

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 1, 2018

Consent Regular
 Public Hearing

Department

Submitted By: County Attorney's Office

Submitted For: County Attorney's Office

I. EXECUTIVE BRIEF

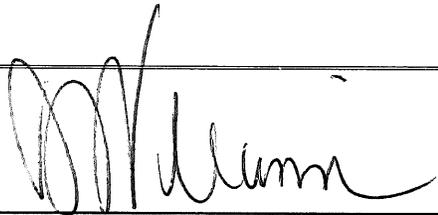
Motion and Title: Staff recommends motion to: approve on preliminary reading and to advertise for public hearing May 15, 2018, at 9:30 a.m. an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, allowing for opioid cost recovery and declaring the effects of opioid abuse on the County a public nuisance; providing for purpose and intent; providing for definitions; providing for cost recovery; providing for effect of criminal or civil proceedings on cost recovery; providing for declaration of public nuisance; providing for retroactive application; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; providing captions; and providing for an effective date.

SUMMARY: The large scale sale, distribution, and prescription of opioids in Palm Beach County has created a public health and safety hazard, affecting many residents, and requiring Palm Beach County to incur great expense associated with this widespread epidemic. The purpose of this Ordinance is to provide a mechanism for Palm Beach County to recover taxpayer's costs incurred as a result of this epidemic, and to declare the opioid crisis in Palm Beach County a public nuisance. Countywide (LB).

Background and Policy Issues: The sale, distribution, and prescription of opioids in Palm Beach County has created an ongoing and persistent public health and safety hazard. As a result of this epidemic, costs related to healthcare, family and social services, education, criminal justice, addiction and rehabilitation, and many other areas have significantly increased. Many of these costs are paid by the County. The purpose of this Ordinance is to provide a mechanism for the County to recover these costs, and to declare the opioid crisis a public nuisance.

Attachments:

- 1. Ordinance

Recommended by:  Date 4/11/18

Approved by: N/A Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	-0-				
#ADDITIONAL FTE POSITIONS (CUMULATIVE					

Is Item Included in Current Budget? Yes No
 Does this item include the use of federal funds? Yes No

Budget Account No:

Fund Agency Organization Object

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

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

Luc Pons 4/12/18
 4/14/18 OFMB 4/13 4/12

John J. [Signature] 4/16/18
 Contract Dev. & Control
 4/16/18

B. Legal Sufficiency

[Signature]
 Assistant County Attorney

C. Other Department Review

 Department Director

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

ORDINANCE NO. 2018 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ALLOWING FOR OPIOID COST RECOVERY AND DECLARING THE EFFECTS OF OPIOID ABUSE ON THE COUNTY A PUBLIC NUISANCE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR COST RECOVERY; PROVIDING FOR EFFECT OF CRIMINAL OR CIVIL PROCEEDINGS ON COST RECOVERY; PROVIDING FOR DECLARATION OF PUBLIC NUISANCE; PROVIDING FOR RETROACTIVE APPLICATION; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the opioid epidemic is sweeping the County, and addiction to and abuse of opioids is one of the greatest challenges facing Palm Beach County; and

WHEREAS, a cause of this increasing crisis is the overabundance of prescription of opioids. Vast amounts of prescription opioids were sold, distributed, and prescribed in the County over the past several years, a practice that continues today; and

WHEREAS, the selling, distributing, and prescribing of large amounts of opioids in our community has created an ongoing and persistent public health and safety hazard affecting the residents of the County. The crisis has devastated families, wreaked havoc on our economy, and produced a generation of narcotic dependence; and

WHEREAS, as a result of the opioid epidemic, costs related to healthcare, family and social services, criminal justice, education, addiction and rehabilitation, and many other areas have significantly increased; and

WHEREAS, the County bears many of these costs related to the opioid epidemic, which are funded by tax revenues; and

WHEREAS, this Ordinance provides that reimbursement may be sought for the costs of providing such services from the responsible party; and

WHEREAS, in pursuit of the above, the County establishes this cost recovery procedure and declares the opioid epidemic and its effect on the County a public nuisance; and

WHEREAS, the Board of County Commissioners adopts this Ordinance pursuant to its authority under the Constitution of the State of Florida, Article VIII, section 1(g), the Charter of Palm Beach County, Florida, and Florida Statutes, Chapter 125.

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

Section 1. PURPOSE AND INTENT:

The recitals set forth above are true and correct, and form the purpose and intent of this ordinance.

Section 2. DEFINITIONS:

- A. "Costs" means all expenditures related to the opioid epidemic that directly or indirectly arise from the County's response to a responsible party's action or inaction.
- B. "Responsible party" means any person or corporation whose negligent, intentional, or otherwise wrongful conduct causes the incident resulting in the County incurring costs or who is found liable or made responsible by a court for the costs incurred by the County in the form of damages, regardless of the cause of action.

Section 3. COST RECOVERY:

The County may recover the costs of governmental functions related to opioids marketed, sold, manufactured, dispensed, prescribed, and/or distributed by the responsible party, through administrative, civil, and/or criminal action against the responsible party. The County may also recover attorney's fees, interest, and any other payment of type of damages the court deems proper.

Section 4. EFFECT OF CRIMINAL OR CIVIL PROCEEDINGS ON COST RECOVERY:

The initiation of administrative or civil proceedings for governmental function cost recovery does not bar the criminal prosecution of a responsible party for any associated violation. Similarly, criminal prosecution does not bar civil collection of costs for the violation giving rise to the criminal prosecution.

Section 5. DECLARATION OF PUBLIC NUISANCE:

- A. Addiction to and abuse of opioids is one of the greatest challenges facing the County;
- B. A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioid pain pills were sold, distributed and prescribed in the County over the past several years, which practice continues today;
- C. The selling, distributing, and prescribing of large amounts of opioid pain pills in the County has created an ongoing and persistent public health and safety hazard affecting the residents of the County, resulting in devastation to County families, a negative effect

on the County economy, wasted public resources, and a generation of narcotic dependence;

D. Selling, distributing, and prescribing of prescription opioid pain pills is a hazard to public health and safety, which has created a public nuisance to the citizens of the County, and said nuisance remains unabated;

E. The County is authorized to enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the Commission determines to be a public nuisance;

Section 6. RETROACTIVE APPLICATION:

This legislation applies retroactively.

Section 7. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section. 8 SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

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

Section 10. CAPTIONS:

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

Section 11. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 2018.

SHARON R. BOCK, CLERK

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

By: _____
Deputy Clerk

By: _____
Melissa McKinlay, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2018.