

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO. 2023-26**

**AN ORDINANCE DETERMINING CITY OWNERSHIP OF STREETS, WALLS AND TREES
IN THE CITY OF LONDON AND RESPONSIBILITY OF MAINTENANCE, REPAIR,
REMOVAL AND REPLACEMENT; TREE TRIMMING AND REMOVAL ON CITY STREET
RIGHT OF WAYS**

Whereas, the City of London does have written easements and deeds for many streets in the City, but does not have actual written Easements or Deeds for many right-of-ways (ROWS) in the City and,

Whereas, the City is often requested to perform work by constructing or reconstructing streets, walls, trimming trees or cutting trees that a property owner may claim are within the City's ownership or City ROWs and yet, no such written easements or deeds to the City can be found, it is necessary that the City establish this Ordinance stating standards for determine if the City owns the property and the extent of the City's ownership for the City proposed or requested work on such properties.

For such reasons, the following standards should be used to determine City ownership and if City work should occur on such properties:

1. Require the property owner requesting the work by the City to produce written documentation reflecting the City's ownership of the street (written easement or deed) or maintains the Street and for what period of time. This does not preclude the City from conducting its own search for such documentation. A determination shall be made from such documentation if the City owns the property upon which the City is being asked to perform work.
2. If no such written documentation exists or can be found, the City shall determine who build the wall or ditch adjacent to the City street. If it is determined that the property owner or his predecessor in title constructed the ditch line or wall, the property owner shall be responsible

for the replacement, relocation, repair or maintenance of the same and the City shall not be so responsible.

3. If **no** documentation of a written easement or deed (a plat is not sufficient because it does not convey ownership) can be found reflecting ownership of a street, the City shall determine if the City presently maintains the street and for what period of time it has done so. If the street has been maintained by the City for a period of fifteen (15) years, the City will be determined to be the owner of the street by prescriptive easement and/or adverse possession for either (a) the entire area of the street or (b) 10 feet on either side of the center of the street, whichever is greater and in such event, the City shall be responsible for maintenance, repair and/or replacement within that easement.
4. If the width of the street is not sufficient to include the wall or ditch, using the above standards, the City shall have no responsibility to maintain, repair or replace the wall or ditch line.
5. If it is determined that the City is responsible for the maintenance of the wall or ditch, the same shall be repaired or replaced in keeping with the standard current materials used by the City. If the adjacent property owner wishes to upgrade from the standard current materials used by the City, the adjacent property owner shall be responsible for the cost of the upgrade materials and additional cost of labor and a written contract shall be entered into between the City and the adjacent property owner reflecting each party's understanding and agreement thereto.
6. If a tree's ownership in a questioned street easement is in dispute between the City and a property owner, the same standard as outlined in numerical paragraph (3) above shall determine tree ownership. If the City is of the opinion that a tree is likely to cause personal physical injury or damage to property and the property upon which the tree is located is owned by the City either by written document or by using the standard outlined in paragraph (3) above, the City

shall have the discretion of either trimming the tree or removing the tree and the same shall be questioned by no one.

7. The above standards do not change, modify or repeal or replace any requirements made of new residential or commercial developments or construction, particularly with regard to the width of various streets as outlined in the City of London Planning and Zoning Ordinances.

8. This Ordinance shall be effective upon publication.

~~_____~~ ~~Date: _____~~
Mayor Randall Weddle Date: 7/18/2023

Attested: Katelin McPeck Date: 7/18/2023
London City Clerk Katelin McPeek

First Reading JUNE 14, 2023 Second Reading JULY 3,
2023

Publication JULY 19, 2023