

## **ORDINANCE NO. 606-24**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, AMENDING TITLE 9 OF THE MURRIETA MUNICIPAL CODE TO ESTABLISH A NEW CHAPTER 9.35 TO SET FORTH REGULATIONS DEFINING AND PROHIBITING THE UNLAWFUL POSSESSION OF DETACHED CATALYTIC CONVERTERS IN THE CITY OF MURRIETA AND ADOPTION OF EXEMPTION FROM CEQA**

**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 of Murrieta (“City”) has experienced a significant increase in complaints regarding catalytic converter thefts occurring within the City; and

**WHEREAS**, the citizens of Murrieta and the Murrieta Police 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 MURRIETA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** 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.** Chapter 9.35, entitled “Unlawful Possession of a Catalytic Converter” is hereby added to the Title 9 (Public Peace, Morals, and Welfare) of the City of Murrieta Municipal Code to read in its entirety as follows:

## **“CHAPTER 9.35 UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER**

### **9.35.010 - Findings.**

### **9.35.020 - Purpose.**

### **9.35.030 – Definitions.**

### **9.35.040 – Unlawful Possession of Catalytic Converter.**

### **9.35.050 – Violations and Enforcement.**

### **9.35.060 – Appeal of Administrative Citations.**

### **9.35.070 – Non-Exclusive Remedies and Penalties.**

#### **9.35.010 Findings.**

The City Council of the City of Murrieta 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.

#### **9.35.020 Purpose.**

Catalytic converter theft is an ongoing 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.

### 9.35.030 Definitions.

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

- A. **City.** The City of Murrieta.
- 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, Murrieta Police Chief, City Attorney, or District Attorney and their designees.

### 9.35.040 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 a 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.

**9.35.050      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 a valid proof of ownership of the catalytic converter.

**9.35.060      Appeal of Administrative Citations.**

- A. *Request for Appeal.* The recipient of an administrative citation may appeal the citation by submitting a written request for a hearing according to the requirements set forth in Murrieta Municipal Code section 1.26.070.
- B. *Hardship Waiver.* The recipient of an administrative citation may request a hardship waiver according to requirements set forth in Murrieta Municipal Code section 1.26.035.
- C. *Administrative Hearing.* Upon a timely written request by the recipient of an administrative citation, an administrative hearing shall be held according to Murrieta Municipal Code sections 1.26.080, 1.26.090, 1.26.100, 1.26.110, 1.26.120, and 1.26.130.

**9.35.070      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 common sense 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 Murrieta Municipal Code as heretofore adopted by the City of Murrieta 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.

**PASSED AND ADOPTED** this \_\_\_\_\_ 2024.

\_\_\_\_\_  
Lori Stone, Mayor

ATTEST:

\_\_\_\_\_  
Cristal McDonald, City Clerk

APPROVED AS TO FORM:

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Tiffany J. Israel, City Attorney

STATE OF CALIFORNIA    )  
COUNTY OF RIVERSIDE )§  
CITY OF MURRIETA        )

I, Cristal McDonald, City Clerk of the City of Murrieta, California, do hereby certify that the foregoing Ordinance No. 606-24 was duly passed and adopted by the City Council of the City of Murrieta at the regular meeting thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote: `

AYES:

NOES:

ABSENT:

ABSTAIN:

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Cristal McDonald, City Clerk

I, Cristal McDonald, City Clerk of the City of Murrieta, California further certify that Ordinance No. 606-24 was duly published according to law and the order of the City Council of said City and the same was so published in *Press Enterprise*, a newspaper of general circulation on the following date(s):

Adopted Ordinance: \_\_\_\_\_, 2024.

In witness whereof, I have hereunto subscribed my name this \_\_ day of \_\_\_\_\_, 2024.

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Cristal McDonald, City Clerk