

Regulation of the City of Northampton Board of Health Restricting the Sale of Nitrous Oxide

A. Statement of Purpose:

The purpose of this regulation is to protect public health and safety by restricting the sale of nitrous oxide to prevent its misuse for recreational purposes. Recreational inhalation of nitrous oxide has been associated with severe health risks, including neurological impairment, oxygen deprivation, and potential long-term harm. By limiting access to nitrous oxide for non-medical and non-commercial uses, this regulation seeks to reduce substance misuse, prevent associated health consequences, and support broader public health efforts in harm reduction. These restrictions align with the Board of Health's responsibility to safeguard the well-being of the community and mitigate emerging public health threats. Therefore the City of Northampton Board of Health promulgates a regulation restricting the sale of nitrous oxide products.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the City of Northampton Board of Health by Massachusetts General Laws (MGL) Chapter 111, Section 31 which states "Boards of health may make reasonable health regulations" and Chapter 270, Section 18 which states, "No person shall intentionally smell or inhale the fumes of any substance having the property of releasing toxic vapors."

C. Definitions:

As used in this regulation, the following words shall have the following meanings, unless the context requires otherwise.

Business Agent: a person who represents a person or company in matters of business and who can make business decisions for them.

Board: The Board of Health of the City of Northampton.

Kitchen Supply Store: is a business that specializes in the sale of equipment, tools, and supplies used in food preparation and service. These stores primarily serve restaurants, bakeries, catering businesses, and other food service establishments as well as the public by providing high-quality kitchen appliances, cookware, utensils, and specialty ingredients. They must operate in compliance with all relevant health and safety regulations and may only sell nitrous oxide for legitimate culinary applications.

Identification: The requirement that all sellers verify the age of every purchaser using a government-issued photographic identification and confirm the intended use of nitrous oxide for an approved medical, commercial, or industrial purpose before completing a sale.

Medical Supply Store: is a business that is legally authorized by state and federal agencies to sell medical equipment, devices, and supplies. These establishments primarily engage in the distribution of healthcare-related products, such as oxygen tanks, surgical instruments, and other medical necessities, serving healthcare providers, facilities, and individuals with prescriptions or documented medical needs. They must comply with all relevant health and safety regulations and may only sell nitrous oxide for approved medical procedures.

Minimum Legal Sales Age: The minimum age at which an individual may legally purchase nitrous oxide products. For the purposes of this regulation, the minimum legal sales age is twenty-one (21) years old. No person or business shall sell or distribute nitrous oxide to any individual under the age of twenty-one.

Nitrous Oxide: is a colorless, non-flammable gas with a slightly sweet odor and taste, commonly used for medical, industrial, and commercial purposes. In medical settings, it is used as an anesthetic and analgesic. In the food industry, it serves as a propellant for whipped cream dispensers.

Recreational Use: The inhalation of nitrous oxide for its psychoactive effects, including euphoria, dizziness, and altered perception, rather than for an approved medical, commercial, or industrial purpose.

Retail Establishment: Any business that sells goods directly to consumers for personal use, including but not limited to convenience stores, gas stations, smoke shops, and general merchandise stores.

Self-Service Display: Any display from which customers may select a nitrous oxide canister without assistance from an employee or personnel.

D. Restrictions on the Sale of Nitrous Oxide

1.) Prohibited Sales

- a.) The sale of nitrous oxide is strictly prohibited in retail establishments that do not fall under the approved categories listed below

2.) Approved Sales Locations

- a.) Nitrous oxide may only be sold in:
 - i.) Kitchen supply stores for legitimate culinary applications.
 - ii.) Medical supply stores for professional medical use.
- b.) All self-service displays of nitrous oxide, as defined herein are prohibited

3.) Age Restriction

- a.) The sale of nitrous oxide is prohibited to individuals under the age of twenty-one (21).
- b.) Prior to completing a sale, all sellers and distributors of nitrous oxide products must verify the age of every purchaser using a valid government-issued photographic identification that includes the bearer's date of birth.

E. Violations

It shall be the responsibility of the retail establishment and/or his or her business agent, and not their employees, to ensure compliance with all sections of this regulation.

- 1. For stores which are allowed to sell nitrous oxide: For violations of the sections of this regulation the business owner shall receive:
 - a. In the case of a first violation, a fine of one hundred dollars (\$100.00) shall be issued.

- b. In the case of a second violation, a fine of three hundred dollars (\$300.00) shall be issued and, the sale of nitrous oxide products shall be suspended for seven (7) consecutive business days.
 - c. In the case of three or more violations, a fine of three hundred dollars (\$300.00) shall be issued and the sale of nitrous oxide products shall be suspended for thirty (30) consecutive business days.
 - d. In the case of four violations or repeated, egregious violations of any section of this regulation, as determined by the Board of Health, the Board of Health shall hold a hearing in accordance with this regulation and, after such hearing shall determine if the establishment shall continue to sell nitrous oxide products.
 - e. Failure to cooperate or interfere with inspections pursuant to this regulation shall result in the suspension of nitrous oxide sales for thirty (30) consecutive business days.
 - f. In addition to the monetary fines set above, any establishment who engages in the sale or distribution of nitrous oxide products, as defined herein directly to a consumer while his or her sales are suspended shall constitute a separate violation of this regulation and may be subject to the inability to sell nitrous oxide products at the establishment.
2. For retailers who are not permitted to sell nitrous oxide per regulations above:
- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) shall be issued.
 - b. In the case of a second violation, a fine of three hundred dollars (\$300.00) shall be issued
 - c. In the case of three or more violations, a fine of three hundred dollars (\$300.00) shall be issued
 - d. In the case of 4 or more violations OR repeated, egregious violations of any section of this regulation, the selling of nitrous oxide will be reported as a criminal offense.

F. Enforcement

Enforcement of this regulation shall be by the Northampton Board of Health or its designated agent(s).

Any resident who desires to register a complaint pursuant to this regulation may do so by contacting the Northampton Board of Health or its designated agent(s) and the Board of Health may investigate.

G. Severability

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

H. Effective Date

This regulation shall take effect on June 15th, 2025.

Signatures:

Name	Signature	Date
Joanne Levin	<small>DocuSigned by:</small> 	4/23/2025 11:55 AM PDT
Cynthia Suopis	<small>DocuSigned by:</small> 	4/22/2025 6:22 PM EDT
Suzanne Smith	<small>Signed by:</small> 	5/4/2025 6:23 PM EDT
Janet Grant	<small>DocuSigned by:</small> 	4/22/2025 11:53 AM EDT