyer or renter.
- 697 7) To discriminate against any person in the terms, conditions, or privileges of sale or
698 rental of a dwelling, or in the provision of services or facilities in connection with
699 such dwelling, because of a disability of:
- 700 a. that person; or
- 701 b. a person residing in or intending to reside in that dwelling after it is sold, rented, or
702 made available; or
- 703 c. any person associated with that person.
- 704 8) To refuse to permit, at the expense of a person with a disability, reasonable
705 modifications of existing premises occupied or to be occupied by such person if such
706 modifications may be necessary to afford such person full enjoyment of the premises,
707 except that, in the case of a rental, the landlord may, where it is reasonable to do so,
708 condition permission for a modification on the renter agreeing to restore the interior of
709 the premises to the condition that existed before the modification, reasonable wear and
710 tear excepted. The landlord may not increase for persons with disabilities any customarily
711 required security deposit. However, where it is necessary in order to ensure with
712 reasonable certainty that funds will be available to pay for the restorations at the end of
713 the tenancy, the landlord may negotiate, as part of a restoration agreement, a provision
714 requiring that the tenant pay into an interest-bearing escrow account, over a reasonable
715 period, a reasonable amount of money not to exceed the cost of the restorations. The
716 interest in any such account shall accrue to the benefit of the tenant.
- 717 9) To refuse to make reasonable accommodations in rules, policies, practices or services,

718 when such accommodations may be necessary to afford a person with a disability equal
719 opportunity to use and enjoy a dwelling.

720 10) To fail to design and construct multifamily dwellings for first occupancy after March 13,
721 1991, in such a manner that:

722 a. The public use and common use portions of such dwellings are readily accessible
723 to and usable by persons with a disability;

724 b. All the doors designed to allow passage into and within all premises within such
725 dwellings are sufficiently wide to allow passage by persons with disabilities who
726 utilize wheelchairs;

727 c. All premises within such dwellings contain the following features of adaptive design:
728 an accessible route into and through the dwelling; light switches, electrical outlets,
729 thermostats, and other environmental controls in accessible locations; reinforcements
730 in bathroom walls to allow later installation of grab bars; and usable kitchen and
731 bathrooms such that an individual who utilizes a wheelchair can maneuver about the
732 space; and,

733 d. Compliance with the appropriate requirements of the American National Standards
734 Institute for buildings and facilities providing accessibility and usability for persons
735 with physical disabilities (commonly cited as "ANSI A 117.1") suffices to satisfy the
736 requirements of this article.

737 11) To retaliate or discriminate in any manner against a person who has opposed a practice
738 declared discriminatory by this article, or who has filed a complaint, testified, assisted or
739 participated in any manner in any investigation, proceeding, hearing or conference under
740 this article.

741 12) To aid, abet, incite, compel or coerce any person to engage in any of the practices
742 prohibited by this article; or to obstruct or prevent any person from complying with the
743 provision of this article; or any order issued there under.

744 13) To resist, prevent, impede or interfere with the Board or any of its members or
745 representatives in the lawful performance of its or their duty under this article.

746 14) To initiate maliciously, frivolously or in bad faith any complaint under the provisions
747 of this article for the purposes of harassment.

748 15) To intimidate, threaten, coerce or interfere with the exercise or enjoyment of, or on

749 account of having exercised or enjoyed, or on account of having aided or encouraged any
750 other person in the exercise or enjoyment of, any right granted or protected by this
751 article.

752 **Section 15-59 Discrimination in the Financing of Housing.**

753 It shall be an unlawful discriminatory housing practice of any bank, building and loan
754 association, insurance company or other corporation, association, firm or enterprise whose
755 business consists in whole or in part in the making of commercial real estate loans, to deny a
756 loan or other financial assistance to any person applying therefore for the purpose of purchasing,
757 constructing, improving, repairing or maintaining a dwelling or to discriminate against him/her
758 in the fixing of the amount, interest rate, duration, or other terms or conditions as such loan
759 or other financial assistance, because of the race, sex, color, religion, national origin, disability,
760 familial status, sexual orientation, age, marital status or gender identity or expression of such
761 person or any person associated with him/her in connection with such loan or other financial
762 assistance, or the purposes of such loan or other financial assistance of the present or prospective
763 owners, lessees, tenants or occupants, of the dwelling or dwellings in relation to which such loan
764 or other financial assistance is to be made or given; provided that nothing contained in this section
765 shall impair the scope of effectiveness of the exceptions set forth in section 15-62.

766 **Section 15-60 Discrimination in the Provision of Brokerage Services.**

767 It shall be an unlawful discriminatory housing practice to deny any person who is
768 otherwise professionally qualified by state law and subject to the rules and regulations of the
769 Florida Real Estate Commission, provided the local board of realtors does not discriminate in
770 its membership policies on the basis of race, sex, color, religion, national origin, disability, familial
771 status, sexual orientation, age, marital status or gender identity or expression, access to or
772 membership or participation in any multiple listing service, real estate brokers' organization or
773 other service, organization or facility relating to the business of selling or renting dwellings, or
774 to discriminate against any person in the terms or conditions of such access, membership or
775 participation, on account of race, sex, color, religion, national origin disability, familial status,
776 sexual orientation, age, marital status or gender identity or expression.

777 **Section 15-61 Discrimination in Residential Real Estate Related Transactions.**

778 It shall be an unlawful discriminatory housing practice for any person or other entity
779 whose business includes engaging in residential real estate related transactions to discriminate

780 against any person in making available such a transaction, or in the terms or conditions of
781 such a transaction because of race, sex, color, religion, national origin, disability, familial status,
782 sexual orientation, age, marital status or gender identity or expression.

783 **Section 15-62 Limitations and Exceptions -- Housing Practices.**

784 a) The prohibitions set forth in sections 15-57 through 15-80 shall not apply to a
785 religious organization, association or society, or any nonprofit institution or organization
786 operated, supervised or controlled by or in conjunction with a religious organization,
787 association or society, from limiting the sale, rental or occupancy of dwellings which
788 it owns or operates for other than commercial purposes to persons of the same religion,
789 or from giving preference to such persons, unless membership in such religion is restricted
790 on account of race, sex, color, national origin, disability, familial status, sexual orientation,
791 age, marital status or gender identity or expression.

792 b) The prohibitions set forth in sections 15-58—15-60 shall not apply to rooms or units in
793 dwellings containing living quarters occupied or intended to be occupied by no more
794 than four (4) families living independently of each other if the owner actually maintains
795 and occupies one of such living quarters, provided such rooms or units are sold or rented
796 without the use in any manner of the sales or rental facilities or the sales or rental services
797 of any real estate broker or real estate salesperson or person in the business of selling
798 or renting dwellings and/or without the publication, posting or mailing of any
799 advertisement or written document in contravention of section 15-58; but this shall
800 not prohibit the use of any attorney, escrow agents, abstractors, title companies and
801 such other professional assistance as is necessary to perfect or transfer title to a dwelling.

802 c) The prohibitions set forth in sections 15-58 through 15-60 shall not apply to any
803 single-family dwelling unit sold or rented by an owner who does not own more than three
804 (3) such single-family dwelling units at any one time if such unit is sold or rented
805 without the use in any manner of the sales or rental facilities or the sales or rental services
806 of any real estate broker or real estate salesperson or person in the business of selling or
807 renting dwellings and/or without the publication, posting or mailing of any
808 advertisement or written document in contravention of section 15-58; but this shall not
809 prohibit the use of any attorney, escrow agents, abstractors, title companies and such
810 other professional assistance as is necessary to perfect or transfer title to a dwelling.

- 811 d) For the purposes of subsections (a) and (b) of this section, a person shall be deemed
812 to be in the business of selling or renting dwellings and said exceptions shall not apply
813 if:
- 814 1) That person has, within the preceding twelve (12) months, participated as principal in
815 three or more transactions involving the sale or rental of any dwelling or any interest
816 therein; or
 - 817 2) That person has, within the preceding twelve (12) months, participated as agent, other
818 than in the sale of his/her own personal residence, in providing sales or rental facilities
819 or sales or rental services in two (2) or more transactions involving the sale or rental of
820 any dwelling or any interest therein; or
 - 821 3) That person is the owner of any dwelling designed for or intended for occupancy by, or
822 occupied by, five (5) or more families.
- 823 e) The prohibitions set forth in sections 15-57 through 15-60 shall not apply to a person or
824 owner who wishes to rent a portion of a single dwelling unit to a person or persons
825 of the same sex when such persons live in the single dwelling unit.
- 826 f) Housing for older persons shall be exempted from the provisions regarding familial
827 status. Housing for older persons may also maintain only those age restrictions
828 necessary in order to be designated as housing for older persons.
- 829 g) Nothing in this article:
- 830 1) Prohibits a person engaged in the business of furnishing appraisals of real
831 property from taking into consideration factors other than race, sex, color, religion,
832 national origin, disability, familial status, sexual orientation, age, marital status, or
833 gender identity or expression.
 - 834 2) Limits the applicability of any reasonable local government restrictions regarding the
835 maximum number of occupants permitted to occupy a dwelling.
 - 836 3) Requires that a dwelling be made available to an individual whose tenancy would
837 constitute a direct threat to the health or safety of other individuals or whose
838 tenancy would result in substantial physical damage to the property of others.
 - 839 4) Prohibits conduct against a person because such person has been convicted by any
840 court of competent jurisdiction of the illegal manufacture or distribution of a
841 controlled substance as defined by Florida Statutes, Chapter 893.

842 h) An individual who engages in conduct with a reasonable good faith reliance on the
843 existence of the exemption of this article relating to housing for older persons is not
844 personally liable for money damages for a violation of this article. For the purposes of
845 this paragraph (h), a person engaged in the business or residential real estate transactions
846 is presumed to have such a good faith reliance if that person has no actual knowledge
847 that the housing facility is not or will not be eligible for the housing for older persons
848 exemption and the housing facility gives such a person a written certification stating the
849 compliance of the facility with the requirements for the housing for older persons.

850 **Section 15-63 Limitations and Exceptions – Public Accommodations.**

851 The prohibitions set forth in section 15-57 shall not be applied to:

- 852 1) Limit of the use of a restroom to persons of one (1) sex;
- 853 2) A religious organization, association or society or any nonprofit institution or organization
854 operating, supervised or controlled by or in conjunction with a religious organization,
855 association or society from limiting facilities and accommodations, which it owns or
856 operates, for other than a commercial purpose, to persons of the same religion or from
857 giving preference to such persons; and,
- 858 3) Any institution or place of accommodation that is in its nature distinctly private.

859 **Section 15-64 Limitations and Exceptions – Physical Disability.**

860 Nothing in this article requires any person renting or selling a dwelling constructed for
861 first occupancy before March 13, 1991, to modify, alter or adjust the dwelling in order to
862 provide physical accessibility except as otherwise required by law and as provided in this article.

863 **Section 15-65 Applicability.**

864 It is hereby provided that this Ordinance shall constitute a uniform law applicable in all
865 the unincorporated and incorporated areas of Palm Beach County, Florida, to the extent permitted
866 under the Florida Constitution, Article VIII, Section I.

867 **Section 15-66 Repeal of Laws in Conflict.**

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

870 **Section 15-67 Savings Clause.**

871 All complaints, investigations, orders, hearing processes, and all other functions of the
872 OEO and Board, initiated or completed pursuant to Ordinance 90-1, as amended by 07-042, shall

873 remain in full force and effect.

874 **Section 15-68. Severability.**

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

879 **Section 15-69. Inclusion in the Code of Laws and Ordinances.**

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

884 **Section 15-70. Captions.**

885 The captions, section headings, and section designations used in this Ordinance are for
886 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

887 **Section 15-71. Short Title.**

888 The Ordinance shall be known and cited as the Palm Beach County Housing and Places of
889 Public Accommodation Ordinance.

890 **Section 15-72. Effective Date:** The provisions of this ordinance shall become effective upon
891 filing with the Department of State.

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

904 CLERK AND COMPROLLER PALM BEACH COUNTY, FLORIDA, BY ITS
905 BOARD OF COUNTY COMMISSIONERS

906 By: _____
907 Sharon R. Bock

906 By: _____
907 Mack Bernard, Mayor

Deleted: Melissa McKinlay

909 APPROVED AS TO FORM AND
910 LEGAL SUFFICIENCY

912 By: _____
913 County Attorney

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

916 G:\WPDATA\ENVIR\Dottey\OEO\Fair Housing\Ordinance Revision\8. Ord 2019 (02.12.19 Tracking).Docx