

Model Kentucky Ordinance Establishing a County Opioid Abatement Advisory Council

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***Disclaimer:** The information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult with an attorney licensed to practice in their state.*

Introduction and Background

State and local governments across the country will receive a share of more than \$50 billion in opioid abatement funds (also known as opioid settlement funds) over 18 years, the result of lawsuits filed by these governments against companies whose actions were alleged to have contributed to the opioid overdose crisis. Kentucky will receive [more than \\$1 billion](#) in opioid abatement funds, with half of funds controlled by the state and distributed via the [Kentucky Opioid Abatement Advisory Commission](#) (KYOAAC). The remaining 50% of funds are distributed directly to counties, consolidated local governments, urban-county governments, and cities according to a pre-determined formula. Local governments must spend at least 85% of these funds on opioid remediation, meaning the uses described in state law, [KRS § 15.291\(5\)](#), and/or uses that are consistent with [Exhibit E](#) of the national settlement agreements. The Kentucky Association of Counties (KACo) offers a [variety of resources](#) regarding opioid abatement funds in Kentucky.

Effective stewardship of opioid abatement funds requires meaningful community input and intentional engagement with the communities most affected by the opioid overdose crisis. Establishing a county-level opioid abatement advisory council provides a formal mechanism for collaboration among stakeholders. An advisory council can provide a powerful mechanism to gather diverse perspectives, guide priorities, inform evidence-based decision-making on uses of funds, and promote public transparency. In particular, the inclusion of individuals with lived and living experience of substance use, overdose, recovery, and loss—including those with current substance use disorder, individuals in recovery, and their families—brings critical insight that is not available through data alone. Their voices help ensure that funding strategies are practical, compassionate, and responsive to real-world conditions, ultimately strengthening trust and increasing the likelihood that opioid abatement funds will be invested effectively to save lives.

This Model Ordinance was designed to help Kentucky counties establish a county opioid abatement advisory council to advise and make recommendations to the county fiscal court on the allocation and use of opioid abatement funds. Its provisions align with identified best practices, including [The Principles for the Use of Funds from the Opioid Litigation](#) and recommendations from both the [Kentucky Association of Counties](#) and the [National Association of Counties](#). Importantly, the Model Ordinance ensures that the county fiscal court retains final decision-making authority over opioid abatement expenditures.

How to Use this Model Ordinance

This Model Ordinance reflects a comprehensive approach to establishing a county opioid abatement advisory council and includes an array of provisions aligned with identified best practices. It is also customizable. Kentucky counties may adopt the Model Ordinance as is (with the minimal customization necessary to align with existing local law) or pick and choose which provisions to adopt, adjust, or exclude to better align with local needs and established practices.

The Model Ordinance uses a standardized formatting convention to help users customize the ordinance. Some degree of customization is always necessary to insert relevant information (e.g., the county's name) and ensure the ordinance aligns with existing local law.

- [*Bracketed Italicized Text*] indicates that you must **insert the appropriate text** such as the county's name, the relevant agency or department, or a date (e.g., “[*Insert County Name*]”). You should remove the italic formatting and delete the brackets after inserting the appropriate text.
- In some instances, the Model Ordinance prompts users to **customize a provision** such as the number of advisory council members or the minimum notice that must be provided in advance of advisory council meetings. This is indicated by bracketed text with a single underline (e.g., “[Five (5) Days]”). You should remove the underline and delete the brackets after either accepting the default language or customizing the language.
- In other instances, the Model Ordinance instructs a user to **select one of two provisions**. This is indicated by bracketed text with the first option in single underline and the second option in double underline (e.g., “[any two members / a majority of the voting members]”). You should remove the underline and delete the brackets after selecting one of the options.
- Some provisions include **optional language** indicated by plain bracketed text (e.g., “[or any co-occurring substance use disorder or mental health issues]”). To maintain the optional language, delete only the brackets. To exclude the optional language, delete both the brackets and the text within the brackets.
- Some provisions include blanks where a user can choose to **add additional content** to a list such as appointed advisory council members. This is indicated by “[_____]”.

The County Attorney should always review the final, customized ordinance prior to its adoption to ensure the ordinance is properly formatted and is compatible with existing local and state laws. The County Attorney is also best positioned to determine whether the model should ultimately be introduced and adopted as an ordinance or a resolution.

COMMONWEALTH OF KENTUCKY
[*INSERT COUNTY NAME*] FISCAL COURT
ORDINANCE NO. [*Insert Ordinance Number*]

AN ORDINANCE RELATING TO THE ESTABLISHMENT AND OPERATION OF AN OPIOID ABATEMENT ADVISORY COUNCIL IN THE COUNTY OF [*INSERT COUNTY NAME*].

WHEREAS, Kentucky has experienced disproportionately high rates of opioid misuse, overdose, and opioid-related fatalities, placing a significant and enduring burden on the health, safety, and welfare of its communities;

WHEREAS, over 11,000 Kentuckians lost their lives to overdose from 2019 to 2024;

WHEREAS, the County continues to face the long-term impacts of the opioid overdose crisis, including increased demands on first responders, public health and social services, and the court system;

WHEREAS, the Commonwealth of Kentucky and its political subdivisions have received and will continue to receive funds as part of national opioid litigation settlements intended to remediate the harms caused by the opioid overdose crisis;

WHEREAS, it is essential that the County ensure transparency, accountability, and responsible stewardship in the receipt, management, and expenditure of opioid abatement funds;

WHEREAS, the development of a coordinated, multidisciplinary approach is necessary to effectively address substance use disorder, support recovery, and reduce the future harms associated with the opioid overdose crisis;

WHEREAS, the inclusion of representatives from public health, addiction medicine, first responders, community-based organizations, affected family members, and individuals with lived and living experience will enhance the County's ability to identify community needs and strategically allocate funds for the greatest impact;

WHEREAS, the establishment of an Opioid Abatement Advisory Council will provide oversight, expert guidance, and community input to ensure that opioid abatement funds are used effectively, equitably, and in alignment with state requirements and best practices in opioid abatement.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF [*INSERT COUNTY NAME*], COMMONWEALTH OF KENTUCKY as follows:

Section 1. Definitions.

As used in this Ordinance, unless the context clearly indicates or requires a different meaning:

- (1) "Advisory Council" means the [*Insert County Name*] Opioid Abatement Advisory Council.
- (2) "Approved Use" or "Approved Uses" means a use consistent with the criteria in KRS 15.291(5).

- (3) “County” means the county of [*Insert County Name*].
- (4) “Fiscal Court” means the [*Insert County Name*] Fiscal Court.
- (5) “Opioid Abatement Funds” means moneys received by the County in any settlement, judgement, or bankruptcy proceeding against any entity or person engaged in the manufacturing or distribution of opioids, including, but not limited to, moneys received by the County pursuant to KRS 15.293(4)(b).

Section 2. Creation of Opioid Abatement Advisory Council; Purpose.

- (1) There is hereby established the [*Insert County Name*] Opioid Abatement Advisory Council.
- (2) The Advisory Council has a primary purpose to advise and make recommendations to the Fiscal Court on the allocation and use of Opioid Abatement Funds. All final decisions related to the allocation and use of Opioid Abatement Funds shall remain with the Fiscal Court.

Section 3. Composition of Advisory Council; Appointment and Terms of Members; Vacancy; Removal; Officers.

- (1) *Appointed voting members.* The Advisory Council shall include the following voting members, appointed by the [County Judge Executive and approved by the Fiscal Court / Fiscal Court]:
- a. Two (2) members with direct lived or living experience with opioid and/or other substance use disorder(s).
 - b. One (1) member who has been impacted in a familial capacity, such as having lost or cared for a loved one with opioid and/or other substance use disorder(s).
 - c. One (1) member who represents the drug treatment, recovery support, and/or prevention community within the County.
 - d. One (1) member who is a public health expert engaged in providing harm reduction services.
 - e. One (1) member who is a licensed health care professional authorized to prescribe controlled substances in Kentucky and who has direct experience using methadone and/or buprenorphine to treat individuals with opioid use disorder.
 - f. Two (2) members with experience or interest in addressing opioid and/or other substance misuse or public health.
 - g. [Three (3)] members from [a list / lists] submitted by [*Insert the Name(s) of Recognized Community-Based Nonprofit(s) Working on Opioid and/or Other Substance Use Harm Reduction, Prevention, Treatment, or Recovery*].
 - h. [One (1) member who is representative of local first responders or law enforcement, such as a sheriff or emergency medical services personnel.]
 - i. [_____].

Comment: Localities can decide on the composition of the Advisory Council based on local circumstances and priorities. The Kentucky Association of Counties [recommends](#) including a range of backgrounds and sectors when creating an Advisory Council, including public health, treatment and recovery services, non-profit organizations, and individuals with lived experience. National best practice guidance materials, such as the [Principles for the Use of Funds from the Opioid Litigation](#), further [underscore](#) the importance of including representatives from the communities that are most affected by the opioid overdose crisis and organizations with subject matter expertise relating to opioid abatement.

- (2) *Ex-officio members.* The Advisory Council shall include the following [voting / non-voting] ex-officio members:
- a. The County Judge Executive or their designee.
 - b. The County Treasurer or their designee.
 - c. [The Local Health Department Director or their designee].
 - d. [_____]
- (3) *Non-voting members.* The Advisory Council may include additional nonvoting advisory members, appointed by the [County Judge Executive and approved by the Fiscal Court / Fiscal Court].
- (4) [*Composition.* Appointments to the Advisory Council shall seek to ensure the Advisory Council represents the diversity of the County and the communities within the County that are disproportionately affected by opioid use disorder or any co-occurring substance use disorder or mental health issues.]
- (5) *Terms.* Ex-officio members shall serve terms concurrent with their official positions. Terms of all other members shall be two (2) years [from the date of appointment / ending on [Insert Date] of the respective year], provided the first appointments shall be staggered so that a proportionate number serve one (1) and two (2) years respectively. [If a member's term expires prior to the appointment of a successor, the member may continue to serve until a successor is duly appointed.]
- (6) *Vacancies.* Vacancies shall be filled in the same manner as the original appointment, and the successor shall be appointed for the unexpired term. [For the purposes of reappointment, any partial term filled after a vacancy shall be considered a full term. A vacancy on the Advisory Council shall be filled within 60 days by the applicable appointing authority.]
- (7) *Removal.* Appointed members of the Advisory Council may be removed by their appointing authority for misconduct, willful neglect of duty, conflict of interest, or failure to attend [at least half of the scheduled meetings in any one-year period / three consecutive meetings].

- (8) *Reappointment.* A member [may / may not] be reappointed for additional terms [, provided a member shall not serve more than two consecutive terms].
- (9) *Officers.* The Advisory Council shall elect from its members a chairperson and vice chairperson to serve for terms of [one year] each. The Advisory Council may appoint from its membership such other officers as it may deem necessary for the orderly transaction of its business.
- (10) *Compensation.* [Members shall serve without compensation / Subject to County budget appropriations and not to exceed the total annual budget allocations for such costs, each member who is not an officer or employee of the County or the Commonwealth of Kentucky is entitled to receive a stipend of not more than \$[Insert Dollar Amount] for each Advisory Council meeting actually attended]. [Additionally, members shall be reimbursed for necessary and reasonable expenses incurred while performing their official duties subject to available funds.]

Comment: Robust participation as an Advisory Council member can require a substantial time commitment and members may incur expenses such as travel costs, childcare, and lost wages due to their performance of official duties (e.g., attending meetings and public forums). The [National Association of Counties recommends](#) that jurisdictions “consider compensating members of the [opioid settlement advisory] council for their time as this can be a barrier to participation.” Consistent with this recommendation, this Model Ordinance includes optional language establishing a meeting attendance stipend for Advisory Council members who are not local or state government officers or employees. This stipend is subject to the availability of budget appropriations. The Model Ordinance also includes optional language to enable all Advisory Council members to be reimbursed for necessary and reasonable expenses incurred while performing their official duties.

Section 4. Meetings of Council; Notice; Quorum; Procedures; Recordkeeping.

- (1) *Meetings.* Regular meetings shall be held at least quarterly. Special meetings may be called by the chairperson or [any two voting members / a majority of the voting members] of the Advisory Council. The chairperson shall preside at meetings of the Advisory Council. In the absence of the chairperson, the vice chairperson shall preside at meetings of the Advisory Council. All meetings shall be open to the public and conducted in accordance with Kentucky’s Open Meetings Act, KRS 61.800 to 61.850.
- (2) *Notice.* Notice of meetings shall comply with the Kentucky Open Meetings Act, KRS 61.800 to 61.850, and any other applicable law. Notice shall be given at least [5 days] prior to a regular meeting and at least 24 hours prior to a special meeting. The notice shall contain the date, time, place, purpose of the meeting, the agenda, and instructions for attending or accessing the meetings. The notice shall be advertised in a manner reasonably calculated to notify Advisory Council members, members of the general public, potential stakeholders in the Advisory Council’s work, and those who have made timely requests to the Advisory Council for notice. Potential stakeholders shall include, but are not limited to, individuals with lived and/or living experience of opioid or other substance use disorders. If a meeting is held virtually or in a hybrid format or is

accessible to Advisory Council members attending virtually, the notice shall contain the virtual meeting link with instructions on how to join.

Comment: The Kentucky Open Meetings Act generally requires that a schedule of a public agency's regular meetings be made available to the public (KRS § 61.820(2)). This could take the form, for example, of a one-time announcement in a local newspaper. More robust notice requirements are reserved for special meetings of public agencies (KRS § 61.823).

In the interest of maximizing transparency and public participation in the work of the Advisory Council, this Model Ordinance requires localities to provide advance notice for *each* of the Advisory Council's regular and special meetings. This notice must be provided in a way that is likely to reach key stakeholders and those most impacted by the opioid overdose crisis, particularly marginalized communities.

These more robust notice requirements align with best practices and are strongly recommended. However, a jurisdiction may choose to amend or exclude the additional notice requirements established by this Model Ordinance. If excluded, the Advisory Council would remain subject to the notice requirements established by the Kentucky Open Meetings Act and any existing local law(s).

- (3) *Quorum.* A majority of the voting members of the Advisory Council shall constitute a quorum for transaction of business at any meeting of the Advisory Council.
- (4) *Voting.* Each voting member shall have one (1) vote, and all official actions shall be taken by an affirmative vote of the majority of voting members present.
- (5) *Public comment.* A time for public comment shall be allotted at all Advisory Council meetings. At the appropriate time, the chairperson shall make the announcement that public comment will be taken. The chairperson shall provide a reasonable opportunity to speak to each person that requests such opportunity[, but the chairperson may impose reasonable limits on the duration of each public comment]. Public comments shall be accepted in-person at any in-person meeting and virtually if the meeting offers virtual participation.

Comment: The opportunity for public comment is a critical means by which the Advisory Council can receive community input on local needs and opportunities relating to opioid abatement funds. Because the Kentucky Open Meetings Act generally does not require an opportunity for public comment at meetings of public agencies, this Model Ordinance establishes an independent requirement that the Advisory Council provide the opportunity for public comment at all meetings. This requirement is consistent with the Kentucky Association of Counties' [recommendation](#) to "encourage public input and participation" on the use of opioid abatement funds.

- (6) *Recordkeeping.* Minutes of all meetings and records of all proceedings, including attendance of members, number of votes for and against each motion, and the record of the vote of each

member shall be kept and made available for public inspection in accordance with the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 5. Powers and Duties of Advisory Council.

(1) The Advisory Council shall:

- a. On or before [*Insert Date*] of each year, produce recommendations regarding specific abatement priorities and expenditures of Opioid Abatement Funds for Approved Uses, provided that the Advisory Council may choose to issue recommendations more frequently.

Comment: This provision ensures that the Advisory Council fulfills its primary purpose of advising and making recommendations on the allocation and use of opioid abatement funds. The production of these recommendations on an annual basis is intended to ensure that recommendations are responsive to a rapidly evolving landscape and ongoing community input while minimizing administrative burdens. Additionally, consistent with values of transparency and accountability, annual recommendations inform the public and other key stakeholders about the work and decision-making of the Advisory Council. It is expected that some recommendations will remain consistent from year to year. Annual recommendations should be accessible, comprehensible, and available to all community members.

- b. Facilitate community engagement, including engagement by people with lived and living experience with opioid use disorder or any co-occurring substance use disorder or mental health issues, on the allocation of Opioid Abatement Funds and the identification of policies and/or programs to better address opioid use disorder or any co-occurring substance use disorder or mental health issues in the County, including by, without limitation, holding public forums and establishing a mechanism for members of the public to submit written comments and specific programs, projects, or other initiatives that the Advisory Council may recommend the Fiscal Court fund.

Comment: Community engagement in the allocation of opioid abatement funds is essential. As guidance materials from the Principles for the Use of Funds from the Opioid Litigation [outline](#), “there is a responsibility to ensure the public has access to relevant information and is included in planning and decision-making processes.”

Public forums to facilitate community engagement can take diverse forms, such as townhalls, listening sessions, or workshops. The Advisory Council should also establish a continuous feedback loop so that members of the public can share ideas, insights, and feedback via written comments on a regular basis.

- c. Ensure that a publicly accessible website includes, at minimum, Advisory Council meeting notices, attendance rolls, minutes, and records of proceedings; information on how the public can participate in Advisory Council proceedings; Advisory Council-related bylaws, policies,

procedures, or rules; any recommendations and reports produced by the Advisory Council; and any written explanations issued by the Fiscal Court pursuant to [*Section 6(1)*].

Comment: The public should have ready access to information about the Advisory Council's activities and how to engage in the process. This information can be hosted on a county government's regular website or using a free online hosting platform (e.g., Google Drive).

(2) The Advisory Council may:

- a. Adopt bylaws and other policies, procedures, or rules as it deems necessary for its organization and proceedings consistent with the laws, ordinances, and resolutions of the Commonwealth of Kentucky and the County.
- b. Appoint standing and ad-hoc committees, which may include [voting / non-voting] members who are not Advisory Council members.
- c. Assess ways in which the County responds to opioid use disorder or any co-occurring substance use disorder or mental health issues to improve that response.
- d. Engage with local agencies, academic institutions, other subject matter experts, and the general public to inform the process of developing recommendations.
- e. Issue public reports, which may include reports on programs funded by Opioid Abatement Funds and outcomes of such programs.
- f. Make recommendations to the County Judge Executive, Fiscal Court, agencies, departments, and others regarding improving the County's response to opioid use disorder or any co-occurring substance use disorder or mental health issues, including, but not limited to, proposing local ordinances, resolutions, administrative actions, or policy reforms to ensure timely and efficient use of Opioid Abatement Funds and/or better address substance use issues in the County.
- g. Upon request by the County Judge Executive or Fiscal Court, assist in the development of policies and procedures for the application, awarding, disbursement, and oversight of Opioid Abatement Funds.
- h. Subject to the approval of the County Judge Executive, request from any County department, information, services, facilities, and other assistance for the purpose of furthering the objectives of the Advisory Council.
- i. [Identify and make recommendations for the County to seek additional moneys to address opioid use disorder or any co-occurring substance use disorder or mental health issues, including, but not limited to, opioid abatement moneys awarded by the Kentucky Opioid Abatement Advisory Commission.]
- j. [Respond to related matters referred to the Advisory Council by the County Judge Executive or Fiscal Court.]

Section 6. Consideration of Advisory Council Recommendations; Staff Assistance.

- (1) *Fiscal Court to Consider Advisory Council Recommendations.* The Fiscal Court shall consider recommendations made by the Advisory Council. If the Fiscal Court chooses not to follow a recommendation of the Advisory Council, it shall make publicly available within [thirty (30)] days after the decision is made a written explanation of the reason(s) for its decision.

Comment: This provision is designed to promote transparency around decision-making regarding a county's use of opioid abatement funds. While the Fiscal Court is not obligated in any way to follow the recommendations of the Advisory Council, it is valuable for the public and other key stakeholders to understand the rationale for its spending decisions, including when those decisions do not align with the Advisory Council's recommendations.

Localities can decide on the most appropriate timing of this required response from the Fiscal Court based on local circumstances and established procedures. Whether the written explanation is provided within 14 days or 60 days, the primary goal is to establish a public record of how the Fiscal Court has considered and addressed recommendations from the Advisory Council.

- (2) *Staff Assistance.* Staff assistance [may / shall] be provided to the Advisory Council by [*Insert Appropriate County Agency/Department*].

Section 7. Conflicts of Interest.

- (1) A member who has or whose immediate family has a financial interest, direct or indirect, in the outcome of any matter before the Advisory Council shall disclose the nature of the interest and shall disqualify themselves from voting on the question and shall not be counted for the purposes of a quorum as to such questions.
- (2) All members of the Advisory Council shall be subject to the [*Insert Name of County Ethics / Conflict of Interest Policy*] contained in [*Insert Citation to Applicable County Ordinance*].

Section 8. Effective Date.

This Ordinance shall be effective upon its enactment and publication by the County of [*Insert County Name*].

Section 9. Severability.

If any part of this Ordinance shall be held invalid or unenforceable, such part shall be deemed severable and the invalidity or unenforceability thereof shall not affect the remaining parts of this Ordinance.