

..T

AN ORDINANCE ESTABLISHING A NEW CHAPTER 25.5 (PROHIBITION OF THE SALE, POSSESSION, AND USE OF NITROUS OXIDE FOR RECREATIONAL PURPOSES), OF TITLE 7 (BUSINESS AND LICENSE), OF THE ORLAND PARK VILLAGE CODE

..B

WHEREAS, the Village of Orland Park has previously enacted ordinances restricting the sale of synthetic cannabis, Kratom, Tianeptine, and other novel psychoactive substances to protect public health, safety, and welfare; and

WHEREAS, the Village has received reports regarding the misuse of nitrous oxide ("N₂O"), also known as "laughing gas," "whippets," or "hippy crack," which is being sold at certain local businesses and used for recreational intoxicating effects; and

WHEREAS, recreational inhalation of nitrous oxide poses significant health and safety risks, including loss of motor control, impaired judgment, neurological harm, and danger to the public; and

WHEREAS, the Illinois Compiled Statutes prohibit certain unlawful uses of nitrous oxide, but a loophole currently permits retail sale of nitrous oxide under the guise of "food-grade" or "whipped-cream chargers," thereby facilitating recreational misuse; and

WHEREAS, the Village finds it necessary and appropriate to enact a local prohibition on the retail sale, distribution, possession, and use of nitrous oxide for recreational purposes, while preserving legitimate commercial and industrial uses by properly licensed businesses, medical providers, and food-service establishments;

BE IT ORDAINED by the Village President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1: The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2: Title 7 (Business and License) of the Orland Park Village Code, Chapter 25.5 (PROHIBITION OF THE SALE, POSSESSION, AND USE OF NITROUS OXIDE FOR RECREATIONAL PURPOSES) shall be created that will read as follows:

CHAPTER 25.5: NITROUS OXIDE RECREATIONAL USE PROHIBITED

"7-25.5-1: Definitions.

"Nitrous Oxide" or "N₂O" means nitrous oxide in any form, including cartridges, chargers, tanks, cylinders, or any container capable of emitting nitrous oxide gas.

“Recreational Use” means the inhalation, possession, purchase, or use of nitrous oxide for the purpose of intoxication, euphoria, impairment, or any purpose other than a lawful commercial, food-service, industrial, medical, or dental use.

“Retail Sale” or “Retail Distribution” means any sale or transfer to an individual consumer or end-user, including sale by vape shops, tobacco shops, convenience stores, gas stations, or any other establishment not licensed for legitimate industrial, commercial, medical, or dental use.

7-25.5-2 Prohibited Acts.

1. Retail Sale or Distribution Prohibited.

No person, business, or establishment shall sell, offer for sale, give, or distribute nitrous oxide for recreational use.

The following establishments are expressly prohibited from selling or distributing nitrous oxide in any form, regardless of stated purpose:

- Vape shops
- Tobacco shops
- Convenience stores
- Gas stations
- Any similarly situated retail establishment primarily engaged in consumer sales unrelated to licensed medical, dental, industrial, or food service operations.

2. Possession With Intent for Recreational Use Prohibited.

It shall be unlawful for any person to possess nitrous oxide with intent to use it for recreational purposes.

3. Recreational Inhalation or Use Prohibited.

No person shall inhale, ingest, use, or otherwise consume nitrous oxide for recreational purposes.

4. Display and Marketing Restrictions.

No retail business may display nitrous oxide cartridges, chargers, or tanks in any public-facing retail area, nor may any business advertise nitrous oxide in a manner that promotes or suggests recreational use.

7-25.5-3 Exemptions.

This Section does not apply to:

1. Medical or dental offices lawfully using nitrous oxide in patient care.
2. Licensed food-service establishments using nitrous oxide in food or beverage preparation in the normal course of business.

3. Commercial, industrial, or scientific entities legitimately using nitrous oxide in manufacturing or research, provided the substance is not sold or transferred for recreational use.
4. Government agencies or emergency services using nitrous oxide for lawful purposes.

7-25.5-4 Proof of Legitimate Use.

Businesses claiming an exemption under subsection 3 must maintain purchase records, invoices, or other documentation demonstrating lawful commercial, medical, industrial, or food-service use and must produce such documentation upon request by law enforcement or Village officials.

7-25.5-5 Penalties.

1. Operation of any prohibited nitrous oxide recreational drug business establishment within the Village of Orland Park in violation of the provisions of this Chapter 25.5 is hereby declared a public nuisance and shall be abated pursuant to all available remedies.
2. Any person violating any of the provisions of this Chapter shall, upon conviction, be punished by a fine according to the fine schedule located in Appendix B of Title 1, Chapter 4, Section 1-4-1 of the Village Code. Each cartridge, item, transaction, or act constituting a separate offense. Fines may be assessed in administrative adjudication, and/or through a local ordinance violation brought in the Circuit Court.
3. Repeated violations may result in suspension or revocation of any Village-issued license, including but not limited to tobacco, vape, or business licenses.

SECTION 3. Upon adoption of this ordinance, the Village Manager or designee shall provide written notice of the requirements of this Section to all Village tobacco licensees, vape shop licensees, and other retailers deemed appropriate.

SECTION 4: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION 5: Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such holding.

SECTION 6: Except as to the Code amendments set forth above in this Ordinance, all Chapters and Sections of the Orland Park Village Code, as amended, shall remain in full force and effect.

SECTION 7: This Ordinance shall be in full force and effect from and after its adoption and publication in pamphlet form as provided by law.