

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

ORDINANCE NO. 320.14

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 previously authorized a 911 service fee apportioning the required annual operational appropriation for 911 services among six classifications of real property based on an analysis of the percentage of 911 calls for service made to the Kenton County Emergency Communications Center during the preceding year, AND;

WHEREAS, 911 service fees charged to 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, results in an equitable distribution of the burden of funding 911 Emergency Dispatch services among all the citizens of Kenton County, AND;

WHEREAS, the Kenton County Fiscal Court has determined it necessary and proper to create additional classifications of property subject to the 911 service fee in order to more equitably distribute the burden of funding 911 Emergency Services amongst 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, 320.10, 320.11, and 320.13 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 or any parcel which is used for agricultural purposes as defined by KRS 100.111(2)(a).
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~~ or more (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, educational, 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, excepting therefrom parcels defined in §33.13(A)(4~~1~~2).

- i. These parcels may include, but are not limited to, meat processing facilities, manufacturing buildings and plants, office buildings, oil and gas storage facilities, public utilities, railroad facilities, elementary schools, middle schools, high schools, colleges and universities, trade schools, trucking terminals, libraries, parks, and warehouses.

6. A Super 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.

~~6~~7. 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 at least seven thousand five hundred square feet (7,500 sq. ft.) but less than 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.

8. A Medium 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 at least two thousand five hundred square feet (2,500 sq. ft.) but less than seven thousand five hundred square feet (7,500 sq. ft.) 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.

79. 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 at least one thousand square feet (1,000 sq. ft.) but less than two thousand five hundred square feet (2,500 sq. ft.) ~~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.~~

10. A Tiny 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 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 one thousand square feet (1,000 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, a Tiny Retail Commercial 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.

811.In the event a parcel is of mixed Commercial Non-retail, Commercial Retail (~~Large or Small~~) of any classification, 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.

912.Any other section herein notwithstanding, a Public Use Parcel shall be defined as any parcel owned or leased by:

- a. Any City of County Government for the purposes of conducting the regular business of its governing body, its police department, or its fire department.
- b. A Fire District so long as the parcel is used by the District to deliver fire protection services pursuant to KRS Ch. 75.
- c. Any institution of religion, religious group, or religious congregation for which the parcel's primary purpose is serving as a house of worship.

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.

C. The Fiscal Court hereby imposes an annual 911 service fee of seventy five dollars (\$75.00) upon each Low-Density Residential Parcel.

D. The Fiscal Court hereby imposes an annual 911 service fee of ~~five hundred dollars (\$500.00)~~ three hundred and forty dollars (\$340.00) 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)~~ four thousand five hundred and ninety five dollars (\$4,595.00) 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)~~ two hundred and forty five dollars (\$245.00) 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~~ Super Retail Commercial Parcel.

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

I. The Fiscal Court hereby imposes an annual 911 service fee of ~~seventy five dollars (\$75.00) upon each Local Government Parcel~~ four hundred and thirty five dollars (\$435.00) upon each Medium Retail Commercial Parcel.

J. The Fiscal Court hereby imposes an annual 911 service fee of three hundred dollars (\$300.00) upon each Small Retail Commercial Parcel.

K. The Fiscal Court hereby imposes an annual 911 service fee of two hundred and sixty five dollars (\$265.00) upon each Tiny Retail Commercial Parcel.

~~J. 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.~~

~~K~~L. The Fiscal Court hereby imposes an annual 911 service fee of seventy five (\$75.00) upon each Public Use Parcel.

~~L~~M. 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.

~~L~~N. 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(D) or (E) 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(D) or (E).

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 January 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 Kenton County Treasurer, or his designee, shall have the limited authority to conduct an initial review of any appeal and reclassify any parcel without a hearing or approval of the full Service Fee Appeals Board so long as the reclassification ordered by the Treasurer is to the classification requested by the property owner in their notice of appeal. In the event the County Treasurer does not, or is unable to reclassify the parcel under his limited authority herein, 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 excepting therefrom any reclassification based on an initial review of the Kenton County Treasurer or his designee under this section.

MO. 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.

NP. 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. Mobile homes which are identified by the PVA with a code 999;
2. Parcels of 0.01 acres or less.

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 _____ day of _____, 2019.

1st Reading – August 12th, 2019

2nd Reading - _____, 2017. Vote: _____, Yes, _____, No

Fiscal Court of Kenton County, Kentucky

By: _____
Kris Knochemann, Judge/Executive

Attest:

Sue Kaiser, Fiscal Court Clerk