

**COMMONWEALTH OF KENTUCKY
KENTON COUNTY FISCAL COURT
KENTON COUNTY, KENTUCKY**

ORDINANCE NO. 320.10

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE FISCAL COURT OF KENTON COUNTY, COMMONWEALTH OF KENTUCKY, ESTABLISHING A SERVICE FEE FOR ENHANCED 911 EMERGENCY DISPATCH SERVICES TO OWNERS OF REAL PROPERTY IN KENTON COUNTY COMMONWEALTH OF KENTUCKY

WHEREAS, Kenton County is a political subdivision of the Commonwealth of Kentucky and pursuant to KRS 67.083 has the authority to provide and finance various governmental services within broad functional areas specified in the statute, AND;

WHEREAS, the establishment, maintenance and operation of the Kenton County Communications Center is an essential public safety service used by residents of Kenton County as well as workers and travelers while situated in the county, AND;

WHEREAS, the Kenton County Fiscal Court has determined that it is essential to the health, safety and welfare of the residents of Kenton County that quality services and technological improvements be made to the Kenton County Communications Center, AND;

WHEREAS, the Kenton County Fiscal Court has determined that the current 911 service fee levied at one rate against every parcel in Kenton County regardless of use does not fully account for the differences in population density and corresponding call volumes and this Ordinance is intended to distribute the shared costs of 911 services borne by the residents and businesses of Kenton County as fairly and objectively as can be done based on empirical data, AND;

WHEREAS, the Kenton County Fiscal Court through its information technology personnel and other departments completed a comprehensive data analysis of the number of 911 calls placed from various address points in Kenton County, showing that approximately 58% of all 911 calls originate from residential properties with low population density (1-3 residences), approximately 5% originate from properties with medium population density (4-39 residences), and approximately 7% originate from properties with high population density (40 or more residences), AND;

WHEREAS, the same data analysis showed that commercial properties which are not retail in nature generated approximately 10% of all 911 calls and that commercial properties that engage in retail operations generated approximately 17% of all 911 calls, AND;

WHEREAS, the Kenton County Fiscal Court has determined that the annual

appropriation to the Kenton County Communications Board to fund operations of the Kenton County Communications Center for the upcoming fiscal year (2018) is approximately 5.4 Million Dollars, AND;

WHEREAS, the Fiscal Court has determined that a fair and equitable apportionment of 911 operational costs will be accomplished by apportioning the required annual operational appropriation among the six property classifications described herein based on the corresponding percentage of 911 calls for service made to the Kenton County Communications Center during the prior year, AND;

WHEREAS, the Kentucky Supreme Court has determined that KRS 65.760 provides for alternative methods of funding the operation of enhanced 911 emergency services such as the service fee described herein, AND;

WHEREAS, the Kenton County Fiscal Court has determined that 911 service fees imposed on residential and commercial parcels based on factors such as the use of the parcels, the size of improvements thereon, and the density of population thereon, will result in an equitable distribution of the burden of funding this service among all the citizens of Kenton County.

NOW, THEREFORE BE IT ORDAINED BY THE FISCAL COURT, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY:

Section I

The Kenton County Fiscal Court hereby amends Chapter 33.13 of the Kenton County Code of Ordinances, as enacted by Kenton County Ordinance 320.7 and amended in Kenton County Ordinance 320.8 and 320.9, as follows:

33.13 COLLECTION OF 911 SERVICE FEE

A. For the purposes of this Chapter, a 911 service fee shall be defined as an annual fee imposed upon each parcel of real property located within the County of Kenton, as determined from the records of the Kenton County Property Valuation Administrator's Office. The fee shall be used for the delivery of Enhanced 911 emergency telephone service as provided for by K.R.S. 65.760 and the associated maintenance of systems and devices, including but not limited to, operating costs of the Kenton County's Communication Center (Dispatch Center), E 911 equipment, including expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service. For purposes of this Chapter, the following definitions shall also apply:

1. A Low-Density Residential Parcel shall be defined as any parcel of real property upon which lies a structure (or structures) containing at least one (1), but not more than three (3), units of residential space.

2. A Medium-Density Residential Parcel shall be defined as any parcel of real property upon which lies a structure (or structures) containing at least four (4), but not more than thirty nine (39), units of residential space.
3. A High-Density Residential Parcel shall be defined as any parcel of real property upon which lies a structure (or structures) containing more than forty (40) units of residential space.
4. A 'unit of residential space' shall be defined as a structure, or portion(s) thereof, designed or otherwise configured to provide self-contained housing facilities for one (1) person or one (1) family. However, this shall not include hotels, motels, nursing homes, long term care facilities, tourist cabins, college or university dormitories, or military barracks.
5. A Commercial Non-Retail Parcel shall be defined as any parcel used by the owner, occupant, lessee, or other possessor of the property for any business, governmental, religious, public, semi-public, or community purpose which involves:
 - a. the production, manufacture, or distribution of goods on-site to be sold to retailers or other non-retail entities; OR
 - b. the provision of services to be rendered off-site; OR
 - c. the delivery of governmental services to the public; OR
 - d. the provision of religious services.
 - i. These parcels may include, but are not limited to, commercial farms, meat processing facilities, manufacturing buildings and plants, office buildings, houses of worship, oil and gas storage facilities, public utilities, railroad facilities, elementary schools, middle schools, high schools, colleges and universities, trade schools, governmental buildings, trucking terminals, libraries, parks, and warehouses.
6. A Large Retail Commercial parcel shall be defined as any parcel used by any owner, occupant, lessee, or possessor of any portion of the property for the purposes of engaging in any business, public, semi-public, or community purpose which involves:
 - a. the sale, lease, or rental of goods or services to the public; AND
 - b. the parcel contains a structure or structure(s) totaling twenty five thousand square feet (25,000 sq. ft.) or more of gross commercial space.
 - i. These parcels may include, but are not limited to, nursing homes, day care centers, cemeteries, office buildings, hospitals, medical offices, organizational meeting halls, swim clubs, golf

courses, marinas, museums, car dealerships, bowling alleys, shopping centers, restaurants, hotels, grocery stores, pet kennels, gas stations, banks, veterinary clinics, department stores, and self-storage facilities.

7. A Small Commercial Retail Parcel shall be defined as any parcel used by any owner, occupant, lessee, or possessor of any portion of the property for the purposes of engaging in any business, public, semi-public, or community activity which involves:
- a. the sale, lease, or rental of goods or services to the public; AND
 - b. the parcel contains a structure or structure(s) totaling less than twenty five thousand square feet (25,000 sq. ft.) of gross commercial space.
 - i. These parcels may include, but are not limited to, nursing homes, day care centers, cemeteries, office buildings, commercial parking lots/garages, hospitals, medical offices, organizational meeting halls, swim clubs, golf courses, marinas, museums, car dealerships, bowling alleys, shopping centers, restaurants, hotels, grocery stores, pet kennels, gas stations, banks, veterinary clinics, department stores, and self-storage facilities.

Notwithstanding any other provision herein, Small Commercial Retail Parcel shall also include any parcel upon which is constructed a parking lot, garage, or other area designed for the parking of motor vehicles as defined by KRS 186.010(4) whereby the owner, occupant, lessee, or possessor of any portion of the parcel leases, rents, licenses, bails, or otherwise allows the parking or storage of motor vehicles thereon in exchange for consideration, except those which are leased, rented, or licensed in conjunction with a unit of residential space as defined herein.

8. In the event a parcel is of mixed Commercial Non-retail, Commercial Retail (Large or Small) and/or residential use, the parcel shall be assessed at the highest applicable assessment rate but shall not be assessed a second fee for the other use(s) of the parcel.

B. The 911 service fee shall be placed upon the Kenton County ad valorem property tax bill prepared by the Kenton County Clerk, pursuant to KRS 133.220(2), beginning September 1, 2017 and continuing every year thereafter.

BC. The Fiscal Court hereby imposes an annual 911 service fee of ~~sixty dollars (\$60.00)~~ seventy five dollars (\$75.00) per parcel upon each Low-Density Residential Parcel, which shall be placed upon the Kenton County ad valorem property tax bill prepared by the Kenton County Clerk, pursuant KRS. 133.220(2).

D. The Fiscal Court hereby imposes an annual 911 service fee of five hundred dollars (\$500.00) upon each Medium-Density Residential Parcel. However, no Medium-Density Residential Parcel shall be assessed a fee under this section greater than the total number of units of residential space located on the parcel multiplied by the Low-Density Residential Parcel fee as described in §33.13(C).

E. The Fiscal Court hereby imposes an annual 911 service fee of six thousand seven hundred and sixty five dollars (\$6,765.00) upon each High-Density Residential Parcel. However, no High-Density Residential Parcel shall be assessed a fee under this section greater than the total number of units of residential space located on the parcel multiplied by the Low-Density Residential Parcel fee as described in §33.13(C).

F. The Fiscal Court hereby imposes an annual 911 service fee of five hundred and thirty dollars (\$530.00) upon each Commercial Non-Retail Parcel.

G. The Fiscal Court hereby imposes an annual 911 service fee of two thousand six hundred and thirty dollars (\$2,630.00) upon each Large Commercial Retail Parcel.

H. The Fiscal Court hereby imposes an annual 911 service fee of four hundred thirty five dollars (\$435.00) upon each Small Commercial Retail Parcel.

~~G.I. The service fee imposed upon the owners of parcels of real estate as provided for by this ordinance and any amendments thereto shall be repealed upon the Fiscal Court's receipt of the service fees collected by Duke Energy and Owen County Rural Electric Cooperative Corporation by way of Ordinance 320.6.1. Similarly, The surcharge service fee placed upon the telephone land lines and billed by Cincinnati Bell as established by Ordinance No. 320.4, as amended shall be repealed on January 1, 2013 when the service fee imposed by this Ordinance is received by the Kenton County Communications Board.~~

~~DJ. The Kenton County Communications Board shall determine protocols for the resolution of any conflicts or hardships arising in the implementation of this Ordinance. The Kenton County Fiscal Court hereby creates the '911 Service Fee Appeals Board' comprised of the following members:~~

- ~~1. The Kenton County Treasurer;~~
- ~~2. One (1) member of the Kenton County Emergency Communications Board as chosen by the membership thereof; and,~~
- ~~3. Two (2) residents of Kenton County as nominated by the Judge/Executive and approved by the Fiscal Court; and,~~
- ~~4. The County Attorney sitting *ex officio*.~~

~~Each member shall serve a two (2) year term, except the County Treasurer and County Attorney who shall serve indefinite terms. The County Attorney shall be a non-voting member whose presence shall not be counted towards a quorum for purposes of conducting the business of the board. The presence of three (3) or more members shall~~

constitute a quorum. The board shall be charged with considering and resolving any claims of incorrect classifications or assessments of property pursuant to the terms of this ordinance.

K. Any property owner may appeal the classification of their property under the terms of this Ordinance. Any owner of a parcel classified under §§33.13(C) or (D) may appeal the amount of fee assessed against their parcel due to the total number of units located upon the parcel multiplied by the Low-Density Residential Parcel fee being a lesser amount than the standard fee applied to parcels under §§33.13(C) or (D).

Any property owner desiring an appeal shall deliver a written notice of appeal to the Kenton County Fiscal Court identifying the property in question, the basis for the appeal, the desired classification of the parcel, and any supporting facts for the 911 Service Fee Appeals Board to consider no later than November 1 of each year. The property owner shall bear the burden of proof in establishing that the property has been misclassified or incorrectly assessed by clear and convincing evidence. The Board will consider the evidence presented by the property owner along with any public records of the property valuation administrator, aerial maps, site photographs, building plans and permits, surveys, plats, deeds, official documents, advertisements, site visits, or any other evidence which may aid in the determination of the classification or assessment of a parcel. Reclassification or reassessment of any parcel pursuant to an appeal under this section shall be done by a majority vote of the members present.

~~EL.~~ All fees collected by the Kenton County Sheriff shall be forwarded to the Kenton County Communications Board on a timely basis as determined by the Judge/Executive pursuant to Executive Order. The County Clerk and Sheriff shall be entitled to a reasonable fee to defray the actual costs of collection and disbursement of the service fee.

~~FM.~~ The following parcels, which are generally identified by a code established by the Kenton County Property Valuation Administrator, shall be exempt from the parcel fee:

1. Parcels located in the cities of Erlanger, Elsmere, and Crescent Springs;
2. Mobile homes which are identified by the PVA with a code 999;
3. ~~Garages and parking spaces identified as land use codes of 30, 478, 494 by the PVA;~~
- 4.3. Parcels of 0.01 acres or less.
5. ~~Parcels that contain acreage without structural improvements;~~
6. ~~Parcels containing only garages associated with a principal residence;~~
7. ~~Parcels containing contiguous residential or commercial uses with the same owner.~~

Section II

Should any section or part of any section or any provision of this Ordinance be declared invalid by a Court of competent jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance. Further, should any 911 service fee levied herein be declared invalid as applied to any class of property, the fee for any parcel within that class or classes of property shall be no less than the lowest 911 service fee imposed by this ordinance.

Section III

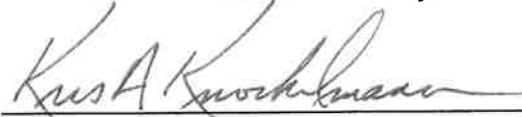
That this Ordinance shall take effect and be in full force when passed, published and recorded according to law. Any ordinances, resolutions, or executive orders in conflict with any section of this ordinance are hereby repealed or rescinded.

Adopted this 22nd day of August, 2017.

1st Reading – August 8th, 2017

2nd Reading – August 22nd, 2017. Vote: X , Yes, , No

Fiscal Court of Kenton County, Kentucky

By: 
Kris Knoche, Judge/Executive

Attest:


Sue Kaiser, Fiscal Court Clerk