

ORDINANCE 2023-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA,
CALIFORNIA, ADDING SECTION 9.24.060 TO THE CITY OF VISALIA
MUNICIPAL CODE ESTABLISHING REGULATIONS PROHIBITING
THE UNLAWFUL POSSESSION OF CATALYTIC COVNERTERS IN THE CITY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

Section 1. City Council Findings. Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety, and welfare of its citizenry. The City Council of the City of Visalia hereby makes the following findings:

- A. The citizens of Visalia and the region have experienced increasing catalytic converter thefts from automobiles over the past several years.
- B. It is difficult to define and punish catalytic converter thefts absent an identifiable victim and used catalytic converters can be difficult if not impossible to trace once they are illegally removed from a vehicle.
- C. The lack of any City, State, or Federal law addressing the possession of non-installed catalytic converters applicable within the City of Visalia that requires individuals to provide proof to law enforcement as to how they obtained the catalytic converter(s), limits law enforcement's ability to: 1) protect the public by deterring catalytic converter thefts, 2) seize suspected stolen catalytic converters when no victim is present, and 3) prosecute those possessing catalytic converters who cannot prove lawful possession of them.
- D. 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, 2) the ability to recycle catalytic converters at scrap metal yards for high dollar retunes (ranging from \$200-\$1,200 per catalytic converter), and 3) omissions in legislation protecting suspected criminals from prosecution unless a theft victim can be identified.
- E. 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.

- F. The citizens of Visalia and the Visalia Police Department need legislation criminalizing the possession of catalytic converters absent proof of ownership or lawful possession. The need for protective legislation will serve multiple reasons including, but not limited to: 1) achieving deterrence by establishing zero-tolerance for catalytic converter thefts, 2) establishing penalties 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, 5) minimizing the fiscal and personnel impact on the City of Visalia and the Visalia Police Department by reducing the time invested in deterring and investigating catalytic converter thefts, and 6) provide Visalia Police department personnel an enforcement tool which directly responds to their law enforcement needs.
- G. It is well established that individuals who are in possession of stolen catalytic converters then recycle them for substantial profit while both the community and the victims of these thefts suffer tremendous consequences in the form of costly repairs, inconvenience, and feelings of lack of safety in the community.
- H. The City Council finds that this local ordinance is appropriate and necessary to provide the City of Visalia and the Visalia Police Department clear legal authority to better protect the public and deter this criminal activity.
- I. All legal preconditions to the adoption of the Ordinance have occurred as required by law.

Section 2. New Municipal Code Section. The following provision, which regulates the possession of a catalytic converter, is hereby added to the Visalia Municipal Code:

9.24.060 – Unlawful possession of a catalytic converter.

It shall be unlawful for any person, group, or “Possessor” to possess any catalytic converter(s) that is not attached to a vehicle, unless the Possessor has valid “Documentation or Other Reliable Proof” to verify that they are in lawful possession of the catalytic converter(s).

- 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, or 3) owners and employees of a licensed business involving the legal purchase and sale of catalytic converters may possess them during lawful business operations. It is not required to prove the catalytic converter

was stolen to establish the possession is not a “lawful possession” and any of the following may also be considered to determine that possession of a catalytic converter is unlawful:

1. The catalytic converter has been cut or otherwise shows marks or damage consistent with illegal removal.
 2. The person in possession of the catalytic converter is also in possession of tools that can be used in the illicit removal of catalytic converters.
 3. The catalytic converter has markings that associate it with a particular vehicle or make or model of vehicle not associated with the person in possession of the catalytic converter.
 4. The person is not able to reasonably account for the origin of the catalytic converter.
 5. The person is in possession of, or has sold or attempted to sell, multiple catalytic converters outside of the scope of a licensed business enterprise.
- B. For purposes of this section, “Documentation or Other Reliable Proof” means a sales receipt, other proof of purchase, or written document(s) that identifies proof of ownership of catalytic converters or ownership of the vehicle from which a used catalytic converter originated based on the totality of the circumstances, and includes, but is not limited to, the following types of documents:
1. Verifiable bill of sale from the original owner.
 2. Documentation from an auto-body shop proving that 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 or similar visual representation of the vehicle from which the catalytic converter originated.
 5. Certificate of title or registration that identifies the individual as the legal or registered owner of the vehicle from which the catalytic converter was detached.

- C. Each violation of this section shall constitute a separate violation, including but not limited to, possessing multiple catalytic converters during a single contact by law enforcement or the locating of catalytic converters at other locations but arising from the initial contact by law enforcement or any other circumstance connecting the potential violator to the unlawful possession of the catalytic converter(s) and shall be subject to all remedies and enforcement measures authorized by the Visalia Municipal Code. For clarity, each catalytic converter unlawfully possessed is a separate violation of this section.
- D. It is unlawful and a misdemeanor subject to punishment in accordance with section 1.12.010 of the Visalia Municipal Code for any person to violate any provision of this section. The general rule stating violations of this chapter shall be treated as infractions does not apply to violations of this section 9.24.060.
- E. 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. California Environmental Quality Act Requirements. This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines **Section 15061(b)(3)** because there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. 15061(b)(3).) City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

Section 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason 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 the 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 section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

Section 5. Effective Date. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect thirty (30) days from the date of adoption.

PASSED AND ADOPTED: