

June 10, 1986

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RESOLUTION NO. 134-85

ADOPTING LOCAL LAW NO. 8 FOR THE YEAR 1985

By Mr. Rishe, Chairman, Legislative and Judicial Committee

WHEREAS, a public hearing has been held on June 10, 1985, regarding Local Law No. 8 for the year 1985, and

WHEREAS, prior notification of such local law was provided to the members of the St. Lawrence County Legislature,

NOW, THEREFORE, BE IT RESOLVED that Local Law No. 8 for the year 1985, as amended, is hereby adopted.

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LOCAL LAW NO. 8 FOR THE YEAR 1985
A LOCAL LAW PROVIDING FOR THE LICENSING OF "TRANSIENT MERCHANTS"

Be it enacted by the Board of Legislators of the County of St. Lawrence as follows:

SECTION 1. Definition.

- a). "Persons" as used herein shall include the singular and the plural and shall also mean and include any person, firm, corporation, association, club, partnership, society, or any other organization, other than a not-for-profit corporation which is tax-exempt under the internal revenue code as a charitable, educational, religious, or cultural organization.
- b). A "transient merchant" is a person who engages or proposes to engage in a transient retail business.
- c). A "transient retail business" is one conducted in a store, hotel, house, building, structure, vacant lot, or any other property whatever in the County, for the sale at retail of goods, wares, and merchandise, excepting food products, and commodities related to agricultural production, and which is intended to be conducted for a temporary period of time and not permanently. If the place in which a business is conducted is rented or leased for a period of six months or less, such fact shall be presumptive that the business carried on therein is a transient business.

SECTION 2. Purpose of Law.

The purpose of this law is to assist in the government of the County of St. Lawrence, the management of its business, the preservation of good order, for the protection and maintenance of the health, safety, and welfare of the inhabitants of the County and to prevent dishonest or unethical business practices.

SECTION 3. License Requirements

No person shall engage in business as a transient merchant unless he shall first have obtained a license to do so from the County Clerk. The fee for a transient merchant's license shall be at the rate of one hundred dollars (\$100) for each thirty (30) day period or portion thereof.

SECTION 4. Application for License.

- a). An application for a transient merchant's license shall provide the following information:
1. The full name and address of such persons.
 2. If a corporation makes the application, the state under the laws of which said corporation is organized.
 3. The exact location of the principal office and place of business of the applicant.
 4. The names and addresses of the officers of the business entity making said application.
 5. The nature and location of the business engaged in by the applicant during the five (5) years immediately preceeding the filing of such statement.
 6. A photostatic copy of the business' registration with the New York State Department of Taxation and Finance, including the business' New York State Sales Tax identification number.
 7. The exact location within the County where such transient retail business is to be conducted.
 8. The date or dates on which such person intends to conduct business within the County.
 9. Federal Taxpayer Identification Number and appropriate New York State licenses and regulations.
- B). Before such license is issued by the County Clerk, the applicant will be required to post a cash deposit of at least one thousand dollars (\$1,000) or surety bond of at least one thousand dollars (\$1,000) with a surety company licensed to do business in this state. Said bond shall be approved as to form and sufficiency by the County Attorney before such license is issued.

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The condition of such cash deposit or bond shall be that said transient merchant will pay all state and local taxes applicable to his transactions entered into in this County; that he will well and truly perform any and all contracts, warranties, guarantees, or sales order made within the County; and more particularly, that if said merchant takes order for merchandise to be delivered at a future date and accepts payment in part or in full, that he will deliver said merchandise in a satisfactory condition within a period of four (4) months from the date of said contract, a copy of which contract or sales order with full particulars is to be delivered to the purchaser at the time of sale.

There shall be no forfeiture in respect to the four months' limitation where there is proof that nondelivery was due to strikes or other extraordinary events beyond the control of said merchant; however, in such event, the merchant upon demand shall promptly return in full the purchaser's deposit; and if he fails to do so, the surety will be required to make restitution under said bond.

Any person aggrieved by the action of a person licensed pursuant to this local law shall have a right by action for the recovery of money or damages, but in no event shall such money or damages exceed the amount of money paid or the cost of the goods purchased, whichever is less. The County shall not be liable in any way for any act of a person licensed pursuant to this local law. The County Clerk, for good cause shown, may require a bond or deposit in excess of one thousand dollars (\$1,000).

SECTION 5. Exemption to License Requirement

Nothing in this law shall be held to apply to any of the following:

- a). Sales conducted pursuant to statute.
- b). Sales conducted pursuant to the order of any court.
- c). Any person selling articles at wholesale to dealers in such articles.
- d). The peddling of meats, fish, fruit, and similar produce by farmers and persons who produce such commodities or to dealers in milk, baked goods, heating oil, fuel wood, and newspapers.
- e). Any honorably discharged member of the United States Armed Forces who has procured a license under Article Four of the General Business Law of the State of New York.

- f). Persons soliciting, collecting, or operating a sale on behalf of any bona fide charitable, educational, scientific, health, religious, patriotic, or other organization of worthy causes deemed to be in the public interest.
- g). Sales conducted by individuals for their own benefit, on or in the residential or agricultural real property owned or rented by such individuals.
- h). Any person selling Christmas Trees.
- i). Flea Market operators or dealers.
- j). Sales conducted by persons under the age of eighteen (18) years, in an individual capacity, for their own benefit.
- k). Sales conducted by any person from a place of business located within the County which is owned or rented by such person and intended to be operated on more than a temporary basis.

This law shall not be construed so as to unlawfully burden or interfere with interstate commerce.

SECTION 6. Penalties.

Any person violating the provisions of this section shall be guilty of disorderly conduct and shall be deemed a disorderly person, and upon conviction thereof shall be fined not more than fifty dollars (\$50) for each offense; and every day that a violation of this section shall continue shall constitute a separate and distinct offense.

SECTION 7. Display of License.

Licenses shall expire on the date specified on the license. Each licensed transient merchant shall be responsible for displaying his license in a conspicuous place at his place of business, and a separate license shall be secured for each place of business.

SECTION 8. License Not Transferrable.

No license under the provisions of this law shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued, his agents, employees, or duly authorized representatives, said agents, employees, or duly authorized representatives having been approved by the County Clerk.

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SECTION 9. Application.

This local law shall not apply to any city, village, or area of any town outside the village or villages therein during such time as such city, village, or town is regulating or licensing the occupation or business in question.

SECTION 10. Saving Clause.

The invalidity of any clause, sentence, paragraph, or provision of this local law shall not invalidate any other clause, sentence, paragraph, or part hereof.

This local law shall take effect upon the filing of a certified copy with the Department of State.

* * *

Mr. Rishe made a motion to adopt Resolution No. 134-85, seconded by Mr. LePage.

Mr. LaBaff made a motion to amend Local Law No. 8, seconded by Mr. Dunham, as follows:

In Section 1.c, add: "and commodities related to agricultural production" after the word "products".

In Section 4.b, change the "," after (\$1,000) to "or" a surety bond.

In Section 5.d, delete the word "daily".

By a roll call vote on the above amendments, the amendments were carried unanimously as shown below:

	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
District 1 Legislator McNeil	4.7			
District 2 Legislator Donald Smith	4.4			
District 3 Legislator Carey	4.9			
District 4 Legislator Otto	4.5			
District 5 Legislator Sheridan	5.3			
District 6 Legislator James Smith	4.8			
District 7 Legislator Moore	4.9			
District 8 Legislator Greco	3.9			
District 9 Legislator Dunham	4.9			

		<u>YES</u>	<u>NO</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
District 10	Legislator Livingston	5.2			
District 11	Legislator Hayden	4.1			
District 12	Legislator Morrill	4.9			
District 13	Legislator Sanford	5.1			
District 14	Legislator Bradley	4.9			
District 15	Legislator LaBaff	4.8			
District 16	Legislator Purvis	4.8			
District 17	Legislator Burns	3.8			
District 18	Legislator Rishe	3.8			
District 19	Legislator Miller	3.3			
District 20	Legislator Viskovich	4.3			
District 21	Legislator Charles Smith	4.3			
District 22	Legislator LePage	4.4			

YES	100.0
NO	0
ABSENT	0
ABSTAIN	0

TOTAL 100.0

By a roll call vote on Resolution No. 134-85, Local Law No. 8 for the year 1985, as amended, the Local Law was carried unanimously as shown below:

		<u>YES</u>	<u>NO</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
District 1	Legislator McNeil	4.7			
District 2	Legislator Donald Smith	4.4			
District 3	Legislator Carey	4.9			
District 4	Legislator Otto	4.5			
District 5	Legislator Sheridan	5.3			
District 6	Legislator James Smith	4.8			
District 7	Legislator Moore	4.9			
District 8	Legislator Greco	3.9			
District 9	Legislator Dunham	4.9			
District 10	Legislator Livingston	5.2			
District 11	Legislator Hayden	4.1			
District 12	Legislator Morrill	4.9			
District 13	Legislator Sanford	5.1			
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District 15	Legislator LaBaff	4.8			
District 16	Legislator Purvis	4.8			
District 17	Legislator Burns	3.8			
District 18	Legislator Rishe	3.8			
District 19	Legislator Miller	3.3			
District 20	Legislator Viskovich	4.3			
District 21	Legislator Charles Smith	4.3			
District 22	Legislator LePage	4.4			
					YES 100.0
					NO 0
					ABSENT 0
					ABSTAIN 0
					TOTAL 100.0