



STAFF REPORT – CITY COUNCIL MEETING

TO: Honorable Mayor and City Council Members

FROM: Merritt Perry, City Manager

PREPARER: Rhiannon Lewis-Stephenson, Executive Assistant/Deputy City Clerk

DATE: May 21, 2025

TITLE: **Consider Introducing Ordinance No. 1579, An Ordinance of the City Council of the City of Arcata Adding Article 11 to Title IV, Chapter 2, Making it Unlawful for Any Person in the City to Sell, Offer, Distribute, or Provide Nitrous Oxide to Any Person.**

RECOMMENDATION:

It is recommended that the Council introduce Ordinance No. 1579, An Ordinance of the City Council of the City of Arcata Adding Article 11 to Title IV, Chapter 2, Making it Unlawful for Any Person in the City to Sell, Offer, Distribute, or Provide Nitrous Oxide to Any Person; waive reading of the text and consent to read by title only.

INTRODUCTION:

Nitrous oxide, commonly used as a medical anesthetic and a propellant in whipped cream dispensers, is increasingly misused as a recreational inhalant. Its unregulated sale and misuse, particularly by youth, presents an urgent public health concern. This ordinance aims to address the availability and misuse of nitrous oxide by establishing comprehensive regulations for its sale, possession, and distribution in the City of Arcata.

This ordinance reinforces the City's commitment to protecting the health and safety of its residents by limiting access to substances known to cause harm when misused, while preserving access for legitimate purposes.

BACKGROUND:

Nitrous oxide, also known as "laughing gas," is a colorless, nonflammable gas that has both legitimate and illegitimate uses. While it is widely used in food preparation and medical or dental care, it has also gained popularity as a recreational inhalant.

Despite existing state laws prohibiting inhalation for intoxication purposes and restricting sales to minors, the product remains easily accessible in large quantities and is frequently misused in unsupervised and unsafe ways. This has become a growing public health concern in the City of Arcata, particularly among young people.

The recreational use of nitrous oxide, particularly among adolescents, is linked to a range of severe health risks including nerve damage, cognitive impairments, psychosis, and in some cases, death. A 2025 study published in The Lancet found that youth as young as 14 can suffer irreversible

neurological damage from recreational nitrous oxide use. In Humboldt County, the 2021–2023 California Healthy Kids Survey reported that 11% of 7th and 11th grade students had used inhalants, with evidence of initiation occurring as early as 5th grade.

Nitrous oxide is often sold in small metal cylinders or “whip-its,” which are readily available in smoke shops and convenience stores, including near schools and public recreation areas. The lack of clear regulatory authority for local jurisdictions to manage retail sales of nitrous oxide has contributed to increased access and normalization of its recreational use.

DISCUSSION:

Ordinance No. 1579. seeks to close existing legal loopholes by establishing a local prohibition on the sale, offer, distribution, or provision of nitrous oxide and related devices, except in cases where the product is:

1. Used in food products as a propellant.
2. Administered for legitimate medical or dental purposes under supervision of licensed practitioners.
3. Dispensed by a licensed pharmacy or pharmacist.
4. Distributed by a wholesaler or manufacturer regulated under specified NAICS codes.

Violations of the ordinance will be treated as misdemeanors, subject to penalties including fines or jail time, and may also be enforced through nuisance abatement or administrative citation processes already established in the Arcata Municipal Code.

The ordinance is modeled on similar efforts in California cities and counties and is intended to protect community health without placing an undue burden on businesses engaged in lawful sales of unrelated products.

If introduced, the Ordinance would be brought back for adoption by the Council at the next regular meeting. It would go into effect 30 days thereafter.

BUDGET/FISCAL IMPACT:

There is no anticipated significant fiscal impact associated with adoption of this ordinance. Enforcement may be conducted within existing staffing and budgetary allocations.

RECOMMENDED COUNCIL ACTION:

1. Open the Public Hearing.
2. Receive a staff report presentation and review questions with staff.
3. Open public comment.
4. Close public comment.
5. Motion to introduce Ordinance No. 1579, An Ordinance of the City Council of the City of Arcata Adding Article 11 to Title IV, Chapter 2, Making it Unlawful for Any Person in the City to Sell, Offer, Distribute, or Provide Nitrous Oxide to Any Person; waive reading of the text and consent to read by title only.

ATTACHMENTS:

- A. Ordinance No. 1579