ORDINANCE NO. 20403

AN ORDINANCE introduced by City Manager Stephen Wade, concerning the unlawful possession of catalytic converters, creating § 9.30.050 of the Topeka Municipal Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.30.050, which said section reads as follows:

Catalytic converters.

(a) Purpose. Catalytic converter thefts are on the rise due to the ease and undetectable nature of committing the thefts in a matter of seconds using common tools such as a reciprocating saw and because of loopholes in legislation protecting criminals from prosecution unless a victim can be identified. Finding a victim of these crimes is nearly impossible due to the undetectable nature of the catalytic converter thefts since they are not traceable. The majority of all catalytic converter theft cases in the city of Topeka have gone unsolved, which is fundamentally unacceptable for the citizens.

(b) Unlawful Possession.

(1) It shall be unlawful for any person to possess, accept, process, store, hold, keep, receive, reuse, or collect a catalytic converter that has been detached from a motor vehicle unless they can demonstrate a legitimate reason for such possession by producing either:

(i) A letter of permission from the Topeka Police Department to temporarily possess a catalytic converter that includes a law enforcement case number or property identification number; or

(ii) A bill of sale, purchase receipt, or vehicle title that includes
the vehicle identification number of the source vehicle, accurate contact
information for the owner of the source vehicle, and a signed release from
the owner of the vehicle; or

(iii) Proof that the catalytic converter belongs to a vehicle that is
owned by the person in possession of the detached catalytic converter.

(iv) A work order that identifies the owner of the vehicle and the
work being performed on the vehicle, so long as detachment of the
catalytic converter is essential to the work performed.

(2) City officials or law enforcement personnel disposing of lost, found,
or stolen catalytic converters are exempt from the requirements of this section.

(3) Precious metal dealers who are regulated pursuant to K.S.A.50-
6109, et. seq. are exempt from the requirements of this section.

(4) Failure to comply with the foregoing provisions shall result in the
immediate confiscation of a catalytic converter by law enforcement until such
time as legal ownership may be determined or any criminal charges are
adjudicated. A guilty finding, diversion or deferred judgment requires the catalytic
converter be forfeited to the City of Topeka to be sold, destroyed or released to
the rightful owner if the property was stolen.

(5) "Catalytic converter" means a device installed in the exhaust
system of a motor vehicle that uses a catalyst to convert pollutant gases into less
harmful gases.

(c) Penalty. Any person convicted this chapter shall be guilty of a
misdemeanor, and shall be sentenced as follows: upon a first conviction, a person shall
be sentenced to not more than six month's imprisonment and fined not less than two
hundred fifty dollars nor more than $1,000. Upon a second or subsequent conviction a
person shall be sentenced to not less than thirty days imprisonment nor more than one
year's imprisonment, and fined not less than $500 nor more than $2,500. The person
convicted shall not be eligible for release on probation, suspension or reduction of
sentence or parole until the person has served the minimum mandatory sentence as
provided herein. Upon a mandatory sentence, after 48 consecutive hours jail, the jail
sentence may be converted to work release or house arrest.

Section 3. This ordinance shall take effect and be in force from and after its
passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules,
or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared
invalid by a court of competent jurisdiction, the same shall not affect the validity of this
ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on January 10, 2023.

CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

ATTEST:

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Brenda Younger, City Clerk