

ORDINANCE NO. 4996

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY REVISING CHAPTER 10, ARTICLE XI TO BE RE-TITLED METAL RECYCLING; FURTHER REVISING ARTICLE XI FOR THE PURPOSE OF REORGANIZING THE ARTICLE AND OTHER VARIOUS GENERAL UPDATES; ADDING NEW AND REVISED DEFINITIONS; PROHIBITING THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS AS DEFINED IN THE ARTICLE; PROVIDING AFFIRMATIVE DEFENSES THERETO; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE WITH A FINE NOT TO EXCEED \$500; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”), to protect the public health, safety, and welfare; and

WHEREAS, due to the precious metals of rhodium, palladium, and platinum contained in catalytic converters, the National Insurance Crime Bureau has reported that the claims of catalytic converters thefts rose nationally from 3,389 in 2019, to 14,433 in 2020; and

WHEREAS, the City of Mesquite, Texas, (“**City**”) has had approximately 623 catalytic converter thefts in the past two years; and

WHEREAS, on September 1, 2021 [Texas H.B. 4110](#), 87th Leg., R.S. (2021), codified in *Texas Occupations Code, Title 12, Subtitle B, Chapter 1956 – Metal Recycling Entities*, was enacted to address the issue of catalytic converter thefts; however, the State law only established additional requirements for metal recycling entities and sellers regarding the purchase of a catalytic converters, including regulations relating to documentation and record-keeping codified in *Texas Occupations Code, Title 14, Subtitle A, Chapter 2305 – Records of Certain Vehicle Repairs, Sales, and Purchases, § 2305.0051 Records Related to Catalytic Converters*; and

WHEREAS, the Mesquite Police Department (**M.P.D.**) recommends adopting an Ordinance, amending the Mesquite City Code, focused on the unlawful possession of catalytic converters that have been removed from its original vehicle by cutting, or some means other than unbolting, which are common methods to remove the catalytic converters during theft(s); and

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WHEREAS, in accordance with Texas Occupations Code, Chapter 1956, § 1956.003, the City may adopt rules, an ordinance, or issue an order or impose standards that are more stringent than but do not conflict with the State law or State rules adopted under Chapter 1956; and

WHEREAS, the City of Mesquite, Texas (“**City**”), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life, and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government, order, and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

WHEREAS, upon full review and consideration of all matters attendant and related thereto, the City Council is of the opinion this ordinance should be approved and adopted.

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

SECTION 1. Recitals Incorporated.

The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

**SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT:
Amending Chapter 10 - Offenses – Miscellaneous.**

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, thereby revising Chapter 10, Article XI to be re-titled (METAL RECYCLING); and said **EXHIBIT A** is attached hereto and made a part hereof, and in all other respects, said Code, Chapters, and Articles shall remain in full force and effect.

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SECTION 3. Conflicts Resolution Clause.

In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Severability Clause.

Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

SECTION 5. Savings Clause.

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Penalty Clause.

Any violation of the provisions or terms of this ordinance by any “person,” as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine, or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

SECTION 7. Publication.

The descriptive caption of this ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#); and Texas Local Government Code, Chapter 52, § 52.013.

SECTION 8. Effective Date.

This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

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**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
MESQUITE, TEXAS, ON THE 19th DAY OF DECEMBER, 2022.**

DocuSigned by:

Daniel Aleman Jr.

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Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

DocuSigned by:

Sonja Land

C2518095973F46A

Sonja Land
City Secretary

DocuSigned by:

David L. Paschall

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David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 4996

City of Mesquite, Texas
Mesquite City Code, Chapter 10 - Offenses – Miscellaneous
Article XI – Metal Recycling

Mesquite City Code

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Chapter 10 - Offenses – Miscellaneous

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Article XI. – METAL RECYCLING ~~SECONDARY METALS RECYCLERS~~
DIVISION 1. IN GENERAL
DIVISION 2. METAL RECYCLING ENTITIES
DIVISION 3. CATALYTIC CONVERTERS

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Chapter 10 - Offenses – Miscellaneous

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Secs. 10-204 – 10-500. – Reserved

ARTICLE XI. – METAL RECYCLING ~~SECONDARY METALS RECYCLERS~~

DIVISION 1. IN GENERAL

[Editor’s Note(s): Renumber the existing sections by starting “Purpose” at Sec. 10-501. Capitalize all definitions throughout the Article.]

~~Sec. 10-205. Purpose.~~

Sec. 10-501. - Purpose.

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~~Sec. 10-206. Definitions.~~

Sec. 10-502. - Definitions.

The following words, terms, and phrases, when used in this ~~article~~ ~~chapter~~, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CATALYTIC CONVERTER means an exhaust emission control device that reduces toxic gases and pollutants from internal combustion engines that has been removed from a vehicle by cutting or some means other than unbolting it from the vehicle; the term includes any material removed from a CATALYTIC CONVERTER.

CHIEF means the Chief of Police for the City of Mesquite or a designated representative.

FERROUS METAL means a metal that contains significant quantities of iron or steel.

HOLD NOTICE means written notification by the CHIEF to a SECONDARY METALS RECYCLER stating that the SECONDARY METALS RECYCLER may not sell, redeem, or dispose of certain REGULATED METAL PROPERTY that the CHIEF has reasonable cause to believe has been stolen.

LICENSEE means a PERSON in whose name a license has been issued under this chapter or a PERSON listed as an applicant on the application for a license.

METAL RECYCLING ENTITY or METAL RECYCLING ENTITIES means a business that is operated, by a SECONDARY METALS RECYCLER, from a fixed location and is predominantly engaged in:

- (1) performing the manufacturing process by which scrap, used, or obsolete FERROUS METAL or NONFERROUS METAL is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;
- (2) the use of raw material products described under Paragraph (1) in the manufacture of producer or consumer goods; or
- (3) purchasing or otherwise acquiring scrap, used, or obsolete FERROUS METAL or NONFERROUS METALS for the eventual use of the metal for the purposes described by Paragraph (1) or (2).

NONFERROUS METAL means a metal that does not contain significant quantities of iron or steel including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

PASSPORT means a passport issued by the United States government or issued by another country and recognized by the United States government.

Mesquite City Code. Chapter 10 - Offenses – Miscellaneous; Article XI – Metal Recycling

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PERSON means an individual, partnership, corporation, joint venture, trust, association, and any other legal entity.

PERSONAL IDENTIFICATION DOCUMENT means:

- (1) a valid driver's license issued by a state in the United States;
- (2) a United States military identification card;
- (3) PASSPORT; or
- (4) a PERSONAL IDENTIFICATION CERTIFICATE issued by the Texas Department of Public Safety under Section 521.101, Transportation Code, or a corresponding card or certificate issued by another state.

PERSONAL IDENTIFICATION CERTIFICATE means a personal identification card issued by the Texas Department of Public Safety under Chapter 521, Subchapter E of the Texas Transportation Code, as amended, or a similar card or certificate issued by another state.

PURCHASE TRANSACTION means a transaction in which a SECONDARY METALS RECYCLER gives consideration in exchange for REGULATED METAL PROPERTY.

REGULATED MATERIAL has the meaning assigned by the Texas Occupations Code, Chapter 1956, § 1956.001 (9), or successor and as amended.

REGULATED METAL PROPERTY means any item composed in whole or in part of any FERROUS METAL or NONFERROUS METAL other than an item composed in whole of tin.

SECONDARY METALS RECYCLER means any PERSON who:

- (1) Engages in the business of purchasing, collecting, or soliciting REGULATED METAL PROPERTY; or
- (2) Operates or maintains a METAL RECYCLING ENTITY facility where REGULATED METAL PROPERTY is purchased or kept for shipment, sale, transfer, or salvage.

SELLER means any PERSON who in a PURCHASE TRANSACTION receives consideration from a SECONDARY METALS RECYCLER in exchange for REGULATED METAL PROPERTY. SELLER also means any PERSON attempting to sell any REGULATED METAL PROPERTY.

(Ord. No. 3947, § 1, 5-5-08)

State law reference – Definitions, V.T.C.A. Occupations Code, § 1956.001.

Secs. 10-503 – 10-530. – Reserved

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DIVISION 2. METAL RECYCLING ENTITIES

Sec. 10-531. - In General.

Pursuant to Texas Occupation Code, Chapter 1956, § 1956.003, or successor and as amended, the City may adopt a rule, charter, or ordinance or issue an order or impose standards that are more stringent than but do not conflict with State law or rules adopted under Chapter 1956.

State law references –

Chapter 1956 (Metal Recycling Entities), V.T.C.A. Occupations Code, § 1956.001, et seq.
Local law: Criminal Penalty, V.T.C.A. Occupations Code, § 1956.003.

[Editor’s Note: Renumber the existing sections as shown below with the text of each section remaining unchanged, unless otherwise shown.]

Sec. 10-532. - ~~Sec. 10-207.~~ Records Required.

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Sec. 10-533. - ~~Sec. 10-208.~~ Notice to Sellers.

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Sec. 10-534. - ~~Sec. 10-209.~~ Facsimile, telecopier or similar equipment required.

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Sec. 10-535. - ~~Sec. 10-210.~~ Restrictions on the purchase of regulated metal property.

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Sec. 10-536. - ~~Sec. 10-211.~~ Seventy-two-hour hold on regulated metal property; segregation, labeling, and inspection of regulated metal property; exceptions.

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Sec. 10-537. - ~~Sec. 10-212.~~ Hold on stolen regulated metal property; hold notice.

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Mesquite City Code. Chapter 10 - Offenses – Miscellaneous; Article XI – Metal Recycling
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Sec. 10-538. – ~~Sec. 10-213.~~ Offenses; defenses; penalty.

- (a) Offense. A PERSON who knowingly violates any provision of this ~~article~~chapter or who knowingly fails to perform a duty required of him/her under this ~~article~~chapter commits an offense. A PERSON is guilty of a separate offense for each item of REGULATED METAL PROPERTY involved in a violation of this ~~article~~chapter. ~~An offense under this chapter is punishable by a fine. See Appendix D for applicable fees.~~
- (b) Defenses. It is a defense to prosecution under this chapter that the REGULATED METAL PROPERTY involved:
- (1) Was purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization or association, or from any organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended;
 - (2) Was purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator, or receiver, from any public official acting under judicial process or authority, or from a sale on the execution or by virtue of any process issued by a court;
 - (3) Consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling other than beer or beverage kegs; or
 - (4) Was purchased from a manufacturing, industrial, or other commercial vendor that generates or sells REGULATED METAL PROPERTY in the ordinary course of its business.
- (c) Penalty. A person who violates this Article commits a Class C misdemeanor punishable by a fine not to exceed the amounts specified in section 1-6 of this Code.

Charter reference – Enforcement of ordinances, Art. III, § 28.

Cross reference – General penalties, Sec. 1-6.

(Ord. No. 3947, § 1, 5-5-08; Ord. No. 4701, § 1(Exh. A(X.H.)), 8-19-19)

Secs. 10-539 – 10-600. – Reserved.

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DIVISION 3. - CATALYTIC CONVERTERS

Sec. 10-601. - In General.

The purpose of this Division is to safeguard the life, health, safety, welfare, and property of the residents and general public within the City of Mesquite, Texas, by enforcing regulations regarding the possession of CATALYTIC CONVERTERS that have been unlawfully removed from its original vehicle by cutting, or some means other than unbolting, which are common methods to remove the CATALYTIC CONVERTERS during theft thereof. Affirmative defenses to the offense are provided.

State law references – Local law; Criminal Penalty, V.T.C.A. Occupations Code, § 1956.003.

Sec. 10-602. - Offense – Unlawful Possession of Catalytic Converters.

It shall be unlawful for any PERSON or entity, other than a SECONDARY METALS RECYCLER or METAL RECYCLING ENTITY, to possess a CATALYTIC CONVERTER as defined in this Article. Each CATALYTIC CONVERTER in an individual's or entity's possession shall constitute a separate offense.

Cross reference – Definitions, Sec. 10-502.

Sec. 10-603. - Affirmative defenses.

- (a) It is an affirmative defense to the prosecution for an offense under this Division if the PERSON or entity provides:
- (1) the year, make, model, and vehicle identification number for the vehicle from which the CATALYTIC CONVERTER was removed; and
 - (2) a copy of the certificate of title or other documentation indicating that the PERSON or entity has an ownership interest in such vehicle; and
 - (3) proof that the CATALYTIC CONVERTER was removed from such vehicle.
- (b) It is an affirmative defense to the prosecution for an offense under this Division if the PERSON or entity provides proof that the possession of the CATALYTIC CONVERTER lawfully passed from the owner of the vehicle from which the CATALYTIC CONVERTER was removed to the PERSON or entity in possession of the CATALYTIC CONVERTER.

Cross reference – Definitions, Sec. 10-502.

Secs. 10-604 – 10-650. – Reserved.

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ARTICLE XI. – E-CIGARETTE REGULATIONS

[Editor's Note: Renumber the existing sections as shown below with the text of each section remaining unchanged.]

~~Sec. 10-214~~ Sec. 10-651. - Purpose.

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~~Sec. 10-215~~ Sec. 10-652. - Definitions.

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~~Sec. 10-216~~ Sec. 10-653. - Sale, distribution or offering for sale to minor prohibited.

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~~Sec. 10-217~~ Sec. 10-654. - Vendor-assisted sales required; self-service merchandising prohibited.

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Secs. 10-655 – 10-700. – Reserved.

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ARTICLE XII. – PROHIBITION ON THE UNAUTHORIZED PLACEMENT, ERECTION OR MAINTENANCE OF TEMPORARY SHELTERS ON DESIGNATED PUBLIC PROPERTY

[Editor's Note: Renumber the existing section as shown below with the text of the section remaining unchanged.]

~~Sec. 10-234~~ Sec. 10-701. - Unauthorized shelters on public property.

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Secs. 10-702 – 10-800. – Reserved.

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