

ORDINANCE NO. 151 N.S.

AN ORDINANCE REGULATING SALES OF JEWELRY AND ALLIED ITEMS AT PUBLIC AUCTION AND CLOSING OUT SALES IN THE CITY OF EL PASO DE ROBLES.

THE COUNCIL OF THE CITY OF EL PASO DE ROBLES do ordain as follows:

SECTION 1. The following words and phrases when used in this ordinance shall have the meaning hereinafter specified, unless a different meaning clearly appears from the context.

(a) "Jewelry" shall include platinum, gold, silver, plated ware, precious stones, semi-precious stones, watches, clocks and other articles of jewelry; "Allied Items" shall include pens, pen and pencil sets, electrical table appliances, luggage, table lamps, cosmetics, lighting fixtures, sporting goods, guns, ammunition and articles of clothing.

(b) "Auction", "public auction" and "auction sale" shall mean and include a sale or offering for sale of any jewelry or allied items as hereinabove defined to the highest bidder in any building, or in or on any street or alley, private premises, or in any other place, where any and all persons who choose are permitted to attend and offer bids.

SECTION 2. It shall be unlawful for any person, firm or corporation to sell, offer for sale or advertise for sale at public auction in the City of El Paso de Robles any jewelry or allied items as hereinabove defined. Provided, however, that any person, firm or corporation who has been engaged in the business of selling such jewelry and allied items at retail in the City of El Paso de Robles continuously for a period of not less than one year, may obtain a permit as hereinafter provided, to conduct a public auction of such articles for the purpose

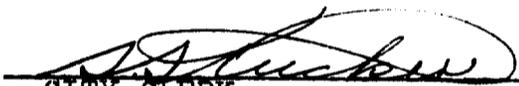
items at auction in violation of this ordinance shall constitute a separate offense hereunder.

PASSED, ADOPTED AND APPROVED this 4<sup>th</sup> day of December, 1950.

CITY OF EL PASO DE ROBLES

  
MAYOR

ATTEST:

  
CITY CLERK

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO  
CITY OF EL PASO DE ROBLES

} SS.

I, S. S. Tucker, City Clerk of the City of El Paso de Robles, California, do hereby certify that the foregoing Ordinance No. 151, N.S. was duly and regularly adopted, passed, and approved by the City Council of the City of El Paso de Robles, California, at a regular meeting of said City Council held at the regular meeting place thereof, on the 4th day, of December 1950, by the following vote:

AYES: Councilmen Gates, Garst, Ottosen, Smart and Thurlby

NOES: Councilmen None

ABSENT: Councilmen None

Dated this 4th day of December, 1950

  
City Clerk and Ex-Officio Clerk of the City Council,  
City of El Paso de Robles, State of California.

of disposing of his stock on hand and of closing out his business. Any such person, firm or corporation so obtaining such permit shall be subject to all the regulations and restrictions contained in this ordinance.

SECTION 3. The applicant for a permit to conduct a public auction of jewelry and allied items shall make application therefor not less than thirty days previous to the intended auction to the City Clerk of the City of El Paso de Robles, and at the time of such application shall pay a minimum filing fee of Twenty-five Dollars (\$25.00) provided, that if the net inventory exceeds the sum of Five Thousand Dollars (\$5,000.00) then, in that event, the fee shall be Twenty-five Dollars (\$25.00) plus Five Dollars (\$5.00) for each One Thousand Dollars (\$1,000.00) or fraction thereof of net inventory exceeding Five Thousand Dollars (\$5,000.00). Such application shall be in writing on forms provided by the City Clerk and under oath, showing all the facts in regard to the closing out of applicant's business, and showing all the facts in regard to conducting the sale at public auction and the place of conducting the same, including an inventory of the goods, wares and merchandise to be sold at said proposed sale, the quality, quantity and grade of each item, the wholesale value thereof, and a statement of the names of the persons from whom the jewelry and allied items so to be sold were obtained, the date of the delivery of such jewelry and allied items to the person applying for the permit, and the place from which such jewelry and allied items were last taken and all details necessary to fully identify the jewelry and allied items, together with such other information as may be required by the City Clerk. Such application shall specify the proposed period of time over which such proposed sales at public auction shall continue, which period

shall not exceed thirty days, Sundays and legal holidays excluded. Provided, that if it shall be made to appear upon sworn application to the City Clerk at any time during said period of thirty days, that all the jewelry and allied items described and inventoried in the original application have not been sold, accompanied by a statement or inventory of what remains thereof, a permit supplemental to that provided for may be issued by said City Clerk upon the same terms and conditions as said original permit, granting authority to continue such sale for a further period of thirty days.

Upon receipt of such application, the City Clerk shall refer the same to the Chief of Police for investigation and report.

After receipt of the report of the Chief of Police, if the City Clerk shall be satisfied that applicant and the person who is to conduct said proposed auction sale are of good moral character, that the jewelry and allied items proposed to be sold at public auction are a bona fide part of applicant's stock in trade and not secured, purchased or brought into his place of business for or in anticipation of said proposed sale, that neither applicant nor any of its officers, directors or members have violated this ordinance, and that the advertising and conducting of such sale will not be injurious to the peace, health, safety or welfare of the people of the City of El Paso de Robles he may issue a revocable permit to the person, firm or corporation applying for the same to advertise and conduct a sale at public auction, upon the applicant's filing the bond hereinafter provided for.

The making of any abnormal purchase by the applicant within a period of six months prior to the application for a permit under this ordinance shall prima

facie be deemed made for the purpose of disposing of the same at such proposed public auction and shall be just cause for denial of the permit.

The City Clerk in considering the application and the attending facts shall exercise a reasonable and sound discretion in granting or denying the permit applied for.

SECTION 4. No such permit shall be granted until the applicant shall have filed with the City Clerk a surety bond in the sum of Two Thousand Five Hundred Dollars (\$2,500.00), conditioned for the faithful performance of all the provisions of this ordinance and all other applicable ordinances of the City of El Paso de Robles and laws of the State of California pertaining to auctions and closing-out sales, and shall also indemnify any purchaser at said public auction who suffers any loss by reason of any misrepresentations or deception made or practiced by applicant, his agents, servants or employees, either at the time of making said sale or through any advertisement of any character whatsoever printed or circulated by the principal, his agents, servants or employees.

Such bond shall contain the further provisions that it inures to the benefits of any and all persons who may be damaged by reason of any failure on the part of the person or persons named therein to comply with the provisions of said bond, and that any person or persons so damaged may maintain an action thereon against the person or persons named in said bond, and the surety or sureties upon said bond, and that said bond may be sued and recovered upon in several actions until the whole penalty is exhausted.

SECTION 5. Whenever the City Clerk finds that the holder of a permit hereunder has violated any

of the conditions or provisions of this ordinance, or any other ordinance or law pertaining to his operations, or that the permit was obtained by misrepresentations, that he has failed to maintain the bond required by this ordinance, or that said auction is being conducted in a manner which will be injurious to the peace, health, safety or welfare of the people of the City of El Paso de Robles he may revoke said permit upon giving the holder thereof forty-eight hours previous notice in writing by personal service upon him or upon the auctioneer conducting said auction, or by mail addressed to him at his place of business in the City of El Paso de Robles or the place where said auction is being conducted as shown on his application. It shall be unlawful for any person, firm or corporation to conduct an auction sale as herein defined after his permit to do so shall have been revoked.

SECTION 6. Should any applicant or applicants be dissatisfied with the action of the City Clerk not to grant a permit or for the revocation of a permit, then said applicant may make written objection to the Council of the City of El Paso de Robles setting up the grounds of dissatisfaction. Upon the receipt of such objection, the Council shall set the matter for hearing at its next regular meeting giving written notice thereof to the applicant. Upon such hearing the City Council may sustain, suspend or overrule the decision of the City Clerk and its decision shall be final and conclusive. Pending the hearing before the Council, the decision of the City Clerk shall remain in full force and effect and any reversal thereof by the City Council shall not be retroactive but shall take effect as of the date of the Council's decision.

SECTION 7. It shall be unlawful for the holder of a permit hereunder or for his agents, servants

or employees to sell or offer for sale at auction any jewelry to which there is not attached a card or label containing a true and correct statement plainly written or printed in the English language specifying the kind and quality of metal of which such article is made or composed, or the percentage of karat or purity of such metals. If such articles are plated or overlain, then such tag or label shall contain a true statement of the kind of plate. When precious stones are sold or offered for sale at auction, as such or as part of an article of jewelry, such statement shall set forth the true name of said stones. When imitations of precious or semi-precious stones are offered for sale or sold at auction, as such or as part of an article of jewelry, said imitations shall be described or defined as synthetic or imitations of such stones as they purport to represent. When watches or clocks are sold or offered for sale at public auction the true names of the manufacturers shall be stated in writing and no parts of the movements or mechanism thereof shall be substituted or contain false or misleading names or trade marks, neither shall secondhand or old movements be offered for sale in new cases without a true statement to that effect. Used and rebuilt watches shall be so indicated. Such card, tag or label shall remain securely attached to any such article of merchandise, shall be delivered to the purchaser as a true and correct description and representation of the article sold and shall be deemed prima facie evidence of intent to defraud in case such written statement is not a true and correct description or representation of such article sold.

SECTION 8. No article of jewelry or allied items shall be sold or offered for sale or advertised for sale at public auction which is an addition to the

stock on hand of the holder of a permit hereunder or which is not included in the inventory filed with the City Clerk with the application for a permit hereunder.

SECTION 9. It shall be unlawful for any permittee, his agents, servants, or employees to make any statements which are false in any particular, or which have a tendency to mislead, or to make any misrepresentations whatsoever with reference to any article of jewelry or allied items sold or offered for sale at public auction.

SECTION 10. It shall be unlawful for any auctioneer or for any person, firm or corporation conducting a sale of jewelry or allied items at public auction to use any person as a false bidder for the purpose of increasing the price of any article offered for sale at such auction.

It shall be unlawful for any person to make or offer a false bid or any other than a bona fide bid at a public auction or to act as a by-bidder or what is commonly known as a "capper," "booster" or "shiller" at any auction, or falsely to pretend to buy any jewelry or allied items at an auction sale.

SECTION 11. (a) It shall be unlawful for any auctioneer, person, firm or corporation conducting an auction sale, or its agents, servants or employees to ring a bell or cause or permit the same to be rung in or about the front of the premises, or in any place on or near said premises where the same may be heard on the public street or sidewalk in front of said premises where there is conducted an auction sale, before, after or during such sale for the purpose of attracting the public to such auction sale.

(b) It shall be unlawful for any auctioneer, person, firm or corporation conducting an auction sale, or its agents, servants or employees, to use a searchlight or similar light or to solicit or permit the soliciting by

music, singing or loud or unusual noises to be made or done for the purpose of attracting the public to an auction sale.

SECTION 12. It shall be unlawful for any person, firm or corporation to conduct or allow, permit or suffer to be conducted, any auction sale between the hours of 6:00 P.M., of any day and 8:00 A.M., of the following day.

SECTION 13. Nothing in this ordinance contained shall apply to any public officer or officer of any court, who in pursuance of his duty as such officer, shall conduct within the City of El Paso de Robles an auction sale pursuant to any law of the State of California or of the United States of America, or the lawful order of any court, nor to the sale or offering for sale of unredeemed pledges or chattels in the manner provided by law, by pawnbrokers, loan companies or others, the sale or offering for sale for the purpose of satisfying a lien, or any other sale or offering for sale at auction where the same is specifically authorized or provided by law.

SECTION 14. Any ordinance or portions of ordinances of the City of El Paso de Robles in conflict herewith are expressly repealed insofar as said ordinances or portions of ordinances may pertain to the sale of jewelry and allied items as defined herein at public auction.

SECTION 15. CLOSING OUT SALES. Any person desiring to hold a closing out sale in the City of El Paso de Robles must obtain a closing out sale license. Application for such license shall be made to the City Clerk in writing, which application shall set forth:

1. The location of the proposed sale.
2. The nature of the occupancy.
3. The reason for the proposed sale.
4. A full, true and correct inventory or statement setting forth the amount and description of the goods,

wares, merchandise and personal property to be sold at such sale.

5. The dates upon or during which the proposed sale is to be conducted, and

6. Be accompanied by the required license fee as established in the following schedule, to-wit:

(a) Schedule. If the applicant has been operating the business to be closed out under a valid City Business License for:

(1) A period of six (6) months or less prior to the date the application is filed-----\$100.00;

(2) More than six (6) months but less than two (2) years-----\$25.00;

(3) More than two (2) years-----\$5.00.

The licenses issued for the respective fees hereinabove set forth in this schedule shall authorize the conducting of the respective sales therein licensed upon the days mentioned in the application. It is provided, however, that all sales made under such license must be made within the period of thirty (30) consecutive days including and following the first day of sale specified in the license. If the sale is not completed within said thirty-day period, the licensee shall have the right to renew the said license for an additional period of thirty days immediately following said first period upon payment of an addition fee which shall be equal to one-half of the original fee paid for such closing out sale license; but the City Clerk shall not issue any such license for a longer period than a combined total of sixty days.

SECTION 16. Any person, firm or corporation violating any of the provisions of this ordinance shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each separate sale or offering for sale of jewelry or allied