

ORDINANCE NO. 323

An Ordinance relating to and regulating transient retail business in the Borough of Forest City; providing for the licensing thereof; prescribing penalty for violation; and repealing certain prior ordinances.

The Borough of Forest City hereby ordains as follows:

Section 1. (a) The term "transient retail business," as used in this ordinance, shall mean and include the following: (1) engaging in peddling canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any of the streets or alleys sidewalks or public grounds, or from house to house, within the Borough of Forest City; 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," as used in this ordinance, shall mean any natural person, partnership, association, firm or corporation.

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

Section 2. No person shall engage in any transient retail business within the Borough of Forest City, without first having obtained from the Mayor a license, for which the following fee, which shall be for the use of the Borough, shall be charged:

two dollars (\$2.00) for one day;

five dollars (\$5.00) for one calendar week or fraction thereof;

ten dollars (\$10.00) for one calendar month or fraction thereof;

fifty dollars (\$50.00) for one calendar 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; or (c) to any manufacturer or producer in the sale of milk or milk products, bread and bakery products, or meat and meat products, but all persons exempted hereby from the payment of the license fee shall be required to register with the Mayor and obtain a license without fee. Provided further: any person dealing in one or more of the abovementioned exempted categories, and selling 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 him, persons working without compensation and selling goods, wares or merchandise for the sole benefit of any nonprofit organization. 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.

Section 3. Every person desiring a license under the provisions of this ordinance shall first make application to the Mayor 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 State or County license. In such application, such person shall give his name and address; his previous criminal record, if any; the name 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 such license is to be issued; and the type and license number of the vehicle to be used, if any.

Section 4. Upon receipt of such application and the prescribed fee, the Mayor, 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 a 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 of doing so from a fixed location. He shall exhibit such license, upon request, to all police officers, Borough officials, and citizens and residents of the Borough.

Provided: if the Mayor shall deem it necessary to investigate or check any information upon any such application, he shall have the authority to withhold issuance of the license thereby sought, for not longer than seventy-two (72) hours, to allow time for such investigation or checking of information.

Section 5. No person engaging in any transient retail business in the Borough of Forest City 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 selling from a vehicle, stop or park such vehicle upon any street or alley for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity;
- (d) Park any vehicle upon any street or alley in the Borough for the purpose of sorting, rearranging or cleaning any of his goods,

wares or merchandise, or of disposing of any carton or wrapping material or of any stock or wares or foodstuffs which may have become unsaleable through handling, age or otherwise;

(e) When working from house to house, engage in such business at any time on Sunday or at any time before nine o'clock A.M. or after seven o'clock P.M. on any other day of the week.

Section 6. The Mayor is hereby authorized to refuse to issue a license under this ordinance, or to suspend or revoke any such license, after the issuance thereof, when he shall deem such refusal, suspension or revocation to be in the interest of public health, safety or morals, or for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder. Appeals from any such refusal, suspension or revocation may be made to the Borough Council at any time within ten (10) days after such action by the Mayor in refusing, suspending or revoking the license, as the case may be. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

Section 7. Any person who shall violate any provision of this ordinance shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not more than one hundred dollars (\$100.00) and costs of prosecution, and, in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days. Provided: each day's violation of any provision of this ordinance shall constitute a separate violation.

Section 8. 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 as a legislative intent that this ordinance would have been adopted had such unconstitu-

(24-5)

tional, illegal or otherwise invalid provision not been a part thereof.

Section 9. The following ordinances are hereby repealed:

1. Ordinance 78, Providing for the licensing of transient retail merchants in the Borough of Forest City, and providing a penalty for failure to obtain the same, approved February 26, 1902.
2. Ordinance 156, Regulating hawking and peddling within the Borough providing license fees, penalties, etc., approved July 15, 1926.

Adopted into an Ordinance this sixth day of December, A.D. 1971.

Henry D. Purce
President of Council

Attest:

Paul F. Shick
Borough Secretary

Approved this 6th day of December, A.D. 1971

Edwin G. Blotman
Mayor