

ORDINANCE NO. 2022-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADDING CHAPTER XV (UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER) TO TITLE 11 (OFFENSES—MISCELLANEOUS) OF THE COSTA MESA MUNICIPAL CODE TO ESTABLISH REGULATIONS PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS IN THE CITY

WHEREAS, the City of Costa Mesa, pursuant to its police power, may enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, in recent years, the residents of the City of Costa Mesa have been the victims of hundreds of catalytic converter thefts; and

WHEREAS, the theft of catalytic converters is one of the fastest growing crimes in Costa Mesa, increasing from 26 in 2019 to 218 in 2021, a 1,223% increase; and

WHEREAS, catalytic converters contain expensive precious metals including platinum, palladium and rhodium; and

WHEREAS, individuals in possession of stolen catalytic converters often recycle them for substantial profit, while victims of these thefts suffer the consequences of paying thousands of dollars in repairs, the inconvenience of repairing their vehicles, and feeling unsafe in their community; and

WHEREAS, catalytic converter thefts are on the rise statewide because individuals are incentivized to commit catalytic converter thefts for multiple reasons including, but not limited to: (1) the ease and undetectable nature of committing the thefts in a manner of seconds using commonly available tools, (2) the ability to recycle catalytic converters at scrap metal yards for high dollar returns, ranging from \$200 to \$1,200 per catalytic converter, and (3) loopholes in current laws protecting suspected criminals from prosecution unless a victim can be identified; and

WHEREAS, finding the victims of these crimes is nearly impossible due to the manner in which the catalytic converter thefts occur and lack of identifying markers to link a stolen catalytic converter to the victim; and

WHEREAS, the inability to identify victims of catalytic converter thefts has stymied the ability to successfully prosecute individuals for the thefts; and

WHEREAS, there are currently no City, State or Federal laws applicable within the City of Costa Mesa to define and punish catalytic converter thefts absent an identifiable victim; and

WHEREAS, there are currently no City, State or Federal laws applicable within the City of Costa Mesa to define and punish the recycling or sale of unlawfully obtained catalytic converters, thus incentivizing criminal enterprise of catalytic converter thefts; and

WHEREAS, there are currently no City, State or Federal laws applicable within the City of Costa Mesa requiring individuals to provide proof to law enforcement as to how they obtained catalytic converters, thus limiting law enforcement's ability to (1) protect the public by preventing catalytic converter thefts and (2) seize suspected stolen catalytic converters when no victim is present; and

WHEREAS, this Ordinance is necessary to provide the Costa Mesa Police Department a means to protect the public, deter this criminal activity and promote a more productive use of Costa Mesa Police Department staff resources by staff responsible for investigating catalytic converter thefts; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council finds that all the recitals, facts and conclusions set forth above in the preamble of this Ordinance are true and correct.

Section 2. Amendment to Title 11. Title 11 (Offenses—Miscellaneous) of the Costa Mesa Municipal Code is hereby amended to add Chapter XV (Unlawful Possession of a Catalytic Converter) as follows:

CHAPTER XV. UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER

11-400. Definitions. The following terms as used in this chapter shall, unless the context already indicates otherwise, have the respective meanings herein set forth herein.

(a) *Documentation or other proof* means written document(s) that clearly identify the vehicle from which the catalytic converter originated based on the totality of the circumstances and includes, but is not limited to, the following types of documents:

- (1) Bill of sale from the original owner with photographs.
- (2) Documentation from an auto body shop proving the owner relinquished the catalytic converter to the auto body shop.
- (3) Verifiable electronic communication from the previous owner to the possessor relinquishing ownership of the catalytic converter.
- (4) Photographs of the vehicle from which the catalytic converter originated.

(5) Vehicle registration associated with the catalytic converter containing an etched associated license plate number or vehicle identification number.

(b) *Lawful possession* means being the lawful owner of the catalytic converter or in possession of the catalytic converter with the lawful owner's written consent. It is not required to prove the catalytic converter was stolen to establish the possession is not a lawful possession.

11-401. Unlawful possession of a catalytic converter.

It shall be unlawful for any person to possess any catalytic converter that is not attached to a vehicle unless the person has valid documentation or other proof to verify that the person is in lawful possession of the catalytic converter.

11-402. Falsification of proof of ownership.

It shall be unlawful for any person to knowingly falsify or cause to be falsified any information in any documentation or other proof intended to show lawful possession of a catalytic converter.

11-403. Violations; penalties.

- (a) Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by this Code. Each and every catalytic converter unlawfully possessed shall constitute a separate violation of this chapter.
- (b) Violation of any provision of this chapter shall be deemed a misdemeanor punishable pursuant to the provisions of section 1-33 of this Code.
- (c) The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

Section 3. Environmental Compliance. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, and has been found to be exempt pursuant to Section 15061(b)(3) (General Rule) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the passage of this Ordinance will have a significant effect on the environment.

Section 4. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases are portions be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be posted or published in the manner required by law.

PASSED AND ADOPTED this xx day of xx, 2022.

John Stephens, Mayor

ATTEST:

Brenda Green, City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, **BRENDA GREEN**, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2022-xx was duly introduced for first reading at the regular meeting of the City Council held on the 17th day of May, 2022, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the xx day of xx, 2022, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this _____ day of _____, 2022.

BRENDA GREEN, CITY CLERK

(SEAL)