

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON**

**A SUMMARY OF ORDINANCE NO 2023-03
ENTITLED "AN ORDINANCE RECREATING AND REESTABLISHING THE
LONDON CITY UTILITY COMMISSION AND NECESSITY THEREOF;
ESTABLISHING THE NUMBER OF COMMISSIONERS; OATH OF OFFICE;
INSURANCE; QUORUM FOR MEETINGS; REMOVAL FROM OFFICE; BUDGET;
EXPENSES AND RATES OF SERVICES; WATER AND SEWER RATES AND
APPROVAL BY COUNCIL; FINANCIAL AUTHORITY; ANNUAL AUDIT;
EMPLOYEES OF THE COMMISSION; BIDDING AND PROCUREMENT
PRACTICES; MEETING DATES AND TIMES; MINUTES OF MEETINGS; PREVIOUS
AGREEMENTS, UNDERSTANDINGS AND CONTRACTS; DELEGATION OF
AUTHORITY; SEVERABILITY, REPEALING PRIOR ORDINANCES AND
EFFECTIVE DATE**

This Summary is prepared by City Attorney Larry G. Bryson who is certified to practice law in this Commonwealth. This Ordinance was made necessary because the Kentucky Department of Local Government decided the London Utility Commission ("LUC") was a Special Purpose Government Entity, over the objection of the LUC.

This Ordinance recreates the LUC which is responsible for providing water and sewer services to the citizens of London. The LUC is composed of five voting members who must be 21, registered voters in the County, not convicted of any felony and at least 3 must be residents of the City for at least one year prior to their appointments and must take the Oath of Office. The present commissioners serve their terms of appointment and are eligible for reappointment. The appointments are for 4 years and each commissioner is required to be bonded for \$5000. A commissioner cannot be elected to or appointed to any public office and neither the Mayor, Council member or LUC employee can serve on the LUC. The LUC must elect officers, have its own insurance, conduct meeting with quorums and may be compensated by the Commission; establish meeting dates and time and keep minutes of their meetings; the LUC has a financial audit. Commissioners can be removed from office. The LUC makes quarterly reports to the Council. The Superintendent is employed by the LUC and conducts the daily activities, is responsible for LUC employees and attends Commission meetings. The LUC is responsible for the water and sewer systems in the City, prepares its own budget, makes contracts, employs its own attorney, pays for the operation of the commission and pays its own expenses. The LUC adopts its own personnel policy, pay rates and adopts an Ethics Code. The LUC may use the CPI for increases, but any other increases must be approved by the Council

The LUC cannot obligate itself beyond its fiscal year. The City pays for its water and sewer use. All prior contracts and agreements remain in place. The LUC follows state bid law. Previous

ordinances are repealed if in conflict with this Ordinance and this Ordinance is effective on publication.

The full and complete Ordinance is on file at the Office of the London City Clerk and can be viewed there during normal business hours.



City Attorney Larry G. Bryson

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON, KENTUCKY
ORDINANCE NO. 2023-03**

**AN ORDINANCE RECREATING AND REESTABLISHING
THE LONDON CITY UTILITY COMMISSION AND NECESSITY THEREOF;
ESTABLISHING THE NUMBER OF COMMISSIONERS, TERMS AND CONDITIONS
OF APPOINTMENT AND REQUIREMENTS OF COMMISSIONERS; OATH OF
OFFICE; INSURANCE; QUORUM FOR MEETINGS; REMOVAL FROM OFFICE;
DUTIES AND RESPONSIBILITIES OF THE COMMISSION; GUIDELINE; POLICIES;
BUDGET; EXPENSES AND RATES OF SERVICES; WATER AND SEWER RATES
AND APPROVAL BY COUNCIL; FINANCIAL AUTHORITY; ANNUAL AUDIT;
EMPLOYEES OF THE COMMISSION; BIDDING AND PROCUREMENT
PRACTICES; MEETING DATES AND TIMES; MINUTES OF MEETINGS; PREVIOUS
AGREEMENTS, UNDERSTANDINGS AND CONTRACTS; DELEGATION OF
AUTHORITY; SEVERABILITY, REPEALING PRIOR ORDINANCES AND
EFFECTIVE DATE**

Whereas the Kentucky Department of Local Government, Commonwealth of Kentucky unilaterally, and over the objection of the London Utility Commission decided that the London Utility Commission met the qualifications of a Special Purpose Government Entity and determined that the London Utility Commission exists as such as a Special Purpose Government Entity;

Now therefore, the City of London, by and through its City Council does hereby reestablish the London Utility Commission and due to other requirements of Kentucky law and the necessity for other changes in the Ordinance governing the London Utility Commission because of the Commonwealth's determination that it is a Special Purpose Government Entity,

Be it therefore Ordained as follows,

This Ordinance hereby reestablishes and to the extent necessary, recreates the City of London Utility Commission of the City of London, Kentucky.

General Responsibilities of the London Utility Commission

The London Utility Commission shall be responsible for providing a system of water and sewer to the citizens of the City of London. Although water systems other than those of this Commission serve some of the citizens of London, Kentucky, it is the responsibility of the Commission to provide a system of potable water to the citizens and businesses of London and it is the intent of the Commission to provide such services to any areas of the City that do not have water as possible as determined by the Commission. The City Council of the City of London states that it is the mission of the London Utility Commission to provide the City with water; establish and regulate public cisterns, hydrants and reservoirs, with and beyond the limits of the city, for the extinguishment of fires and the convenience of the inhabitants; prevent the unnecessary waste of water; and to change, relocate and establish water and sewer lines in the City when necessary.

A. The Commission, pursuant to KRS 96.320:

1. *Membership:* The London Utility Commission shall be composed of five (5) voting members, known as Commissioners to be appointed by the Mayor of the City of London.
2. All members of the Commission shall own property in the area served by the Commission's waterworks and be registered voters in the county. At least three (3) members of the Commission shall be residents of the City of London for at least one (1) year preceding the appointment.
3. Be at least twenty-one (21) years of age, and not have been convicted of any felony in state or federal court.
4. Regardless of the above qualifications, all present Commissioners shall serve their present terms of appointment. All presently appointed Commissioners remain eligible for continued reappointment as Commissioners.
5. All appointments shall be for a term of four (4) years, appointments for an unexpired term of office shall be in the same manner as an original appointment and shall be for a term of four (4) years, beginning with the date of new appointment, regardless of the length of the remaining unexpired term.
6. The commissioners shall give bond for the faithful performance of their duties in the sum of Five Thousand Dollars (\$5,000.00).
7. If at any time during his/her term of office, a member of the Utility Commission is elected to or appointed to any public office, he/she shall automatically vacate his/her membership from the Utility Commission and another person shall be appointed by the Mayor. No City Council person or Mayor shall serve as a member of the London Utility Commission. No employee of the Utility Commission shall serve as a member of the Utility Commission.
8. The Commissioners shall manage the water and sewer system of the City. They shall appoint a superintendent, secretary, and treasurer and other necessary employees and fix their salaries or pay scale.
9. The Commissioners shall cause quarterly reports and project updates to be made to the City Council of the operation and condition of the water and sewer systems of the Commission; the Commission shall provide to the City Clerk for distribution to the Council and Mayor quarterly expenditures and receipts of the Commission.

10. *Chair:* The Commissioners shall elect from the Commissioners a person to Chair all meetings and sign all documents requiring such signature as authorizing actions of the Commission. The Chair shall retain the right to make motions and vote on all matters.

11. *Oath of Office required:* Each member of the Commission shall take such position by taking the Oath of Office as provided in Section 228 of the Kentucky Constitution.

12. *Insurance:* The Commission shall provide for its own policy of insurance for its acts and omissions, property, liability and provide for health and other medical insurance, life and other insurance policies for its employees, Commissioners and property.

13. *Quorum:* A majority of the Commission shall constitute a quorum of the Commission and shall act by a majority vote of those present at any meeting.

14. *Removal from Commission:* Any member of the Commission may be removed from office for cause by the Mayor of the City for inefficiency, neglect of duty, misfeasance, nonfeasance or malfeasance in office.

15. *Compensation:* The Commission shall determine the compensation to be paid to its members, not exceeding an annual salary of six thousand dollars (\$6,000.00) per Commissioner, per year. The City of London shall not be liable for for the payment of any compensation of any of the members of the Utility Commission or employee of the Commission and such compensation shall be paid solely and only out of the revenue obtained from the Utility Commission from the various utilities owned by the city pursuant to the law and the liabilities shall be so limited.

2. *Meeting dates and times:* The London Utility Commission shall establish regular meeting dates and times, which shall be at least once per month. The Commission shall meet at other times as the Commission Charity may designate by appropriate legal notice.

3. *Minutes of Meetings:* The Commission shall cause to be made a complete and accurate record of all meetings which shall be subject to inspection under the Kentucky Open Records laws.

B. Financial Audit:

The Commission shall cause to be made a financial audit of this financial records each year and a written report prepared by the auditor, who shall be an independent auditor.

C. Authorization for Superintendent of the London Utility Commission and Duties:

The London Utility Commission shall employ a Superintendent to carry out the Commission's day to day activities and policies, including but not limited to hiring and payment of Commission employees, payment of bills following Commission's approval of same, following bidding and procurement laws of the Commonwealth of Kentucky, and shall attend all Commission meetings and make any filings or reporting required of the London Utility Commission by Kentucky law.

1. The Commission shall establish a salary to be paid to the Superintendent for his services based on his/her training and experience for the general supervision and control over the acquisition, improvement and operation the water and sewer systems in the City of London. The Superintendent shall be entitled to any and all other benefits of employment as other employees of the Commission in the London Utility Commission Personnel Policy. The Superintendent may be removed from his position of employment upon a majority vote of the Commission for inefficiency, neglect of duty, misfeasance, nonfeasance, or malfeasance in office.
2. The Superintendent shall have charge of all contracts subject to the approval of the Commissioners and to the extent required by law, by the Mayor and Council of the City of London.
3. The Superintendent shall employ all hourly employees of the Commission; all salaried employees are subject to the approval of the Commission. The Superintendent shall determine employees' work schedules and otherwise fix their duties and compensation. The Superintendent shall notify the Commission of all new hires, retirements, resignations, all disciplinary actions and other employment actions taken by the Superintendent. Disciplinary actions may be taken by the Superintendent regarding employees' poor performance of job duties and responsibilities and all other day-to-day employment issues unless otherwise limited by state or federal law.

Guidelines, Policies and Budget

The London Utility Commission shall be responsible for the policy and guidelines for the operation of the London Utility Commission, unless otherwise specified in this Ordinance or otherwise prohibited by Kentucky law.

Consistent with the requirements of any applicable state law and this Ordinance, and within the limits of the funds available therefor, all powers of the City of London to improve, operate, expand and maintain the systems and utilities and all powers necessary and convenient thereto, shall be exercised on behalf of the City Council by the London Utility Commission.

1. Subject to the provision of applicable bonds and contracts, the Utility Commission shall determine programs and make all plans and determinations as to improvements and financial practices and

may establish those rules, regulations, policies, practices, guidelines and/or handbooks as it deems necessary or appropriate to govern the furnishing of water and sewer. However, should the London Utility Commission determine that an expansion or improvement of the present system is to be accomplished, this expansion for improvement shall not be undertaken without the approval of the City Council and/or Mayor when required by Kentucky law.

2. The London Utility Commission shall approve an annual budget for the operation of the Utility Commission.
3. The London Utility Commission shall employ an attorney and designate payments to be paid to said attorney and for its attending meetings and for representing the Commission and the Superintendent in any legal work of any nature on the Commission's behalf as may be required from time to time, such payment to be made from the Commission's operating budget.
4. The Commission shall pay all cost and expenses in the operation of the commission from its operating budget, including but not limited to insurance, equipment, supplies, materials, labor, and any other necessary costs and expenses incurred in the normal and customary business of this nature.
5. Pursuant to Kentucky law, in particular, KRS 96.460, the City shall pay the reasonable cost and value of any water and/or sewer or other service rendered to the City by the London Utility Commission. The funds so paid shall be accounted for in the same manner as other revenues of the London Utility Commission.
6. In keeping with Kentucky law, the London Utility Commission shall not obligate itself beyond its own resources for any fiscal year. Any financial obligation such as, but not limited to, construction and maintenance extending beyond any fiscal year shall be approved by the London City Council giving authorization to the Mayor of the City of London or the Chair of the City of London Finance Corporation to enter into such agreements of financial obligation, either with the City or by the Commission. The City, when necessary, by, through and when needed, in conjunction with the Commission may borrow money and issue negotiable bonds, in keeping with Kentucky law. Such approval shall be obtained by the Commission by a majority vote of the City Council and with the approval of the Mayor of the City of London.
7. *Previous Agreements and Contracts:* The Commission shall be bound to perform under the terms of any previous contracts and/or agreements made and entered into by or on behalf of the

Commission that exist at the time of the enactment of this Ordinance that were entered into while the Commission existed under previous City of London Ordinances.

8. *Personnel and Pay:* The Commissioners shall adopt a personnel policy and pay scale or pay rate for all employees and adopt an Ethics Policy which may be the same or different than that of the City of London, at the discretion of the Commission. The Commission shall provide for payment of the Commissioners for attending meetings of the Commission.
9. *Water and Sewer Rates:* The Commission has recommended a uniform and reasonable schedule of water and sewer rates, service rates and other charges for the orderly operation of the business of supplying water and sewer and related services to homes and businesses in London, Kentucky; by the adoption of this Ordinance, the Council approves such rates. Any changes in future rates and fees shall be approved by the London City Council by Ordinance or Motion. The existing water and sewer rates shall remain in effect until or unless changed by the City Council. Such rates, charges or fees shall be maintained for public inspection during regular business hours at the London Utility Commission. Cost of living adjustments, based on the most recent Consumer Price Index (CPI) information may be made to water and sewer rates annually by the Commission without approval by the City Council.
10. *Acquisition of Real Estate:* All real estate acquired by the London Utility Commission shall be acquired in the name of the City of London. However, by this Ordinance, water, sewer and other similar easements, while in the name of the City of London, shall be signed by the London Utility Commission Superintendent, on behalf of the City of London, with the approval of the Commission.
11. *Commission Employees:* The Superintendent shall be responsible for the hiring of all Commission employees after providing sufficient legal notice of any job vacancies in the London Utility Commission. The London Utility Commission does not discriminate, in its hiring practices of any person's federally or state protected rights as established by Kentucky or Federal law. Individuals employed by the Commission shall be subject to employment guidelines and policies of the London Utility Commission Personnel Policy, which shall be enforced by the Superintendent of the Commission.
12. All applicants for employment shall be required, as a condition of employment, to undergo a national and state criminal records check and a clear CA/N Check. A "clear CA/N check" means a letter from the Cabinet for Health and Family Services indicating that there is no final

administrative finding of child abuse or neglect. The request for a criminal background check shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. If the Justice Cabinet or the Administrative Office of the Courts charges fees, such fees or the charges shall be at the expense of the employment applicant. Any resulting records of convictions may be used at the discretion of the Superintendent in hiring or refusing to hire such applicant.

13. The London Utility Commission Personnel Policy shall include its policy pay rates and scales, insurance, fringe benefits and other terms and conditions of employment as may be deemed necessary by the London Utility Commission. All salaries, wages and other benefits for the Superintendent and other employees shall be paid from the budget of the Commission. Employees of the London Utility Commission shall be governed by a Code of Ethics adopted by the London Utility Commission.

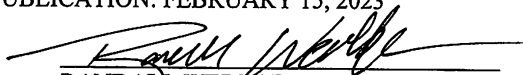
14. *Bidding and Procurement Practices*

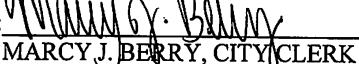
The London Utility Commission shall follow all Kentucky legal requirement with regard to bidding and procurement practices. The Commission shall have the authority to advertise for, accept bids and enter into contracts, without Council approval, but shall not obligate itself beyond its current fiscal year.

15. *Delegation of Authority:* Any authority not specifically delegated to the London Utility Commission by this Ordinance is specifically reserved to the Mayor of the City of London, unless otherwise stated in the Kentucky Revised Statutes. Pursuant to KRS 96.200, any and all revenue generated from the operation of the water and sewer services in the City, may be used only by the Commission as outlined in this Ordinance.

16. Any previous Ordinances or parts of Ordinance in conflict with this Ordinance are repealed. This Ordinance shall become effective on the date of its publication. If any section, sentence, clause or phrase of the Ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining Ordinance.

FIRST READING: FEBRUARY 6, 2023
SECOND READING: FEBRUARY 8, 2023
PUBLICATION: FEBRUARY 15, 2023


RANDALL WEDDLE, MAYOR

ATTEST: 
MARCY J. BERRY, CITY CLERK