

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON
SUMMARY OF ORDINANCE NO. 2003-09**

**A SUMMARY OF LONDON CITY ORDINANCE NO. 2003-09
REESTABLISHING AND RECREATING THE LONDON CITY UTILITY
COMMISSION; 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 COMMISSION; GUIDELINES, POLICIES BUDGET, EXPENSES AND
RATES OF SERVICES; APPROVAL OF RATES AND SERVICES BY CITY
COUNCIL; FINANCIAL AUTHORITY; ANNUAL AUDIT REQUIRED;
EMPLOYEES OF THE COMMISSION; BIDDING AND PROCUREMENT
PRACTICES; MEETING DATES AND TIMES; MINUTES OF MEETINGS;
PREVIOUS AGREEMENTS AND CONTRACTS; DELEGATION OF
AUTHORITY; SEVERABILITY; PRIOR ORDINANCES AND EFFECTIVE
DATE AND REPEALING ORDINANCE NO. 981.**

This Ordinance recognizes that the County and the City entered into an agreement relating to County participation and representation on the London Utility Commission.

This Ordinance reestablishes the London Utility Commission, consisting of a total of seven (7) members, two (2) whom are to be nominated by the Laurel County Judge Executive and appointed by the Mayor of the City, and continue to sit as members as long as the County participates in the written financial agreement with the City. Present sitting members continue to sit for the remainder of their term of appointment. A chairperson is elected annually by the Commissioners; the Commissioners take the Kentucky Constitutional Oath of Office, a policy of insurance for their performance as Commissioners is provided by the City or may be obtained by the Commission itself. A majority of the commissioners constituted a quorum and the Commission acts by a majority of the members present. A Commissioner may be removed from office upon a vote of the City Council for inefficiency, neglect of duty, nonfeasance or malfeasance in office.

The Commission's general responsibilities are described as being to provide a system of water and sewer to the citizens of the City of London, although it is recognized that persons outside the City also receive these services. The Commission is responsible for the policy and guidelines for the operation of the Commission, unless otherwise stated in the Ordinance or otherwise required by Kentucky law. The Commission operates on its own budget, which it adopts, employs its own attorney, pays all costs and expenses in its operation, except as otherwise agreed upon.

The Commission recommends to the Council a schedule of water and sewer rates and other charges, all of which must be approved by the Council. The Commission is required to submit its annual audit to the City Council annually. Projects beyond the Commission's fiscal year may be taken in the name of the London Finance Corporation and real estate is required to be acquired in the name of the City or the Finance Corporation.

The duties of the Superintendent of the commission are generally described. All employees of the Commission are appointed by the Mayor of the City of London, in keeping with Kentucky law, but employees of the Commission are recommended for employment by the Superintendent to the Mayor. The Commission is required to have employment guidelines in an employment policy, to have pay rates and scales, insurance,

fringe benefits and other terms and conditions of employment. Employee's compensation is paid entirely from the Commission's budget. Decisions relating to dismissals, lay-offs, terminations, etc., are recommended by the Superintendent to the Mayor.

The Commission is subject to all Kentucky laws relating to bidding and procurement practices. The Commission is required to establish meeting dates and times on a monthly basis, but may meet at other times and places subject to proper notice being given. The Commission is required to keep minutes of its meetings, which are subject to the Kentucky Open Records Laws. The Commission is required to have an annual audit of its financial records by an independent auditor.

The previous agreements and contracts of the Commission remain binding on the Commission and City, as originally stated. Any authority not specifically delegated to the Commission is reserved to the City Council and/or Mayor. Any section of the Ordinance that may be declared invalid by any Court will be viewed as being severable from the remainder of the Ordinance and will not defeat its effect. Prior Ordinances are repealed and this Ordinance is effective immediately upon publication.

This Summary is intended as an accurate summary of Ordinance No. 2003-09 by Larry G. Bryson, City Attorney, who is an attorney authorized to practice law in this Commonwealth.

LARRY G. BRYSON
LONDON CITY ATTORNEY

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO. 2003-09**

AN ORDINANCE REESTABLISHING AND RECREATING THE LONDON CITY UTILITY COMMISSION; ESTABLISHING THE NUMBER OF COMMISSIONERS, TERMS AND CONDITIONS OF APPOINTMENT AND REQUIREMENTS OF COMMISSIONERS; OATH OF OFFICE; INSURANCE; QUORUM OF MEETINGS; REMOVAL FROM OFFICE; DUTIES AND RESPONSIBILITIES OF COMMISSION; GUIDELINES, POLICIES BUDGET, EXPENSES AND RATES OF SERVICES; APPROVAL OF RATES AND SERVICES BY CITY COUNCIL; FINANCIAL AUTHORITY; ANNUAL AUDIT REQUIRED; EMPLOYEES OF THE COMMISSION; BIDDING AND PROCUREMENT PRACTICES; MEETING DATES AND TIMES; MINUTES OF MEETINGS; PREVIOUS AGREEMENTS AND CONTRACTS; DELEGATION OF AUTHORITY; SEVERABILITY, PRIOR ORDINANCES AND EFFECTIVE DATE AND REPEALING ORDINANCE NO. 981.

Whereas the City of London finds it is necessary to update the Ordinance governing the London Utility Commission and,

Whereas there have been many practical changes in the operation of the London Utility Commission since the date of its creation and over the many years, including, but not limited to the fact that the London Utility Commission serves businesses and residences outside the corporate limits of the City of London, and,

Whereas the City of London and the County of Laurel have entered into a written agreement concerning the sharing of financial resources and expenses relating to the expansion and construction of a new sewer plant and

Whereas the London Utility Commission provides a valuable service to the citizens of the City of London in Laurel County, Kentucky, in providing both water and sewer services,

BE IT ORDAINED AS FOLLOWS:

1. REESTABLISHMENT AND RECREATION OF LONDON UTILITY COMMISSION. This Ordinance hereby reestablishes and to the extent necessary, recreates, the London Utility Commission of the City of London, Kentucky.
2. NUMBER OF COMMISSIONERS AND REQUIREMENTS OF COMMISSIONERS. The London Utility Commission shall be composed of a total of seven (7) voting members (subject to the terms of this Ordinance as is hereinafter stated), known as "commissioners," to be appointed by the Mayor of the City of London, and to be composed of the following:
 - a. One (1) present member of the London City Council (a sitting Councilperson);
 - b. Four "at large" members (4) members, to be at all times residents of the City of London, Kentucky;
 - c. Two (2) members to be nominated by the Laurel County Judge-Executive to the Mayor of the City of London. The Mayor may appoint these two (2) members with full membership to the London Utility Commission. These two (2) members shall sit as Commissioners for so long a time as a written

agreement of financial contribution by Laurel County, Kentucky, to the London Utility Commission dated _____, remains in effect. If the Fiscal Court of Laurel County, Kentucky, terminates the financial agreement of support to the London Utility Commission, the terms and service of the two (2) Commissioners named by the Laurel County Judge-Executive and appointed by the Mayor of the City of London, Kentucky, shall cease to exist automatically, with no action of removal or otherwise being necessary. In such event, the number of Commissioners named by the Mayor of the City of London, Kentucky, shall be five (5) members.

3. TERMS OF OFFICE.

- a. Present City Members: The terms of office of the present Commissioners under the existing ordinance shall continue as established at present time and no reappointment by the Mayor shall be necessary until the expiration of their present terms. In keeping with previous ordinances and practice, the Commissioners from the City are now appointed for a term of four (4) years; appointments to complete unexpired terms of office shall be made in the same manner as original appointments, but only for the unexpired term.
- b. County members. The term of office of the Commissioners to be nominated by the Laurel County Judge-Executive and appointed by the Mayor of the City of London, shall be for four (4) years, unless the County Fiscal Court fails to provide its financial contribution as described in (2) (c) above.
- c. The Commissioners shall elect a member from the Commissioners, to serve as chairperson of the Commissioners for the purpose of presiding at meetings of the London Utility Commission; this person shall retain the right to make motions and vote on all matters.
- d. Each member of the Commission (Commissioner) shall qualify for such position by taking the oath of office provided for by Section 228 of the Kentucky Constitution.
- e. Unless otherwise obtained and paid by the London Utility Commission, the City Council of the City of London shall pay the cost of securing for the Commission members, a policy of insurance covering the acts and omissions of the Commission members and Superintendent of the London Utility Commission, in the performance of their duties and responsibilities as Commission members and Superintendent.
- f. A majority of the Commission shall constitute a quorum of the Commission shall act by a vote of those present at any meeting attended by a quorum of the Commissioners.
- g. Any member of the Commission may be removed from office upon a vote of the City Council for inefficiency, neglect of duty, misfeasance, nonfeasance, or malfeasance in office.

4. DUTIES AND RESPONSIBILITIES OF COMMISSION.

- a. **General Responsibilities.** The London Utility Commission shall be responsible for providing a system of water and sewer to the citizens of the City of London, Kentucky. Although water systems other than those of this Commission serve some of the citizens of London, Kentucky, it is the responsibility of this commission to provide a system of potable water the citizens of London, Kentucky. At the time of the writing of this Ordinance, the City of London provides the only available sewer service to the citizens and businesses of the City of London and areas immediately surrounding the city limits of London, Kentucky. Sewer service has, in the past, and will in the foreseeable future, be extended to residences and businesses within the City of London and into areas immediately accessible and when fiscally practical to do so, as determined by the London Utility Commission.
- b. **Guidelines, Policies, Budget, Expenses and Rate for Services.** 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. The London Utility Commission shall approve an annual budget for the operation of the Utility Commission. The London Utility Commission shall employ an attorney and designate a salary to be paid to said attorney and for such other legal work as may be required from time to time, such payments to made from the Commission's operating budget. The Commission shall pay all costs 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. The London Utility Commission shall be responsible for recommending a uniform and reasonable schedule of water and sewer rates, service rates, and other charges for services, supplies, equipment and other costs incurred in providing water and sewer services to residential, business and commercial customers of the London Utility Commission to the City Council and Mayor of the City of London. All rate and service fees must be approved by the City Council of the City of London by appropriate City Ordinances. Such rate charges and fees shall be maintained at the London Utility Commission office and shall be available for inspection during regular business hours of the Commission.
- c. **Reservation of Financial Authority.** It is specifically stated herein, that in keeping with Kentucky law, the London Utility Commission shall not obligate its own resources beyond any fiscal year. Any financial obligation of construction and maintenance that extend beyond any single fiscal year shall be approved and authorized by the London City Council, which shall authorize the Mayor of the City of London or the Chairman of the London Finance Corporation to enter into such agreements of financial obligation.

Any real estate acquired by the Commission shall be acquired in the name of the City of London, Kentucky.

- d. Annual Audit. The Commission shall cause an audit report to be made annually and shall provide a copy of the same to the London City Council each year, within thirty (30) days of the date of the presentation of the audit report to the Commission.

5. EMPLOYEES OF THE COMMISSION.

- a. Superintendent. The London Utility Commission shall recommend to the Mayor of the City of London a person to employ as Superintendent of the Commission. The Superintendent shall be responsible for the day-to-day operations of the London Utility Commission, attend all commission meetings, implement the policies of the Commission and the Ordinances of the City of London, report to the Commission and the City Council and Mayor of the City of London from time to time to do so, and perform such other duties as may be required by the Commission or the City of London. The Superintendent shall be a resident of the City of London, Kentucky. The Superintendent's salary and other benefits of employment shall be included in the Commission's Policy of Employment as is hereinafter stated.
- b. Other employees of the Commission. The Superintendent shall recommend to the Commission any persons for employment by the Commission. A majority of the Commissioners shall recommend to the Mayor of the City of London, who may then employ such persons. Individuals employed by the Commission and shall be subject to employment guidelines in a policy of employment which shall be in keeping with Kentucky and federal law. The Commission shall include in 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 of the Superintendent and other employees shall be paid from the budget of the Commission.
- c. Other conditions of employment. In keeping with present Kentucky law, the Mayor shall make all decisions relating to employment decisions of hiring, lay-offs, terminations, and other similar decisions relating to employment. Such decisions may be made upon the recommendation of the Superintendent to the Mayor.

6. BIDDING AND PROCUREMENT PRACTICES.

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

7. MEETING DATES AND TIMES.

The London Utility Commission shall establish regular meeting dates and times, which shall be at least once each month. The Commission may meet at such other times as the Commission Chairman may designate by appropriate legal notice.

8. COMMISSION MINUTES.

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

9. PREVIOUS AGREEMENTS AND CONTRACTS.

The Commission shall be bound 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 the provisions of London City Ordinance No. 344 and the City of London shall remain bound on any previous contracts and/or agreements in which the City previously was obligated in any manner.

10. DELEGATION OF AUTHORITY.

Any authority not specifically delegated to the London Utility Commission herein is specifically reserved to the City of London.

11. SEVERABILITY.

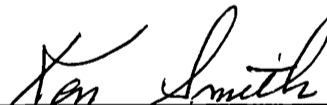
If any section or portion of this Ordinance is declared invalid by any Court in Kentucky, the remaining portions of this Ordinance shall remain in full force and effect.

12. PRIOR ORDINANCE.

Any previous Ordinances or parts of Ordinance in conflict with this Ordinance are repealed. Ordinance No. 344, entitled "Ordinance of the City of London Creating the City of London Utility Commission, Providing for its Membership, and Setting Forth Its Powers and Duties," be and is hereby repealed except as otherwise stated herein above.


13. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon publication.



Mayor Ken Smith

Attested:



Connie McKnight
City Clerk

First Reading: 8/4/03
Second Reading: 9/2/03
Publication Date: 9/10/03