

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

BOARD APPOINTMENT SUMMARY

**Meeting Date:** December 7, 2021

**Department:** Public Safety / Division of Consumer Affairs

**Advisory Board:** Consumer Affairs Hearing Board (CAHB)

I. EXECUTIVE BRIEF

**Motion & Title:** Staff recommends motion to approve: appointment of one (1) nominee to the Consumer Affairs Hearing Board (CAHB) for the term of January 1, 2022 to September 30, 2024 as follows:

|                  |                                      |                                     |  |
|------------------|--------------------------------------|-------------------------------------|--|
| <u>Seat</u><br>3 | <u>Appointment</u><br>Michael Schiff | <u>Seat Requirement</u><br>Resident | <u>Nominated by</u><br>Mayor Weinroth<br>Vice-Mayor Weiss<br>Commissioner Kerner<br>Commissioner Marino<br>Commissioner McKinlay<br>Commissioner Bernard |
|------------------|--------------------------------------|-------------------------------------|--|

**Summary:** The Consumer Affairs Ordinance was approved by the Board of County Commissioners (BCC) on December 17, 2013, and codified in Chapter 9, Article I of the Palm Beach County Code. The Consumer Affairs Ordinance established a seven (7) member CAHB. The CAHB serves in both an advisory capacity to the County Commissioners and as an (appeals hearing board) to hear and act on appeals relating to the towing, vehicle for hire, moving, home caregiver, adult entertainer, water taxi, and consumer affairs ordinances. Members are selected from various businesses, professions and the general public. Member terms are for three years with a limit of three consecutive terms expiring September 30. This nominee is a new appointment to fill a vacant seat with a term of January 1, 2022 – September 31, 2024. A memo was sent to the BCC on August 31, 2021 seeking nominations for the above at-large resident seat. The CAHB has a maximum of seven (7) members with seat number three vacant. With the appointment of this nominee, the CAHB will have seven (7) seats filled. The CAHB will have a diversity count as follows: Caucasian: 4 (57%), Asian: 2 (29%), and African American: 1 (14%). The gender ratio (male: female) will be 7:0. Countywide (JW)

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

**Attachments:**

1. Memorandum Requesting Nominations
2. Board/Committee Application, Ethics Acknowledgement, and Resume M. Schiff
3. Current CAHB Membership List
4. Consumer Affairs Ordinance 2013-035

**Recommended By:** S Sepinche 11/17/21  
Department Director Date

**Legal Sufficiency:** Jean-Adel Williams 11/23/21  
Assistant County Attorney Date

**II. REVIEW COMMENTS**

**A. Other Department Review:**

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**Department Director**



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

**MEMORANDUM**

**To:** Dave Kerner, Mayor, and Members of the Board of County Commissioners

**From:** Rob Shelt, Division Director *RS*  
 Consumer Affairs

**Date:** August 31, 2021

**RE:** **Consumer Affairs Hearing Board (CAHB) Request for Appointment of One (1) Member**

The purpose of this memo is to request a nomination for the appointment of one member to the CAHB as shown below:

| Nominee        | Initial Appointment | Term Expiration | Requirement                    |
|----------------|---------------------|-----------------|--------------------------------|
| Michael Schiff | New Nominee         | 9/30/2024       | Resident; At Large Appointment |

Attached is a completed application and biography/resume for the interested candidate. If you wish to endorse the nomination, please sign Section III of the attached application and return it to me by **September 15, 2021**. The nomination for appointment will be placed on the Board of County Commissioners meeting scheduled for **December 7, 2021**

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

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

**Palm Beach County  
 Board of County  
 Commissioners**

Dave Kerner, Mayor  
 Robert S. Weinroth, Vice Mayor  
 Maria G. Marino  
 Gregg K. Weiss  
 Maria Sachs  
 Melissa McKinlay  
 Mack Bernard

**County Administrator**  
 Verdenia C. Baker

*"An Equal Opportunity  
 Affirmative Action Employer"*

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

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

Attachments: Board/Committee Application and Resume for M. Schiff  
Composition and Diversity of CAHB  
2021 Meeting Schedule

Copy: Stephanie Sejnoha, Public Safety Department Director  
Todd Bonlarron, Assistant County Administrator  
Jean Williams, Assistant County Attorney

FALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
BOARDS/COMMITTEES APPLICATION

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

Section I (Department): (Please Print)

Board Name: Consumer Affairs Hearing Board Advisory  Not Advisory

At Large Appointment or  District Appointment / District #: \_\_\_\_\_

Term of Appointment: 3 Years. From: 1/1/2022 To: 9/30/2024

Seat Requirement: Resident; at-large member Seat #: 3

\*Reappointment or  New Appointment

or  to complete the term of \_\_\_\_\_ Due to:  resignation  other

Completion of term to expire on: \_\_\_\_\_

\*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: 0

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Schiff Michael P.  
Last First Middle

Occupation/Affiliation: Attorney  
Owner  Employee  Officer

Business Name: Law Office of Michael P. Schiff

Business Address: 305 NE 2<sup>nd</sup> Avenue, #23

City & State: Delray Beach Zip Code: 33444

Residence Address: 111 SE 1<sup>st</sup> Avenue, #420

City & State: Delray Beach Zip Code: 33444

Home Phone: 5619265939 Business Phone: ( ) Ext. \_\_\_\_\_

Cell Phone: ( ) Fax: ( )

Email Address: mpsfinc@att.net

Mailing Address Preference:  Business  Residence

Have you ever been convicted of a felony: Yes \_\_\_\_\_ No

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

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

**Section II Continued:**

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

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

\_\_\_\_\_  
 \_\_\_\_\_

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

OR

NONE

NOT APPLICABLE/  
(Governmental Entity)

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

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

  x   By watching the training program on the Web, DVD or VHS on 8/2/21  
     By attending a live presentation given on \_\_\_\_\_, 20  

**AND**

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

\*Applicant's Signature: *Michael Schiff* Printed Name: Michael Schiff Date: 8/2/21

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

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

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on: 12-7-2021

Commissioner's Signature: *[Signature]* Date: 9.1.21

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

Revised 02/01/2016

*Kerner*

**Section II Continued:**

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| <u>Example: (R#XX-XX/PO XX)</u> | <u>Parks &amp; Recreation</u> | <u>General Maintenance</u>     | <u>10/01/00-09/30/2100</u> |
| _____                           | _____                         | _____                          | _____                      |
| _____                           | _____                         | _____                          | _____                      |

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

**OR**

NONE

NOT APPLICABLE/  
(Governmental Entity)

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**AND**

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 West Palm Beach, FL 33415

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on:

12-7-2021

Commissioner's Signature:

*[Signature]*

Date:

9/2/21

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Revised 02/01/2016

Section II Continued:

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

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| _____                           | _____                         | _____                          | _____                      |
| _____                           | _____                         | _____                          | _____                      |

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

NONE

NOT APPLICABLE/  
(Governmental Entity)

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**AND**

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\*Applicant's Signature: Michael Schiff Printed Name: Michael Schiff Date: 8/2/21

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 West Palm Beach, FL 33415

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on: 12-7-2021

Commissioner's Signature: Maura G. Maura Date: 9/8/21

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**Section II Continued:**

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| _____  | _____                               | _____                                    | _____                      |
| _____  | _____                               | _____                                    | _____                      |
| ((Attach Additional Sheet(s), if necessary)) |                                     |  |                            |
| OR   |                                     |  |                            |
| NONE   | <input checked="" type="checkbox"/> | NOT APPLICABLE/<br>(Governmental Entity) | <input type="checkbox"/>   |

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**AND**

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\*Applicant's Signature: Michael Schiff Printed Name: Michael Schiff Date: 8/2/21

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 50 South Military trail, Suite 201  
 West Palm Beach, FL 33415

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on: 12-7-2021  
 Commissioner's Signature: [Signature] Date: 9/1/21

Pursuant to Florida's Public Records Law, this document may be reviewed and photocopied by members of the public. Revised 02/01/2016

Weiss

**Section II Continued:**

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

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| _____  | _____                               | _____                                    | _____                      |
| _____  | _____                               | _____                                    | _____                      |
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| OR   |                                     |  |                            |
| NONE   | <input checked="" type="checkbox"/> | NOT APPLICABLE/<br>(Governmental Entity) | <input type="checkbox"/>   |

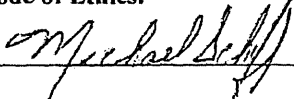
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**AND**

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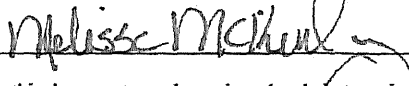
\*Applicant's Signature:  Printed Name: Michael Schiff Date: 8/2/21

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 50 South Military trail, Suite 201  
 West Palm Beach, FL 33415

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on: 12-7-2021

Commissioner's Signature:  Date: 9/9/21

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Revised 02/01/2016

**Section II Continued:**

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\_\_\_\_\_

\_\_\_\_\_

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

OR

NONE

NOT APPLICABLE/  
(Governmental Entity)

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\*Applicant's Signature: Michael Schiff Printed Name: Michael Schiff Date: 8/2/21

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Return this FORM to:  
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 50 South Military trail, Suite 201  
 West Palm Beach, FL 33415

**Section III (Commissioner, if applicable):**

Appointment to be made at BCC Meeting on: 12-7-2021

Commissioner's Signature: Madeline B... Date: \_\_\_\_\_

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

Revised 02/01/2016

**MICHAEL P. SCHIFF**  
**305 NE 2<sup>nd</sup> Avenue, STE 23**  
**DELRAY BEACH, FLORIDA 33444**  
**(561) 926-5939**

**EDUCATION:**

**UNIVERSITY OF MIAMI SCHOOL OF LAW**  
J.D., 1990

**UNIVERSITY OF MIAMI SCHOOL OF BUSINESS**  
M.B.A., 1981

**UNIVERSITY OF MIAMI**  
B.B.A., 1979

**PROFESSIONAL EXPERIENCE:**

1991- **SOLE PRACTITIONER**  
Present Represent clients on a variety of legal issues with emphasis towards consumer protection, finance, and eminent domain matters.

1/90- **WEIL, LUCIO, MANDLER & CROLAND, P.A.**  
8/90 Law Clerk

6/89- **OFFICE OF THE CITY OF MIAMI ATTORNEY**  
1/90 Certified Legal Intern

Summer **DADE COUNTY CIRCUIT COURT**  
1988 Law Clerk(general civil and probate)

1983- **BARNETT BANK OF SOUTH FLORIDA, N.A.**  
1987 Commercial Real Estate Loan Officer  
Assistant Branch Manager/Commercial Loan Officer

1981- **INTERCONTINENTAL BANK**  
1983 Credit analyst

**COMMUNITY AND PROFESSIONAL ACTIVITIES:**

Member of:

National Association of Consumer Advocates  
Florida Bar Eminent Domain committee  
Delray Beach Code Enforcement Board member  
American Association of Individual Investors  
Financial Industry Regulatory Authority (FINRA) Arbitrator  
Ransom Everglades Alumni Association  
Florida New Motor Vehicle Arbitration Board (former arbitrator)  
Former adjunct professor at the University of Miami and St. Thomas Law Schools  
Former adjunct faculty professor at Barry University and Florida International University  
Former instructor for the American Institute of Banking

Community Activities:

Dade County Consumer Services Small Claims Clinic speaker;  
Cohost on WLRN public service shows "Using Your County Court",  
"Consumer Sense", and "Topical Currents"  
Frequent contributor on consumer issues to Miami Herald  
Former member of the city of Miami Planning Advisory Board and Planning Zoning & Appeals Board

Licenses:

Florida Bar and US District Court, Southern District of Florida  
Real estate associate  
Amateur radio/ general class



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

**I. AUTHORITY :**

Ordinance 2013-035, adopted December 17, 2013.

**II. APPOINTING BODY :**

Board of County Commissioners

**III. COMPOSITION, QUALIFICATIONS, TERMS & REMOVAL :**

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

**EXTENDED COMPOSITION :****IV. MEETINGS :**

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

**V. FUNCTIONS :**

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

**VI. LIAISON INFORMATION :**

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

\* indicates a member having an action pending



CONSUMER AFFAIRS HEARING BOARD

| SEAT ID  | CURRENT MEMBER  | ROLE TYPE | RACE CODE | GENDER | BUSINESS / HOME | SEAT REQUIREMENT              | APPOINT DATE | REAPPOINT DATE | EXPIRE DATE |
|--|---|-----------|-----------|--------|-----------------|-------------------------------|--------------|----------------|-------------|
| <b>Appointed By : At-Large/Palm Beach County Board of County Commissioners</b> |   |           |           |        |                 |                               |              |                |             |
| 1  | Steven J Goldberg<br>goldyesq@aol.com<br>Steven J. Goldberg<br>4521 PGA Blvd Ste 104<br>Palm Beach Gardens FL 33418 | Member    | CA        | M      | --              | Attorney                      | 07/10/2018   | 10/01/2020     | 09/30/2023  |
| <b>NOMINATED BY :</b>  |   |           |           |        |                 |                               |              |                |             |
| 2  | George J. Kinoshita<br>gjkinoshita@yahoo.com<br><br>2777 Muskegon Way<br>West Palm Beach FL 33411                   | Member    | AS        | M      | 561-345-4173    | Resident of Palm Beach County | 07/12/2016   | 10/01/2019     | 09/30/2022  |
| <b>NOMINATED BY :</b>  |   |           |           |        |                 |                               |              |                |             |
| 3  | VACANT--  | Member    | CA        | M      |                 | Resident of Palm Beach County |              |                | 09/30/2024  |
| <b>NOMINATED BY :</b>  |   |           |           |        |                 |                               |              |                |             |
| 4  | Manohar L Athavale<br>mathavale@msn.com<br><br>8712 S Kendale Cir<br>Lake Worth FL 33467                            | Member    | AS        | M      | 561-304-2533    | Resident of Palm Beach County | 05/15/2018   | 10/01/2020     | 09/30/2023  |
| <b>NOMINATED BY :</b>  |   |           |           |        |                 |                               |              |                |             |

\* indicates a member having an action pending

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

|   |                                       |        |    |   |              |                               |            |  |            |
|---|---------------------------------------|--------|----|---|--------------|-------------------------------|------------|--|------------|
| 5 | Frank D. Lewis<br>frank_l55@yahoo.com | Member | CA | M | 561-391-1514 | Resident of Palm Beach County | 04/23/2013 |  | 09/30/2024 |
|---|---------------------------------------|--------|----|---|--------------|-------------------------------|------------|--|------------|

6812 Calle del Paz N  
Boca Raton FL 33433

**NOMINATED BY :**

|   |  |        |    |   |              |                               |            |  |            |
|---|--|--------|----|---|--------------|-------------------------------|------------|--|------------|
| 6 | Harold Moldoff<br>hmoldoff@comcast.net | Member | CA | M | 561-855-7754 | Resident of Palm Beach County | 04/23/2013 |  | 09/30/2024 |
|---|--|--------|----|---|--------------|-------------------------------|------------|--|------------|

9130 Hypoluxo Road  
Apartment G 201  
Lake Worth, FL 33467

**NOMINATED BY :**

|   |  |        |    |   |    |                               |            |            |            |
|---|--|--------|----|---|----|-------------------------------|------------|------------|------------|
| 7 | Courtney Shippey<br>shippeyclw@aol.com | Member | AA | M | -- | Resident of Palm Beach County | 05/15/2018 | 10/01/2020 | 09/30/2023 |
|---|--|--------|----|---|----|-------------------------------|------------|------------|------------|

Florida Department of Health, Palm Beach County - Administration  
800 Clematis St  
West Palm Beach FL 33401

**NOMINATED BY :**

\* indicates a member having an action pending



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## Chapter 9 CONSUMER AFFAIRS<sup>1</sup>

### ARTICLE I. IN GENERAL<sup>2</sup>

#### Sec. 9-1. Title.

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

(Ord. No. 2013-035, § 2, 12-17-13)

#### Sec. 9-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. No. 2013-035, § 3, 12-17-13)

### **Sec. 9-3. Scope.**

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

(Ord. No. 2013-035, § 4, 12-17-13)

### **Sec. 9-4. Exemptions.**

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

(Ord. No. 2013-035, § 5, 12-17-13)

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

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

(Ord. No. 2013-035, § 6, 12-17-13)

### **Sec. 9-6. Consumer Affairs Division.**

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

(Ord. No. 2013-035, § 7, 12-17-13)

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

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

(Ord. No. 2013-035, § 8, 12-17-13)

**Sec. 9-8. Powers of director.**

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

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

(Ord. No. 2013-035, § 9, 12-17-13)

**Sec. 9-9. Complaints.**

- (a) Any consumer may make or file a complaint stating the name and address (if known) of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Consumer Affairs Division.

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- (b) Upon the filing of a complaint, the Director shall review the complaint and supporting documentation, if any, and assign a staff investigator, if appropriate. If the staff investigator determines that there are reasonable grounds to believe a violation has occurred, the staff investigator may attempt to conciliate the matter through conferences with all interested parties and such representatives as the parties may choose to assist them, or alternatively, may issue a civil citation.
  - (c) If the staff investigator determines that there are no reasonable grounds to believe that a violation occurred, the investigator shall prepare a closure letter for the Director to review and approve, prior to dismissing the complaint.

(Ord. No. 2013-035, § 10, 12-17-13)

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

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

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

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

(Ord. No. 2013-035, § 11, 12-17-13)

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

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

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- (c) Members shall be automatically removed for lack of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or a failure to attend more than one-half ( $\frac{1}{2}$ ) of the meetings scheduled during a calendar year. Participation for less than three-fourths ( $\frac{3}{4}$ ) of a meeting shall be the same as a failure to attend a meeting. Members removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall create a vacancy. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term.
  - (d) Members shall appoint a chairperson and a vice-chairperson. The chairperson and the vice-chairperson shall be elected by a majority vote of the Board and shall serve for a term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the Division director or manager may conduct the meeting or hearing. Meetings and hearings shall be governed by Robert's Rules of Order, and shall be open to the public, duly advertised and otherwise comply with all applicable requirements of Florida's "Sunshine" law as set forth in F.S. Ch. 286. A majority of the members currently appointed shall constitute a quorum and action may be taken by the board upon a vote of a majority of the members present. At any meeting or hearing, the Board may fix and call a meeting or hearing on a future date. The Board shall meet on a regular basis to conduct its business and as necessary to conduct administrative hearings filed by persons appealing the decisions of the Division.
  - (e) Any appeal of a decision rendered by the Consumer Affairs Hearing Board regarding a violation of F.S. Ch. 501 shall be directed to the Florida Office of the Attorney General with subsequent judicial review through the district courts of appeal. Adjudications of the Consumer Affairs Hearing Board of substantive violations of this article shall be appealed to the Circuit Court of the Fifteenth Judicial Court by Writ of Certiorari.
  - (f) Alternatively, the Division shall have the option to utilize a Special Master to hear matters for appeal, instead of scheduling those appellate matters before the Consumer Affairs Hearing Board. The Division shall establish policies and procedures governing the Special Master process prior to said utilization.

(Ord. No. 2013-035, § 12, 12-17-13)

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

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

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

(Ord. No. 2013-035, § 13, 12-17-13)

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

- (a) The Board shall give probative effect to the evidence which would be admissible to civil proceedings in the courts of this state but in receiving evidence due regard shall be given to the competent, reliable and technical evidence which will aid the Board in making a fair determination of the matter, regardless of the

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existence of any common law or statutory rule which might otherwise make improper the admission of such evidence.

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

(Ord. No. 2013-035, § 14, 12-17-13)

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

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

(Ord. No. 2013-035, § 15, 12-17-13)

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

- (a) If the Director, after due investigation, has reason to believe that a person has been or is violating any of the provisions of this article, then the Director shall cause to be served upon such person a demand to cease and

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desist, stating the charges and containing a notice of hearing to be held not sooner than ten (10) days and not later than thirty-one (31) days after service of the demand.

- (b) Official notice of hearing, which shall be by personal service, certified mail or posting in a conspicuous place at the merchant's place of business, shall incorporate and set out the following:
- (1) The name of the complainant;
  - (2) The alleged charge and approximate date of the commission of the act;
  - (3) The section of this article alleged to be involved;
  - (4) Notification as to the time and place of the Board hearing which shall be held not sooner than ten (10) days and not later than thirty-one (31) days after service of the demand;
  - (5) Notice to the respondent that he may be represented by counsel, and that he may bring all original documents and other data pertinent to the case; and
  - (6) That the respondent will be given an opportunity to present witnesses and evidence he may deem appropriate.

(Ord. No. 2013-035, § 16, 12-17-13)

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

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

(Ord. No. 2013-035, § 17, 12-17-13)

### **Sec. 9-17. Statutes adopted.**

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

(Ord. No. 2013-035, § 18, 12-17-13)



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

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

(Ord. No. 2013-035, § 19, 12-17-13)

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

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

(Ord. No. 2013-035, § 20, 12-17-13)

**Sec. 9-20. Savings clause.**

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

(Ord. No. 2013-035, § 21, 12-17-13)

**Secs. 9-21—9-30. Reserved.**

***ARTICLE II. EMERGENCY MANAGEMENT<sup>3</sup>***

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

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

(Ord. No. 92-37, § 1, 12-15-92)

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<sup>3</sup>Editor's note(s)—Ord. No. 92-37, adopted Dec. 15, 1992, effective Dec. 30, 1992, amended this Code by adding provisions designated by the editor as Art. II, §§ 9-31Editor's note(s)—9-37. The existing provisions of the chapter, §§ 9-1—9-19, were designated Art. I.

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### **Sec. 9-32. Authority.**

This article is adopted under the authority of F.S. Ch. 125; F.S. Ch. 252; F.S. Ch. 501, Pt. II; and F.S. Ch. 162.  
(Ord. No. 92-37, § 2, 12-15-92; Ord. No. 2020-013 , § 1, 7-28-20)

### **Sec. 9-33. Purpose.**

The purpose of this article is to set in place measures necessary for the protection of life and property in the county threatened as a result of natural and manmade disasters and emergencies in the event the Board of County Commissioners is unable to convene and take such action in a regular or special meeting. This article is not intended to preempt or restrict the application of other, more restrictive ordinances of the county already in effect, nor in this article intended to preempt or preclude the application or enforcement of local emergency management measures already in effect, or which will be effective, upon a declaration of emergency. This article is not intended and shall not be construed as imposing price controls upon lawful business activities in the county.

(Ord. No. 92-37, § 3, 12-15-92)

### **Sec. 9-34. Definitions.**

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

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

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

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

*Enforcement Official:* The term "enforcement official" shall mean any police or law enforcement officer, any code compliance official, the personnel of the department of public safety, and any other enforcement personnel as authorized by the county administrator.

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

*Irreparable or Irreversible:* The term "irreparable or irreversible" shall mean a violation of this article that is not able to be undone. For example, committing an act or omission in violation of an order issued under the authority of this article that imperils or threatens to imperil the life, safety, or welfare of another is irreparable or irreversible in nature.

(Ord. No. 92-37, § 4, 12-15-92; Ord. No. 98-23, § 1, 6-16-98; Ord. No. 2020-013 , § 2, 7-28-20)

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## Sec. 9-35. Declaration of emergency.

- (a) When an emergency has placed the citizens of the county in danger of loss of life or property and a regular or special meeting of the board of county commissioners cannot practically be convened, a state of emergency shall be declared by the mayor of the board of county commissioners, or the vice-mayor in the mayor's absence, or by the county administrator, in the absence of the mayor and vice-mayor. A state of emergency so declared shall continue for seven (7) days, unless extended as necessary, in seven (7) day increments.
- (b) A declaration of emergency shall activate the applicable county emergency plans and shall constitute authority for the following in lieu of the procedures and formalities otherwise required of the county by law pertaining to:
  - (1) Performance of public work, and any other prudent action necessary to ensure the health, safety, and welfare of the citizens of the county.
  - (2) Entering into contracts.
  - (3) Incurring obligations.
  - (4) Employment of permanent and temporary workers.
  - (5) Utilization of volunteer workers.
  - (6) Rental of equipment.
  - (7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities.
  - (8) Appropriation and expenditure of public funds.
- (c) The county administrator or designee shall implement the provisions of this article in accordance with the authority provided in this article, the adopted comprehensive emergency management plan, and instructions furnished by the board of county commissioners.
- (d) The county administrator is authorized and empowered during a state of emergency declared pursuant to this article to make, amend, and rescind emergency orders deemed necessary to protect the health, safety, and/or welfare of the people of Palm Beach County, including but not limited to, those necessary for implementation of the comprehensive emergency management plan and any other emergency management purpose in accordance with provisions of applicable law, including, but not limited to, the provisions of F.S. § 252.46(1).
- (e) In order to ensure the public safety during a state of emergency declared pursuant to this article, the county administrator, in consultation with the Sheriff of Palm Beach County and municipal representatives, may establish a countywide curfew or a specific area curfew, to restrict travel and movement within the county.

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

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

- (f) Other restrictions including, but not limited to, prohibiting or limiting the gathering of individuals within Palm Beach County, directing the evacuation of any area(s) of Palm Beach County, ordering any or all commercial or business locations or places of public accommodation to close and remain closed until further order, ordering individuals to shelter in place, and limiting the sale, purchase, or possession of alcoholic beverages or flammable substances, may be instituted by the county administrator or designee. The duration and

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application of such emergency restrictions shall be tailored to meet the specific crisis and may be modified from time to time.

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

(Ord. No. 92-37, § 5, 12-15-92; Ord. No. 05-043, § 1, 9-27-05; Ord. No. 2011-020, § 1, 9-13-11; Ord. No. 2020-013, § 3, 7-28-20)

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

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

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

### **Sec. 9-37. Enforcement.**

- (a) The Sheriff of Palm Beach County, other law enforcement agencies including municipal law enforcement agencies, county and municipal code enforcement officers, public safety personnel, and any other enforcement personnel as authorized by the county administrator, are authorized to enforce the provisions of this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35.
- (b) Any person violating any provision within F.S. Ch. 252, any rule or order made pursuant to the authority provided therein, or any rule or order made pursuant to the authority provided under this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35, is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

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(Supp. No. 107, Update 2)

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- (c) Violations of any rule or order made pursuant to the authority provided under this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35, may also be enforced through the issuance of civil citations as follows.
- (1) The county court shall have jurisdiction over all civil citations issued pursuant to this article.
  - (2) The county shall maintain a system by which violators are given written notice of all violations. The county clerk shall accept designated fines and issue receipts therefor.
  - (3) Authorized enforcement personnel who have reasonable cause to believe that a person has committed an act in violation of this article, shall issue civil citations for fines not to exceed two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each additional violation. If the person who has committed the violation does not contest the citation, the fines shall not exceed one hundred twenty-five dollars (\$125.00) for the first violation and two hundred fifty dollars (\$250.00) for each additional violation.
  - (4) Payment shall be made, either by mail or in person, to the violations bureau to the location and within the time specified upon the citation. If such person follows this procedure, the person shall be deemed to have admitted to the infraction and to have waived their right to a hearing on the issue of the commission of the infraction.
  - (5) All fines collected by the county as a result of said citations shall be paid into the county treasury and deposited in the fine and forfeiture fund. All fines collected by a municipality as a result of said citations shall be paid into the respective municipal treasury.
  - (6) Any person who fails to make payment within the time period specified on the citation shall be deemed to have waived the right to pay the civil penalty as set forth in the citation and shall appear before the county court.
  - (7) Any person who elects to appear before the court to contest the citation shall be deemed to waive the right to pay the civil penalty. The court, after a hearing, shall make a finding as to whether a violation has occurred and may impose a civil penalty not to exceed five hundred dollars (\$500.00) plus court costs.
  - (8) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and, in such case, a default judgment shall be entered and the judge may impose a penalty up to the maximum civil penalty of five hundred dollars (\$500.00) plus court costs.
  - (9) Any person who refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. §§ 775.082 or 775.083.
- (d) Violations of any rule or order made pursuant to the authority provided under this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35, may also be enforced by authorized enforcement personnel pursuant to the terms and procedures in F.S. Ch. 162, Local Government Code Enforcement Boards Act, and Article 10 of the Palm Beach County Unified Land Development Code, all as may be amended or recodified from time to time. Pursuant to F.S. § 162.09(2)(d), a code enforcement board or Palm Beach County Special Master may impose fines that shall not exceed one thousand dollars (\$1,000.00) per day per violation for a first violation, five thousand dollars (\$5,000.00) per day per violation for a repeat violation, and up to fifteen thousand dollars (\$15,000.00) per violation if the code enforcement board or Palm Beach County Special Master finds the violation to be irreparable or irreversible in nature. In determining the amount of the fine, the code enforcement board or Palm Beach County Special Master shall consider:
- (1) The gravity of the violation;
  - (2) Any actions taken by the violator to correct the violation; and

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- (3) Any previous violations committed by the violator.
  - (e) The provisions of this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35, may also be enforced by the county administrator ordering the closure of any noncompliant establishment, including, but not limited to, any commercial business location, place of public accommodation, or any other noncompliant physical location, for a duration of time that is tailored to protect the health, safety, and welfare of the people of Palm Beach County under the circumstances presented by the specific emergency.
  - (f) Each violation of any rule or order made pursuant to the authority provided under this article, including, but not limited to, any rules or orders issued pursuant to Section 9-35, shall constitute a separate offense and shall be punishable as such.
  - (g) Nothing herein shall limit any other enforcement mechanisms authorized by law, including, but not limited to, the right to seek injunctive or any other equitable relief.

(Ord. No. 92-37, § 7, 12-15-92; Ord. No. 98-23, § 3, 6-16-98; Ord. No. 05-043, § 2, 9-27-05; Ord. No. 2020-013, § 4, 7-28-20)

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

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

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

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

(Ord. No. 06-017, §§ 1—3, 8-15-06)