

STRICKEN AS OF 8/2/2010

Intro. Res. No. 1172-2010

Laid on Table 2/2/2010

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2010, ADOPTING LOCAL LAW
NO. -2010, A LOCAL LAW IMPOSING A SURCHARGE ON
WIRELESS COMMUNICATIONS SERVICE IN THE COUNTY OF
SUFFOLK**

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on _____, 2010, a proposed local law entitled, "**A LOCAL LAW IMPOSING A SURCHARGE ON WIRELESS COMMUNICATIONS SERVICE IN THE COUNTY OF SUFFOLK**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2010, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW IMPOSING A SURCHARGE ON WIRELESS
COMMUNICATIONS SERVICE IN THE COUNTY OF SUFFOLK**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the New York Legislature has recently added section 308-x of the County Law authorizing the County of Suffolk to implement a wireless surcharge to help fund an enhanced emergency telephone service system.

Therefore, the purpose of this law is to implement section 308-x of the NEW YORK COUNTY LAW by imposing a wireless surcharge of thirty cents per month on wireless communication service within the County of Suffolk as a means to assist the County in paying the costs associated with wireless 911 service.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

"WIRELESS COMMUNICATIONS SERVICE" means all commercial mobile services, as that term is defined in section 322(d) of title 47 of the UNITED STATES CODE, as amended from time to time, including, but not limited to, all broadband personnel communication services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent-wide area specialized mobile radio licenses, 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.

"WIRELESS COMMUNICATIONS DEVICE" means any equipment used to access a wireless communication service.

“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 address 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.

“WIRELESS SERVICE SUPPLIER” means any commercial entity that operates a wireless communications service within the County of Suffolk.

Section 3. Establishment of Suffolk County Wireless Surcharge.

A.) There is hereby imposed in the County of Suffolk a wireless surcharge of thirty (30) cents each month on wireless communications service. Said surcharge shall be imposed on each wireless communications device and 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 Suffolk.

B.) Any wireless communications service supplier within the County of Suffolk imposing a surcharge pursuant to the provisions of this law shall be given a minimum of forty-five days written notice prior to the date the service supplier 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 4. Collection of Surcharge.

A.) Each wireless service supplier serving the County of Suffolk shall begin to add such surcharge to the billings of its customers commencing May 1, 2010.

B.) Each such wireless service supplier shall act as a collection agent for the County of Suffolk and shall remit surcharge monies collected pursuant to this law to the Suffolk County Treasurer every month, no later than thirty days after the last business day of each month.

C.) Each wireless service supplier shall be entitled to retain, as an administrative fee, an amount equal to two percent of its collections of the surcharge imposed under the provisions of this law.

D.) Any surcharge required to be collected by a wireless service supplier pursuant to this law shall be added to and stated separately in its billings to customers.

E.) No wireless service supplier shall have any legal obligation to enforce the collection of any surcharge. At the time a wireless service supplier remits monies as provided in this law, it shall also provide the name and address of any customer refusing or failing to pay the surcharge imposed by this law and shall state the amount of such surcharge remaining unpaid.

F.) Each wireless service supplier shall annually provide to the County of Suffolk an accounting of the surcharge amounts billed and collected.

Section 5. Liability for Surcharge.

Each wireless communications service customer who is subject to the provisions of this law and section three hundred eight-x of the NEW YORK COUNTY LAW, shall be liable to the County of Suffolk for the surcharge established in section 3 herein until such surcharge has

been paid to the County of Suffolk, except that payment to a wireless service supplier is sufficient to relieve the customer from further liability for such surcharge.

Section 6. Expenditure of Revenues.

All surcharge monies remitted to the County of Suffolk pursuant to this law shall be expended only upon authorization of the Legislature and shall only be used for payment of eligible wireless 911 service costs, as defined within subdivision sixteen of section three hundred twenty-five of the NEW YORK COUNTY LAW. No less than eight percent (8%) of such surcharge monies remitted to the County of Suffolk in any fiscal year shall be allocated to qualified Public Safety Answering Points (PSAP's), excluding the Suffolk County Police Department PSAP, and shall only be used for payment of eligible wireless 911 service costs, as defined within subdivision sixteen of section three hundred twenty-five of the NEW YORK COUNTY LAW. All surcharge monies collected by the County of Suffolk shall be separately accounted for, with an adequate record of the amounts and source of all such monies received, and an adequate record of the amounts and purpose of the expenditures made thereof. If at the end of any fiscal year the total amount of all such monies exceeds the amount necessary for payment for allowable costs in such fiscal year, such excess shall be reserved and carried over for the payment of allowable costs in the following fiscal year.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c) (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 9. Effective Date.

This law shall take effect immediately upon filing with the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: