

**ORDINANCE NO.2761**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ADDING DIVISION 11, "SALES OF NITROUS OXIDE," TO TITLE V OF THE HUMBOLDT COUNTY CODE MAKING IT UNLAWFUL FOR ANY PERSON IN THE COUNTY OF HUMBOLDT, WITH EXCEPTIONS, TO SELL OR ATTEMPT TO SELL, OFFER, DISTRIBUTE, OR PROVIDE NITROUS OXIDE TO ANY PERSON**

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Division 11 is added to Title V of the Humboldt County Code as shown on the attached pages.

SECTION 2. This ordinance shall take effect and be in force thirty (30) days from the date of its adoption. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this 3rd day of June on the following vote, to wit:

AYES: Supervisors: -- Arroyo, Bohn, Bushnell, Madrone, and Wilson  
NOES: Supervisors: -- None  
ABSENT: Supervisors: -- None



\_\_\_\_\_  
Michelle Bushnell, Chair  
Board of Supervisors of the County of Humboldt,  
State of California

(SEAL)  
ATTEST:

Tracy Damico, Clerk of the Board of Supervisors  
of the County of Humboldt, State of California

By:   
\_\_\_\_\_  
Kaleigh Maffei, Deputy Clerk

## ORDINANCE NO.2761

### COMPREHENSIVE NITROUS OXIDE ORDINANCE

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ADDING DIVISION 11, "SALES OF NITROUS OXIDE," TO TITLE V OF THE HUMBOLDT COUNTY CODE MAKING IT UNLAWFUL FOR ANY PERSON IN THE COUNTY OF HUMBOLDT, WITH EXCEPTIONS, TO SELL OR ATTEMPT TO SELL, OFFER, DISTRIBUTE, OR PROVIDE NITROUS OXIDE TO ANY PERSON**

**WHEREAS**, Nitrous Oxide, commonly known as "laughing gas," is a colorless, non-flammable gas used in medical, industrial, and food preparation settings, yet its misuse presents significant health and safety risks; and

**WHEREAS**, the use of Nitrous Oxide continues to be an urgent public health challenge, with medical authorities linking its recreational use to serious health problems, including physical illness, mental health issues, injury, and even death; and

**WHEREAS**, the popularity of Nitrous Oxide as an intoxicating substance is increasing at an alarming rate, particularly among college-aged individuals, high school students, and even middle school-aged children; and

**WHEREAS**, while Nitrous Oxide has legitimate purposes, including its use in cooking, cake decorating, and automotive performance enhancement, it has also become widely accessible for illicit use as a drug; and

**WHEREAS**, California Penal Code, Section 381b, establishes that intentionally inhaling or ingesting Nitrous Oxide for intoxication is a misdemeanor, with offenders also guilty of a misdemeanor upon intoxication; and

**WHEREAS**, California Penal Code, Section 381c, prohibits the sale or distribution of Nitrous Oxide to individuals under the age of 18, except when administered by a licensed medical or dental practitioner; and

**WHEREAS**, California Penal Code, Section 381e, mandates that any distributor of Nitrous Oxide must inform purchasers that it is a violation of state law to dispense the substance to any individual intending to use it for intoxication; and

**WHEREAS**, despite existing state regulations, loopholes allow Nitrous Oxide cartridges to be sold in bulk quantities without effective oversight, posing a serious risk to public health and safety; and

**WHEREAS**, restricting the sale and distribution of Nitrous Oxide within the County of Humboldt will serve to reduce its availability for illicit use and promote the public health, safety, and welfare of the community; and

**WHEREAS**, the County of Humboldt has an affirmative duty to protect the health, safety, and welfare of all its residents and takes the issue of Nitrous Oxide abuse seriously.

**NOW, THEREFORE**, it is the intent of the Board of Supervisors, in enacting this ordinance, to ensure compliance with the business standards and practices of the county to encourage the ban to sell or attempt to sell, offer, distribute, or otherwise provide any person Nitrous Oxide.

**TITLE V, DIVISION 11 "SALES OF NITROUS OXIDE" is hereby added to the County of Humboldt Code to read as follows:**

**5111-1 DEFINITIONS.** The following words and phrases as used in this section are defined as follows.

- (a) **DEVICE.** "Device" means any cartridge, compressed gas cylinder, apparatus, container, or other object used to contain, dispense or administer nitrous oxide.
- (b) **NITROUS OXIDE.** "Nitrous oxide" means the colorless nonflammable gas (N<sub>2</sub>O) sometimes used in aerosols and sometimes used as an anesthetic, which, when inhaled, produces loss of sensibility to pain, oftentimes preceded by exhilaration and laughter and used often as an anesthetic in dentistry. Nitrous oxide is also called, "laughing gas."
- (c) **PERSON.** "Person" refers to any individual or other entity howsoever organized or constituted.

**5111-2 SALE OR DISTRIBUTION OF NITROUS OXIDE.**

It is unlawful for any person not excepted hereafter to sell or attempt to sell, offer, distribute, or otherwise provide to any person Nitrous Oxide, a device to dispense or administer Nitrous Oxide, or any device that contains a quantity of Nitrous Oxide.

**5111-3 EXCEPTIONS.**

This Chapter does not apply to the sale, offer, distribution, or other manner of providing Nitrous Oxide, or a device that contains a quantity of Nitrous Oxide, in the following circumstances:

- (a) If the Nitrous Oxide is contained in a food product for use as a propellant.
- (b) If the Nitrous Oxide is being administered for the purpose of providing medical or dental care, by or at the direction and under the supervision of, a medical or dental practitioner licensed by the State of California and in accordance with all applicable rules and regulations.

- (c) If the Nitrous Oxide or device is being dispensed by a pharmacist, pharmacist intern, or pharmacy as defined by California Business & Professions Code §§ 4030, 4036, and 4037, as may be amended, in the course of their duties as a pharmacist or pharmacist intern, or wholesalers licensed by the Board of Pharmacy.
- (d) This section shall not apply to the sale or distribution of Nitrous Oxide by a wholesaler licensed by the Board of Pharmacy or manufacturer classified under Code Number 325120 or 424690 of the North American Industry Classification System (NAICS).
- (e) Or any other circumstances exempted under law.

#### **5111-4 VIOLATIONS AND PENALTIES.**

Any person violating this chapter is guilty of a misdemeanor and, upon conviction thereof, may be punished by a term in the county jail of up to six months or by a fine of one thousand dollars (\$1,000.00), or both.

The County of Humboldt further declares that any condition caused or permitted to exist in violation of any of the provisions of this chapter constitute a public nuisance. The County of Humboldt may summarily abate such nuisance and recover costs of abatement from the violator and the property owner in accordance with the County of Humboldt's Abatement of Nuisances code, Humboldt County Code Title III, Division 5.

This section shall not serve to limit any other legal remedies or actions that the County of Humboldt may have to address violations of this chapter.

A violation of this chapter is grounds for revocation of a Tobacco Retailer's License pursuant to section 817-13 of this Code.

Further, a violation of this chapter is grounds for revocation of a business license, if applicable, pursuant to section 811-8 of this Code.

#### **5111-5**

**SEVERABILITY.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations. The Board of Supervisors hereby declares that it would have adopted this chapter irrespective of the invalidity of any portion thereof and intends that the invalid portions should be severed, and the balance of the chapter enforced.