

ORDINANCE 2025-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FERNDALE MAKING IT UNLAWFUL FOR ANY PERSON IN THE CITY, WITH EXCEPTIONS, TO SELL OR ATTEMPT TO SELL, OFFER, DISTRIBUTE, OR PROVIDE NITROUS OXIDE TO ANY PERSON

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERNDALE AS
FOLLOWS:**

SECTION 1. Findings

WHEREAS, nitrous oxide use continues to be an urgent public health challenge; and

WHEREAS, medical authorities have linked the recreational use of nitrous oxide to serious health problems, including physical illness, mental illness, injury, and even death; and

WHEREAS, nitrous oxide continues to gain popularity at an alarming rate, especially among college-aged, high school-aged, and middle school-aged children; and

WHEREAS, nitrous oxide has legitimate purposes, including its use in cooking and cake decorating, and is commonly known to boost performance in automobiles. However, nitrous oxide has found its way to illegitimate purposes as an intoxicating drug; and

WHEREAS, the California Penal Code, Section 381b, makes it a misdemeanor for anyone to intentionally inhale or ingest nitrous oxide for the purpose of causing intoxication, and anyone who is so intoxicated is also guilty of a misdemeanor; and

WHEREAS, the California Penal Code, Section 381c, makes it a misdemeanor to sell or distribute nitrous oxide to anyone under the age of 18 (unless administered by and for medical or dental purposes by a licensed practitioner); and

WHEREAS, the California Penal Code, Section 381e, requires that anyone dispensing or distributing nitrous oxide must inform the purchaser that it is a violation of state law to knowingly distribute or dispense nitrous oxide to a person who intends to breathe, inhale, or ingest it for the purpose of intoxication; and

WHEREAS, in spite of the state law prohibitions, there are loopholes that allow the distribution of nitrous oxide cartridges in quantities of many hundreds at a time without meaningful oversight, which puts members of the community at risk; and

WHEREAS, eliminating the sale and distribution of nitrous oxide in the City of Ferndale will reduce the number of persons in possession of and who use nitrous oxide as an intoxicating drug and will promote the public health, safety, and welfare; and

WHEREAS, the City has the affirmative duty to protect the health, safety, and welfare of all its citizens and takes nitrous oxide abuse seriously.

SECTION 2.

A. DEFINITIONS. The following words and phrases as used in this section are defined as follows.

1. **DEVICE.** "Device" means any cartridge, compressed gas cylinder, apparatus, container, or other object used to contain, dispense or administer nitrous oxide.
2. **NITROUS OXIDE.** "Nitrous oxide" means the colorless nonflammable gas (N₂O) 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."
3. **PERSON.** "Person" refers to any individual or other entity howsoever organized or constituted.

B. 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.

C. EXCEPTIONS.

This Ordinance 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:

1. If the nitrous oxide is contained in a food product for use as a propellant.
2. 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.
3. 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.
4. 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).

D. VIOLATIONS AND PENALTIES.

Any person violating this ordinance 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 up to one thousand dollars (\$1,000.00), or both.

E. ADMINISTRATION AND ENFORCEMENT.

1. The Chief of Police of the City of Ferndale, or his/her designee, shall be responsible for the administration and enforcement of the provisions of this Ordinance.
2. Any violation of this Ordinance is subject to administrative, civil, or criminal penalties, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, a nuisance abatement action, summary abatement of immediately

hazardous conditions, and all other applicable fines, penalties and remedies.

3. This is an Ordinance adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted and enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations.

SECTION 3. CEQA DETERMINATION. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA Guidelines, and has been found to be exempt pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) (general rule) of the CEQA Guidelines, because the City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment.

SECTION 4. 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.

SECTION 5. PUBLICATION. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in Humboldt County once within 15 days of its adoption in accordance with the requirements of Government Code Section 36933.

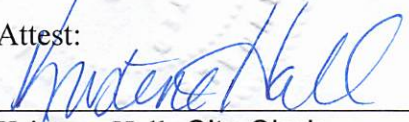
SECTION 6. EFFECTIVE DATE. This Ordinance will be effective 30 days after the date of its adoption by the City Council.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Ferndale in the County of Humboldt, State of California, on the 16 day of July, 2025 by the following vote:

AYES: 5 (JORGENSEN/OSTLER)
NOES: 0
ABSENT: 0
ABSTAIN: 0


Randy Cady, Mayor

Attest:


Kristene Hall, City Clerk

1 st Reading 06/18/2025	
2 nd Reading 07/16/2025	
Enacted 08/15/2025	