

**BOARD OF SUPERVISORS
WAYNE COUNTY**

RESOLUTION NO. 761-02: ADOPTING LOCAL LAW IMPOSING A SURCHARGE ON WIRELESS COMMUNICATIONS SERVICE IN WAYNE COUNTY

Mr. Clark presented the following:

WHEREAS, a proposed local law in relation to imposing a surcharge on wireless communications service in the county to provide revenue for system costs or other costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Wayne County was presented to the Board of Supervisors on September 17, 2002; and

WHEREAS, a public hearing on the proposed local law was held by the Board of Supervisors on October 15, 2002, in accordance with the notice of hearing duly posted and published in the manner prescribed by law; now, therefore, be it

RESOLVED, that said local law is hereby adopted to read as follows:

**COUNTY OF WAYNE - STATE OF NEW YORK
LOCAL LAW NO. 6-2002**

A local law imposing a surcharge on wireless communications service in the county to provide revenue for system costs or other costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Wayne County.

SECTION 1. Definitions

- (a) "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: (1) residential street address or the primary business street address of the customer; and (2) within the licensed service area of the wireless communications service supplier.
- (b) "Wireless communications service supplier" means a telecommunications corporation that provides service within Wayne County.
- (c) "System costs or other costs" means the costs associated with maintaining the telecommunications equipment and the telephone services necessary to provide an E911 system and costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Wayne County.

SECTION 2. Pursuant to Section 308 (a) of the County Law of the State of New York, there is hereby imposed a surcharge of thirty cents (\$.30) per month per wireless communications device which shall be reflected and made payable on bills rendered for wireless communications service that is provided to a customer whose place of primary use is within the County of Wayne. Wireless communication service suppliers shall begin to add the surcharge to all current service bills rendered on or after January 1, 2003. Any wireless communications service supplier required to collect the surcharge pursuant to the provisions of this section shall be given a minimum of forty-five (45) 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.

- (a) Each wireless communications service supplier serving the County of Wayne shall act as a collection agent for the county and shall remit the funds collected pursuant to the surcharge imposed under the provisions of this section to the Wayne County Treasurer 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 section.
- (c) The 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 section shall be liable to the County of Wayne for the surcharge until it has been paid to the county except that payment to a wireless communications service supplier shall be 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 the surcharge imposed under the provisions of this section, provided, however, that whenever the wireless

communications service supplier remits the funds collected to the County of Wayne, it shall also provide the County of Wayne with the name and address of any customer refusing or failing to pay the surcharge imposed under the provisions of this section and shall state the amount of such surcharge remaining unpaid.

- (f) Each wireless communications service supplier shall annually provide to the County of Wayne an accounting of the surcharge amounts billed and collected.
- (g) All surcharge monies remitted to the County of Wayne by a wireless communications service supplier shall be expended only upon authorization of the Wayne County Board of Supervisors 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 Wayne County. The County of Wayne 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 3. The County of Wayne shall be exempt from the surcharge imposed under this local law.

SECTION 4. This local law shall take effect on January 1, 2003 provided, however, that a wireless communications service provider 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, for purposes of determining the taxing jurisdiction with respect to taxes on wireless communication service.

and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to number the local law in conformance with the filing requirements of the Secretary of State and to file the local law with the Secretary of State in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

Mr. Colvin moved the adoption of the resolution. Seconded by Mr. Pascarella. Upon roll call, all Supervisors voted Aye except Supervisors Spickerman and Fabino who voted Nay. The Chairman declared the Resolution adopted.

Clerk of the Board of Supervisors,
County of Wayne

I, hereby certify that I have compared the foregoing copy of a resolution with the original duly adopted by the above mentioned Board at a session held on the 15th day of October 2002 and that the same is a true copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the said Board, this 16th day of October 2002.

_____ Clerk