

ORDINANCE NO. 191

AN ORDINANCE OF THE BOROUGH OF MILESBERG, CENTRE COUNTY, PENNSYLVANIA GOVERNING, PEDDLING, CANVASSING, SOLICITING OR TAKING OF ORDERS EITHER FOR BENEFIT OR FOR CHARITY WITHIN THE BOROUGH OF MILESBERG PROVIDING REQUIREMENTS FOR THE CARRYING ON OF TRANSIENT RETAIL BUSINESS, PROVIDING FOR AN APPLICATION FOR A DEALER'S LICENSE REQUIRING A DEALER'S LICENSE, SETTING FORTH FEES AND REQUIREMENTS FOR THE ISSUANCE OF SAID LICENSE, PROHIBIT CERTAIN LICENSES, FIXING HOURS AND DAYS FOR THE CARRYING ON OF TRANSIENT RETAIL BUSINESS, PROVIDING FOR THE SUSPENSION OF LICENSES AND SETTING FORTH PENALTIES FOR VIOLATIONS OF SAID ORDINANCE AND SPECIFYING AN APPEAL PROCEDURE.

SECTION ONE. Definitions and Interpretation.

(a) The term "transient retail business," as used in this ordinance, shall mean engaging in peddling, canvassing, soliciting or taking of orders either by sample or otherwise of any goods, wares or merchandise, including works of art, or photography, including the solicitation for charitable contributions or the sale of items for charity; upon any of the streets or sidewalks, from house to house, by vehicle, by telephone, or from any store room, apartment, dwelling, or building whatsoever, or from any other fixed position within the Borough of Milesburg.

(b) The term "transient retail dealer," as used in this ordinance, shall mean any person who shall engage in transient retail business as hereinabove defined.

(c) The term "peddler," as used in this ordinance, shall mean any person engaged in a transient retail business who operates on foot with or without a cart or from a vehicle.

(d) The term "person" as used in this ordinance, shall mean any natural person, association, partnership, firm or corporation.

(e) The word "cart," as used in this ordinance, shall refer to any vehicle used by the foot peddler.

(f) In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION TWO. Transient Retail Dealers to Obtain License.

Every person, whether principal or agent or otherwise, prior to commencing a transient retail business within the Borough of Milesburg, shall obtain a license as herein provided.

SECTION THREE. Requirements to Be Fulfilled Prior to Submitting Application for Transient Retail Dealer's License. Every person desiring to make application for a transient retail dealer's license in the Borough of Milesburg shall provide two photographs, approximately 2 inches by 3 inches, at his expense; one of which will be affixed to the license, the other retained by the Borough and shall provide photographs of each additional employee or assistant.

SECTION FOUR. Application for a Transient Retail Dealer's License. Every person, prior to engaging in a transient retail business within the Borough of Milesburg, shall first make application to the Mayor for a license. Final approval or disapproval will be granted by the Mayor within 10 days of receipt of application. After such application is received, it shall be the responsibility of the Chief of Police to evaluate previous criminal records, if any. Individuals with previous convictions of a felony or misdemeanor may be refused a license at the Mayor's discretion. An individual license shall be required for each employee, assistant or partner of the transient retail business. No license issued under this ordinance shall be transferable from one person to another. The application shall contain the following applicable information:

(a) Names: The name of the business, meaning the firm, corporation, or person owning or operating such business, the name of the individual conducting or managing such business within the Borough and the names of all persons, whether resident or not, participating

in and assisting in the conducting of said business.

(b) Addresses: Both the permanent and local addresses of all persons, firms or corporations referred to above, together with the address or location of any place of business or location within the Borough from which said business will be conducted.

(c) Other Information: Personal description including age, weight, height, color of eyes, color of hair, previous convictions of criminal offenses, if any, and other descriptive information relative to each individual as referred to in this section.

(d) Nature of Business: A complete and accurate description of the nature and type of business to be conducted including, but not limited to the procedure and methods used in contacting and interesting potential customers, and also including the hours and days during which such business shall be conducted and the length of time for which the license is being requested.

(e) Description of Vehicle or Cart: A description of any carts, including color, size and type of vehicles used by any of the individuals referred to in this section, including make, year, license plate, name of registered owners, operator's number and names of any persons operating said carts or vehicles.

(f) Items for Sale: A complete description of the goods, wares, merchandise or articles to be sold, ordered or bartered, including prices, deposits required, and any contract, if any, to be offered to the general public for such purchases.

(g) Other: Other information required or desired by the Mayor, Chief of Police or by the Council of this Borough.

SECTION FIVE. Fee for Transient Retail Dealer's License.

No license shall be issued under this ordinance until the proper fee, as follows, shall be paid to the Borough of Milesburg, which shall be for the use of the Borough to defray administrative and enforcement costs.

(a) Foot Peddler: Two dollars (\$2.00) per day; ten dollars (\$10.00) per week; twenty-five dollars (\$25.00) per month; eighty dollars (\$80.00) per year.

(b) Transient Retail Dealer Operating From a Horse-Drawn or Motor Vehicle: Three dollars (\$3.00) per day; fifteen dollars (\$15.00) per week; thirty-five dollars (\$35.00) per month; one hundred twenty-five dollars (\$125.00) per year.

(c) Transient Retail Dealer Operating From a Fixed Position, Such as a Storeroom, Apartment or Other Dwelling: Thirty-five dollars (\$35.00) per month or part thereof. The first monthly fee is due before the issuance of the license. Each monthly fee thereafter will be due on or prior to the same day of the next month as the day of the month when issued.

(d) Each and Every Additional Employee or Person Employed by or with a Foot Peddler, or Transient Retail Dealer Operating From a Horse-Drawn or Motor Vehicle or a Fixed Location: One dollar (\$1.00) per day; five dollars (\$5.00) per week; ten dollars (\$10.00) per month; twenty-five dollars (\$25.00) per year.

SECTION SIX. Responsibility for Payment of Borough Wage Tax. Every such transient retail dealer or person or firm engaged in such business shall be responsible for the payment of wage or income taxes payable by himself or itself or any employee thereof as a result of income earned within the Borough of Milesburg, unless otherwise exempt by law, shall be required to make a quarterly report and payment to the Borough Treasurer of the Borough of Milesburg. Such retail dealer shall provide such Borough Treasurer, at the time such transient retailer ceases doing business within the Borough of the names and addresses of all such employees or agents, liable to pay such tax, and the amount of earnings applicable thereto.

SECTION SEVEN. Issuance of Transient Retail Dealer's License; License to be Carried; to be Exhibited Upon Request;

Restrictions of License. Upon making application therefor and paying the proper fee, as herein specified, a license shall be issued to every transient retail dealer. Such license shall contain information required to be given on the application therefore. Every transient retail dealer shall at all times when engaged in such business in the Borough, carry such license upon his person, and shall exhibit such license, upon request, to all police officers, Borough officials and prospective customers. No transient retail dealer shall engage in selling any product not mentioned upon such license nor shall such dealer sell in a manner location not indicated in such license.

SECTION EIGHT. Transient Retail Business Prohibited
Certain Days and Hours. No person licensed as a foot or vehicle peddler under this ordinance shall engage in peddling at any time on Sunday or upon any other day of the week before nine o'clock A.M. or after five o'clock P.M. No person licensed as a transient retail dealer other than peddling shall engage in business at any time on Sunday or upon any other day of the week before eight o'clock A.M. or after ten o'clock P.M.

SECTION NINE. Hawking Prohibited; Noise-Making Devices
Not to be Used by Transient Retail Dealers. No person, licensed as a transient retail dealer under this ordinance, shall hawk or cry his wares on any of the streets or sidewalks of the Borough, nor shall he use any loud speaker or horn or any other sound device whether it be carried on the person or attached to the cart or vehicle, for announcing his presence by which the public is annoyed.

SECTION TEN. Certain Uses of Streets by Transient Retail Dealers. No person, licensed as a transient retail dealer under this ordinance, shall park any cart or vehicle upon any of the streets or

alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of the streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any cart or vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to persons residing or present in the immediate vicinity.

SECTION ELEVEN. Peddlers not to Sell from Fixed Location on Streets or Sidewalks. No person, licensed as a peddler under this ordinance, shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling with, or without, any stand or counter. No such person shall stop his cart, to make a sale, or for any other purpose, between a building and a shade tree or planter or within ten feet of any street intersection. No peddler shall operate with another peddler, but shall maintain a distance of fifty (50) feet from other peddlers. A peddler may have one other person assisting him but no more, and any person or persons who are acquainted with such peddler and remain in the immediate vicinity of such peddler for a period in excess of five minutes shall be deemed to be assisting such peddler. Such peddler will attempt to avoid congestion in the streets and sidewalks and to facilitate the flow of pedestrian or vehicular traffic.

SECTION TWELVE. Transient Retail Dealers Selling Food Subject to Inspection. The Director of the Board of Health or his representative shall inspect in those cases where the transient retail dealer is selling items for human consumption.

SECTION THIRTEEN. Record of Transient Retail Dealer's Licenses and Registrations; Supervision over Transient Retail Dealers. The Chief of Police shall keep a record of all licenses issued and

registrations made under this ordinance and shall be responsible for supervising the activities of all holders of such licenses and transient retail dealers exempt from obtaining licenses.

SECTION FOURTEEN. Suspension of Licenses. The Mayor of the Borough of Milesburg is hereby authorized to suspend any license issued under this ordinance when he deems such suspension to be beneficial to the public health, safety and morals, or for the violation of any provisions of this ordinance, or for giving false information or misrepresentation upon any application for a license, or for making false or fraudulent statements in the operation of his business, or for conviction of any crime other than minor traffic violations.

SECTION FIFTEEN. Transient Retail Dealers Subject to Other Ordinances and Regulations. All such transient retail dealers shall conform to all other ordinances and regulations of the Borough of Milesburg, including, but not limited to, the Zoning Ordinance of such Borough.

SECTION SIXTEEN. Exemptions.

Reserved for future use.

SECTION SEVENTEEN. Penalties. Any person who shall violate any of the provisions 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, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided, however, each day's continuance of a violation of any of the provisions of this ordinance shall constitute a separate offense.

SECTION EIGHTEEN. Right of Appeal. Any person who is refused a license or has his license suspended may appeal such action to Borough Council in writing within 10 days after license has been denied or suspended. Such person shall be present at the time Borough Council reviews the appeal.

SECTION NINETEEN. Severability. The provisions of this ordinance shall be severable, and if any provisions thereof shall be held to be unconstitutional, invalid or illegal, by any court of competent jurisdiction, such decisions shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby

declared as a legislative intent that this ordinance would have been enacted had such unconstitutional, invalid or illegal provisions not been included therein.

ENACTED and ORDAINED into an Ordinance this 10th day of July, 1978.

ATTEST:

MILESBERG BOROUGH COUNCIL

Sally M. Knapp
Secretary

By: Monna H. Hooker
President