

**A SUMMARY OF ORDINANCE NO. 2017-01 ENTITLED
AN ORDINANCE ESTABLISHING MAINTENANCE EASEMENTS FOR
STORM SEWER LINES FOR SOIL EROSION DETENTION PONDS OR
BASINS, REQUIRING MAINTENANCE BY OWNER OF SOIL EROSION
DETENTION PONDS, RECORD KEEPING OF MAINTENANCE FOR
DETENTION PONDS, AUTHORIZATION TO CHARGE OWNERS FOR
MAINTENANCE OF DETENTION PONDS OR BASINS, PAYMENT BY
OWNER FOR MAINTENANCE, LIENS AND INTEREST FOR MAINTENANCE
WORK PERFORMED BY CITY, INDEMNIFICATION AND HOLD HARMLESS
AGREEMENT BY OWNER TO CITY, AGREEMENT BY OWNER FOR
INSPECTION OF MAINTENANCE RECORDS OR BOOKS OF OWNER,
REQUIREMENTS OF MAINTENANCE RECORDS AND CONTENTS; ANNUAL
REPORT AND CONTENTS OF ANNUAL REPORT REQUIRED BY OWNER
TO CITY**

This summary is prepared pursuant to KRS 83A 060(4) as a correct summary of this Ordinance. This Ordinance is supplemental to Ordinance No. 2016-04, the Development Ordinance for the City of London, Kentucky which includes erosion control plans because of runoff due to increased areas of asphalt and concrete in the City; detention ponds or basins are required in that Ordinance, but the City wants to assure that these are properly maintained.

For that reason, all commercial and industrial developments for subdivision or other development plans which include storm sewer or a detention pond will at the time of the approval of the plan also enter into an agreement and an easement with the City. In the agreement, the owner will agree to implement the storm water management maintenance program and keep the facility in good working condition including two (2) catch basins with filters. The Owner will allow the City to inspect the facility. If the owner fails to maintain the facility, the City will maintain it and the owner is responsible for the costs, including repairs and the City shall have a lien for such. However the City is not obligated to maintain or repair the facility. The owner shall agree to indemnify and hold the City harmless for any liabilities resulting from its maintenance or repairs. The Owner also grants the City permission to monitor the flow rate and pollutant content of the flow. The Owner is responsible for maintaining records of the requirements stated in the Ordinance and the requirements of the contents of the records are stated. The owner is to submit an annual report to the City regarding the implementation of this program on or before January 30 of each year and the contents of the report are specified in the Ordinance. The Ordinance contains a severability clause.

This summary is certified by City Attorney Larry G. Bryson to comply with KRS 83A. 060(9), and will be effective upon publication of the summary.



LARRY G. BRYSON
CITY ATTORNEY for CITY OF LONDON, KENTUCKY

COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO: 2017-01

AN ORDINANCE ESTABLISHING MAINTENANCE EASEMENTS FOR STORM SEWER LINES FOR SOIL EROSION DETENTION PONDS OR BASINS, REQUIRING MAINTENANCE BY OWNERS OF SOIL EROSION DETENTION PONDS. RECORD KEEPING OF MAINTENANCE FOR DETENTION PONDS, AUTHORIZATION TO CHARGE OWNERS FOR MAINTENANCE OF DETENTION PONDS OR BASINS, PAYMENT BY OWNER FOR MAINTENANCE, LIENS AND INTEREST FOR MAINTENANCE WORK PERFORMED BY CITY, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT BY OWNER TO CITY, AGREEMENT BY OWNER FOR INSPECTION OF MAINTENANCE RECORDS OR BOOKS OF OWNER, REQUIREMENTS OF MAINTENANCE RECORDS AND CONTENTS; ANNUAL REPORT AND CONTENTS OF ANNUAL REPORT REQUIRED BY OWNER TO CITY

Whereas the City of London has established in Ordinance No. 2016-04 entitled "Development Ordinance for the City of London, Kentucky" a requirement of those submitting subdivision or development plans for property in the City of London which includes erosion control plans in certain developments described therein, and whereas significant erosion and runoff occurs and the placement of asphalt and concrete in areas previously existing in a natural state of grass and trees, and detention ponds or basins are required by previous ordinances of the City, but it is necessary that the City assure business and property owners that flooding of adjacent property not occur due to improper, inadequate or neglectful maintenance of such detention ponds and basins maintenance and for the safety and protection of the public at large within the City of London,

BE IT THEREFORE ORDAINED AS FOLLOWS:

1. (a) All Commercial and Industrial developments within the City of London, Kentucky, shall, at the same time approval is sought for subdivision or other development plans that includes or requires the placement of storm sewer or a detention pond or basin shall enter into an agreement, the form of which exists herein as Exhibit 1 to this Ordinance. This agreement is incorporated into herein as a part of the requirement of this Ordinance and shall be modified only by the express recommendation of the Planning Commission and the majority approval of the City Council of the City of London.

(b) All Commercial and Industrial developments within the City of London, Kentucky, shall, at the same time approval is sought for subdivision or other development plans that includes or requires the placement of storm sewer or a detention pond or basin shall enter into an Easement with the City of London, the form of which exists herein as Exhibit 2 to this Ordinance. This agreement is incorporated into herein as a part of the requirement of this Ordinance and shall be modified only by the express recommendation of the Planning Commission and the majority approval of the City Council of the City of London.

2. The Superintendent of the London Utility Commission and the City Building Inspector shall not give or sign their approval of any development plan without such agreement and Easement having been signed by the owner of the development.
3. The Agreement shall include at a minimum, the following:
- a. The owner shall, in the easement, agree to implement the storm water management facility maintenance program and agree to maintain the storm water management facility in good working condition acceptable to the City so that they are performing their design functions, including two (2) catch basins with filter as shown on the Site Development or Subdivision Plans provided by the Owner.
 - b. The Owner shall grant permission to the City, its authorized agents and employees, to enter upon the property, and to inspect the storm water management facilities whenever the City deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When deficiencies are noted, the City shall give the Owner, its successors and assigns, copies of the inspection report with findings and evaluations.
 - c. The Owner shall agree that in the event the Owner, its successors and assigns, fail to maintain the Storm water management facilities in good working condition acceptable to the City, the City may enter upon the property and take whatever steps it deems necessary to maintain said Storm water management facilities and to charge the costs of the repairs to the Owner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the land of the Owner, outside of an easement belonging to the City. It is expressly understood and agreed that the City is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
 - d. The Owner shall agree that in the event the City, pursuant to an Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like on account of the Owner or its successors and assigns, the Owner shall reimburse the City upon demand, within 30 days of receipt thereof for all costs incurred by the City hereunder. If not paid within such 30 day period, the City shall have a lien against the property in the amount of such costs, plus interest at the Judgment Rate, and may enforce same in the same manner as a lien for real property taxes may be enforced.
 - e. The Owner shall agree to indemnify and hold harmless the City and its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City for the construction, presence, existence or maintenance of the storm water management facilities by the Owner, its successors, and assigns. In the event a claim is asserted against the City, its agents or employees, the City shall promptly notify the Owner, their successors and assigns, and the Owner or its successors or assigns shall defend, at their own expense, any suit based on such claim. If any judgment or claims are made against the City, its agents or employees, the Owner, its successors, and assigns shall pay all costs and expenses in connection herewith.
 - f. The Owner shall grant permission to the City, its authorized agents and employees, to enter upon the property, and to install, operate, and maintain equipment to monitor the flow rate and pollutant content of the input flow, the effluent, and at intermediate points in the BMP. The Owner shall

also agree to design and construct the facility to provide access for monitoring.

g. The Owner shall agree to maintain a record (in the form of a logbook) of steps taken to implement the programs referenced in (1) and (2) above. The logbook shall be available for inspection by the City staff at 801 North Main Street, London, Kentucky during normal business hours. The logbook shall catalog the action taken, who took it, when the action was done, how it was done, and any problems encountered or follow-up actions recommended. Maintenance items ("problems") shall be inspected on a monthly or more frequent basis as necessary.

h. The Owner shall submit an annual report to the City regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before January 30 of each calendar year and shall contain, at a minimum, the following items:

1. Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.

2. The time period covered by the report.

3. A chronological summary of activities conducted to implement the program referenced in (1) and (2) above. A photocopy of the applicable sections of the logbook, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with the Owner, the Owner includes a copy of the invoice for services and shall provide an outline of planned activities for the next year.

- 4. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.


If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

5. This Ordinance shall be effective immediately upon publication in accordance with the applicable provisions of Kentucky law. Any Ordinances or parts of Ordinances in conflict herewith are hereby repealed.



Mayor Troy Rudder

ATTESTED:



Carolyn Adams
City Clerk

FIRST READING DATE: March 6, 2017

SECOND READING DATE: April 3, 2017

PUBLICATION DATE: April 7, 2017

Exhibit 1**Commercial, Industrial Agreement to Maintain Storm Water Management Facilities**

The upkeep and maintenance of storm water management facilities is essential to the protection of aquatic resources. All property owners are expected to conduct business in a manner that promotes resource protection. This Agreement contains specific provisions with respect to maintenance of storm water management facilities.

LEGAL DESCRIPTION**STREET ADDRESS**

London, Kentucky

Whereas, Owner, has constructed storm water management facilities on the property described above and whereas the goals of the City of London, Kentucky ("City" or "London") are to ensure the protection and enhancement of the City's aquatic resources, the City and Owner hereby enter into this Agreement. The responsibilities of each party to this Agreement are identified below.

OWNER HEREBY:

1. Agrees to implement the storm water management facility maintenance program included herein.
2. Agrees to maintain the storm water management facilities in good working condition, acceptable to the City, so that they are performing their design functions, including two (2) catch basins with filter as shown on Site Development or Subdivision Plans attached hereto.
3. Grants permission to the City, its authorized agents and employees, to enter upon the property, and to inspect the storm water management facilities whenever the City deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When deficiencies are noted, the City shall give Owner, its successors and assigns, copies of the inspection report with findings and evaluations.
4. Agrees that in the event Owner, its successors and assigns, fails to maintain the Storm water management facilities in good working condition acceptable to the City, the City may enter upon the property and take whatever steps it deems necessary to maintain said Storm water management facilities and to charge the costs of the repairs to the Owner, its successors and assigns. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the land of the Owner, outside of an easement belonging to the City. It is expressly understood and agreed that the City is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any obligation on the City.
5. Agrees that in the event the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like on account of Owner or its successors and assigns, Owner shall reimburse the City upon demand, within 30 days of receipt thereof for all costs incurred by the City hereunder. If not paid within such 30 day period, the City shall have a lien against the property in the amount of such costs, plus interest at the Judgment Rate, and may enforce same in the same manner as a lien for real property taxes may be enforced.
6. Agrees to indemnify and hold harmless the City and its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City for the construction, presence, existence or maintenance of the storm water management facilities by Owner, its successors, and assigns. In the event a claim is asserted against the City, its agents or employees, the City shall promptly notify the Owner, their successors and assigns, and they shall defend, at their own expense, any

suit based on such claim. If any judgment or claims against the City, its agents or employees shall be allowed, Owner, its successors, and assigns shall pay all costs and expenses in connection herewith.

7. Grants permission to the City, its authorized agents and employees, to enter upon the property, and to install, operate, and maintain equipment to monitor the flow rate and pollutant content of the input flow, the effluent, and at intermediate points in the BMP. Owner further agrees to design and construct the facility to provide access for monitoring.

8. Agrees to maintain a record (in the form of a logbook) of steps taken to implement the programs referenced in (1) and (2) above. The logbook shall be available for inspection by the City staff at 801 North Main Street Street, London, Kentucky during normal business hours. The logbook shall catalog the action taken, who took it, when the action was done, how it was done, and any problems encountered or follow-up actions recommended.

Maintenance items ("problems") shall be inspected on a monthly or more frequent basis as necessary.

9. Submit an annual report to the City regarding implementation of the programs referenced in (1) and (2) above. The report must be submitted on or before January 30 of each calendar year and shall contain, at a minimum, the following items:

A. Name, address, and telephone number of the business, the person, or the firm responsible for plan implementation, and the person completing the report.

B. Time period covered by the report.

C. A chronological summary of activities conducted to implement the program referenced in (1) and (2) above. A photocopy of the applicable sections of the logbook, with any additional explanation needed, shall normally suffice. For any activities conducted by paid parties not affiliated with Owner include a copy of the invoice for services.

D. An outline of planned activities for the next year.

Agreed:

Owner

Date

Agreed:

City of London

By: Superintendent, London Utility Commission

Date

Exhibit 2

STORM SEWER LINE EASEMENT

THIS DEED OF EASEMENT made and entered into on this _____ day of _____, 20____, by and between (Owner Name) (Owner Address), Grantor, and **THE CITY OF LONDON**, 501 South Main Street, London, Kentucky, 40741, Grantee;

WITNESSETH: That for and in consideration of the benefits to be derived by the Grantor from maintenance and/or improvements of the City of London storm sewer system, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement to maintain a storm sewer line over and through the property of the Grantor, which easement is more particularly described as follows:

BEING a strip of land forty feet wide, lying 20 (+/-) feet on either side of a storm sewer line as located on or near Grantor’s property as recorded in Deed Book ____ Page ____ at the Laurel County Clerk’s Office, London, Kentucky, said storm sewer line being located as follows:

(Easement Description)

The parties understand that excavation will be required for maintenance of the storm sewer line. The Grantor specifically grants to the Grantee the right to disturb for the purpose of repair an area greater than the specific easement granted herein and that Grantee shall promptly repair any damage to the property of the Grantor which results from repairing the storm sewer line. The easement granted herein is for the purpose of a storm sewer line.

It is agreed and understood by and between the parties hereto that the Grantor shall not erect any structure of any nature or any wall or foundation upon the easement above described. The Grantor further agrees that they will not place any soil, fill nor bury material upon said easement.

TO HAVE AND HOLD unto the Grantee, its successor and assigns, forever.

WITNESS MY SIGNATURE as of the date first above written

Print Name

Signature

STATE OF KENTUCKY
COUNTY OF LAUREL

Before me, the undersigned Notary Public in and for the state and county aforesaid, this day personally appeared _____ in the state and county aforesaid, and acknowledged that they executed the foregoing instrument as their free act and deed.

Witness my hand as notary public aforesaid, this _____ day of _____, 20_____.

Notary Public

My Commission Expires: _____

PREPARED IN THE LAW OFFICE OF:

City Attorney

BY: _____

C/O Address for Taxing Purposes:
City of London
501 South Main Street
London, Kentucky 40741