

County of Tioga

Local Law No. 6 of the Year 2003.

A Local Law imposing a Wireless Communication Surcharge in Tioga County.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: Definitions:

- a.) **“Wireless Communication Device”** means any equipment used to access wireless communication service.
- b.) **“Wireless Communication Service”** means all commercial mobile services, as that term is defined in section 332(d) of title 47, United States Code, as amended from time to time, including, but not limited to, all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent-wide area specialized mobile radio licensees, which offer real time, two-way voice or data service that is interconnected with the public switched telephone network or otherwise provides access to emergency communications services.
- c.) **“Place of Primary Use”** means the street address that is representative of where the customer’s use of the Wireless Communications Service primarily occurs which must be: (a) the residential street address or the primary business street address of the customer; and (b) within the licensed service area of the Wireless Communications Service supplier.
- d.) **“County”** means the County of Tioga.
- e.) **“Eligible Wireless 911 Service Costs”** means the costs defined in Section 325(16) of the County Law.

SECTION 2:

Effective January 1, 2004, a surcharge of \$.30 per month shall be imposed on each Wireless Communications Device for Wireless Communication Service that is provided to a customer whose place of primary use is located in the County.

SECTION 3:

The surcharge imposed pursuant to Section 2 above shall be reflected and made payable on bills rendered for Wireless Communications Service.

SECTION 4:

- (a) Each Wireless Communications Service supplier serving the County shall act as a collection agent for the County and shall remit the funds collected pursuant to a surcharge imposed under the provisions of this local law to the Chief Fiscal Officer of the County every month. Such funds shall be remitted no later than thirty 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 of its collections of a surcharge imposed under the provisions of this Local 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 customer who is subject to the provisions of this Local Law shall be liable to the County for the surcharge until it has been paid to the County 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 Local Law, provided, however, that whenever the Wireless Communications Service supplier remits the funds collected to the County, it shall also provide the County with the name and address of any customer refusing or failing to pay a surcharge imposed under the provisions of this Local 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 5:

All surcharge monies remitted to the County by a Wireless Communications Service supplier shall be expended only upon authorization of the County Legislature for payment of Eligible Wireless 911 Service Costs. The County shall separately account for and keep adequate books and records of the amount and source of all such monies and of the amount and object or purpose of all expenditures thereof. 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 6:

The Tioga County Sheriff, or his Designee, shall notify, in writing, Wireless Communication Service providers who are subject to the provisions of this Local Law of their obligation to collect the surcharge provided for herein no less than forty-five days prior to the date such provider is to begin adding said surcharge to the billings of its customers.

SECTION 7:

This Local Law shall take effect upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2003 of the (County) of Tioga was duly passed by the Tioga County Legislature on November 10, 2003, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County) (City) (Town) (Village) of was duly passed by the on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the and was deemed duly adopted on , 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 20 Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual)election held on , 20 , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 20 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of , 20 , in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the City of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on , 20 , become operative.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: November 10, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

State of New York

County of Tioga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
David M. Dutko
Title County Attorney
County of Tioga
City
Town
Village

Date: November 10, 2003