

SUMMARY OF ORDINANCE NO. 2024-07 ENTITLED

“AN ORDINANCE IMPLEMENTING AND ADOPTING KRS 222.500 THROUGH KRS 222.990; INCORPORATING THE DEFINITIONS THEREIN; POWERS AND DUTIES OF THE CITY OF LONDON; CERTIFICATION REQUIREMENTS; AUTHORITY OF CODE ENFORCEMENT OFFICER; AUTHORITY OF CITY CLERK; POSTING INFORMATION ON WEBSITE OR LINK REGARDING OF EACH CERTIFIED RECOVERY RESIDENCE; REQUIREMENTS OF RECOVERY RESIDENCE; MEDICATION AND ALCOHOL USE; ADMINISTRATION, ENFORCEMENT AND PENALTIES; NOTICE; BUSINESS LICENSE AND FEES AND LIENS”

This Summary is prepared by Larry G. Bryson, London City Attorney who is licensed and authorized to practice law in the Commonwealth of Kentucky. This Ordinance adopts the new requirements of certification of each recovery residence, recovery house or sober living residence, alcohol, illicit drug and other intoxicating substance-free homes for unrelated individuals or any similarly named or identified residence that promote substance use recovery disorder recovery unless the individual or entity has met the certification process of the City and the Commonwealth in KRS 222.502. The Ordinance adopts definitions and requirements of KRS 222.500 *et seq.*, and authorizes the Code Enforcement Officer and/or designee the authority to enforce the Ordinance and the penalties and fines set out therein. But this does not effect enforcement that may occur by the Commonwealth, County Attorney or Commonwealth Attorney pursuant to State law. The certification process is required state-wide beginning July 1, 2024.

The City's certification process adopts all of the State's requirements, but also requires a City business license, disclosures of notices inside each residence that it is not a treatment facility, but also disclose a list of services offered, require each resident

to abstain from the use of alcohol and drugs, requires each resident to participate in recovery support services through peer-to-peer supervision models but allows individuals who are receiving prescribed medication to continue to receive them.

The Code Enforcement Officer (“CEO”) or designee is the primary enforcement of this Ordinance and is allowed entry into the residence for inspections and gives notices of fines and penalties and Cease and Decease Orders in keeping with the Ordinance requirements; the CEO may also be assisted by the London City Police and by the City Attorney. The requirements of the form of notices and citations are addressed in the Ordinance. It is the responsibility of the residence to comply with KRS 17.545 and make notification to the CEO. The CEO is generally relieved of personal liability. The CEO has the authority to interpret this Ordinance and adopt policies to enforce the Ordinance. The proper manner of notification of violations, Orders and use of the PVA mailing lists are adopted. Nothing in the Ordinance prohibits the City from other common law enforcement proceedings. The CEO is authorized to impose fines of \$1000 per day for violations of state law and the Ordinance, which may be appealed to the Code Enforcement Board. Property liens may be authorized or added to the cost of a business license. Reporting requirements are made of the CEO. The Ordinance is effective upon publication, although the State law became effective July 1, 2024; any Ordinances in conflict with this Ordinance are repealed. This full content of the Ordinance is available for inspection and copying at the Office of the City Clerk.



Larry G. Bryson

London City Attorney

COMMONWEALTH OF KENTUCKY

CITY OF LONDON

ORDINANCE NO. 2024-07

AN ORDINANCE IMPLEMENTING AND ADOPTING KRS 222.500 through KRS 222.990; INCORPORATING THE DEFINITIONS THEREIN; POWERS AND DUTIES OF THE CITY OF LONDON; CERTIFICATION REQUIREMENTS; AUTHORITY OF CODE ENFORCEMENT OFFICER; AUTHORITY OF CITY CLERK; POSTING INFORMATION ON WEBSITE OR LINK REGARDING OF EACH CERTIFIED RECOVERY RESIDENCE; REQUIREMENTS OF RECOVERY RESIDENCE; MEDICATION AND ALCOHOL USE; ADMINISTRATION, ENFORCEMENT AND PENALTIES; NOTICES; DISTANCES FROM SCHOOLS, PARKS AND CHURCHES, BUSINESS LICENSE and FEES, LIENS, RESIDENCE TRANSPORTATION and ZONING REQUIREMENTS

WHEREAS, THE CITY OF LONDON, KENTUCKY ("City") acknowledges the need for effective recovery residences to address drug and alcohol abuse as part of a comprehensive addiction recovery services in the City, and

WHEREAS, the lack of minimum operating standards or regulations relating to such recovery residences currently exists within the City, and

WHEREAS, multiple recovery residences currently exist within the City, generating complaints by occupants or family members, neighbors, law enforcement and the general recovery community; and

WHEREAS, the Kentucky General Assembly duly enacted KRS 222.500 to KRS 222.510 effective June 30, 2023, providing for a certification program for recovery residences and specifically providing in KRS 222.510 for the local government's authority to regulate the use of property, and providing for other measures in KRS Chapter 222.

NOW, THEREFORE BE IT ORDAINED BY THE LONDON CITY COUNCIL AS FOLLOWS:

- A. Definitions as used in this Ordinance shall have the same meaning and definitions as those used in KRS 222.500, *et seq.*, as if the same were copied at length herein.
- B. "Local government" as used in KRS 222.500, *et seq.*, shall mean the City of London as used in this Ordinance, and in this Ordinance "City."
- C. The requirements of KRS 222.500, et seq., shall be made in this Ordinance as if each such requirement were copied at length herein, which contain, but are not limited to the requirements of certification.
- D. Certification. Pursuant to KRS 222.502(1)(a) "no individual or entity shall, except as provided in subsection (2) of this section, establish, operate or maintain a recovery residence, recovery house, sober living residence, alcohol, illicit drug, or other intoxicating substances or represent, promote, advertise or otherwise claim to operate a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances unless that individual or entity has:
1. Been certified by a certifying organization; and
 2. Provided proof of certification by a certifying organization to the Cabinet in a form and manner prescribed by the Cabinet;" and
 3. Provided proof of certification by a certifying organization to the Code Enforcement Officer of the City of London.
- E. City Certification Requirements.
- The City requires:
1. Certified recovery residences to provide proof of certification at least annually, beginning July 1, 2024.
 2. Certified recovery residences to notify the Code Enforcement Officer of any change in their certification status, including but not limited to suspension or revocation of certification by a certifying organization;

3. Provide separate proof of certification for each recovery residence owned or operated by an individual or entity in the City;
4. Post on its website the name, telephone number and location in the City of each certified recovery residence and shall update the list at least quarterly;
5. Post on its website the name of each certifying organization approved by the Cabinet; and
6. Notify the City Code Enforcement Officer of receipt of proof or certification from any additional recovery residences within thirty (30) days of receipt of proof of certification.
7. A business license for the operation of a recovery residence that is required to be paid to the London City Clerk, is in the amount of fifteen hundred dollars (\$1500.00) per residence located in the City. Each location must be identified in writing to the CEO prior to opening for business.

F. City Legal Standing. Pursuant to KRS 222.504(4), the City was granted the authority and legal standing necessary to initiate appropriate legal action to compel recover residences operating in violation of KRS 222.502 and this Ordinance to cease operating.

G. Requirements of KRS 222.506 incorporated. The City adopts the same requirements of a recovery residence as contained in KRS 222.506 and incorporates the same as if copied at length herein.

H. Requirements of KRS 222.508 incorporated. The City adopts the same requirements contained in KRS 222.508 beginning June 30, 2024, as if the same were copied at length herein.

I. KRS 222.510 and KRS 100 authorization to regulate property. Pursuant to KRS 222.510, the City does hereby regulate the use of property pursuant to KRS Chapter 100, rental property regulations and any other City Ordinance.

1. Recovery residences to be in Business Zones. For such reasons, the City requires that any recovery residences as defined in KRS Chapter 222 be

allowed only in Business Zones as contained and defined in the City Land Use Ordinance.

2. 1000 Feet Location Requirement; Loitering and Public Disturbances. Any such recovery residences shall not be located within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground or licensed day care facility, any store selling adult beverages requiring any kind of alcohol license from the City, bar, church or other treatment facility. The measurement shall be taken in a straight line from the nearest property line to the nearest property of the recovery residence.
3. Any charges by police of loitering or public disturbances at the facility shall result in the Code Enforcement Officer imposing a civil penalty to the recovery residency of one hundred (\$100.00) per violation.

J. City Requirements For Recovery Residences:

1. A recovery residence shall:
 - a. Clearly disclose the following by inclusion and by posting notice in a conspicuous location inside each residence:
 1. Notice that the recovery residence is not a treatment facility;
 2. A list of services offered by the recovery residence; and
 3. If the recovery residence is exempt from certification pursuant to Kentucky law, notice that the recovery residence is exempt from certification requirements;
 - b. Require residents to abstain from the use of alcohol, illicit drugs and other intoxicating substances.
 - c. Require resident to participate in recovery support services through peer-to-peer supervision model; and
 - d. Allow individuals who are receiving medication for addiction treatment to continue to receive such treatment to continue to receive such treatment while residing in the recovery residence as directed by a licensed prescriber.

2. A recovery residence shall not, except as permitted under (b) of subsection (3) of this section, directly provide any medical or clinical services including on-site medication administration.
3. (A) the requirement that residents abstain from the use of intoxicating substances established in subsection (1)(b) of this section shall not apply to any legally prescribed medication when used by a resident as directed by a licensed prescriber.

(B) subsection (1)(d) of this section shall not apply to any recovery residence owned or operated by an entity that is exempted, in part or in whole, pursuant to 42 USC, Sec 607 or 12187 from compliance with the American with Disabilities Act, Public Law No. 101-336 or the Fair Housing Act, Public Law No. 100.430.

(C) the prohibition of the provision of medical and clinical services established in subsection (2) of this section shall not apply to:

1. The self-administration of prescribed medication by a resident as directed by a licensed prescriber within the prescriber's scope of practice;

2. Verification of abstinence form the use of alcohol, illicit drugs and other intoxicating substances; or

3. The provision of medical and clinical services, including tele-health services and other in-residence services to an individual residing in a recovery residence by a licensed medical or behavioral health provider if:

- a. The licensed provider is not employed or contracted by the recovery residence;

- b. The recovery residence has not required or otherwise induced a resident to receive services form a specific provider; and

- c. The licensed provider and the recovery residence shall each as applicable, comply with 18 USC Section 220, 42 USC Section 1320a-7b(b) and amendments thereto.

4. A recovery residence shall allow entry by the Code Enforcement Officer for the City or any designee at all reasonable times to conduct inspections and duties under this Ordinance.

K. Administration, Enforcement and Penalties.

1. General. The Code Enforcement Officer ("CEO") is hereby authorized and directed to enforce the provisions of this Ordinance. The CEO and designees thereof, while acting for the City in good faith and without malice in the discharge of duties stated herein, shall not be personally liable and is hereby relieved of any personal liability for any damage accruing to persons or property as a result of an act or omission in the discharge of official duties. The COE and/or designees shall not be liable for costs in an action, lawsuit or proceeding arising from the CEO or designees in pursuance of this Ordinance.

2. Interpretations. The CEO shall have the authority to render interpretations of this Ordinance and to adopt policies and procedures in order to clarify the application of this Ordinance, which shall be in compliance with the internet of this Ordinance and KRS 222.500 *et seq.*, as may be amended. Any such interpretation shall be reviewable, as an appeal, to the Code Enforcement Board.

3. Right of Entry. The CEO or designee shall make all required inspections or accept reports of inspection by approved agencies or individuals to ensure compliance with this Ordinance and all other applicable City Ordinances, including maintenance codes, building codes and/or fire codes. If entry is refused, after proper identification by the CEO, the CEO or designee shall have recourse to the remedies provided by law to secure entry.

4. Notices, Citations and Orders; Mail and Posting. The CEO is authorized to issue all necessary notices, citations or order to ensure compliance with this Ordinance, which may be sent regular mail, electronic mail or personal delivery to the property owner and posted on the recovery residence or if the property is leased, to both the property owner and, if different, the business owner. The records of the Laurel County Property Valuation Administrator ("PVA") and/or City Business License shall be

proof of ownership and addresses contained thereon may be relied upon in providing notices.

L. Violations

1. **Unlawful Acts.** No person or other legal entity, whether the owner of real property, lessee or renter or occupant of real estate in the City violate this Ordinance or the provisions of KRS 222.500, *et seq.*, as may be amended. The intent of this Ordinance is to exercise all legal authority and standing to initiate appropriate compliance activity to compel a recovery residence in the City in violation of this Ordinance or KRS 222.500 *et seq.*, to cease operation as provided in KRS 222.504.

2. **Notice of Violation.** The CEO or designee shall serve notice of a violation or order, including "Cease and Desist" Orders and Notices, in keeping with this Ordinance.

3. **Prosecutions.** Nothing in this Ordinance shall affect any action that may be taken arising from a violation of KRS Chapter 222.500 and the prosecution thereof by the Laurel County Attorney or the Commonwealth Attorney or any Kentucky or Federal Agency.

A. **Civil Fines.** Any person failing to comply with a notice of violation or order of the CEO or City Code Enforcement Board after notice thereof, shall be assessed a civil fine of one thousand dollars (\$1000.00) per violation by the CEO or Code Enforcement Board; each day of violation shall be a separate violation.

B. The CEO shall also institute all appropriate proceeding at law or in equity, including orders to restrain, correct, abate or stop such violation and cease operation as a recovery residence or any legal action to remove and terminate the unlawful occupancy of the structure.

C. Any person attending a recovery residence as defined in this Ordinance, shall, upon being discharged from the recovery residence:

(A) not be discharged, otherwise leave the recovery residence, to a state of homelessness in the City of London, Kentucky, except as stated in (C) below.

(B) For purposes of this Ordinance, "homeless" has the same definition as contained in 42 USC, Section 11302(a) which defines homeless as:

- (1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;
- (2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- (3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);
- (4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;
- (5) an individual or family who-
 - (A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by-
 - (i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;
 - (ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or
 - (iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;
 - (B) has no subsequent residence identified; and
 - (C) lacks the resources or support networks needed to obtain other permanent housing; and
- (6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who-
 - (A) have experienced a long term period without living independently in permanent housing,
 - (B) have experienced persistent instability as measured by frequent moves over such period, and
 - (C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

(C) Travel costs: In the event the recovery resident is "homeless" as defined hereinabove:

- (1) The recovery residence shall provide a method or the cost of travel (bus, train, car or airline) to the resident's last know residence in a city other than the City of London, Kentucky, or
- (2) In the alternative, the City may provide a method or the cost of travel (bus, train, car or airline) to the resident's last know residence in a city other than the City of London, Kentucky and bill such cost to the recovery residence business and may file costs and/or fines as stated in (E) below.

(D) Any recovery residence violating this section of this Ordinance shall be fined one thousand dollars (\$1000.00) per day by the CEO; each day constituting a separate violation.

(E). Liens and Business License Costs. Any action (including but not limited to cost of travel and fines) taken by the City on such premises shall be charged:

1. Against the real estate upon which the structure is located, if owned by the recovery residence licensee and shall be a lien upon such real estate. Such lien shall be recorded in the office of the Laurel County Court Clerk's Office and shall be first and prior to any and all other liens, or
2. Added to the cost of the business license for the next year.

F. Police. The CEO may request the assistance of the City Police for the issuance of a citation pursuant to this Ordinance and/or KRS 222. 500, *et seq.*

G. Reporting. The CEO shall report any violation of KRS 222.500 *et seq.*, to the Licensing Agency for recovery residences and the Laurel County Attorney and Commonwealth Attorney.

H. City Attorney Authorization. Fines and reporting herein notwithstanding, the City Attorney is authorized to institute appropriate action to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, structure or premises to to stop an illegal act, conduct or utilization of the building or structure as a recovery residence upon direction of the Mayor.

I. Form of Notices. Notices made by the CEO shall be:

1. In writing, include a description of the real estate sufficient for identification (address),
2. Include a statement of the violation and why the notice is being issued,
3. The notice may, dependent on circumstances and within the discretion of the CEO, include a correction order allowing a reasonable fine to make the

required compliance to bring the residence into compliance with the provisions of this Ordinance, and

4. Include a statement of the City's right to issue a citation and/or file a lien or add to the cost of the business license in keeping with this Ordinance.

Notices in keeping with the above may be sent first class US Mail, electronic mail, hand delivery or by posting in a conspicuous place on the structure.

J. Unauthorized Tampering. Notices, signs, tags or seals posted by the CEO shall not be removed or tampered with in any manner without the authorization of the CEO.

K. Transfer of Ownership. It shall be a violation of this Ordinance for the owner of any recovery residence after receiving notice of violation or compliance order to sell, transfer, lease, rent or otherwise dispose of such property until the notice or order has been complied with or unless the owner provides the CEO with a notarized statement signed by the purchaser or person acquiring the property acknowledging receipt of the notice or order fully accepting responsibility for making the corrections or repairs required by the notice or order.

L. Penalties and Fines:

1. Any person operating a recovery residence who fails to furnish the required by this Ordinance or who files fraudulent statements shall be fined five hundred (\$500.00) dollars per day for each day of such non-compliance.

2. Any person who operates a recovery residence without a valid license pursuant to this Ordinance or a certificate pursuant to KRS 222.500, *et seq.*, as may be amended, shall be fined five hundred dollars (\$500.00) for each day of non-compliance and for each subsequent offense at the same or different property location by a fine of one thousand dollars (\$1000.00) per day for each day of non-compliance. This fine is in addition to any fine or penalty imposed by federal, state or other City Ordinance. It shall be unlawful for any person to violate any provision of this Ordinance and for which no

other fine is specifically mentioned, shall be subject to a fine of five hundred dollars (\$500.00) per day for each violation.

M. Appeal. Any person or legal entity directly affected by a decision of the CEO or a notice or order issued pursuant to this Ordinance shall have the right to appeal to the Code Enforcement Board within ten (10) days of the decision, notice or order or the CEO. Any decision, notice or order of the CEO are final if not appealed within ten (10) days. Such appeals shall be delivered to the Office of the City Clerk no later than 4:00 pm. All decisions of the Code Enforcement Board shall be final unless appealed to the Laurel District Court with thirty (30) days of the written decision of the Board.

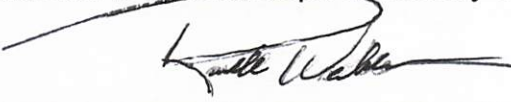
N. Miscellaneous. The facts and recitations of this Ordinance are adopted and incorporated as a part hereof, and KRS 222.500 *et seq.*, are incorporated and adopted herein as a part hereof and the recitals shall have the same meaning in when used herein.

O. Conflicts with Other Ordinances. Any and all Ordinances in conflict with this Ordinance are hereby repealed.

P. Unconstitutional or Unenforceable. If any part of this Ordinance is held to be unconstitutional or unenforceable by a Court of competent jurisdiction, the remaining parts shall remain in force.

Q. Effective Date: This Ordinance shall be effective upon publication. However, the requirements of certification by the Kentucky Revised Statutes have an earlier effective date in keeping with the statute.

BE IT FURTHER ORDAINED that the Mayor of London or designee is authorized and directed to take all steps necessary to perfect this Ordinance.



MAYOR RANDALL WEDDLE

ATTESTED: 

City Clerk Katelin McPeek

FIRST READING DATE: **AUGUST 1, 2024** Publication Date: **AUGUST 7, 2024**

SECOND READING DATE: **AUGUST 5, 2024**