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June 3, 2025

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Introduction and First Reading (by title only) of Ordinance 417-2025 Adding Chapter §9.30 to Title IX of the Rio Dell Municipal Code (RDMC) Pertaining to "Sales of Nitrous Oxide" and Further Creating a Comprehensive Nitrous Oxide Ordinance

IT IS RECOMMENDED THAT THE CITY COUNCIL:

- 1.) Allow staff to introduce the Ordinance; and,
- 2.) Open and receive public comment; and,
- 3.) Close public comment; and,
- 4.) Direct staff to make any changes to the draft ordinance if necessary; and,
- 5.) Motion: Introduce and continue the item to the regularly scheduled meeting of June 17, 2025 for adoption of Ordinance 417-2025 creating chapter §9.30 of Title IX of the Rio Dell Municipal Code (RDMC) pertaining to "Sales of Nitrous Oxide" and further creating a comprehensive Nitrous Oxide Ordinance.

BACKGROUND AND DISCUSSION

On August 20, 2024 the Rio Dell City Council held a meeting to discuss the banning of Nitrous Oxide in the City of Rio Dell. The consensus of the Council was for staff to return with an Ordinance banning Nitrous Oxide. Since that meeting, staff has been working with the Public Health Division of the County of Humboldt and our neighboring cities to craft a unified ordinance to create a cohesive and consistent ban across the jurisdictions.

Staff recommends the City Council adopt Ordinance No. 417-2025, which regulates the sale and distribution of nitrous oxide within the City of Rio Dell. This ordinance addresses the growing public health concern of recreational nitrous oxide use, particularly among youth, while preserving legitimate medical and commercial uses of the substance.

Nitrous oxide is a colorless gas that serves legitimate purposes as an anesthetic for dental and other medical procedures, as well as a charging agent for whipped cream dispensers. However, the recreational use of nitrous oxide as an inhalant has become increasingly popular and has been linked to serious health problems, which can cause physical and mental illness, injury, and in some cases, even death.

The substance is commonly sold in canisters called "whip-its" and is readily available throughout Humboldt County's retail landscape, especially at smoke shops. The prevalence of these canisters in stores and the proximity of those stores to schools and recreational areas makes nitrous oxide easily accessible to youth in our community.

According to the Alcohol and Drug Foundation, long-term adverse consequences from excessive recreational nitrous oxide use include:

- Memory loss
- Low blood pressure
- Vitamin B12 depletion
- Brain and nerve damage
- Lack of judgment and safety awareness
- Weakened immune system
- Depression
- Psychological dependence
- Psychosis
- Dependence or addiction

If a large amount of recreational nitrous oxide is used in one sitting, it can lead to loss of blood pressure and fainting. A recent research study from March 2025 in *The Lancet* demonstrated that youth as young as 14 years old can sustain neurological damage due to recreational nitrous oxide use.

According to the 2021-2023 California Healthy Kids Survey (CHKS) Humboldt County Reports:

- 11% of Grade 7 and Grade 11 students reported having used inhalants
- Inhalants were identified as an initiation drug for 5th grade students

These statistics underscore the urgent need for local action to protect our youth from easy access to these harmful substances.

The proposed ordinance is designed to:

- Regulate the sale and distribution of nitrous oxide for recreational purposes
- Maintain access for legitimate medical and commercial uses
- Ensure compliance with business standards and practices
- Encourage responsible retailing practices
- Discourage violations of nitrous oxide-related laws

The ordinance will not unduly burden legitimate business activities of retailers who sell other products, including tobacco products, but will establish appropriate controls to prevent recreational misuse.

The adoption of this ordinance is not expected to have a significant direct financial impact on the City's budget. Any enforcement activities will be incorporated into existing code enforcement and public safety operations.

The proposed ordinance falls within the City's police powers to protect public health, safety, and welfare. Similar ordinances have been successfully implemented in other jurisdictions without legal challenge when properly crafted to preserve legitimate uses while addressing public health concerns.

Adoption of Ordinance No. 417-2025 will:

- Protect youth from easy access to harmful inhalant substances
- Reduce the availability of nitrous oxide for recreational misuse
- Support public health and safety objectives
- Maintain the City's commitment to protecting vulnerable populations
- Address a recognized community health concern

#### **ATTACHMENTS**

1. Proposed Ordinance No. 417-2025

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**ORDINANCE NO. 417-2025**



**COMPREHENSIVE NITROUS OXIDE ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL  
ADDING CHAPTER 9.30, "SALES OF NITROUS OXIDE," TO TITLE IX  
OF THE RIO DELL MUNICIPAL CODE MAKING IT UNLAWFUL FOR  
ANY PERSON IN THE CITY OF RIO DELL, WITH EXCEPTIONS, TO  
SELL OR ATTEMPT TO SELL, OFFER, DISTRIBUTE, OR PROVIDE  
NITROUS OXIDE TO ANY PERSON**

**WHEREAS**, Nitrous Oxide, commonly known as "laughing gas," is a colorless, non-flammable gas used in medical, industrial, and food preparation settings, yet its misuse presents significant health and safety risks; and

**WHEREAS**, the use of Nitrous Oxide continues to be an urgent public health challenge, with medical authorities linking its recreational use to serious health problems, including physical illness, mental health issues, injury, and even death; and

**WHEREAS**, the popularity of Nitrous Oxide as an intoxicating substance is increasing at an alarming rate, particularly among college-aged individuals, high school students, and even middle school-aged children; and

**WHEREAS**, while Nitrous Oxide has legitimate purposes, including its use in cooking, cake decorating, and automotive performance enhancement, it has also become widely accessible for illicit use as a drug; and

**WHEREAS**, California Penal Code, Section 381b, establishes that intentionally inhaling or ingesting Nitrous Oxide for intoxication is a misdemeanor, with offenders also guilty of a misdemeanor upon intoxication; and

**WHEREAS**, California Penal Code, Section 381c, prohibits the sale or distribution of Nitrous Oxide to individuals under the age of 18, except when administered by a licensed medical or dental practitioner; and

**WHEREAS**, California Penal Code, Section 381e, mandates that any distributor of Nitrous Oxide must inform purchasers that it is a violation of state law to dispense the substance to any individual intending to use it for intoxication; and

**WHEREAS**, despite existing state regulations, loopholes allow Nitrous Oxide cartridges to be sold in bulk quantities without effective oversight, posing a serious risk to public health and safety; and

**WHEREAS**, restricting the sale and distribution of Nitrous Oxide within the City of Rio Dell will serve to reduce its availability for illicit use and promote the public health, safety, and welfare of the community; and

**WHEREAS**, the City of Rio Dell has an affirmative duty to protect the health, safety, and welfare of all its residents and takes the issue of Nitrous Oxide abuse seriously.

**NOW, THEREFORE**, it is the intent of the City Council, in enacting this ordinance, to ensure compliance with the business standards and practices of the city to encourage the ban to sell or attempt to sell, offer, distribute, or otherwise provide any person Nitrous Oxide.

**TITLE IX, Chapter 9.30 “SALES OF NITROUS OXIDE” is hereby added to the City of Rio Dell Code to read as follows:**

**9.30.010 DEFINITIONS.** The following words and phrases as used in this section are defined as follows.

- (a) **DEVICE.** “Device” means any cartridge, compressed gas cylinder, apparatus, container, or other object used to contain, dispense or administer nitrous oxide.
- (b) **NITROUS OXIDE.** “Nitrous oxide” means the colorless nonflammable gas (N<sub>2</sub>O) 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 also called, “laughing gas.”
- (c) **PERSON.** “Person” refers to any individual or other entity howsoever organized or constituted.

**9.30.020 SALE OR DISTRIBUTION OF NITROUS OXIDE.**

It is unlawful for any person not excepted hereafter to sell or 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.

### **9.30.030 EXCEPTIONS.**

This Chapter does not apply to the sale, offer, distribution, or other manner of providing Nitrous Oxide, or a device that contains a quantity of Nitrous Oxide, in the following circumstances:

- (a) If the Nitrous Oxide is contained in a food product for use as a propellant.
- (b) If the Nitrous Oxide or device that is being sold or distributed is specifically designed or used in a vehicle to enhance the performance of the vehicle.
- (c) If the Nitrous Oxide is being administered for the purpose of providing medical or dental care, by or at the direction and under the supervision of, a medical or dental practitioner licensed by the State of California and in accordance with all applicable rules and regulations.
- (d) If the Nitrous Oxide or device is being dispensed by a pharmacist, pharmacist intern, or pharmacy as defined by California Business & Professions Code §§ 4030, 4036, and 4037, as may be amended, in the course of their duties as a pharmacist or pharmacist intern, or wholesalers licensed by the Board of Pharmacy.
- (e) This section shall not apply to the sale or distribution of Nitrous Oxide by a wholesaler licensed by the Board of Pharmacy or manufacturer classified under Code Number 325120 or 424690 of the North American Industry Classification System (NAICS).
- (f) Or any other circumstances exempted under law.

### **9.30.040 VIOLATIONS AND PENALTIES.**

Any person violating this chapter is guilty of a misdemeanor and, upon conviction thereof, may be punished by a term in the county jail of up to six months or by a fine of one thousand dollars (\$1,000.00), or both.

The City of Rio Dell further declares that any condition caused or permitted to exist in violation of any of the provisions of this chapter constitute a public nuisance. The City of Rio Dell may summarily abate such nuisance and recover costs of abatement from the violator and the property owner in accordance with the City of Rio Dell's Abatement of Nuisances code, Rio Dell Municipal Code Title VIII, Chapter 10.

This section shall not serve to limit any other legal remedies or actions that the City of Rio Dell may have to address violations of this chapter.

A violation of this chapter is grounds for revocation of a Tobacco Retailer's License.

Further, a violation of this chapter is grounds for revocation of a business license.

**9.30.050**

**SEVERABILITY.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations. The Board of Supervisors hereby declares that it would have adopted this chapter irrespective of the invalidity of any portion thereof and intends that the invalid portions should be severed, and the balance of the chapter enforced.

**I HEREBY CERTIFY** that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on June 3, 2025, and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on June 17, 2025, by the following vote:

AYES:           None  
NOES:               None  
ABSENT:       None  
ABSTAIN:       None

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Debra Garnes, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 417-2025 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on June 17, 2025.

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Karen Dunham, City Clerk, City of Rio Dell