

ORDINANCE NO. 3774

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, AMENDING CHAPTER 50 OF THE CODE OF ORDINANCES, MISCELLANEOUS OFFENSES, TO ADOPT ARTICLE V, POSSESSION OF A USED CATALYTIC CONVERTER; PROVIDING A PENALTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Richland Hills, Texas (“the City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of North Richland Hills, Texas (“City Council”) finds that it would be advantageous and beneficial to the citizens of the City to amend Chapter 50 of the Code of Ordinances, City of North Richland Hills, Texas, as set forth herein; and

WHEREAS, in 2021, the City of North Richland Hills had a total of 120 catalytic converter thefts, and in 2022 there were 129 catalytic converters reported stolen; and

WHEREAS, on June 18, 2021, the 87th Texas Legislature enacted H.B. 4110 to address this issue, however; the bill only addresses those trying to sell or purchase catalytic converters; and

WHEREAS, to exercise the police powers of the City for the preservation and protection of the public health, peace, safety, and welfare, the City Council finds it necessary to adopt an Ordinance regulating the possession of cut used catalytic converters, which is a common method to remove a catalytic converter during the theft;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1: The City Council hereby finds the recitals above to be true and correct, and such recitals are hereby incorporated into this Ordinance as if written herein.

SECTION 2: Chapter 50 of the Code of Ordinances, City of North Richland Hills, Texas is hereby amended to adopt Article V, Possession of Used Catalytic Converter, which shall be and read as follows:

ARTICLE V. – POSSESSION OF USED CATALYTIC CONVERTER

Sec. 50-60. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

“*Automotive repair facility*” means a person, motor vehicle dealer, garage, body shop, or other service center engaged in diagnoses, repairs, or services to a motor vehicle.

“*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 recycling entity*” means a business that is operated from a fixed location and is predominantly engaged in the practice as defined in Title 12, Chapter 1956 of the Texas Occupations Code.

Sec. 50-61. - Offense.

A person or entity, other than a Metal recycling entity, commits an offense if he or it intentionally or knowingly possesses a used catalytic converter that was cut from a motor vehicle.

Sec. 50-62. - Affirmative defenses to prosecution.

It is an affirmative defense to prosecution for an offense under Section 50-61 above if the person or entity:

(1) Provides the following:

- (i) the year, make, model, and vehicle identification number for the vehicle from which the used catalytic converter was cut;
- (ii) a copy of the certificate of title or other documentation indicating that the person or entity has an ownership interest in such vehicle; and
- (iii) proof that the used catalytic converter was cut from such vehicle; or

(2) The person presents proof that the possession of the used catalytic converter lawfully passed from the owner of the vehicle from which the used catalytic converter was removed to the person in possession of the used catalytic converter.

Sec. 50-63. - Exemptions.

(a) This Ordinance shall not apply to:

(1) a person or entity that demonstrates a legal right to possession of one (1) or more used catalytic converters; and

(2) falls within one of the categories enumerated below in Section 50-63(b).

(b) The person or entity must be:

(1) An Automotive repair facility;

(2) A seller of a catalytic converter who can provide:

(a) proof of purchase of the used catalytic converter;

(b) has documented the required information mandated by sections 1956.032 and 1956.0321 of the Texas Occupations Code; and

(c) a valid Used Automotive Parts Recycler License issued by the Texas Department of License and Regulation (TDLR) under section 2309.151, et. seq. of the Texas Occupations Code.

(3) A licensed Secondary Metal Recycler as defined and in accordance with Chapter 18, Article XI of the Code of Ordinances, City of North Richland Hills, Texas;

(4) A delivery driver delivering a used catalytic converter that has been legally procured by an automotive repair facility;

(5) A law enforcement employee transporting a used catalytic converter as evidence of commission or for prosecution of a crime;

(6) The person in possession of a used catalytic converter who can demonstrate ownership of the vehicle that the catalytic converter was cut from as set forth in Section 50-61 of the Code of Ordinances, City of North Richland Hills, Texas; or

(7) An automobile repair garage or used auto parts dealer whose license permits the installation, replacement, maintenance, or removal of catalytic converters.

SECTION 3: Any person intentionally or knowingly violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed five hundred dollars (\$500.00).

SECTION 4: This Ordinance shall be cumulative of all provisions of the Code of Ordinances, City of North Richland Hills, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5: All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on this _____ day of _____, 20__.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson
City Secretary/Chief Governance Officer

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

APPROVED AS TO CONTENT:

Jimmy Perdue, Chief of Police