

ATTACHMENT #1

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADDING CHAPTER 9.07 ("UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER") TO TITLE 9 ("PEACE, MORALS, AND SAFETY") OF THE INDIAN WELLS MUNICIPAL CODE, ADOPTING BY REFERENCE RIVERSIDE COUNTY ORDINANCE NO. 987, "AN ORDINANCE OF THE COUNTY OF RIVERSIDE RELATING TO THE UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER"; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER STATE CEQA GUIDELINES SECTION 15061.

WHEREAS, the City of Indian Wells, California ("City") is a municipal corporation and charter city, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2022, the Governor signed into law Senate Bill 1087, amending section 21610 of the California Business and Professions Code and section 10852.5 of the California Vehicle Code, prohibiting any person from purchasing a used catalytic converter from anybody other than certain specified sellers; prohibiting recyclers from purchasing a catalytic converter from anybody other than specified sellers; and making a violation of the provisions to be an infraction, punishable by a fine; and

WHEREAS, the County of Riverside ("County") adopted Ordinance No. 987, an "Ordinance of the County of Riverside Relating to the Unlawful Possession of a Catalytic Converter," ("Ordinance 987"), to curb the theft of catalytic converters throughout the County and to provide the County with reasonable means to address the impact on the community and the victims posed by increasingly common catalytic-converter thefts; and

WHEREAS, City staff recommends that the City adopt and incorporate by reference Ordinance 987 into Title 9 ("Peace, Morals, and Safety") of the Indian Wells Municipal Code, as set forth herein, to protect the public and deter certain criminal activity.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS. That the above recitals are true and correct and are incorporated as though fully set forth herein.

SECTION 2. CEQA. Adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") under the State CEQA Guidelines because there is no possibility that this ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) City staff shall cause a Notice of

Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 3. AMENDMENT. Chapter 9.07 of the Indian Wells Municipal Code is hereby added to Title 9 to read in its entirety as follows:

"Chapter 9.07 UNLAWFUL POSSESSION OF A CATALYTIC CONVERTER.

§ 9.07.010 County Ordinance; Incorporation.

Riverside County Ordinance No. 987, an "Ordinance of the County of Riverside Relating to the Unlawful Possession of a Catalytic Converter," ("Ordinance No. 987") as may be amended in the future, is adopted and made a part of this chapter by reference.

§ 9.07.020 Definitions.

All words and terms used herein without definition have the meanings assigned to them in Ordinance No. 987.

§ 9.07.030 Violations and enforcement

- A. **Misdemeanor Penalty.** Any person who violates a provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000.00, or by imprisonment in the county jail for a term not exceeding one year, or by both. Upon any second or subsequent conviction of the offense, the person shall be punished by the penalties of a fine of \$1,000.00 and by imprisonment in the County jail for one year.
- B. **State Penalties Apply.** Nothing in this ordinance is intended to limit any of the penalties provided for under California law, including but not limited to the Penal Code, with regard to the sale, use, possession, delivery, or receipt of catalytic converters.
- C. **Administrative Civil Penalty.** In addition to any other penalty provided by law, whenever an Enforcement Officer determines that a violation of this ordinance has occurred, the Enforcement Officer has authority to issue an administrative citation with an administrative civil penalty to any person responsible for the violation.
 - 1. **Amount.** Any administrative civil penalty shall be: \$1,000.00 for the first offense; \$2,000.00 for a second offense within 36 months of the first; and \$5,000.00 for each subsequent offense within 36 months of the first. An

offense occurring more than 36 months from the last one is treated as a first offense.

2. Information.

a. The administrative citation shall contain the following information:

- i. The date, location and approximate time the violation was observed;
- ii. The amount of the administrative civil penalty imposed for the violation;
- iii. Instructions for the payment of the administrative civil penalty, the time period by which it shall be paid, and the consequences of failure to pay the administrative civil penalty within this time;
- iv. Instructions on how to appeal the administrative citation; and
- v. The signature of the Enforcement Officer.

b. The failure of the administrative citation to set forth all required contents does not affect the validity of the administrative citation or any proceedings to enforce said citation.

c. The administrative civil penalty may be imposed via the administrative process set forth in this ordinance or it may be imposed by the court if the violation is enforced by a court without an administrative process.

D. Separate Offenses.

1. A person is deemed guilty of a separate offense for each and every violation of this ordinance, or any portion thereof.
2. Likewise, a person shall be deemed guilty of a separate offense for each and every catalytic converter in the person's possession that is not attached to a vehicle unless the person has a valid proof of ownership of the catalytic converter.

E. Non-Exclusive Remedies and Penalties. All remedies and penalties for violations of the prohibitions in this ordinance are cumulative and not exclusive.

1. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the

use of additional citations or other remedies as authorized by other ordinance or law.

2. Punishment of or enforcement against any person hereunder does not relieve such person from the responsibility of restitution for correcting or abating a violation, nor does it prevent the enforced correction or abatement thereof.

SECTION 4. EFFECTIVE DATE. This Ordinance takes effect 30 days following its adoption.

SECTION 5. CUSTODIAN OF RECORDS. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 44950 Eldorado Drive, Indian Wells, CA 92210. The custodian of these records is the City Clerk.

SECTION 6. ENFORCEMENT AUTHORITY. The City Council hereby delegates the authority to the County to administer and enforce the provisions of Ordinance No. 987, as adopted and incorporated herein, within the jurisdictional boundaries of the City, which shall not preclude the City from taking any enforcement action as it deems necessary at any time in accordance with applicable law.

SECTION 7. SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council and the people of the City of Indian Wells hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 8. AMENDMENT OF CONFLICTING PROVISIONS. All the provisions of the Indian Wells Municipal Code as heretofore adopted by the City of Indian Wells that are against the provisions of this ordinance are hereby amended.

SECTION 9. PUBLICATION; EFFECTIVE DATE. The City Clerk shall certify the adoption of this Ordinance. Not later than 15 days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Indian Wells.

SECTION 10. AMENDING BAIL SCHEDULE. The City Attorney is hereby directed to

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determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

SECTION 11. CERTIFICATION. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this ____ day of ____, 2024.

GREG SANDERS
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. ____

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No.____, having been regularly introduced at a regular meeting of May 16, 2024 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on _____, 2024 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:

NOES:

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN FOR
BEST BEST & KRIEGER LLP
CITY ATTORNEY