



Agenda Report

Fullerton City Council

MEETING DATE: NOVEMBER 18, 2025

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: JON RADUS, CHIEF OF POLICE

PREPARED BY: PEDRAM GHARAH, POLICE CAPTAIN
LAUREN PARKHOUSE, SENIOR ADMINISTRATIVE ANALYST

SUBJECT: FULLERTON MUNICIPAL CODE UPDATE TO ADD CHAPTER 7.14 PROHIBITING UNLAWFUL SALE AND DISTRIBUTION OF NITROUS OXIDE IN THE CITY

SUMMARY

An ordinance updating the Fullerton Municipal Code to prohibit unlawful sale and distribution of nitrous oxide in Fullerton.

PROPOSED MOTION

Introduce Ordinance No. XXXX for first reading by title only and waive further reading of the ordinance.

ORDINANCE NO. XXXX - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ADDING CHAPTER 7.14 (PROHIBITION ON SALE OR DISTRIBUTION OF NITROUS OXIDE) TO FULLERTON MUNICIPAL CODE TITLE 7 (PUBLIC SAFETY AND MORALS) TO PROHIBIT UNLAWFUL SALE AND DISTRIBUTION OF NITROUS OXIDE IN THE CITY

ALTERNATIVE OPTIONS

- Approve the Proposed Motion
- Other options brought by City Council.

STAFF RECOMMENDATION

Staff recommends the proposed motion.

CITY MANAGER REMARKS

None.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement:

- Public Safety.

FISCAL IMPACT

No fiscal impact associated with this action.

BACKGROUND AND DISCUSSION

The Police Department proposed this ordinance in response to City Council and community concerns about the increasing misuse of nitrous oxide for recreational purposes which poses risks to public health and safety. This ordinance would bring the City on par with other regional jurisdictions who have adopted similar ordinances and aid in preserving and protecting public health. Nitrous oxide, commonly known as “laughing gas”, “nox” or “whippets” is a colorless, odorless gas legitimately used in medical, dental, industrial and food production settings. The recreational misuse and abuse of nitrous oxide, due to its intoxicating effects, has surged regionally and within Fullerton, driven by affordability and accessibility through retail vendors who sell the nitrous oxide due to loopholes in existing law. Medical studies highlight significant health risks associated with the recreational misuse of nitrous oxide. Nitrous oxide poses a growing threat to public safety in Fullerton.

Fullerton saw a concerning rise in nitrous oxide related activity between January 2020 and October 2025, posing increasing risks to public safety. Arrests associated with nitrous oxide offenses grew by 328% from 2020 to 2025, reflecting the need for enhanced enforcement efforts alongside the growing prevalence of abuse. Additionally, traffic collisions involving nitrous oxide have increased by 700%. The City experienced one overdose death likely associated to nitrous oxide since 2020. The continued escalation of these incidents underscores the need for targeted prevention and enforcement at the point of sale to address the public health and safety impacts of nitrous oxide abuse in Fullerton.

NOS Related	2020	2021	2022	2023	2024	2025
Arrests	32	48	71	146	152	137
DUI's	2	2	2	1	1	4
Traffic Collisions	2	4	7	6	11	16
Overdoses					1	

California Penal Code Section 381 regulates the possession and sale of nitrous oxide, including:

- Penal Code Section 381b: Illegal to possess nitrous oxide with the intent to breathe, inhale or ingest the substance to get intoxicated.
- Penal Code Section 381c: Illegal to sell, furnish, administer, distribute or give away nitrous oxide, or offer to do so, to a person under 18 years of age.

- Penal Code Section 381e: requires a person dispensing or distributing nitrous oxide to keep records of each transaction, available for inspection to law enforcement and employees of the California State Board of Pharmacy.
- Penal Code Section 381d: a person who dispenses or distributes nitrous oxide to any person, and knows or should know that the person to whom they are dispensing or distributing nitrous oxide intends to breathe, inhale or ingest the substance, is guilty of a misdemeanor if that person causes great bodily injury or death to themselves or another person.

The recreational misuse and abuse of nitrous oxide continues despite existing state law. The City does not currently regulate nitrous oxide sales. In the absence of such regulation, nitrous oxide remains available for misuse through sales to individuals who intend to misuse the product. Local nitrous oxide regulation would preserve and protect public health by dissuading sellers of nitrous oxide products from selling to individuals whom they know, or have reason to know, intend to use the product for illegal purposes.

The proposed ordinance would prohibit any person to sell, 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 any quantity of nitrous oxide. The ordinance would not apply in the following exempt circumstances:

- if the nitrous oxide is contained in a food product for use as a propellant
- if the nitrous oxide or device is sold, attempted to be sold, offered or distributed in a wholesale capacity. "Wholesale capacity" means sale of or distribution of nitrous oxide or a device to dispense nitrous oxide to a person that will use nitrous oxide or the device in service or products for resale. Examples include, but not limited to, commercial sale of dentistry supplies to dentists or dentistry offices, commercial nitrous oxide devices sale for use in food production or in a commercial kitchen and/or commercial sale to produce food products for commercial sale (e.g., whipped cream canisters). This exemption only applies if the wholesaler does not know or have reason to know that the recipient intends to use the nitrous oxide or device in violation of FMC 7.14.20
- if the nitrous oxide or device sold, attempted to be sold, offered or distributed is specifically designed to enhance vehicle performance
- if the nitrous oxide sold, attempted to be sold, offered or distributed specifically for 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
- if the nitrous oxide or device sold, attempted to be sold, offered, distributed or dispensed by a pharmacist, pharmacist intern or pharmacy as defined by California Business and Professions Code Sections 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
- any other circumstances explicitly exempted under law.

Any person who violates this Fullerton Municipal Code chapter is guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than one thousand dollars or by imprisonment in the County Jail for a period of not more than six months or by both such fine and imprisonment. Each day any violation of any said provision of this chapter shall continue shall constitute a separate offense.

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Draft Ordinance No. XXXX

cc: Interim City Manager Eddie Manfro