

STAFF REPORT

City Council Study Session

DATE: October 6, 2025

TO: Honorable Mayor and City Council Members

FROM: Amy Nilsen, City Manager

SUBJECT: Study Session #2: Nitrous Oxide and Tobacco Retail License

STAFF RECOMMENDATION:

1. Receive a presentation from City staff and County of Humboldt Public Health staff on a Nitrous Oxide and Tobacco Retail License ordinances; and
2. Consider directing the City Manager to return to the City Council with an ordinance banning Nitrous Oxide and further action on a Tobacco Retail License Ordinance.

DISCUSSION:

The City Council received a Nitrous Oxide presentation by the County of Humboldt Public Health staff on August 18, 2025. The City Council directed staff to return with another presentation. As a result of a May 22, 2024 fatal vehicle vs. pedestrian accident in Eureka where the driver was using or had very recently used nitrous oxide and was impaired as a result, causing the fatal accident, many local jurisdictions have taken action to ban nitrous oxide.

At this time, the below is a list of actions taken by local jurisdictions.

- County of Humboldt - Unincorporated County: Nitrous Oxide ordinance and TRL amendment (revocation of tobacco license for selling NO) were adopted on June 3, 2025 and took effect on July 3, 2025
- Arcata: Nitrous Oxide ordinance was adopted on June 4, 2025 and took effect in July
- Rio Dell: Nitrous Oxide ordinance adopted on June 17, 2025 and took effect in July.
- Ferndale: Nitrous Oxide ordinance adopted July 16, 2025 and took effect in August.
- Eureka: Introduction (first reading) of the Nitrous Oxide ordinance and Tobacco Retail Licensing (TRL) ordinance planned for end of October.

Staff have also been approached by the County of Humboldt to enact a Tobacco Retail License Ordinance since the County adopted such an ordinance on July 11, 2023 for unincorporated Humboldt County. The purpose of this ordinance is to reduce the availability of tobacco for youth in the community and enforce local, state and federal tobacco laws.

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 across Humboldt County, 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.

Tobacco retail licenses are issued at the state level through the California Department of Tax and Fee Administration. Many counties and cities also have local ordinances requiring a license to sell tobacco products. In California, at least 219 cities and counties have local tobacco retail licensing ordinances. These ordinances help to provide the local structure for enforcement, as well as funding for tobacco retailer education and compliance checks.

FISCAL IMPACT:

Receiving a presentation on Nitrous Oxide and the Tobacco Retail License has minimal financial impact since the costs of staff time has already been budgeted for Fiscal Year 2025-26. Should the City Council direct the development of a Nitrous Oxide ban and a Tobacco Retail License it is anticipated the ordinance would not have a significant financial impact on the City’s budget. Any enforcement activities will be incorporated into existing code enforcement and public safety operations.

RECOMMENDED COUNCIL ACTION:

1. Receive staff presentation and review Council questions with staff;
2. Receive public comment; and
3. Consider directing the City Manager to return to the City Council with an ordinance banning nitrous oxide and a Tobacco Retail License ordinance. Voice Vote.

ATTACHMENTS:

Attachment A – Fortuna Recreational Nitrous Oxide Presentation
Attachment B – Approved Countywide Nitrous Oxide Retail Analysis
Attachment C – Eel River Valley Nitrous Oxide Report
Attachment D – Tobacco Retail License Matrix