

ORDINANCE 2017-1732

AN ORDINANCE AMENDING CITY OF MURRAY CODE OF ORDINANCES, §72 PARKING, SPECIFICALLY §72.01 FINDINGS AND INTENT; §72.02 GENERAL PROVISIONS; §72.03 AUTHORITY TO RESTRICT PARKING; §72.04 PARKING OF CERTAIN VEHICLES PROHIBITED; §72.05 FREIGHT OR PASSENGER LOADING ZONES; §72.06 PARKING FOR PROHIBITED PURPOSES; §72.07 VICARIOUS RESPONSIBILITY; §72.08 PARKING IN PRIVATE OR MUNICIPAL PARKING LOTS; §72.09 HEARING BOARD ESTABLISHED; §72.10 NOTICE OF PARKING VIOLATION; §72.11 CONTEST OF VIOLATION; HEARING; APPEAL; §72.12 VEHICLE IMPOUNDMENT; §72.13 REDEMPTION OF IMPOUNDED VEHICLE; §72.14 HEARING OF THE VALIDITY OF IMPOUNDMENT; APPEAL; §72.15 VEHICLE DEEMED ABANDONED; ESCHEAT TO THE CITY; DISPOSAL OF VEHICLE; §72.16 LIEN FOR FINES AND OTHER CHARGES; §72.99 PENALTY; AND CREATING A NEW SECTION ENTITLED §72.17 "LIEN FOR FINES AND OTHER CHARGES" IN ORDER TO IMPROVE, MODIFY, CLARIFY AND REVISE PROVISIONS ADDRESSING PARKING WITH THE CITY OF MURRAY.

WHEREAS, the City of Murray desires to amend Chapter §72 in all respects, specifically §72.01, §72.02, §72.03, §72.04, §72.05, §72.06, §72.07, §72.08, §72.09, §72.10, §72.11, §72.12, §72.13, §72.14, §72.15, §72.16 and §72.99 and to create a new section §72.17 entitled "Lien For Fines And Other Charges" in order to improve, modify, clarify and revise provisions addressing parking within the City of Murray.

WHEREAS, the Murray City Council has reviewed and discussed the following proposed changes to Chapter §72 of the City Of Murray Code Of Ordinances and believe the changes are reasonable and necessary.

BE IT ORDAINED by the City Council of the City of Murray, as follows:

AMENDMENT I. ADDITIONS, ASSERTIONS & CHANGES:

CHAPTER 72: PARKING

§72.01 is hereby amended to read in its entirety as follows:

§72.01 ~~FINDINGS AND INTENT.~~ DEFINITIONS

"ABANDONED VEHICLE." A vehicle that has been parked or remains standing the public right-of-way in excess of seventy-two (72) hours.

"ACCESSIBLE (HANDICAP) PARKING" Parking set aside for person with disabilities, which limit or impair the ability to walk.

"ALLEY." A street intended to provide access to the rear or side lots of buildings in urban areas and not intended for the purpose of through vehicular traffic.

"AUTHORIZED EMERGENCY VEHICLE." Any official law enforcement vehicle, ambulance, or fire suppression vehicle when operated in connection with an emergency.

"AUTOMOBILE." Any self-propelled vehicle which is capable of transporting ten (10) or fewer passengers, but shall not include motorcycles, motor driven cycles or farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

“CHILD BOOSTER SEAT.” A child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap-and-shoulder belt system.

“CHILD RESTRAINT SYSTEM.” Any device manufactured to transport children in an automobile which conforms to all applicable Federal Motor Vehicle Safety Standards.

“CROSSWALK.”

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs or in the absence of curbs, from the edges of the traversable roadway, and in the absence of a sidewalk on one side of the roadway, the part of a roadway included within the extension of the lateral lines of the sidewalk at right angles to the center line;

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated as a pedestrian crossing by pavement marking lines on the surface, which might be supplemented by contrasting pavement texture, style, or color. (References: Manual on Uniform Traffic Control Devices, 2009 edition and KRS 189.010).

“DAY” With the exception of KRS 86.625 (Impoundment), the word “day” shall mean calendar day.

“HIGHWAY.” Any public way for the purposes of vehicular travel, including the entire area within the right-of-way. (References: Manual on Uniform Traffic Control Devices and KRS 189.010).

“IMPOUNDMENT.” The removal of a vehicle to a storage facility either by an officer or other persons authorized by the Chief of Police in response to a request from an officer or other persons authorized by the Chief of Police.

“JUNKED VEHICLE.” Any inoperative motor vehicle which is wrecked, dismantled, partially dismantled or discarded.

“PUBLIC SAFETY VEHICLE.” Means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers, or trucks.

“RIGHT-OF-WAY.”

(1) An easement, an area of land transformed or dedicated and accepted by the City or State for public use over which people or goods have the right to pass or travel;

(2) An assignment, the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

“ROADWAY.” That portion of a street or highway improved, designed or ordinarily used for vehicular travel and parking lanes, but exclusive of the sidewalk, berm, or shoulder. If a street includes two or more separate roadways, the term “ROADWAY” as used herein shall refer to any roadway separately but not to all such roadways collectively. (References: Manual on Uniform Traffic Control Devices, 2009 Edition and KRS 189.010).

“STREET.” See “HIGHWAY.”

“TRAFFIC.” Pedestrians, bicyclists, ridden or herded animals, vehicles, or other conveyances either singularly or together while using for purposes of travel any street or highway.

“TRAFFIC CONTROL DEVICE.” A sign, signal, marking, or other device, used to regulate, warn, or guide traffic placed on, over or adjacent to a street or highway by the authority of a public body, agency, or official having jurisdiction.

“TRAFFIC MANAGEMENT MANUAL.” A set of guidelines, consisting of the Traffic Control Request Policy and the On-Street Parking Guide and other policies as amended, used by the Traffic Safety Committee to provide for consistent treatment of traffic management and control issues within the City of Murray, as adopted by the City of Murray.

“VEHICLE.” Every device in, upon, or by which any person or property can be transported or drawn upon a street or highway.

#### AMENDMENT II. ADDITIONS, ASSERTIONS & CHANGES:

§72.02 is hereby amended to read in its entirety as follows:

##### §72. 02\_ ~~GENERAL PROVISIONS~~ FINDINGS AND INTENT.

(A) The City finds that parking on public rights-of-way and other City-controlled properties is regulated to promote traffic safety, enhance the smooth flow of traffic, and in certain areas of high demand for parking spaces, to fairly allocate parking spaces among the public by limiting time.

(B) Limiting parking in business districts helps facilitate commerce by promoting frequent turnover for conducting business-related activities or shopping, rather than employee or any other long-term parking.

(C) Effective enforcement of parking regulations is required to meet the objectives of the chapter, and to protect the health, safety and welfare of both drivers and pedestrians using public rights-of-way.

#### AMENDMENT III. ADDITIONS, ASSERTIONS & CHANGES:

§72.03 is hereby amended to read in its entirety as follows:

##### §72.03 ~~AUTHORITY TO RESTRICT PARKING~~ GENERAL PROVISIONS.

No person shall stop, stand, or park a vehicle in any of the following public places or manners, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, or other authorized person, or pursuant to a traffic control device:

(A) On the unimproved portion of a street, such as the berm or shoulder, within ten (10) feet of the roadway, subject to the exception of a vehicle that has been disabled in such a manner and to such an extent that it is impossible or impracticable to avoid the occupation of the shoulder until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder for twenty-four (24) hours or more;

- (B) On a sidewalk;
- (C) In front of sidewalk ramps provided for persons with disabilities;
- (D) In any parking space designated and established for use by disabled persons unless the vehicle properly displays special designating plates or permits issued by any state;
- (E) In front of or within ten (10) feet of the entrance to a public or private driveway or alleyway, or within thirty (30) feet of the driveway entrance to any fire station;
- (F) On a crosswalk or within twenty (20) feet of a crosswalk not located at an intersection;
- (G) Within an intersection or within thirty (30) feet of any traffic control devices such as a flashing beacon, stop sign, yield sign, or traffic control signal;
- (H) Within ten (10) feet of a fire hydrant, fire safety sprinkler, standpipe or other fire protections system control valve, whether such valve is mounted on a building or on the ground;
- (I) In a marked fire Lane;
- (J) On the approach to or upon any bridge, causeway, or within any tunnel;
- (K) In the opposite direction of the movement of traffic;
- (L) In an alley, except while loading or unloading individuals, merchandise, or other materials or within a marked and designated parking space;
- (M) Within fifty (50) feet of the nearest rail of a railroad crossing;
- (N) In an area between the roadways of a divided street;
- (O) In a manner that blocks traffic or interferes with or blocks the passage of other vehicles;
- (P) At any place where any portion of the vehicle extends into an area where official signs or other markings prohibit stopping, standing, or parking, or where the curb is painted red;
- (Q) At any place where any portion of the vehicle is parked in a manner so that the vehicle is not completely within a designated space; or
- (R) In any area that is signed or painted as to restrict parking.

**AMENDMENT IV. ADDITIONS, ASSERTIONS & CHANGES:**

§72.04 is hereby amended to read in its entirety as follows:

**§72.04 ~~PARKING OF CERTAIN VEHICLES PROHIBITED~~AUTHORITY TO RESTRICT PARKING.**

The City shall adopt regulations which shall be designated as the "traffic management manual" prohibiting the stopping, standing or parking of vehicles or limiting the length of time vehicles may be parked during certain hours on designated streets or portions thereof, and shall post proper signs on

such streets accordingly. The Traffic Safety Committee is hereby authorized to determine or designate parking prohibitions. The City of Murray's Traffic Management Manual, which includes the on-street parking guide, shall serve as the primary policy for on-street parking. In adopting such regulations, the Traffic Safety Committee may consider:

- (A) The nature of the land use within the block;
- (B) The volume of traffic;
- (C) The volume of parking;
- (D) The surface width of the street;
- (E) The relationship between the need for parking space for the land use of the block and the need for parking space for the general public;
- (F) Patrons and prospective patrons of places within the block or area to be served by the parking restrictions; and
- (G) The hours of the day or night when use of the parking zone is necessary or most convenient.

**AMENDMENT V. ADDITIONS, ASSERTIONS & CHANGES:**

§72.05 is hereby amended to read in its entirety as follows:

**§72.05 ~~FREIGHT OR PASSENGER LOADING ZONES~~ PARKING OF CERTAIN VEHICLES PROHIBITED.**

- (A) No person shall park a camper, motor home, trailer or truck or other vehicle exceeding seven (7) feet on overall width (excluding mirrors) or twenty (20) feet in overall length or seven and ~~on~~ one-half (7 ½) feet in overall height on any City street for more than six (6) hours without special permission from the Police Department. No person shall park a utility, golf cart or box trailer exceeding 8 feet in overall length on any City street for more than six (6) hours without special permission from the Police Department.
- (B) No person shall park an abandoned vehicle or junked vehicle on any city street for any period of time.

**AMENDMENT VI. ADDITIONS, ASSERTIONS & CHANGES:**

§72.06 is hereby amended to read in its entirety as follows:

**§72.06 ~~PARKING FOR PROHIBITED PURPOSES~~ FREIGHT OR PASSENGER LOADING ZONES.**

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials or passengers in any place marked a loading zone during the hours when the provisions applicable to such zones are in effect.

AMENDMENT VII. ADDITIONS, ASSERTIONS & CHANGES:

§72.07 is hereby amended to read in its entirety as follows:

**§72.07 ~~VICARIOUS RESPONSIBILITY~~ PARKING FOR PROHIBITED PURPOSES.**

No person shall stop, stand or park a vehicle upon any public street for the principle purpose of:

- (A) Displaying the vehicle for sale, lease, or other promotional purposes;
- (B) Greasing, washing, or repairing the vehicle, except for repairs necessitated by an emergency;
- (C) Storage;
- (D) Selling merchandise from the vehicle, except when authorized by permit; or
- (E) Commercial advertising, however, nothing in this section shall prevent the stopping, standing, or parking of any vehicle while used in the regular course of the same business as advertised thereon.

AMENDMENT VIII. ADDITIONS, ASSERTIONS & CHANGES:

§72.08 is hereby amended to read in its entirety as follows:

**§72.08 ~~PARKING IN PRIVATE OR MUNICIPAL PARKING LOTS~~ VICARIOUS RESPONSIBILITY.**

(A) The person in whose name a vehicle is registered at the time of the violation shall be absolutely responsible for all fines, fees and penalties. It shall be no defense that the vehicle was illegally parked by someone other than the registered owner, unless it is shown that at the time of the violation the vehicle was stolen and not in the possession of the registered owner.

(B) An owner of a vehicle who is engaged in the business of renting or leasing vehicles under a written rental or leasing agreement shall not be liable for parking fines and penalties imposed under this chapter on such rented or leased vehicles, if within fifteen (15) days after receiving notice of the parking violation, the lessor provides to the Police Department the true name, address and driver's license number of the person in possession of the vehicle at the time of the issuance of the citation. A lessor who fails to comply shall be treated as any other owner.

AMENDMENT IX. ADDITIONS, ASSERTIONS & CHANGES:

§72.09 is hereby amended to read in its entirety as follows:

**§72.09 ~~HEARING BOARD ESTABLISHED~~ PARKING IN PRIVATE OR MUNICIPAL PARKING LOTS.**

(A) No person shall park a vehicle for a period of time longer than twelve (12) hours in any twenty-four (24) hour period of any day except Sundays in any municipal parking lots.

(B) No person shall park or abandon a vehicle on another's property or upon an area developed as an off street parking facility without the consent of the owner or the authorized agent of the owner of the property or facility and such facility is properly posted with signs that declare the property is privately owned and any unauthorized vehicles will be towed at the owner's expense. If at any time a vehicle is

parked in violation of this provision of this section, the Police Department, upon written complaint of the owner or their authorized agent, may remove or cause to be removed, the vehicle in accordance with the provisions of §72.12 through §72.16. (Reference KRS 189.725).

**AMENDMENT X. ADDITIONS, ASSERTIONS & CHANGES:**

§72.10 is hereby amended to read in its entirety as follows:

**§ 72.10 NOTICE OF PARKING VIOLATION HEARING BOARD ESTABLISHED.**

(A) Pursuant to KRS 82.600, the City hereby establishes a Parking Enforcement Hearing Board, consisting of three (3) members. The membership of the Parking Enforcement Hearing Board shall consist of the following: One (1) member shall be a supervisor within the Murray Police Department; one (1) shall be a resident of the City of Murray, who is preferably a graduate of the Citizens Police Academy; and the third and final member shall be a supervisor within the Murray Street Department. Members of the Parking Enforcement Hearing Board shall be appointed by the executive authority of the City, subject to the approval of the legislative body.

(B) Two (2) city residents shall be appointed. One shall be appointed as the primary member for a period of three (3) years and the other shall be appointed for a period of two (2) years as an alternate member to serve in the primary member's absence. Resident members shall be compensated at a rate of twenty-five dollars (\$25.00) per meeting.

(C) It shall be the duty of the Parking Enforcement Hearing Board to conduct hearings pursuant to KRS 82.605 to 82.640, with respect to parking violations and impoundment of vehicles resulting from parking violations, as more particularly set forth in this chapter.

(D) Any requests for hearings before the Parking Enforcement Hearing Board shall be sent to the Murray Police Department.

**AMENDMENT XI. ADDITIONS, ASSERTIONS & CHANGES:**

§72.11 is hereby amended to read in its entirety as follows:

**§ 72.11 ~~CONTEST OF VIOLATION; HEARING; APPEAL~~ NOTICE OF PARKING VIOLATION.**

(A) ~~A notice of violation~~ Any vehicle parked in violation of this chapter shall be issued ~~in the form of~~ a citation by any police officer or other person authorized by the Chief of Police. A copy of the citation shall be issued by conspicuously placing it on the windshield of an illegally parked vehicle in a secure manner or in a prominent place thereon. Such posting of the citation shall be deemed prima facie evidence that the violation occurred and that the owner of the vehicle was properly notified of the violation. In the event that the registered owner of the vehicle drives the vehicle away from or in any manner leaves the site of the violation while the issuing officer is preparing the citation, this in fact shall be noted on the citation and shall constitute prima facie evidence that the citation was issued and that an attempt was made to notify the owner of the vehicle of the violation in accordance with this section.

(B) The citation shall contain the following information:

- (1) The date and time the citation was issued;

- (2) A statement of the specific parking violation for which the citation was issued;
- (3) A statement of the monetary penalty established, as provided in §72.99;
- (4) The registration number and make of vehicle in violation of this chapter;
- (5) The name or an identifying number of the person issuing the citation;
- (6) A statement that the notice represents a determination that a parking violation has been committed by the owner of the vehicle and that the determination shall be final unless the person requests a hearing before the Parking Enforcement Hearing Board within seven (7) days;
- (7) The procedure for the person to follow in order to respond to the citation or to contest the citation; and
- (8) A statement that a parking violation may result in impoundment of the vehicle for which the owner may be liable for a fine and towing and storage charges or fees.

(C) If the owner of a vehicle cited for a parking violation has not responded to the notice within seven (7) days, a second notice shall be sent to the last known address of the registered owner by certified mail. Such notice shall state that if the owner does not respond to the notice by either paying the fine or by requesting in writing a hearing within seven (7) days of receipt of the notice, the owner shall be deemed to have waived his or her right to a hearing and the determination that a violation was committed shall be considered final.

#### AMENDMENT XII. ADDITIONS, ASSERTIONS & CHANGES:

§72.12 is hereby amended to read in its entirety as follows:

#### § 72.12 ~~VEHICLE IMPOUNDMENT~~ CONTEST OF VIOLATION; HEARING; APPEAL

(A) Any person cited for a parking violation may contest the determination that a violation occurred by requesting, in writing, a hearing before the Parking Enforcement Hearing Board. The request for a hearing shall be addressed to the Parking Enforcement Hearing Board and delivered to the Murray Police Department within the required seven (7) day time limit. When a hearing has been requested, the Board shall schedule a hearing to be held no later than fourteen (14) days from the date of receipt of the request, unless prior to the hearing the person requesting such hearing requests an extension of time not to exceed fourteen (14) days. Not less than seven (7) days before the date of the hearing, the City shall notify the requester of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested, by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and shall be deemed to have refused to pay the fine levied by the citation. The Board shall enter a final order determining the violation was committed and shall impose the appropriate civil penalty. A copy of the order shall be served on the violator.

(B) At the hearing, the Board may consider the parking citation, and any other written report made under oath by the officer who issued the citation in lieu of an officer's personal appearance at the hearing. After consideration of the evidence, the Board shall determine whether a violation was committed. Where is it has not been established that the violation was committed, an order dismissing the citation



shall be entered. Where it has been established that a violation was committed, the Board shall uphold the citation and order the owner to pay the citation within seven (7) days. An administrative hearing fee of fifty dollars (\$50.00) will be added to the amount of the original fine if the Board upholds the citation. A copy of such order shall be furnished to the owner. If the fine amount plus the administrative hearing fee is not received within seven (7) days of the hearing date, a late fee of fifty dollars (\$50.00) shall be added to the original fine amount. Failure to pay the fine(s) within an additional seven (7) days may result in a summons being issued in the name of the registered owner of the vehicle requiring the owner to appear in Calloway County District Court.

(C) An appeal from the Parking Enforcement Hearing Board's determination may be made to the Calloway County District Court within seven (7) days of the Board's determination. The appeal shall be initiated by filing a complaint and a copy of the Parking Enforcement Hearing Board's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the City to establish that a violation occurred. If the Court finds that a violation occurred, the owner shall be ordered to pay to the City ALL FINES, FEES AND PENALTIES OCCURRING AS OF THE DATE OF JUDGMENT.

#### AMENDMENT XIII. ADDITIONS, ASSERTIONS & CHANGES:

§72.13 is hereby amended to read in its entirety as follows:

#### § 72.13 ~~REDEMPTION OF IMPOUNDED VEHICLE~~ VEHICLE IMPOUNDMENT.

(A) A vehicle may be impounded without giving prior notice to its owner under the following circumstances:

- (1) The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic;
- (2) The vehicle poses an immediate danger to the public safety;
- (3) The vehicle is illegally parked within ten (10) feet of a fire hydrant;
- (4) The vehicle is illegally parked within a marked fire lane;
- (5) The vehicle, without a valid designated plate or placard issued under state law, is parked in a space clearly marked and designated for use by disabled persons;
- (6) A police officer reasonably believes that the vehicle is stolen;
- (7) The vehicle is parked in a private parking lot pursuant to §72.08;
- (8) The vehicle is parked in a public right-of-way or on other publicly owned or controlled property in violation of any law, ordinance or regulation, and there are five (5) or more outstanding parking citations issued against the vehicle that have not been responded to, appealed to the Parking Enforcement Hearing Board, or been appealed to the Calloway County District Court; or
- (9) The vehicle is abandoned or is a junk vehicle.

(B) All vehicles seized for impound by the City of Murray Police Department shall be towed to an impound lot designated by the Murray Police Department.

(C) All vehicles towed at the request of the City for violations of this chapter shall be towed by companies approved by the City.

(D) For any vehicle towed to the City's impound lot, the operator for the towing company shall give to the arresting officer or charging officer an invoice for the towing charge. The towing fees shall be collected by the City and will be remitted to the towing company on a biweekly basis. The registered vehicle owner shall be responsible to reimburse the City for towing fees.

(E) For any vehicle towed to the City's impound lot, storage fees shall be charged for impounded vehicles at the rate of fifteen dollars (\$15.00) per day for the first thirty (30) days and then five dollars (\$5.00) per day for each day thereafter, not to exceed six hundred (\$600) per year. Storage fees for any vehicle towed to an impound lot other than a city owned impound lot, shall be determined by the impound lot owner. The registered owner shall be responsible for all storage fees.

#### AMENDMENT XIV. ADDITIONS, ASSERTIONS & CHANGES:

§72.14 is hereby amended to read in its entirety as follows:

##### § 72.14 HEARING OF THE VALIDITY OF IMPOUNDMENT; APPEAL REDEMPTION OF IMPOUNDED VEHICLE.

Only the registered owner or other person entitled to possess, may redeem an impounded vehicle. A person redeeming an impounded vehicle shall produce proof of ownership or right to possession. A vehicle impounded may only be released upon proof that the registered owner or person entitled to possession shall have satisfied any and all fines, penalties, fees or forfeitures prior to the release of such vehicle.

#### AMENDMENT XV. ADDITIONS, ASSERTIONS & CHANGES:

§72.15 is hereby amended to read in its entirety as follows:

##### § 72.15 VEHICLE DEEMED ABANDONED - ESCHEAT TO THE CITY - DISPOSAL OF VEHICLE HEARING OF THE VALIDITY OF IMPOUNDMENT; APPEAL.

(A) The owner of a vehicle or other person entitled to possession which has been impounded pursuant to §72.12(A), may challenge the validity of such impoundment by requesting in writing a hearing before the Parking Enforcement Hearing Board.

(B) The hearing shall be conducted within ten (10) business days of the date of the request, unless the registered owner or other person entitled to possession waives the limitation or the City shows good cause for such delay.

(C) The City shall retain possession of the vehicle pending the hearing, unless the owner or other person claiming right of possession posts a bond or other security in a form satisfactory to the City in an amount equal to the fines and fees accrued as of the date of the hearing request, or seventy-five dollars (\$75.00) whichever is less.

(D) If the owner or person claiming right of possession of the vehicle is unable to pay the amount of the bond, the hearing shall be held within seventy two (72) hours of the date of the request for hearing is received, unless such person requests or agrees to a continuance.

(E) No less than five (5) days prior to the date set for the hearing, the City shall notify the person requesting the hearing of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested, by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(F) In the case of a hearing required to be held within seventy-two (72) hours of the date of request as provided in division (D) of this section, the person requesting the hearing shall be informed at the time of their request, or as soon thereafter as practicable, of the date and time of the hearing.

(G) Any person requesting a hearing, who refuses or, except for good cause, fails to appear at the time and place set for the hearing shall be deemed to have conceded on his or her and the owner's behalf the validity of the impoundment.

(H) At the hearing, after consideration of the evidence, the Parking Enforcement Hearing Board shall determine whether the impoundment was valid and reasonable. Where it is not established that the impoundment was justified, an order releasing the vehicle shall be entered. All fines, fees paid or amounts posted as bond because of impoundment of the vehicle shall be returned. When it is established that the impoundment was justified, the Board shall uphold the impoundment and condition release of the vehicle upon the payment of all fines and fees accruing thereto. If bond has been posted as security for release of the vehicle, the bond shall be forfeited to the City. Any fines or fees in excess of the amount of the bond posted shall be ordered to be paid by the owner of the vehicle to the City. The Board shall furnish the owner or person appearing on the owner's behalf with a copy of its order.

(I) The Board may consider the parking citation and any other written report made under oath by the issuing officer in lieu of the officer's personal appearance at the hearing.

(J) An appeal from the Parking Enforcement Hearing Board's determination may be made to the Calloway County District Court within seven (7) days of the Board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the Board's order in the same manner as any civil action. The action shall be tried de novo and the burden shall be on the City to establish that impoundment was justified. If the court finds that the impoundment was justified the owner shall be ordered to pay all fees and fines accruing as of the date of judgment. If the Court finds that the impoundment was not justified, the City shall release the vehicle, if applicable, and to return all fines and fees paid as a result of the impoundment.

#### AMENDMENT XVI. ADDITIONS, ASSERTIONS & CHANGES:

§72.16 is hereby amended to read in its entirety as follows:

#### § 72.16 ~~LIEN FOR FINES AND OTHER CHARGES~~VEHICLE DEEMED ABANDONED - ESCHEAT TO THE CITY - DISPOSAL OF VEHICLE.

(A) If within ten (10) business days of impoundment a motor vehicle impounded by the City has not been claimed, or a hearing has not been requested pursuant to §72.14 and KRS 82.625, notice shall be mailed by certified mail to the registered owner, if known, and lien holders of record, if any, affording the parties the right within ten (10) days from the date of notice to claim the vehicle or request a hearing pursuant to §72.14 and KRS 82.625. The notice shall state that, if no hearing is requested the vehicle shall be deemed abandoned unless the charges thereon are paid within forty-five (45) days of receipt of the notice.

(B) After forty-five (45) days from the date of notice required by division (A) of this section an impounded motor vehicle shall be deemed abandoned and the vehicle shall escheat to the city, pursuant to KRS 82.630.

(C) If the vehicle is judged suitable for use, the City may obtain a certificate of registration and ownership from the Calloway County Clerk pursuant to KRS 186.020 and either use the vehicle for governmental purposes or sell the vehicle at public auction to the highest bidder. If the vehicle is not suitable for use, it may be sold for its scrap or junk value.

**AMENDMENT XVII. ADDITIONS, ASSERTIONS & CHANGES:**

§72.17 is hereby created to read in its entirety as follows:

**72.17 LIEN FOR FINES AND OTHER CHARGES.**

(A) The City shall possess a lien on a motor vehicle impounded pursuant to § 72.12 and KRS 82.625 for all fines, penalties, towing, handling and storage charges and other fees imposed thereon. Such lien shall be superior to and have priority over all other liens thereon.

(B) Pursuant to KRS 82.600 to 82.640, nothing shall otherwise affect the rights or obligations between the owner of the motor vehicle and those persons who claim security interest therein.

**AMENDMENT XVIII. ADDITIONS, ASSERTIONS & CHANGES:**

§72.99 is hereby amended to read in its entirety as follows:

**§ 72.99 PENALTY.**

(A) The minimum monetary penalties for parking violations are hereby established as follows:

<i>Parking Violation</i>	<i>Penalty</i>
No parking zone	<del>\$25.00</del> <u>50.00</u>
	\$25.00
Overtime	<del>\$15.00</del> <u>25.00</u>
On a crosswalk	<del>\$25.00</del> <u>50.00</u>
On a sidewalk	<del>\$25.00</del> <u>50.00</u>
<u>Accessible (Handicap) parking areas</u>	\$75.00
Fire hydrant or marked fire lane	<del>\$50.00</del> <u>75.00</u>
Blocking driveway	<del>\$25.00</del> <u>50.00</u>
Loading zone	\$25.00
Within an intersection	\$75.00
Wrong side	<del>\$25.00</del> <u>50.00</u>
Blocking traffic	\$75.00
All others	<del>\$20.00</del> <u>25.00</u>

(B) Any person found to be in violation of Chapter 72 shall be fined not less than the minimum fine set forth in division (A) of this section for each separate violation.

(C) If the owner of the vehicle cited is deemed to have waived their right to a hearing under the provisions of §72.10(C) and has not satisfied the penalty established in division (A) of this section, within thirty (30) days of the date of citation, a late fee of one hundred dollars (\$100.00) shall be added to the fine. For each successive thirty (30) day period in which the fine and late fee remains unpaid an additional one hundred dollars (\$100.00) late fee shall be assessed.

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of the Ordinances for the City of Murray, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

\_\_\_\_\_  
JACK D. ROSE, MAYOR

ATTEST:

\_\_\_\_\_  
JUNE BATTS, CITY CLERK

Introduced by the City Council on \_\_\_\_\_, 2017.

Adopted by the City Council on \_\_\_\_\_, 2017.

Published in the Murray Ledger and Times on \_\_\_\_\_, 2017.