

## ORDINANCE NO. 312

AN ORDINANCE PROVIDING FOR THE CONTROL OF SALE BY AUCTION; PROVIDING FOR AND CONTROLLING SALE OF MERCHANDISE OTHER THAN IN PUBLIC BUSINESSES AND LOCATIONS; PROVIDING PENALTIES; AND DECLARING AN EMERGENCY.

The city of Bay City ordains as follows:

Section 1. Sale by Auction. Merchandise may be sold within the limits of the city of Bay City at public or private auction, by auctioneer licensed or otherwise, or by the owners of said property; but such sale of merchandise shall be conducted only in accordance with the terms, conditions and provisions of this ordinance, and not otherwise.

Section 2. Auction License. Each and every person conducting a business in the city of Bay City as a public auction with or without the service of a licensed auctioneer shall pay an annual license fee of \$10, which license is levied solely for the purpose of controlling and protecting the health, welfare and safety of the people of Bay City.

Section 3. Display and Storage of Merchandise, Buildings. No person shall store, display or sell any merchandise in any building unless said building shall meet all requirements of the laws of the state of Oregon and the ordinances of the city of Bay City with regard to electric wiring, sanitary and sewerage disposal, plumbing standards, and building and health codes applicable; no merchandise shall be displayed or stored or sold on a sidewalk or street in the city of Bay City.

Section 4. Buildings; Design, Construction and Use. No commercial enterprise shall be conducted in a building designed and built primarily for residential purposes, and no building designed primarily for commercial or business enterprise purposes shall be inhabited as a residence or as a dwelling by any person or persons; provided, however, that should a building be designed primarily as a combination business and commercial building and living or residential quarters, then the said living quarters shall be separated from the business quarters if upon the same floor of the building, by a wall with no opening between the living quarters and the

business quarters; but if upon separate levels, one directly above the other, then such separation shall be deemed adequate; for the purpose of construing this ordinance, a split-level dwelling or business building shall be considered as being all on one floor level; provided further, person or persons conducting a business enterprise may use a portion of a connecting dwelling as an office in the conduct of the business.

Section 5. Private Sales. Any private sale other than an auction sale, known and popularly described as a "yard sale," "patio sale," "garage sale" or "lawn sale" may be conducted by an person who is a citizen of and residing in the city of Bay City without securing a license therefore; providing, that all merchandise so displayed for sale, or sold in a yard, patio, garage or lawn sale be owned by the person selling the same and not having been purchased for resale, and shall not be displayed for a period of time longer than one week, and not more than two such sales shall be held within a period of 12 successive months. Permits shall be secured from the city recorder before any such sale is held.

Section 6. Provisions Independent. It is the intention of the council that each separate provision of this ordinance shall be deemed independent to the end that if any portion thereof shall be declared invalid or unconstitutional, the remaining portions thereof shall, nevertheless, remain valid and enforceable.

Section 7. Penalties.  
Any person found guilty of any violation of this ordinance, shall be punishable as a Class D violation, for each violation, as determined by the Tillamook County Justice Court, plus court costs. *Modified 05/08/01 by Ordinance 591*

Section 8. Emergency Clause: Whereas, with regard to the conduct of auction sales, both public and private, it is the opinion of the Common Council that an emergency exists and that it is necessary for the immediate preservation of the peace, health and safety of the said City that this Ordinance go into full force and effect immediately; THEREFORE, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passing and approval by the Mayor as provided in Section 7 of Chapter 1 of Article III of the Charter of the City of Bay City.

Passed by the Common Council and Approved by the Mayor this 8<sup>th</sup>  
Day of April, 1971.

/s/ Albert Griffin  
Albert Griffin Mayor

ATTEST:  
/s/ E.M. Crossley  
E.M. Crossley, Recorder

Aye: 6    Nay: 0

(Amendment, per Ordinance 419)

Section 9. The term "auctioneer" shall be deemed to mean and include every person who engages in offering goods, wares merchandise or property of any kind for sale by public auction; provided, that the

term "auctioneer" shall not be deemed to mean or include any sheriff, chief of police, administrator, executor or other officer or person making sales pursuant to any judgment, decree or order of the court, or under a warrant to enforce the collection of taxes or assessments, or to execute or complete any judicial or legal process.

Passed by the council and approved by the Mayor June 14, 1983

/s/ Virgil M. Simmons  
Virgil Simmons, Mayor

ATTEST:

/s/ William A. Batusic  
William Batusic, City Recorder