

ORDINANCE 2018- 1752

AN ORDINANCE CREATING A NEW CHAPTER 55, BURIED UNDERGROUND UTILITIES, IN ORDER TO ADOPT AND ENSURE COMPLIANCE WITH LAWS OF THE COMMONWEALTH OF KENTUCKY, SPECIFICALLY THE KENTUCKY 8II LAWS.

WHEREAS, the City of Murray desires to create a new Chapter 55, in order to adopt and ensure compliance with the laws of the Commonwealth of Kentucky, specifically the Kentucky 8II laws.

WHEREAS, the Murray City Council has reviewed and discussed the following proposed new Chapter 55 and believe the addition is reasonable and necessary.

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

A new Chapter 55 is hereby created to read in its entirety as follows:

§55.01: DEFINITIONS. The Definitions set forth in KRS 367.4903 for KRS 367.4903 to KRS 367.4917 are hereby adopted verbatim.

§55.02: KENTUCKY 8II LAWS. KRS 367.4901 to KRS 367.4917 are hereby adopted verbatim.

§55.99: PENALTY. The following penalties shall apply to this Chapter 55:

(1) An excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909, shall be guilty of endangering underground facilities and may be subject to a fine of TWO HUNDRED FIFTY DOLLARS AND NO CENTS (\$250.00) for the first offense and no more than ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) for the second offense within one (1) year and no more than THREE THOUSAND DOLLARS AND NO CENTS (\$3,000.00) for the third and any subsequent offense.

(2) A protection notification center that fails to comply with any provision of KRS 367.4913 shall be subject to a fine of ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) for each offense.

(3) A person that knowingly provides false notice to a utility notification center of an emergency as defined in KRS 367.4903 shall be subject to a fine of ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) for each offense.

(4) Any person who violates any provision of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) for each offense. The penalties of this subsection are not in conflict with and are in addition to civil damages for personal injury or property damage.

(5) (A) All fines recovered for a violation of this section shall be paid to the general fund of the state, county, city or fire protection agency which issued the citation. (B) In the event more than one (1) government agency was involved, the Court shall direct an apportionment of the fines. (C) Failure to comply with the provisions of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, may be determined at the conclusion of an investigation and shall be based on evidence available to state, county or city officials, law enforcement, or fire protection agencies which issued the citation.

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:

DANNETTA CLAYTON, CITY CLERK

Introduced by the City Council on _____, 2018.

Adopted by the City Council on _____, 2018.

Published in the Murray Ledger and Times on _____, 2018.