

ORDINANCE NUMBER 1441

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ADDING CHAPTER 9.70 (“UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER”) TO TITLE 9 OF THE CITY OF PERRIS MUNICIPAL CODE ESTABLISHING REGULATIONS DEFINING AND PROHIBITING THE UNLAWFUL POSSESSION OF DETACHED CATALYTIC CONVERTERS IN THE CITY OF PERRIS

WHEREAS, the City of Perris (the “City”) is a general law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, in 2022, the Governor signed into law Senate Bill 1087, amending Section 21610 of the California Business and Professions Code and Section 10852.5 of the California Vehicle Code, prohibiting any person from purchasing a used catalytic converter from anybody other than certain specified sellers; prohibiting a core recycler from purchasing a catalytic converter from anybody other than specified sellers; and making a violation of the provisions to be an infraction, punishable by a fine; and

WHEREAS, the City has experienced a significant increase in complaints regarding catalytic converter thefts occurring within the City; and

WHEREAS, catalytic converter thefts are occurring at a high rate because individuals are incentivized to commit catalytic converter thefts for multiple reasons including, but not limited to: (1) the ease of committing such thefts and the difficulty of detecting same, as such thefts can potentially be completed in a matter of seconds and through the use of common tools; and (2) the valuable metals contained in catalytic converters, resulting in the ability to recycle them at scrap metal yards for high dollar returns ranging from \$200 to \$1,200 per catalytic converter; and

WHEREAS, the citizens of Perris and the Riverside County Sheriff’s Department, acting as the City’s law enforcement agency, are in need of an ordinance to: (1) appropriately deter and punish catalytic converter thefts by defining and establishing zero-tolerance and sanctions for unlawful possession of catalytic converters; (2) prevent criminals from profiting from the sale and recycling of stolen catalytic converters; and (3) provide indirect justice to the victims of catalytic converter thefts whose cases have gone or will go unsolved for the reasons discussed above; and

WHEREAS, to deter the theft of catalytic converters throughout the City and to provide the City with reasonable means to address the impact on the community and the victims resulting from increasing catalytic converter thefts, the City Council now desires to adopt this Ordinance after considering the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City staff and members of the public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals Incorporated. The City Council hereby adopts the recitals of this Ordinance as true and correct and such recitals are hereby incorporated by reference as though fully set forth in the text of this Ordinance.

Section 2. New Chapter 9.70. Chapter 9.70, entitled “Unlawful Possession of a Catalytic Converter” is hereby added to the Title 9 (Public Peace, Safety, and Morals) of the City of Perris Municipal Code to read in its entirety as follows:

CHAPTER 9.70. UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER

9.70.010 - Findings.

9.70.020 - Purpose.

9.70.030 – Authority.

9.70.040 – Definitions.

9.70.050 – Unlawful Possession of Catalytic Converter.

9.70.060 – Violations and Enforcement.

9.70.070 – Appeal of Administrative Citations.

9.70.080 – Non-Exclusive Remedies and Penalties.

9.70.010 Findings.

The City Council of the City of Perris finds that the theft of catalytic converters has been an increasing problem in the City in recent years. The external location of catalytic converters and the use of valuable precious metals, including rhodium, palladium, and platinum, in catalytic converters makes these devices a target for thieves. 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 the community. Finding the victim of these crimes is extremely difficult due to the manner in which the catalytic converter thefts occur and lack of identifying markers on catalytic converters to link a stolen catalytic converter to the victim. The inability to identify the victims of catalytic converter thefts can inhibit the ability to successfully prosecute individuals for the thefts. This ordinance is necessary to provide the City a means to protect the public, deter this criminal activity and promote a more productive use of City resources.

9.70.020 Purpose.

Catalytic converter theft is an increasing problem within the City and causes significant financial damage to the victims. The purpose and intent of this ordinance is to curb the theft of catalytic converters throughout the City and to provide the City with reasonable means to address the impact on the community and the victims posed by increasing catalytic converter thefts.

9.70.030 Authority.

In accordance with the California Constitution, Article XI, Section 7, a city may make and enforce within its limits all local, police, sanitary and other ordinances, and regulations not in conflict with general laws.

9.70.040 Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- A. **City.** The City of Perris.
- B. **Catalytic Converter.** Any exhaust emission control device, or portion thereof, that converts toxic gases and pollutants in exhaust gas from an internal combustion engine into less-toxic pollutants.
- C. **Documentation or other proof.** Written document(s) clearly identifying the vehicle from which the catalytic converter originated based on the totality of the circumstances, which includes, but is not limited to, the following types of documents:
 - 1. Bill of sale from the original owner with photographs.
 - 2. Verifiable 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 or driver's license number of registered vehicle owner.
- D. **Lawful Possession.** This term includes: (1) being the lawful owner of the catalytic converter or (2) being in possession of the catalytic converter with the lawful owner's verifiable written consent. It is not required to prove the catalytic converter was stolen to establish the possession is an Unlawful Possession.
- E. **Enforcement Officer.** Riverside County Sheriff, City Attorney, or City

Prosecutor, and their designees.

9.70.050 Unlawful Possession of a Catalytic Converter.

Barring any provision of state law permitting the same, it is unlawful for any person to possess any catalytic converter which is not attached to a vehicle unless the person has verifiable valid proof of ownership of the catalytic converter.

- A. This section does not apply to a detached catalytic converter that has been verifiably tested, certified, and labeled or otherwise approved for reuse, and is being bought or sold for purposes of reuse in accordance with the federal Clean Air Act (42 U.S.C. § 7401 et seq.) and regulations under the Clean Air Act, as they may be amended from time to time.
- B. It is unlawful for any person to knowingly falsify or cause to be falsified any information in a record intended to show valid proof of ownership.
- C. Evidence of unlawful possession may be presumed by the number of detached catalytic converters within one's possession and/or by the condition of the dismantled catalytic converter(s), including but not limited to, the manner a catalytic converter has been detached or cut from a vehicle.

9.70.060 Violations and Enforcement.

- A. *Misdemeanor Penalty.* Any person who violates any provision of this ordinance is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the County jail for a term not exceeding one year, or by both. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of one thousand dollars (\$1,000) and by imprisonment in the County jail for one year.
- B. *State Penalties Apply.* Nothing in this ordinance shall be intended to limit any of the penalties provided for under California law, including but not limited to the Penal Code, with regard to the sale, use, possession, delivery, and/or receipt of catalytic converters.
- C. *Administrative Civil Penalty.* In addition to any other penalties provided by law, whenever an Enforcement Officer determines a violation of this ordinance has occurred, the Enforcement Officer shall have the authority to issue an administrative citation with an administrative civil penalty to any person responsible for the violation. Any administrative civil penalty shall be one thousand dollars (\$1,000) for the first offense, two thousand dollars (\$2,000) for the second offense within thirty-six (36) months, and five thousand dollars (\$5,000) for each subsequent offense within thirty-six (36) months. The administrative citation shall contain the following information: (1) date,

location and approximate time the violation was observed; (2) the amount of the administrative civil penalty imposed for the violation; (3) instructions for the payment of the administrative civil penalty, the time period by which it shall be paid, and the consequences of failure to pay the administrative civil penalty within this time; (4) instructions on how to appeal the administrative citation; and (5) the signature of the Enforcement Officer. The failure of the administrative citation to set forth all required contents shall not affect the validity of the administrative citation or any proceedings to enforce said citation. The administrative civil penalty may be imposed via the administrative process set forth in this ordinance or may be imposed by the court if the violation requires court enforcement without an administrative process.

- D. *Separate Offenses.* Acts, omissions, or conditions in violation of this ordinance that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. A person is guilty of a separate offense for each and every day or portion thereof during which he or she commits, continues, or permits a violation of this ordinance. A person is deemed guilty of a separate offense for each and every violation of this ordinance, or any portion thereof. Likewise, a person shall be deemed guilty of a separate offense for each and every catalytic converter in the person's possession that is not attached to a vehicle unless the person has valid proof of ownership of the catalytic converter.

9.70.070 Appeal of Administrative Citations.

- A. *Notice of Appeal.* The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the City Clerk. The written notice of appeal must be filed within ten days of the service of the administrative citation. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation.

The notice of appeal shall contain the following information:

1. A brief statement setting forth the appellant's interest in the proceedings;
2. A brief statement of the material facts which the appellant claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
3. An address at which the appellant agrees notice of any additional proceeding or an order relating to the administrative penalty may be received by mail;

4. The notice of appeal must be signed by the appellant.
- B. *Administrative Hearing.* Upon a timely written request by the recipient of an administrative citation, an administrative hearing shall be held as follows:
1. *Notice of hearing.* Notice of the administrative hearing regarding the administrative citation shall be given at least ten days before the hearing to the person requesting the hearing. The notice may be personally delivered to the appellant or may be mailed to the address listed in the notice of appeal.
 2. *Hearing officer.* The administrative hearing regarding the administrative citation shall be held before the city's designated hearing officer. The hearing officer shall not be the Enforcement Officer who issued the administrative citation or his or her immediate supervisor. The City may, at its sole discretion, contract with a qualified provider to conduct the administrative hearings or to process administrative citations.
 3. *Conduct of the hearing.* The Enforcement Officer who issued the administrative citation shall not be required to participate in the administrative hearing regarding the citation. The contents of the Enforcement Officer's file regarding the citation shall be admitted as prima facie evidence of the facts stated therein. At the time fixed in the notice of hearing, the hearing officer shall receive evidence from the Enforcement Officer and the appellant regarding the violation, as well as any facts the appellant claims support a contention that no violation exists, and that no administrative civil penalty should be imposed or that an administrative civil penalty of a different amount is warranted. The hearing officer shall not be limited by the technical rules of evidence. If the appellant fails to appear at the administrative hearing, the hearing officer shall make his or her determination based on the information contained in the notice of appeal.
 4. *Hearing officer's decision.* The hearing officer shall issue a written decision following the appeal hearing, which shall be issued to the appellant at the appellant's address set forth in the notice of appeal. If the administrative citation is determined to have been valid at the time of its issuance, the hearing officer shall affirm the administrative civil penalty amount pursuant to subsection 3. of Section 9.70.070, subsection B. of this Ordinance, and order said penalty to be paid within fifteen (15) calendar days of issuance of the hearing officer's decision. The hearing officer's decision shall contain instructions for obtaining review of the decision by the superior court.

9.70.080 Non-Exclusive Remedies and Penalties.

All remedies and penalties for violations of the prohibitions in this ordinance shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or enforcement against any person hereunder shall not relieve such person from the responsibility of correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement thereof.

Section 3. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2), (the activity will not result in direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project, the City Council finds that this Ordinance is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects that have the potential for causing significant effect on the environment. Where 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 activity is not subject to CEQA. This Ordinance makes policy changes to the City’s rules and regulations pertaining to the unlawful possession of a catalytic converter to better protect the public peace, safety, and welfare.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 5. Repeal of Conflicting Provisions. That all the provisions of the Perris Municipal Code as heretofore adopted by the City of Perris that conflict with the provisions of this Ordinance are hereby repealed.

Section 6. Effective Date. That this Ordinance shall take effect thirty (30) days after its adoption.

Section 7. Amending of Bail Schedule. That the City Attorney is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule, if the City maintains such a schedule, and to cause such necessary amendments to be made and filed with the

local branches of the Superior Court of the County of Riverside.

Section 8. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted and codified in the manner required by law.

ADOPTED, SIGNED and APPROVED this 30th day of April, 2024.

Mayor, Michael M. Vargas

ATTEST:

City Clerk, Nancy Salazar

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF PERRIS)

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number 1441 was duly introduced by the City Council of the City of Perris at a regular meeting of said Council on the 9th day of April, 2024 and was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 30th day of April, 2024, and that it was so adopted by the following vote:

AYES: NAVA, CORONA, RABB, ROGERS, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

City Clerk, Nancy Salazar