

**CITY OF CLOVERDALE
CITY COUNCIL
ORDINANCE NO. 721-2018**

**AN ORDINANCE OF THE CITY COUNCIL OF CLOVERDALE AMENDING
CLOVERDALE MUNICIPAL CODE CHAPTER 9, ADDING CHAPTER 9.40, MAKING
IT UNLAWFUL FOR ANY PERSON IN THE CITY TO ATTEMPT TO SELL, OFFER,
DISTRIBUTE, OR PROVIDE TO ANY PERSON, NITROUS OXIDE**

WHEREAS, nitrous oxide use causes death and disease and continues to be an urgent public health challenge, as evidenced by the following:

WHEREAS, medical authorities have linked the recreational use of nitrous oxide to serious health problems, which can cause physical illness, mental illness, injury, and/or even death.

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

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

WHEREAS, nitrous oxide has legitimate purposes, including the 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.

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

Chapter 9.40 - NITROUS OXIDE

Sections:

9.40.010 – Definitions:

The following words and phrases used in this chapter shall be defined as follows:

"Device" refers to any cartridge, compressed gas cylinder, apparatus, container, or other object used to contain or dispense or administer nitrous oxide.

"Nitrous oxide" refers to 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 oftentimes called, "laughing gas."

"Person" refers to any individual or other entity howsoever organized or constituted.

9.40.020 - Sale or distribution of nitrous oxide:

It shall be unlawful for any person in the city to 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.

9.40.030 – Exceptions:

Prohibitions in this chapter shall not apply to the following:

A. A pharmacist, pharmacist intern, or pharmacy as defined by California Business & Professions Code § 4036, California Business and Professions Code § 4030, and California Business and Professions Code § 4037, as may be amended, who dispenses the device in the course of his duties as a pharmacist or pharmacist intern, or wholesalers licensed by the Board of Pharmacy or manufacturers classified under the North American Industry Classification System pursuant to California Penal Code § 381e, as may be amended, who dispense the device in the course of their duties.

B. A health care professional who possesses and dispenses nitrous oxide in the course of medical or dental treatment.

C. Any person who is under the influence of nitrous oxide or any material containing nitrous oxide duly received pursuant to exception B or C above.

D. Any person that possesses or distributes nitrous oxide under an express exemption pursuant to California Penal Code §§ 381b-e.

9.40.040 - Violations and penalties:

Any violation of this chapter shall be a misdemeanor and, upon conviction thereof, punishable by county jail or by a fine of one thousand dollars, or both.

Effective Date. This Ordinance shall become effective thirty (30) days from adoption pursuant to California Government Code Section 36937. The Mayor shall sign and the Deputy City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law.

I hereby certify that the foregoing ordinance was introduced before the City Council of the City of Cloverdale at a regular meeting thereof on the 12th day of June, 2018, and duly adopted by the City at a regular meeting thereof held on the 26th day of June 2018.

PASSED, APPROVED AND ADOPTED this 26th day of June 2018, by the following roll call vote: (Ayes- 5; Noes-0; Abstain- 0)

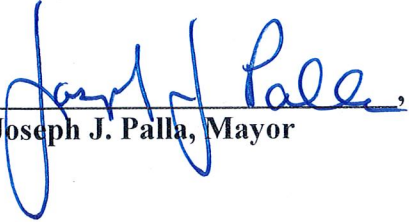
AYES: Councilmember Bagby, Vice Mayor Russell, Councilmember Brigham, Councilmember Wolter, and Mayor Palla

NOES: None

ABSENT: None

ABSTAIN: None

APPROVED:



Joseph J. Palla, Mayor

ATTEST:



Linda Moore, Deputy City Clerk