

LOCAL LAW NO. 6 FOR THE YEAR 2002

A LOCAL LAW TO ESTABLISH A SURCHARGE ON WIRELESS COMMUNICATIONS SERVICE IN THE COUNTY OF CORTLAND

Be it enacted by the County Legislature of the County of Cortland as follows:

SECTION 1.

The title of this local law shall be known as the "Cortland County Wireless Communications Service Surcharge Law".

SECTION 2.

Pursuant to the authority granted to the Cortland County Legislature by State Law, there is hereby imposed a surcharge of thirty cents (\$.30) per month on wireless communications service in the County of Cortland.

SECTION 3.

- a. The said surcharge shall be imposed on each wireless communications device and shall be reflected and made payable on bills rendered for wireless communications service provided to a customer whose place of primary use is within the County of Cortland (may be referred to as "the County" hereafter).
- b. For purposes of this law, the term "place of primary use" shall mean the street address that is representative of where the customer's use of the wireless communications service primarily occurs, which address must be the residential street address or the primary business street address of the customer and within the licensed service area of the wireless communications supplier; provided, however, that a wireless service supplier may treat the address used by such supplier for any wireless communications customer under a service contract or agreement in effect on July 28, 2002 as that wireless communications customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdiction with respect to taxes on wireless communications service.

SECTION 4.

The thirty-cent surcharge imposed herein shall begin on December 1, 2002; provided, however, that any wireless communications supplier within the County of Cortland which has imposed a surcharge pursuant to this law shall be given a minimum of forty-five days written notice prior to the date it shall begin to add such surcharge to the billings of its customers or prior to any modification to or change in the surcharge amount.

SECTION 5.

- a. Each wireless communications service supplier serving the County of Cortland shall act as collection agent for the County and shall remit the funds collected pursuant to the surcharge imposed under the provisions of this law to the chief fiscal officer of the County every month. Such funds shall be remitted no later than thirty (30) days after the last business day of the month.
- b. Each wireless communications service supplier shall be entitled to retain, as an administrative fee, an amount equal to two percent (2%) of its collections of the surcharge imposed under the provisions of this law.
- c. Any surcharge required to be collected by a wireless communications service supplier shall be added to and stated separately in its billings to customers.
- d. Each wireless communications service supplier who is subject to the provisions of this law shall be liable to Cortland County for the surcharge until it has been paid to the County of Cortland, except that payment to a wireless communications service supplier is sufficient to relieve the customer from further liability for such surcharge.
- e. No wireless communications service supplier shall have a legal obligation to enforce the collection of any surcharge imposed under the provisions of this law, provided, however, that whenever the wireless communications service supplier remits the funds collected to the County, it shall also provide the County of Cortland with the name and address of any customer refusing or failing to pay a surcharge imposed under this provisions of this law, and shall state the amount of such surcharge remaining unpaid.
- f. Each wireless communications service supplier shall annually provide to the County an accounting of the surcharge amounts billed and collected.

SECTION 6.

- a. All surcharge monies remitted to the County of Cortland by a wireless communications service supplier shall be expended only upon authorization of the County and only for payment of system costs or other costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Cortland County.
- b. The County shall separately account for and keep adequate books and records of the amount and source of all such surcharge monies and of the amount and object or purpose of all expenditures thereof.
- c. If, at the end of any fiscal year, the total amount of all such monies exceeds the amount necessary for payment of the above-mentioned costs in such fiscal year, such excess shall be reserved and carried over for the payment of those costs in the following fiscal year.

SECTION 7.

Separability

If any provision of this local law or the application thereof to any person or circumstance is held to be invalid, the remainder of this local law and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 8.

Effective date

This local law shall take effect upon filing in the Office of the Secretary of State as provided by Section 27 of the Municipal Home Rule Law.