

An Ordinance providing for the licensing and regulating of transient retail business in the Borough of Clark; prescribing a penalty for violation; and repealing a prior ordinance.

The Borough of Clark hereby ordains:

Section 1. Definitions and Interpretation. As used in this ordinance:

(a) The term "transient retail business" shall mean and include the following:

(1) engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough; and

(2) selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, on a temporary basis, which shall include, but shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.

(b) The word "person" shall mean any natural person, partnership, association, corporation, or other legal entity.

(c) The term "legal holiday" shall mean and include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

(d) The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

Section 2. License Required; Fee; Conditions of Issuance. No person shall engage in any transient retail business within the Borough without first

having obtained from the Borough Secretary a license, for which a fee, which shall be for the use of the Borough, shall be charged:

\$10.00 for one week or fraction thereof;

\$25.00 for one month or fraction thereof;

\$100.00 for one year or fraction thereof.

Provided: no license fee shall be charged under this section:

(a) To farmers selling their own produce;

(b) For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;

(c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;

(d) To children under the age of eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations;

(e) To any honorably discharged member of any of the armed services who complies with the Act of 1867, April 8, P. L. 50, as amended, and who procures from the Prothonotary a certificate in pursuance of the Act of Assembly; or

(f) To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania;

(g) To any person who has complied with the provisions of the

"Solicitation of Charitable Funds Act," 1963, August 9, P. L. 628;

But all persons exempted hereby from the payment of the license fee shall be required to register with the Borough Secretary and obtain a license without fee. Provided further: any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or

merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided further: the Mayor may similarly exempt from payment of the license fee, but not from registering with the Secretary, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of any non-profit corporation. Provided further: every license issued under the provisions of this ordinance shall be issued on an individual basis to persons engaging in such business; every individual shall obtain a separate license, issued to him in his name; and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain the licenses for the applicants therein.

Section 3. Application for License. Every person desiring a license

under this ordinance shall first make application to the Secretary for such license. If such person shall also be required to obtain a license from any State or County officer, he shall, when making such application, exhibit a valid license from such State or County officer. The applicant shall state:

- his name and address, both local and permanent;
- his criminal record, if any;
- the name and address of the person by whom he is employed;
- the type of goods, wares, and merchandise he wishes to deal with in such transient retail business;
- the length of time for which license is to be issued; and
- the type and license number of the vehicle to be used, if any.

Section 4. Issuance of License; Custody, Display, or Exhibit. Upon

receipt of such application and the prescribed fee, the Secretary, if he shall find such application in order, shall issue the license required under this

ordinance. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person, if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks or public grounds or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, Borough officials, and citizens or residents of the Borough.

Section 5. Prohibited Acts. No person engaged in transient retail

business shall:

- (a) Sell any product or type of product not mentioned in his license;
- (b) Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough.
- (c) When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity;
- (d) Park any vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material or of any stock or wares or foodstuffs which have become unsaleable through handling, age, or otherwise;

- (e) Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9:00 A. M. or after 8:00 P. M. on any day of the week other than a Sunday or legal holiday.

Section 6. Records and Reports; Supervision. The Secretary shall keep a record of all licenses issued under this ordinance, and shall make a report thereof each month to the Council and to the Police Chief. The Police Chief shall supervise the activities of all licenses during their operation in the Borough.

hereby authorized to suspend or revoke any license issued under this ordinance when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder.

Appeals from any suspension or revocation may be made to the Council at any time within ten (10) days after such suspension or revocation. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

Section 8. Penalty for Violation. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days. Provided: each violation of any provision of this ordinance, and each day the same is continued, shall be deemed a separate offense.

Section 9. Severability. The provisions of this ordinance shall be severable, and if any section, part of section, or provision thereof shall be held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of any of the remaining sections, parts of sections, or provisions of this ordinance. It is hereby declared a legislative intent that this ordinance would have been adopted had such unconstitutional, illegal, or otherwise invalid provision not been a part hereof.

Section 10. Repealer. Ordinance 13, Untitled ordinance relating to peddling, approved February 5, 1940, is hereby repealed.

ADOPTED this ____ day of _____, 19 ____.

President of Council

ATTEST:

Borough Secretary

Approved by me this _____ day of _____, 19 ____.

Mayor