

ORDINANCE NO. 1412

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, ADDING CHAPTER 9.71 (UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER PROHIBITED) TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE PALM DESERT MUNICIPAL CODE, ESTABLISHING REGULATIONS PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS IN THE CITY

WHEREAS, the citizens of the City of Palm Desert (the "City") have experienced rising catalytic converter thefts from automobiles over the past several years, with Palm Desert averaging 6 catalytic converter thefts a month; and

WHEREAS, there is currently no City legislation applicable within the City of Palm Desert to define and punish catalytic converter thefts absent an identifiable victim; and

WHEREAS, there is currently no City, State, or Federal legislation applicable within the City of Palm Desert requiring individuals discovered to be in possession of detached catalytic converters 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, the Legislature has enacted, and the Governor has signed into law, Senate Bill (SB) 1087 and Assembly Bill (AB) 1740, which generally prohibit: (1) individuals from purchasing a used catalytic converter from anyone other than certain specified sellers, including automobile dismantlers, automotive repair dealers, or an individual possessing documentation, as specified, that they are the lawful owner of the catalytic converter; and (2) requires core recyclers to keep a detailed written record, including the year, make, and model of the car from which a catalytic converter was removed, as well as a copy of the vehicle's title, prior to purchasing a catalytic converter from a seller; and

WHEREAS, the Legislature has not expressed its intent, whether explicitly or impliedly, to occupy the field of catalytic converter theft legislation; and

WHEREAS, pursuant to Article XI, Section 5 of the California Constitution, the City, as a charter city, has broad discretionary power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs; and

WHEREAS, catalytic converter thefts are on the rise 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 such thefts, potentially in a matter of seconds and through the use of common tools such as a

reciprocating saw; (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 legislation protecting criminals from prosecution unless a victim can be identified; and

WHEREAS, preventing these crimes at present is nearly impossible due to the ease and speed with which catalytic converter thefts can be committed and the difficulty of tracing a particular catalytic converter back to its prior owner (the victim), because catalytic converters typically have no identifying markers; and

WHEREAS, the citizens of Palm Desert and the Riverside County Sheriff's Department are in need of legislation criminalizing mere possession of catalytic converters absent proof of ownership or lawful possession, for multiple reasons including, but not limited to, the following: (1) achieving deterrence by establishing zero-tolerance for catalytic converter thefts; (2) establishing sanctions for possessing stolen catalytic converters; (3) preventing criminals from profiting from the sale and recycling of stolen catalytic converters; (4) providing indirect justice to the victims of catalytic converter theft cases that have gone or will go unsolved for the reasons discussed above; and (5) minimizing the fiscal and personnel impact on the City of Palm Desert and the Riverside County Sheriff's Department by reducing the time invested in deterring and investigating catalytic converter thefts; and

WHEREAS, individuals who are in possession of stolen catalytic converters recycle them for substantial profit while victims of these thefts suffer tremendous consequences in the form of costly repairs, inconvenience, and feelings of a lack of safety in the community; and

WHEREAS, the City desires to regulate the possession of detached catalytic converters within its jurisdiction in order to better protect its citizens, their property, and their community; and

WHEREAS, regulating possession of detached catalytic converters neither contradicts nor duplicates the statutes adopted by the Legislature on the topic of catalytic converters; and

WHEREAS, this Ordinance is necessary to provide the City and the Riverside County Sheriff's Department clear legal authority to better protect the public and deter this criminal activity; and

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

THE CITY COUNCIL OF THE CITY OF PALM DESERT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

SECTION 2. Addition of Chapter 9.71 to Title 9 of the Palm Desert Municipal Code. Chapter 9.71 is hereby added to Title 9 (Public Peace, Morals and Welfare) of the Palm Desert Municipal Code to read in its entirety as follows:

“Chapter 9.71
UNLAWFUL POSSESSION OF A CATALYTIC
CONVERTER

9.71.010 Purpose.

The purpose of this chapter is to regulate the possession of detached catalytic converters absent proof of ownership or lawful possession, to assist in deterring future thefts, establish sanctions for possessing stolen catalytic converters, and minimize the fiscal and personnel impact on the City of Palm Desert and the Riverside County Sheriff's Department by reducing the time invested in deterring and investigating catalytic converter thefts.

9.71.020 Definitions.

For the purposes of this chapter, the following meanings shall apply:

A. “Lawful possession” includes (1) being the lawful owner of the catalytic converter or (2) 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.”

B. “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 the signature of the vehicle owner authorizing removal of the catalytic converter, as well as the name, address, and telephone number of the vehicle owner.
- (2) Documentation from an auto-body shop or similar business proving that the owner relinquished the catalytic converter to the auto-body shop or similar business.
- (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 clearly showing the license plate number and vehicle

identification number (VIN) of the car from which the catalytic converter was removed.

9.71.030 Unlawful possession of a catalytic converter prohibited.

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

B. It is unlawful for any person to falsify or cause to be falsified any information in any documentation or other proof intended to show valid proof of ownership or possession of a catalytic converter.

9.71.040 Violations – Misdemeanor

A. Each and every violation of this section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Palm Desert Municipal Code. Each and every catalytic converter unlawfully possessed is a separate violation of this section.

B. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction punished by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment for a term not exceeding six months or both.

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. CEQA. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) as it is not a “Project” as defined by CEQA. (CEQA Guidelines 15060(c)(3)). Pursuant to Section 15378(a), a “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The requested action is to amend the Municipal Code to create a new criminal offense and is exempt from CEQA under the “common sense” exemption (CEQA Guidelines 15061(b)(3)), as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The requested action is further exempt under Section 15060(c)(2), as it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be

declared invalid or unconstitutional.

SECTION 5. Publication. The Mayor shall sign this Ordinance and the City Clerk shall cause a summary of this ordinance to be published within fifteen (15) days after its passage at least once, in a newspaper of general circulation, published and circulated in the City of Palm Desert, California.

SECTION 6. Effective Date. This Ordinance takes effect thirty (30) days from and after the date of its passage.

ADOPTED ON _____, 2024.

KARINA QUINTANILLA
MAYOR

ATTEST:

ANTHONY J. MEJIA
CITY CLERK

I, Anthony J. Mejia, City Clerk of the City of Palm Desert, California, do hereby certify that Ordinance No. 1412 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Desert City Council on April 25, 2024, and adopted at a regular meeting of the City Council held on _____, 2024, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on _____.

ANTHONY J. MEJIA
CITY CLERK