



1           WHEREAS, restricting the sale and distribution of Nitrous Oxide within the City of  
2 Riverside will close the loopholes in state law and reduce its availability for illicit use, thus  
3 promoting the health, safety, and welfare of the community; and

4           WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

5           The City Council of the City of Riverside does ordain as follows:

6           Section 1:     The City Council finds that all the recitals, facts, and conclusions set forth  
7 above in the preamble of this Ordinance are true and correct.

8           Section 2:     Section 6.24.080 of the Riverside Municipal Code is amended as follows:  
9 “Section 6.24.080   Other requirements and prohibitions.

10          A. *Lawful business operation.* In the course of tobacco retailing or in the operation of the business or  
11 maintenance of the location for which a permit is issued, it shall be a violation of this chapter for a  
12 permit holder, or any of the permit holder's agents or employees, to:

13           1. Violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia,  
14 or tobacco retailing;

15           2. Violate any local, state, or federal law regulating exterior, storefront, window, or door  
16 signage.

17           3. Engage in the sales of any nitrous oxide or device as defined in RMC section 9.04.225.

18           4. Engage in the sales of any kratom or kratom products as defined in RMC section 9.04.235.

19          ...”

20           Section 3:     Section 9.04.225 of the Riverside Municipal Code is added as follows:

21          “Section 9.04.225   Prohibition on sale or distribution of nitrous oxide.

22          A.   Definitions.

23          For purposes of this section, the following definitions apply:

24           1. “Device” means any cartridge, compressed gas cylinder, apparatus, container, balloon,  
25           attachment, nozzle, or other object used to contain, dispense or administer nitrous oxide.

26           2. “Nitrous Oxide” means the colorless, nonflammable gas sometimes identified as N2O,  
27           which can be used in aerosols and as an anesthetic in dentistry, and when inhaled, produces  
28           a loss of sensibility to pain, often preceded by exhilaration and laughter. Nitrous Oxide is  
              often referred to as “laughing gas,” “NOX,” “galaxy gas,” “whippits,” among others.

1           3. "Person" means any individual, partnership, corporation, limited liability company,  
2           association, or any other group or legal entity, however constituted or organized.

3           4. "Wholesale capacity" means sale of or distribution of Nitrous Oxide and/or devices to  
4           a person that will use the Nitrous Oxide or device in service or products for resale.  
5           Examples include, but are not limited to, commercial sales to medical or dental offices,  
6           commercial sales for use in food production or in commercial kitchens, and/or  
7           commercial sales of nitrous oxide for the purpose of producing food products (e.g.,  
8           whipped cream canisters).

9           B. Prohibition of Sale or Distribution of Nitrous Oxide.

10          Except as otherwise authorized by law or allowed under section, it is unlawful for any person to  
11          sell, attempt to sell, offer, distribute or otherwise provide to any person Nitrous Oxide, a device to  
12          dispense or administer Nitrous Oxide, or any device that contains any quantity of Nitrous Oxide.

13          C. Exceptions to Prohibition.

14          This section does not apply to the sale, attempted sale, distribution, or other manner of providing  
15          Nitrous Oxide, or a device containing Nitrous Oxide, in the following circumstances:

- 16           1. The Nitrous Oxide is contained in a food product for use as a propellant.  
17           2. The Nitrous Oxide or device is being sold, attempted to be sold, offered, or distributed in  
18           a wholesale capacity, for uses similar to those described in subsection A.4.  
19           3. The Nitrous Oxide or device that is being sold, attempted to be sold, offered, or  
20           distributed is specifically designed for use in a vehicle to enhance the performance of  
21           the vehicle, sold by a licensed retailer, and is flavorless.  
22           4. The Nitrous Oxide is being sold, attempted to be sold, offered, or distributed specifically  
23           for the purpose of providing medical or dental care, by or at the direction and under the  
24           supervision of, a medical or dental practitioner licensed by the State of California and in  
25           accordance with all applicable rules and regulations.  
26           5. The Nitrous Oxide or device is being sold, attempted to be sold, offered, distributed, or  
27           dispensed by a pharmacist, pharmacist intern, or pharmacy as defined by California  
28           Business & Professions Code §§ 4030, 4036, and 4037, as may be amended, in the course

1 of their duties as a pharmacist or pharmacist intern, or wholesalers licensed by the  
2 Board of Pharmacy.

3 6. Any other circumstances exempted under law.

4 Any sales or distributions of Nitrous Oxide contemplated under this section shall comply with all  
5 documentation requirements set forth in California Penal Code §381e.

6 D. Violations and Penalties.

7 1. Any person who violates this chapter is guilty of a misdemeanor and upon conviction  
8 thereof may be punished by a fine of not more than one thousand dollars (\$1,000) or by  
9 imprisonment in the County Jail for a period of not more than six (6) months or by both  
10 such fine and imprisonment. Each day any violation of any said provision of this chapter  
11 shall continue shall constitute a separate offense.

12 2. Alternatively, violations may be addressed by administrative citations as set forth in  
13 RMC Chapter 1.17 (Administrative Code Enforcement Remedies), Sections 200-430,  
14 Title 1 of this Code.

15 3. A violation of this section is grounds for revocation of a Tobacco Retail Establishment  
16 Permit pursuant to RMC Chapter 6.24, Title 6 of this Code.

17 4. Use of criminal enforcement and/or administrative citations shall not prevent or  
18 preclude the City from seeking injunctive relief and civil penalties in court for violation  
19 of this article. This section shall not serve to limit any other legal remedies or actions  
20 that the City may have to address violations of this section.”

21 Section 4: The City hereby finds that this ordinance is not subject to review under the  
22 California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060,  
23 subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical  
24 change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in  
25 question may have a significant effect on the environment). In addition to the foregoing general  
26 exemptions, the City Council further finds that this ordinance is categorically exempt from review  
27 under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of  
28 the environment), CEQA Guidelines section 15308.

