



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

September 15, 2017

Hon. Karen McCarthy
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York, 14202

Re: Local Law Intro 11-1 (2017) A Local Law of the County of Erie, repealing the wireless communications surcharge authorized by Article Six of the County Law of the State of New York; and imposing the wireless communications surcharges pursuant to the authority of Tax Law Section 186-g
Our File No.: 22-20170026

Dear Hon. McCarthy:

Enclosed please find an original of the above-referenced Local Law for filing in your office.

Thank you.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: /S/GREGORY P. KAMMER
Gregory P. Kammer
Assistant County Attorney

GPK/jls
Enclosure

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☒ County ☐ City ☐ Town ☐ Village
(Select one.)
of Erie

Local Law No. 4 of the year 20 17

A local law of the County of Erie, repealing the wireless communications surcharge
(Insert Title)
authorized by Article Six of the County Law of the State of New York;
and imposing the wireless communications surcharges pursuant
to the authority of Tax Law Section 186-g

Be it enacted by the of the
(Name of Legislative Body)

☒ County ☐ City ☐ Town ☐ Village
(Select one.)
of Erie

as follows:

SECTION 1. Erie County Local Law No. 1 of the year 2006, is hereby REPEALED.

SECTION 2. Imposition of wireless communications surcharges. (a) Pursuant to the authority of Tax Law § 186-g, there are hereby imposed and there shall be paid surcharges within the territorial limits of the County of Erie on: (i) wireless communications service provided to a wireless communications customer with a place of primary use within such County, at the rate of thirty cents per month on each wireless communications device in service during any part of the month; and (ii) the retail sale of prepaid wireless communications service sold within such County, at the rate of thirty cents per retail sale, whether or not any tangible personal property is sold therewith.

(b) Wireless communications service suppliers shall begin to add such surcharge to the billings of its customers and prepaid wireless communications sellers shall begin to collect such surcharge from its customers commencing December 1, 2017.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(c) Each wireless communications service supplier and prepaid wireless communications seller is entitled to retain, as an administrative fee, an amount equal to three percent of its collections of the surcharges imposed by this Local Law, provided that the supplier or seller files any required return and remits the surcharges due to the New York State Commissioner of Taxation and Finance on or before its due date.

SECTION 3. Administration of surcharges. The surcharges imposed by this Local Law shall be administered and collected by the New York State Commissioner of Taxation and Finance as provided in paragraph (8) of Tax Law § 186-g, and in a like manner as the taxes imposed by Articles Twenty-eight and Twenty-nine of the Tax Law.

SECTION 4. Applicability of State law to surcharges imposed by this Local Law. All the provisions of Tax Law § 186-g shall apply to the surcharges imposed by this Local Law with the same force and effect as if those provisions had been set forth in full in this Local Law, except to the extent that any of those provisions is either inconsistent with or not relevant to the surcharges imposed by this Local Law.

SECTION 5. Net collections received by this County from the surcharges imposed by this Local Law shall be expended only upon authorization of the Legislature of the County of Erie and only for payment of system costs, eligible wireless 911 service costs, or other costs associated with the administration, design, installation, construction, operation, or maintenance of public safety communications networks or a system to provide enhanced wireless 911 service serving such County, as provided in paragraph (9) of Tax Law § 186-g, including, but not limited to, hardware, software, consultants, financing and other acquisition costs. The County shall separately account for and keep adequate books and records of the amount and object or purpose of all expenditures of all such monies. 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. Effective date. This Local Law shall take effect December 1, 2017.

Sponsor: Legislator John J. Mills

(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. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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. 4 of 20 17 of the (County) _____ of Erie _____ was duly passed by the _____ on August 18 20 17, and was (approved)(not approved) ~~(not approved)~~
(Name of Legislative Body) Erie County Legislature
(repassed after disapproval) by the Erie County Executive and was deemed duly adopted
(Elective Chief Executive Officer*)
on 9/12 20 17, 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 approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer*)

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 approved)
(Name of Legislative Body)
(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.

* 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.

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____, became operative.

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 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 2 above.

Karen M. McCarthy
Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: September 15 2017

(Seal)

A Public Hearing was held on the foregoing Local Law Intro. No. 11-1 (2017) on September 7, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 12th day of September, 2017.


Mark C. Poloncarz

A Public Hearing was held on the foregoing Local Law Intro. No. 11-1 2017 on September 7, 2017 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this ____ day of _____, 2017.

Mark C. Poloncarz