

## ORDINANCE NO. 22 - 102

**AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS RELATING TO PURCHASERS AND SELLERS OF CATALYTIC CONVERTERS; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING A PENALTY THEREFOR; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, crimes associated with the theft of catalytic converters and related materials continue to rise exponentially throughout the State of Texas and have been found to cause a serious threat to the public's health, safety, and welfare;

**WHEREAS**, the COVID-19 pandemic and resulting global supply chain issues have drastically increased the price of the precious metals in catalytic converters, including, for example, rhodium which was selling for \$2,300 an ounce in January 2019 and, by April 2022, was selling for over \$17,500 an ounce; and

**WHEREAS**, Chapter 54 of the Texas Local Government Code authorizes municipalities to enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF PLEAK, TEXAS:**

**Section 1.** That the facts found in the preamble of this Ordinance are true and correct and incorporated herein for all purposes

### **Section 2. Definitions.**

*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.

*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.

### Section 3. Purchase of Catalytic Converters.

- (a) It shall be unlawful for any metal recycler or his agents or employees acting on his behalf to purchase or receive catalytic converters from any person offering such property for sale unless:
- (1) For automotive repair facilities:
    - a. 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.
    - b. 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.
    - c. 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.
  - (2) For individual sellers: The person attempting to sell a catalytic converter provides to the metal recycler:
    - a. The year, make, model, and vehicle identification number for the vehicle from which the catalytic converter was removed;
    - b. 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
    - c. 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:

- (1) 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 or VIN
  
- (c) 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.

#### **Section 4. Possession of a Detached Catalytic Converter.**

- (a) It shall be unlawful for any person to possess a catalytic converter that is detached by any method other than having been un-bolted from a motor vehicle or otherwise removed while intact within a complete automotive exhaust system.
- (b) It shall be unlawful for any person to possess a catalytic converter that is detached from a motor vehicle with intent to sell the catalytic converter unless:
  - (1) The person possessing the catalytic converter presents proof of the person's ownership of the vehicle from which the converter was removed, and can reasonably link the catalytic converter to the vehicle; or
  - (2) The person presents proof that the possession of the catalytic converter lawfully passed from the owner of the vehicle from which the converter was removed to the person.
- (c) For purposes of this section, possession of the detached catalytic converter, whether removed by cutting, un-bolting, or any other method of detachment, in violation of subsection (a) or (b) of this Section shall be prima facie evidence of intent to sell unless the catalytic converter is intact within a complete automotive exhaust system."

**Section 5. *Repeal.*** Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

**Section 6. *Severability.*** In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the

Board of Aldermen of the Village of Pleak, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 7. Penalty.** Any person who violates or causes, allows or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) unless such violation implicates fire safety, zoning, or public health and sanitation including dumping of refuse in which case the fine amount shall not be more than two thousand dollars (\$2,000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

**Section 8. Effective Date.** This Ordinance shall be effective after being published as required by law.

**PASSED, APPROVED and ADOPTED on the 17TH day of AUGUST 2022.**

  
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Larry Bittner, Mayor

**ATTEST:**

  
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Erin Walley, Village Secretary