

**BOARD OF COUNTY COMMISSIONERS**  
**Grant County, Washington**

**ORDINANCE CREATING CH. 6.42 OF  
THE GRANT COUNTY CODE TITLED  
“NITROUS OXIDE”, BANNING  
RECREATIONAL USE OF NITROUS  
OXIDE AND ENACTING PENALTIES**

**ORDINANCE No. 20-034 -CC**

**WHEREAS**, Grant County has observed an increasing problem with abuse of nitrous oxide, and

**WHEREAS**, the health and safety of Grant County Citizens and visitors is the preeminent concern of the County; and

**WHEREAS**, Nitrous Oxide has legitimate medical and non-medical uses; and

**WHEREAS**, the Board of County Commissioners has determined that a ban on recreational use of nitrous oxide should be imposed; and

**WHEREAS**, the inhalation of nitrous oxide outside of a clinical setting may have dangerous health effects.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of Grant County Commissioners, ADOPTS AND HEREBY ADDS A NEW CHAPTER, 6.42, TO TITLE 6 OF THE GRANT COUNTY CODE TITLED NITROUS OXIDE AND TO READ AS FOLLOWS:

Chapter 6.42- NITROUS OXIDE.

Sections:

**6.42.010 Definitions**

1. Nitrous Oxide refers to any of the following substances: a gas with the chemical formula of  $N_2O$ , dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas.

2. Nitrous Oxide paraphernalia means:

(a) all equipment, products, and materials of any kind which are used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body nitrous oxide.

It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing nitrous oxide;

(2) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of nitrous oxide;

(3) Scales, balances or other equipment used, intended for use, or designed for use in weighing or measuring nitrous;

(4) Diluents and adulterants, used, intended for use, or designed for use in cutting nitrous oxides;

(5) Cylinders, balloons, and other containers used, intended for use, or designed for use in packaging nitrous oxide;

(6) Containers and other objects used, intended for use, or designed for use in storing or concealing nitrous oxide;

(7) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing nitrous oxide into the human body.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of nitrous oxide on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as nitrous oxide paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of nitrous oxide;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community; and

(14) Expert testimony concerning its use.

#### **6.42.020. Possession of nitrous oxide for recreational consumption prohibited**

It is unlawful for any person to possess nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or knowingly and with the intent to do so be under the influence of nitrous oxide or any material containing nitrous oxide.

This section shall not apply to any person who is under the influence of nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed or permitted by law to administer such an agent.

#### **6.42.030 Use or delivery of nitrous oxide paraphernalia prohibited**

(1) It is unlawful for any person to use nitrous oxide paraphernalia to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body nitrous oxide.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body nitrous oxide.

(3) This section shall not apply to any person who possesses, uses, delivers, possesses with the intent to deliver or manufactures with intent to deliver nitrous oxide paraphernalia pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed or permitted by law to administer such an agent.

#### **6.42.040 Delivery of nitrox oxide for recreational consumption prohibited**

It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, nitrous oxide or any material containing nitrous oxide with the intent that it be used to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

This section shall not apply to any person who manufactures, delivers or possess with the intent to manufacture or deliver nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed or permitted by law to administer such an agent.

#### **6.42.050 Violation-Penalties**

Any violation of sections .020 or .030 of this chapter is a misdemeanor, punishable by not more than 90 days in jail and a fine of not more than \$1,000.00. Any violation of section .040 of this chapter is a gross misdemeanor, punishable by not more than 364 days in jail and a fine of not more than \$5,000.00.

#### **6.42.060 Effective Date**

This ordinance is effective the date of signing.

#### **6.42.070 Severability**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provisions to other person or circumstances is not affected.

#### **6.42.080 - Chapter cumulative.**

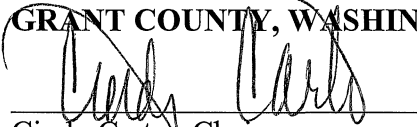
The provisions of this chapter are not intended to repeal any other ordinance or statute involving the same subject matter.

PASSED AND ADOPTED this 24<sup>th</sup> day of March, 2020.

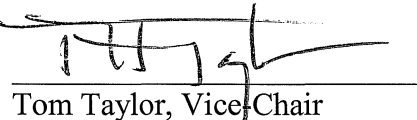
**BOARD OF COUNTY  
COMMISSIONERS  
GRANT COUNTY, WASHINGTON**

Yea    Nay    Abstain

☒    ☐    ☐

  
Cindy Carter, Chair

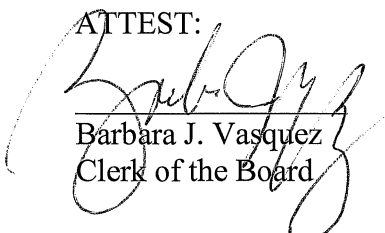
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Tom Taylor, Vice Chair

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EXCUSED  
Richard Stevens, Member

ATTEST:

  
Barbara J. Vasquez  
Clerk of the Board