

ORDINANCE NO. 22-JJ

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 15, OFFENSES AND MISCELLANEOUS PROVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF ADDING SECTION 15-12, SALE AND POSSESSION OF CATALYTIC CONVERTERS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the citizens of the City of Alvin have experienced increasing catalytic converter thefts from automobiles within the City; and

WHEREAS, there are currently no City, State or Federal laws applicable to the unlawful possession or sale of catalytic converters; and

WHEREAS, criminalizing the unlawful sale or possession of catalytic converters will establish penalties for selling or possessing stolen catalytic converters, will help prevent criminals from profiting from the sale of stolen catalytic converters, and will provide indirect justice to the victims of catalytic converter thefts; and

WHEREAS, the City Council of the City of Alvin desires to criminalize the possession or sale of catalytic converters absent proof of ownership or lawful possession;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:

Section 1. That all of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. That the City Council of the City of Alvin finds that this Ordinance is necessary to better protect the public and to deter this criminal activity.

Section 3. That Chapter 15, Offenses and Miscellaneous Provisions, Article I, of the Code of Ordinances, City of Alvin, Texas, is hereby amended to add the following language:

CHAPTER 15 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

“Sec. 15-12. Sale and Possession of Catalytic Converters

Sec. 15-12-1. – Definitions

The following words, terms, and phrases, when used in this article, shall have the same meanings as provided in this section, except where the context clearly indicates a different meaning:

Authorized personnel means an individual who has been granted permission to sell material or accept payment in connection with a business to business transaction on behalf of a metal recycler, public utility, manufacturing, industrial, retail, or other commercial vendor that generates or sells regulated material in the ordinary course of its business and whose name has been provided in writing from the company and maintained on file with the metal recycler conducting the business to business transaction.

Business to business transaction means a sale or transfer of material between a metal recycler and a company represented by authorized personnel.

Catalytic converter means an exhaust emission control device that reduces toxic gases and pollutants from internal combustion; this includes any material removed from a catalytic converter.

Enclosed structure means a building that consists of a roof and solid walls on all sides, with or without windows or doors, that extend from the roof to the floor. The term includes detached trailers or semi-trailers with fully-enclosed cargo space and containers.

Fixed location means any building or structure for which a certificate of occupancy has been issued.

Licensee means a person who holds a license to conduct business as a metal recycler and includes the person's agents and employees.

Metal recycler means any person who:

- (1) Engages in the business of purchasing aluminum cans or ferrous or nonferrous metals, such as stainless-steel alloys, copper cables, or steel plates;
- (2) Engages in the business of utilizing machinery or equipment for the processing or manufacturing of iron, steel or nonferrous metallic scrap and whose principal product is scrap metal for reuse; or

- (3) Operates or maintains a place in which used metal items or scrap metal is purchased, collected or kept for shipment, sale, or transfer to other facilities.

The term does not include a *secondhand reseller*.

Secondhand reseller means any person who offers or exposes for sale, barter, trades, delivers, consigns, leases, possesses with intent to sell, or disposes of in a commercial manner any item that was previously used in any manner other than use as a manufacturer or vendor sample or floor model. The term does not include a *metal recycler*.

On-site representative means an individual responsible for the day-to-day operation of the place of business of a metal recycler.

Open storage means keeping, maintaining, or placing processed metal items or scrap metal outside of an enclosed structure for shipment, sale, or transfer to other facilities.

Public transaction means a sale or transfer of material between a metal recycler and an individual selling material on his own behalf. The term does not include any business-to-business transactions or any transaction involving an individual selling material on behalf of a company.

Regulated material shall have the same meaning as in Section 1956.001 of the Texas Occupations Code.

Scrap metal means a direct product or byproduct of any form of a manufactured, shaped, or processed iron, steel, aluminum, brass, copper, lead, tin, zinc, or other nonferrous material or alloy of materials.

Sec. 15-12-2. – Purchase of catalytic converters.

- (a) It shall be unlawful for any metal recycler or their agents or employees acting on their behalf to purchase or receive catalytic converters in the City of Alvin from any person offering such property for sale unless, in addition to any other requirements set forth in State or Federal law:
- a. For automotive repair facilities:
 - i. The person selling the catalytic converter presents a verifiable receipt from the repair facility with:
 - 1. The name of the business;
 - 2. The address of the business;

3. The phone number for the business that repaired the vehicle that the catalytic converter offered for sale came from; and
 4. The year, make, model, and vehicle identification number of the vehicle or vehicles repaired.
- ii. The metal recycler verifies that the repair facility is an actual business and that the automotive repair facility or muffler repair facility is open to the general public for business.
 - iii. A seller with a valid used automotive parts recycler license issued by the Texas Department of License and Regulation (TDLR) under the Texas Occupations Code Chapter 2309 may offer for sale catalytic converters to a metal recycler without a verifiable receipt from a repair facility. The metal recycler must obtain a copy of the valid license issued by TDLR and maintain it, along with any other records required under this Code for not less than one (1) year from date of sale or purchase. Such records shall be made available to law enforcement upon request.
- b. For individual sellers:
- i. The person attempting to sell a catalytic converter provides to the metal recycler:
 1. Valid State issued identification;
 2. The year, make, model, and vehicle identification number for the vehicle from which the catalytic converter was removed;
 3. a copy of the certificate of title or other documentation indicating that the person has an ownership interest in the vehicle from which the catalytic converter was removed; and
 4. any other information required by Chapter 1956 of the Texas Occupations Code.

(b) Once the metal recycler has purchased the catalytic converter, the metal recycler shall take a photograph of:

- a. All sides of the catalytic converter, and if round, both halves;
- b. the serial number; and

- c. any owner applied number, such as an etched serial number, VIN, etc.
- (c) The metal recycler must retain the records, proofs, and photographs required by this Code for at least one (1) year from the date of sale or purchase and such records shall be available to law enforcement upon request.
- (d) It shall be unlawful for any individual or entity other than a metal recycler to possess a used catalytic converter that was cut from its original vehicle, rather than unbolted, unless the individual or entity provides the applicable information under subsection (a) of this section. Each catalytic converter in an individual or entity's possession shall constitute a separate offense.

Sec. 15-12-3. – Records required to be kept by secondhand resellers.

- (a) A secondhand reseller shall be required to keep records of any used property purchased or otherwise received as follows:
 - a. The date of receipt of any item; and
 - b. The individual transaction number assigned by the secondhand reseller.
- (b) A secondhand reseller, his agents or employees shall provide a consecutively numbered receipt to the seller or transferor of the item. Such receipt shall be dated on the actual date of the transaction.
- (c) A secondhand reseller shall be required to keep and make available records of any catalytic converter purchased or otherwise received as detailed in this Code.

Sec. 15-12-4. – Penalty.

Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed five hundred dollars (\$500.00). Prosecution in municipal court shall be in addition to other remedies provided in this chapter.

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Section 4. That except as amended herein all other provisions of Chapter 15 of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 5. Penalties. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be emended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day's violation shall constitute

a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 6. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 7. Incorporation into Code of Ordinances. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 8. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

Section 9. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

Section 10. Publication. The City Secretary of the City of Alvin is hereby directed to publish this Ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the City of Alvin Charter.

PASSED and APPROVED on the 19th day of May 2022.

THE CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary