

**ORDINANCE NO. 10977-2021**

**AN ORDINANCE AMENDING CHAPTER 17, “OFFENSES AND MISCELLANEOUS PROVISIONS”, BY ADDING ARTICLE VII “METAL RECYCLING ENTITIES” TO THE CODE OF ORDINANCES OF THE CITY OF GRAND PRAIRIE, TEXAS; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION**

**WHEREAS**, large quantities of Regulated Materials and Regulated Metals, are bought and sold by Metal Recycling Entities doing business in the City of Grand Prairie; and

**WHEREAS**, the items sold to Metal Recycling Entities often include Regulated Materials and Regulated Metals, particularly catalytic converters, which are stolen; and

**WHEREAS**, the theft of Regulated Materials and Regulated Metals, particularly catalytic converters, creates an economic hardship for persons and businesses in the City of Grand Prairie; and

**WHEREAS**, there has been an increase in the theft of catalytic converters; and

**WHEREAS**, legitimate sales of catalytic converters are minimal as there is typically a “core charge” associated with the purchase of a new catalytic converter; and

**WHEREAS**, Occupations Code Chapter 1956 requires Metal Recycling Entities to maintain Purchase Transaction records involving sales of Regulated Material and Regulated Metal; and

**WHEREAS**, the Purchase Transaction records required to be maintained by Occupations Code Chapter 1956 has been insufficient in combatting the theft of Regulated Material and Regulated Metal; and

**WHEREAS**, Section 1956.003(a) of the Texas Occupations Code allows the City of Grand Prairie to adopt an ordinance more stringent, but that does not conflict with, state law to regulate Metal Recycling Entities; and

**WHEREAS**, Section 1956.003(g) of the Texas Occupations Code requires a municipality to provide a minimum 30-day notice followed by a hearing prior to enacting a prohibition on the sale of a recyclable product; and

**WHEREAS**, notice of the Public Hearing concerning this ordinance was properly provided on March 7, 2021, in satisfaction of the statutory notice requirement; and

**WHEREAS**, a Public Hearing was held on this matter on April 6, 2021; and

**WHEREAS**, the City Council deems it necessary to further regulate the sale of Regulated Materials and Regulated Metals to Metal Recycling Entities to deter the theft of and promote the recovery of stolen Regulated Material and Regulated Metal; and

**WHEREAS**, the City Council deems it necessary to restrict the sale and purchase of catalytic converters not attached to vehicles.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS THAT:**

**SECTION 1.** “Article VII, Metal Recycling Entities” is hereby added to the City of Grand Prairie, Texas Code of Ordinances to read as follows:

**“ARTICLE VII: METAL RECYCLING ENTITIES”**

**Sec. 17-121. Purpose and Applicability.**

- (a) This Article is an exercise of the City's police power to promote regulation of Metal Recycling Entities through the recovery of stolen property. In addition to state law, the City seeks to provide additional recordkeeping requirements that will enable the Grand Prairie Police Department to identify and recover public and private property composed of certain metal that may have been illegally appropriated. The City further seeks to make the theft of certain metals less desirable by enhancing purchase restrictions which will make the immediate resale of certain stolen metals more difficult.
- (b) This Article does not apply to:
  - (1) a purchase of Regulated Material from a public utility, a telecommunications provider as defined by Section 51.002, Texas Utilities Code, a cable service provider as defined by Section 66.002, Texas Utilities Code, a video service provider as defined by Section 66.002, Texas Utilities Code, or a manufacturing, industrial, commercial, retail, or other seller that sells Regulated Material in the ordinary course of the seller's business;
  - (2) a purchase of Regulated Material by a manufacturer whose primary business is the manufacture of iron and steel products made from melting scrap iron and scrap steel; or
  - (3) the transport or hauling of recyclable materials to or from the Metal Recycling Entity.

**Sec. 17-122. Definitions.**

In this Article:

*Metal Recycling Entity* shall have the meaning assigned under Texas Occupations Code Section 1956.001(7) as amended.

*Person* means an individual, partnership, corporation, joint venture, trust, association and any other legal entity.

*Purchase Transaction* means a transaction in which a Metal Recycling Entity gives consideration in exchange for Regulated Material and Regulated Metal.

*Regulated Material* shall have the meaning assigned under Texas Occupations Code Section 1956.001(9) as amended.

*Regulated Metal* shall have the meaning assigned under Texas Occupations Code Section 1956.001(10) as amended and shall specifically include catalytic converters not attached to vehicles.

*Seller* means any Person who, in a Purchase Transaction, receives consideration from a Metal Recycling Entity in exchange for Regulated Material or Regulated Metal.

*Thumbprint* means a clear and intentional digital or ink recording of the friction ridge detail on the volar pads of the thumb.

*Unusable Catalytic Converter* means a used catalytic converter which is not attached to a vehicle and cannot be lawfully attached to a vehicle for use under applicable state law or federal law, including regulations of the Environmental Protection Agency or other state or local agency.

**Sec. 17-123. Records Required.**

(a) In addition to information required to be obtained or maintained under Texas Occupations Code Chapter 1956, a Metal Recycling Entity shall obtain the following with regard to each Purchase Transaction and maintain the same for a minimum of two (2) years from the date of the Purchase Transaction:

- (1) A Thumbprint of the Seller taken at the time of the Purchase Transaction; and
- (2) A clear, digital, still, color photograph of the front, back, each side, and, if applicable, Vehicle Identification Number of the motor vehicle and any trailer attached to the motor vehicle used to deliver the Regulated Material or Regulated Metal; and
- (3) Clear, digital, still, color photographs of each purchased item which show the serial number, heat number VIN, owner applied marking, or any other unique identifying marking on the item.

(b) Failure to collect or maintain information as provided in this section is an offense.

**Sec. 17-124. Reporting to Law Enforcement.**

(a) A Metal Recycling Entity shall contact the Grand Prairie Police Department within fifteen (15) minutes of any individual selling or attempting to sell any Regulated Materials or Regulated Metals which appear to have had the item's unique markings intentionally defaced or removed.

(b) A Metal Recycling Entity shall contact the Grand Prairie Police Department within fifteen (15) minutes of any individual attempting to sell five (5) or more catalytic converters not attached to vehicles on the same day.

**Sec. 17-125. Restrictions on the Purchase of Regulated Material or Regulated Metal.**

(a) Metal Recycling Entities are prohibited from purchasing Regulated Materials or Regulated Metals online. All sales must be in person.

(b) It is an offense for a Metal Recycling Entity to conduct a Purchase Transaction between the hours of 7:00p.m. and 7:00a.m.

- (c) A Metal Recycling Entity may not dispose of, process, sell, or remove from the premises a catalytic converter unless the catalytic converter was acquired by the Metal Recycling Entity more than five (5) days, excluding weekends and federal holidays, before the disposal, processing, sale, or removal and the disposal, processing, sale, or removal is authorized under Texas Occupations Code 1956.037 as amended.
- (d) A Metal Recycling Entity shall not purchase a Regulated Material or Regulated Metal from a person who appears to be intoxicated, as defined by state law.

**Sec. 17-126. Selling Catalytic Converters.**

- (a) Notwithstanding any other provision, a Metal Recycling Entity within the City of Grand Prairie is prohibited from purchasing a catalytic converter which is not attached to a vehicle from any individual other than an individual who operates an auto repair business.
- (b) The Seller of a catalytic converter is required to present and a Metal Recycling Entity is required to retain for two (2) years from the date of the Purchase Transaction a copy of the certificate of occupancy for the auto repair business they operate and an invoice or other document which shows the catalytic converter was replaced in a vehicle which the Seller repaired in the course and scope of their auto repair business.
- (c) Unusable Catalytic converters are prohibited from being sold to any person or business other than a Metal Recycling Entity. This provision does not apply to the transfer of ownership of an Unusable Catalytic Converter in connection with the purchase of a new catalytic converter regardless of whether the transfer of ownership results in a reduced fee for the new catalytic converter.

**Sec. 17-127. Penalties.**

- (a) Failure to perform any task which is required by this Article or performing any action which is prohibited by this Article is an offense punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation. Each day a violation occurs or continues to occur is a separate violation.”

**Sec. 17-128. through 17-130. Reserved.**

**SECTION 2.** A violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 1-8 of the Code of Ordinances of the City of Grand Prairie, Texas.

**SECTION 3.** Chapter 17 “Offenses and Miscellaneous Provision” of the Code of Ordinances of the City of Grand Prairie, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

**SECTION 4.** The terms and provisions of this Ordinance are severable and are governed by Section 1-4 of the Code of Ordinances of the City of Grand Prairie, Texas.

**SECTION 5.** All ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance are hereby repealed. Provided that such repeal shall be only to the extent of such

inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this Ordinance.

**SECTION 6.** This Ordinance shall be and become effective immediately upon and after its passage and publication.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS, ON THIS THE 6<sup>TH</sup> OF APRIL 2021.**

**APPROVED:**



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**Ron Jensen, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**City Secretary**

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**City Attorney**