

STATE OF MICHIGAN  
COUNTY OF WAYNE  
CITY OF ALLEN PARK

ORDINANCE #03-2022

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; AMENDING CHAPTER 26 “OFFENSES”, BY THE ADDITION OF DIVISION 4, “NITROUS OXIDE”, TO ARTICLE VI, “OFFENSES AGAINST PUBLIC MORALS”, TO REGULATE THE SALE, DISTRIBUTION, POSSESSION AND USE OF CERTAIN CHEMICAL AGENTS AND DEVICES KNOWN AS NITROUS OXIDE, AND COMMONLY CALLED “WHIPPETS”.

The City of Allen Park Ordains:

**SECTION 1. Amendment to Code.**

That Division 4, Nitrous Oxide, is hereby added to Article VI, “Offenses Against Public Morals”, of Chapter 26, “Offenses”, to hereafter read as follows:

**CHAPTER 26 OFFENSES  
ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS  
DIVISION 4 NITROUS OXIDE**

**Section 26-340. – Nitrous Oxide.**

*Purpose.* To regulate the sale, distribution, possession and use of certain chemical agents and devices containing certain chemical agents known as nitrous oxide, also commonly called “whippets”; and to provide penalties, as provided by MCL 752.272a.

(1) Definitions.

For the purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:

*“Device”* means any cartridge, compressed gas cylinder, apparatus, container, or any other object used to contain, and/or dispense, and/or administer nitrous oxide.

*“Nitrous oxide”* means a colorless, nonflammable gas, N<sub>2</sub>O, oftentimes used as an anesthetic and in aerosols; when inhaled it produces loss of sensibility to pain preceded by exhilaration and sometimes laughter, and is properly used especially as an anesthetic in dentistry; it is also known as “laughing gas” or “whippet(s)”.

**“Diligent inquiry”** means a diligent good-faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator’s or chauffeur’s license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification that establishes the identity and age of the person.

(2) Except for a person described in subsection (4) (c) or (d) acting in the course of his or her duties, a person shall not sell or otherwise distribute a device that solely contains nitrous oxide to a person under the age of 18 for any purpose unless the person under the age of 18 is accepting delivery of a device containing nitrous oxide or a device used to dispense nitrous oxide in his or her capacity as an employee.

(3) A person who knowingly sells or distributes a device that solely contains nitrous oxide to a person who is under the age of 18 in violation of subsection (2), or who fails to make diligent inquiry as to whether the person is a minor, is liable for a municipal civil infraction with a civil fine of \$500.00 for a first offense and \$1,000.00 for any subsequent offense.

(4) A person shall not sell or otherwise distribute to another person any device that contains any quantity of nitrous oxide or sell or otherwise distribute a device to dispense nitrous oxide for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, dulling of the senses or nervous system. A person who violates this subsection is liable for a municipal civil infraction with a civil fine of \$500.00 for a first offense and \$1,000.00 for any subsequent offense. This subsection does not apply to nitrous oxide that has been denatured or otherwise rendered unfit for human consumption or to any of the following:

(a) A person licensed under chapter VII of the food law, 2000 PA 92, MCL 289.7101 to 289.7137, who sells or otherwise distributes the device as a grocery product.

(b) A person engaged in the business of selling or distributing catering supplies only or food processing equipment only, or selling or distributing compressed gases for industrial or medical use who sells or otherwise distributes the device in the course of that business.

(c) A pharmacist, pharmacist intern, or pharmacy as defined in section 17707 of the public health code, 1978 PA 368, MCL 333.17707, who dispenses the device in the course of his or her duties as a pharmacist or pharmacist intern or as a pharmacy.

(d) A health care professional.

(5) A person shall not use or possess any device that contains any quantity of nitrous oxide and is used to dispense nitrous oxide for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, dulling of the senses or nervous system. A person who violates this subsection is liable for a municipal civil infraction with a civil fine of \$100.00 for a

first offense and up to \$500.00 for any subsequent offense.

**SECTION 2. Repeal.**

**SECTION 3. Saving Clause.**

**SECTION 4. Severability.**

**SECTION 5. Codification; Scrivener's Errors:**

**SECTION 6. Publication.**

**SECTION 7. Adoption.**

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the 12<sup>th</sup> day of July, 2022.

**GAIL McLEOD, Mayor**  
**City of Allen Park**

**MICHAEL I. MIZZI, City Clerk**  
**City of Allen Park**