



Legislation Text

File #: 22-655, **Version:** 1

Urgency ordinance of the City of South San Francisco temporarily adding Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of used catalytic converters in the City and establishing penalties for violation.

WHEREAS, catalytic converter thefts have increased in South San Francisco over the past three years, with 75 reported incidents in 2020, 296 reported incidents in 2021, and 137 reported incidents since the beginning of 2022; and

WHEREAS, catalytic converter thefts continue to 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 the thefts in a matter of seconds using 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, finding a victim of catalytic converter thefts upon recovery of a catalytic converter is nearly impossible due to the fact that catalytic converters generally have no identifying markers; and

WHEREAS, lawmakers have recognized that catalytic converter theft is a growing problem that imposes both serious financial harm on, and impacts on the mobility of, California motorists who fall victim to this crime; and

WHEREAS, individuals who steal catalytic converters recycle them for substantial profit while victims of these thefts suffer economic and other consequences, including missing work or school upon discovering their catalytic converter has been stolen, paying thousands of dollars in repairs for parts and labor costs, the time and inconvenience of repairing their vehicles, and feeling unsafe in the community; and

WHEREAS, individuals who steal catalytic converters often do so overnight, and when a theft occurs in front of the victim's home, or in their driveway, this can increase the risk of victim intervention and confrontation while the theft is ongoing and could create dangerous circumstances for individuals who try to intervene; and

WHEREAS, there is currently no City, State, or Federal legislation applicable within the City of South San Francisco 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 South San Francisco requiring individuals to provide proof to law enforcement as to how they obtained catalytic

converters, thus limiting law enforcement's ability to protect the public by preventing catalytic converter thefts and preventing law enforcement from seizing suspected stolen catalytic converters when no victim is present; and

WHEREAS, the City continues to monitor a number of pending legislative bills aimed towards regulating vehicle dealers and retailers that install or replace catalytic converters, as well as those aimed towards improving effective enforcement and prosecution of catalytic converter theft, including Assembly Bill 1984, introduced February 2022, which, if adopted, would prohibit the purchase, sale, receipt, or possession of a stolen catalytic converter, and a peace officer would not be required to have actual knowledge that the catalytic converter is stolen to establish probable cause for arrest, and circumstantial evidence could be used to prove the stolen nature of the catalytic converter; and

WHEREAS, the citizens of South San Francisco and the South San Francisco Police Department are in urgent need of legislation aimed at regulating catalytic converter thefts for multiple reasons including, but not limited to: (1) deterring criminals by immediately establishing zero-tolerance for catalytic converter thefts, (2) punishing the possession of stolen catalytic converters, (3) preventing criminals from profiting from the sale and recycling of stolen catalytic converters, (4) providing justice to the victims of catalytic converters whose cases would otherwise go unsolved, (5) reducing crime statistics which have been substantially negatively impacted by catalytic converter thefts, and (6) minimizing the fiscal and personnel impact on the City of South San Francisco invested in deterring and investigating catalytic converter thefts; and

WHEREAS, there is an urgent need for the City to immediately establish a temporary prohibition on the possession of used catalytic converters to help deter these crimes; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, this Urgency Ordinance is necessary to provide the South San Francisco Police Department with clearly established legal authority to immediately protect the public and deter this criminal activity by establishing a temporary prohibition on the unlawful possession of used catalytic converters; and

WHEREAS, the City Council finds and determines that there is an immediate need to preserve public health, safety and welfare given the negative economic impacts and safety risks resulting from the significant number of catalytic converter thefts in the City; and

WHEREAS, this Urgency Ordinance is meant to prohibit the unlawful possession of any used catalytic converter that is not attached to a vehicle unless the possessor has valid documentation or other proof to verify they are in lawful possession of the catalytic converter, and to deter thefts and prevent the economic and safety consequences of catalytic converter thefts thereby serving the public peace, health, safety, and public welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH SAN FRANCISCO, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings

The City Council of the City of South San Francisco finds that all Recitals are true and correct and incorporated herein by reference.

SECTION 2. Urgency Findings.

The City Council of the City of South San Francisco hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated in the Recitals above, and the accompanying staff report, as well as any oral and written testimony at the August 10, 2022 City Council meeting.

This Ordinance and any prohibition that may be established thereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SECTION 3. Temporary Adoption of Chapter 10.74 for the Unlawful Possession of Used Catalytic Converter.

Chapter 10.74 Prohibiting the Unlawful Possession of Used Catalytic Converter

Section 10.74.010 Unlawful Possession of a Used Catalytic Converter.

- A. It shall be unlawful to possess any used catalytic converter that is not attached to a vehicle unless the possessor has valid documentation or other proof to verify they are in lawful possession of the catalytic converter.
- B. A used catalytic converter is any catalytic converter that has at any point been installed in a vehicle.
- C. For purposes of this section, a lawful possession includes being the lawful owner of the catalytic converter or 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.
- D. For purposes of this section, documentation or other proof means (i) a certificate of title or certificate of registration showing the possessor's legal interest in the vehicle from which the catalytic converter was detached that matches the vehicle identification number permanently marked on the catalytic converter; (ii) written authorization, including the vehicle identification number, from the person or entity that holds the certificate of title or certificate of registration of the vehicle from which the catalytic converter was detached; or (iii) evidence the catalytic converter was acquired in a lawful transaction pursuant to the requirements of Section 21610 of the Business and Professions Code.

Section 10.74.020 Violations; Penalty

- A. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, such person shall be punished as provided in Section 36901 of the California

Government Code.

- B. Each and every violation of this chapter shall constitute a distinct and separate offense, is declared to be a public nuisance, and shall be subject to all remedies and enforcement measures authorized by the South San Francisco Municipal Code. Each and every catalytic converter unlawfully possessed is a separate violation of this chapter.

SECTION 4. Severability.

If any provision of this Urgency Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Urgency Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. Effective Date and Term.

This Urgency Ordinance shall become effectively immediate upon its adoption pursuant to California Government Code Section 36937. This Urgency Ordinance shall expire thirty (30) days from the date the South San Francisco City Council adopts an ordinance adding Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of used catalytic converters in the City and establishing penalties for violation, unless such term is otherwise specifically amended by the City Council.

SECTION 6. Compliance with the California Environmental Quality Act.

The City Council hereby finds approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, “CEQA,” and 14 Cal. Code Reg. §§ 15000 *et seq.*, “CEQA Guidelines”) under Section 15061(b)(3) of the CEQA Guidelines. This is an emergency response measure aimed at deterring the theft of catalytic converters in the City. No new development will result from the proposed action and the temporary regulation. No impact to the physical environment will result.

SECTION 7. Publication.

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk’s Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

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