

COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO: 2017-13

AN ORDINANCE AMENDING ORDINANCE NO. 2017-01 ENTITLED "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 on private property 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 on City of London right-of-way 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.

A Compliance Statement certified by a Professional Engineer shall be required as reflected in Exhibit 3 attached hereto.

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 maintenances 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.~~

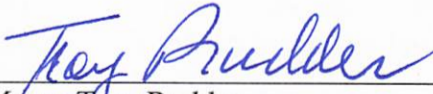
~~2. The time period covered by the report.~~

~~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 include 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.

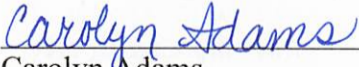
If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional 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: December 4, 2017

SECOND READING DATE: February 5, 2018

PUBLICATION DATE: February 9, 2018

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.

PROPERTY INFO:

Physical Address: _____

OWNER:

Name: _____

Phone: _____

Email: _____

Whereas, Owner, has constructed storm water management facilities on the property described below 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 maintain the storm water management facilities in good working condition, acceptable to the City, so that they are performing their design functions which are included on the approved plans as referenced below:

Plan Title: _____

Date: _____

Engineer: _____

Description of Stormwater Facilities To Be Maintained:

2. 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.

3. 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.

4. 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.

5. 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.

Agreed:

Owner	Date

Agreed:

City of London By: Mayor, City of London	Date

City of London By: Superintendent, London Utility Commission	Date

Exhibit 2**SANITARY SEWER LINE AND CONDUIT EASEMENT**

THIS DEED OF EASEMENT made and entered into on this ____ day of _____, 2017, by and between **OWNER, ADDRESS, London, Kentucky 40741**, first party, and **THE CITY OF LONDON, P.O. BOX 0918, LONDON, KENTUCKY, 40743-0918**, second party;

WITNESSETH: That for and in consideration of the benefits to be derived by the first party from expansion and/or improvements of the City of London sanitary sewer system, the receipt of which is hereby acknowledged, the first party does hereby grant and convey unto the second party, its successors and assigns, the right and easement to construct, lay, maintain, operate, repair, and remove a sanitary sewer line and conduit over and through the property of the first party, which easement is more particularly described as follows:

BEING a strip of land a minimum of twelve feet wide, lying six (+/-) feet on either side of a sanitary sewer line as located on or near first party's property as recorded in Deed Book ____ Page ____ at the Laurel County Clerk's Office, London, Kentucky, and as constructed as shown on As-Built Drawings, said sewer line and conduit being located as follows:

{INSERT LEGAL DESCRIPTION}

The parties understand that excavation will be required for construction and maintenance of the sanitary sewer line and conduit. The party of the first part specifically grants to the second part the right to disturb for the purpose of construction or repair an area greater than the specific easement granted herein and that second party shall promptly repair any damage to the property of the first party which results from

constructing, laying, operating, repairing, or removing the sanitary sewer line and conduit. The easement granted herein is for the purpose of a sanitary sewer line and conduit to be buried for the containment of wires, fiber, and sanitary sewer line.

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

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

WITNESS MY SIGNATURE as of the date first above written.

Party of the First Part:

Print Name

Signature

Party of the Second Part:

City of London, Kentucky

Troy Rudder, Mayor

Attest:

Carol Adams, City Clerk

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 _____, 2017.

Notary Public

My Commission Expires: _____

STATE OF KENTUCKY
COUNTY OF LAUREL

Before me, the undersigned Notary Public in and for the state and county aforesaid, this day personally appeared **Troy Rudder, Mayor, City of London**, 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 _____, 2017.

Notary Public

My Commission Expires: _____

STATE OF KENTUCKY
COUNTY OF LAUREL

Before me, the undersigned Notary Public in and for the state and county aforesaid, this day personally appeared **Carol Adams, City Clerk, City of London**, 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 _____, 2017.

Notary Public

My Commission Expires: _____

PREPARED IN THE LAW OFFICE OF:

Larry G. Bryson, PSC
318 West Dixie Street
London, Kentucky 40741
Telephone: (606) 878-7123

BY: _____

C/O Address for Taxing Purposes:
C/O: **{ADDRESS OF OWNER}**

Compliance Statement

I hereby certify that these Improvement Plans known as.

Title of Approved Plans

have been prepared in accordance with the City of London Development Ordinance and that construction will be done in accordance with these Improvement Plans. I agree to retain _____ to provide sufficient oversight

Name of Professional Engineer

during construction to enable him/her to certify that the construction was done in accordance with these Improvement Plans

Developer's Name Developer's Signature Date

I hereby certify that the Improvement Plans known as:

have been prepared in accordance with the City of London Development Ordinance. I further certify that we will provide sufficient oversight during construction to enable us to certify that the construction was done in accordance with these Improvement Plans, so long as we are under contract with the Developer for such services.

Professional Engineer P.E. Signature Date