



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 21, 2022

Agenda Item 10D

Approvals:

City Manager CS AS

Dept. Head _____

Attorney CS

Finance TW

Department: City Manager
City Attorney

Prepared By: Scott Smith, City Attorney

Subject: *INTRODUCTION OF ORDINANCE PROHIBITING UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS*

Fiscal Impact: There is no fiscal impact associated with the recommended action.

Summary: The attached Ordinance would prohibit the unlawful possession of catalytic converters in the City, discouraging this increasingly-common criminal activity. It will assist the City in prohibiting the falsification of information in documents and records used to verify ownership or lawful possession of catalytic converters.

Background: Catalytic converters are an external component of a vehicle, accessible from the underside of a parked car. They convert most of a vehicle's emissions into less harmful forms, improving air quality and vehicle performance. As part of their construction, catalytic converters contain valuable materials such as platinum and palladium, rare metals that command ever-increasing prices on the recyclables market.

Catalytic converter thefts are on the rise because individuals are incentivized to commit catalytic converter thefts for multiple reasons including: (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.

Nationwide thefts numbered approximately 26,000 in May 2021, and countywide thefts number approximately 2,000 this year to date.

Discussion: There is currently no City, State, or Federal legislation applicable within the City of San Clemente to define and punish catalytic converter thefts absent an identifiable victim. Additionally, there is currently no City, State, or Federal legislation applicable within the City of San Clemente requiring individuals to provide proof to law enforcement as to how they obtained catalytic converters in their possession. This limits law enforcement's ability to (1) protect the public by preventing catalytic converter thefts and (2) seize suspected stolen catalytic converters when there is no identifiable victim present. As a result, preventing and punishing 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.

Individuals in possession of stolen catalytic converters are able to recycle them for substantial profit at relatively low risk, while victims are forced to commit to costly repairs. By criminalizing the mere possession of an unattached catalytic converter absent proof of ownership or lawful possession, this ordinance would combat this criminal practice by: (1) achieving deterrence by establishing zero-tolerance for catalytic converter thefts; (2) establishing sanctions for possessing stolen catalytic converters; (3) prohibiting the falsification of information in documents and records used to verify ownership or lawful possession of a catalytic converter; (4) preventing criminals from profiting from the sale and recycling of stolen catalytic converters; (5) providing indirect justice to the victims of catalytic converter theft cases that have gone or will go unsolved for the reasons discussed above; and (6) minimizing the fiscal and personnel impact on the City of San Clemente and the Orange County Sheriff's Department by reducing the time invested in deterring and investigating catalytic converter thefts.

Recommended

Action: STAFF RECOMMENDS THAT the City Council consider the following action:

Introduce for first reading Ordinance No. ____ AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING CHAPTER 10.54 (UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER PROHIBITED) OF TITLE 10 (VEHICLES AND TRAFFIC) TO THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING REGULATIONS PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS.

Attachments:

1. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING CHAPTER 10.54 (UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER PROHIBITED) OF TITLE 10 (VEHICLES AND TRAFFIC) TO THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING REGULATIONS PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING CHAPTER 10.54 (UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER PROHIBITED) OF TITLE 10 (VEHICLES AND TRAFFIC) TO THE SAN CLEMENTE MUNICIPAL CODE ESTABLISHING REGULATIONS PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS

WHEREAS, citizens nationwide have experienced rising rates of catalytic converter thefts, numbering approximately 26,000 through May 2021; and

WHEREAS, citizens statewide have experienced rising rates of catalytic converter thefts, numbering approximately 8,000 through May 2021; and

WHEREAS, citizens countywide have experienced rising rates of catalytic converter thefts, numbering approximately 2,000 this year to date; and

WHEREAS, the citizens of San Clemente have experienced catalytic converter thefts from automobiles over the past several years; and

WHEREAS, there is currently no City, State, or Federal legislation applicable within the City of San Clemente 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 San Clemente 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, 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 San Clemente and the Orange 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: (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 San Clemente and the Orange 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, this Ordinance is necessary to provide the City of San Clemente and the Orange County Sheriff's Department clear legal authority to better protect the public and deter this criminal activity.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council as if fully set forth herein.

SECTION 2. CEQA. The City Council finds that the proposed amendments to the San Clemente Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. Code Amendment. Chapter 10.54 is hereby added to the San Clemente Municipal Code to read in full as follows:

“Chapter 10.56 - UNLAWFUL POSSESSION OF CATALYTIC CONVERTER

10.56.010 - Unlawful possession of 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.

10.56.020 - Definitions.

A. For purposes of this section, "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. For purposes of this section, "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.

10.56.030 - 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 Aliso Viejo Municipal Code. Each and every catalytic converter unlawfully possessed is a separate violation of this section.

B. It is unlawful and a misdemeanor subject to punishment in accordance with Chapter 1.06 of Title 1 of this Code, for any person to violate any provision of this section.

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 4. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code, section 36933.

SECTION 5. Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

SECTION 6. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

SECTION 7. Effective Date. This Ordinance shall become effective 30 days after its adoption.

APPROVED AND ADOPTED this ____ day of _____, 2022.

Gene James, Mayor

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, Laura Campagnolo, Legislative Administrator of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the ____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this ____ day of _____, _____.

LEGISLATIVE ADMINISTRATOR
of the City of San Clemente,
California

APPROVED AS TO FORM:

CITY ATTORNEY