

ORDINANCE NO. 278

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CANYON LAKE, CALIFORNIA, ADDING CHAPTER 11.91 TO THE CANYON LAKE MUNICIPAL CODE REGARDING THE REGULATION OF NITROUS OXIDE

WHEREAS, Nitrous Oxide, commonly known as “laughing gas,” is a colorless, nonflammable gas used in medical, industrial, automotive, and food preparation settings, yet its misuse presents significant health and safety risks; and

WHEREAS, the recreational use of Nitrous Oxide has been linked to serious health consequences, including physical illness, neurological harm, mental health impacts, injury, and death; and

WHEREAS, although Nitrous Oxide has legitimate commercial, culinary, medical, dental, and automotive uses, it is also subject to misuse and abuse as an intoxicating substance; and

WHEREAS, Nitrous Oxide products and devices may be purchased from retail vendors and, absent local regulation, remain susceptible to sale or distribution to persons intending unlawful misuse; and

WHEREAS, the City Council of the City of Canyon Lake desires to regulate the sale and distribution of Nitrous Oxide in order to protect the public health, safety, and welfare and to deter the sale or distribution of Nitrous Oxide products for unlawful inhalation or other unlawful purposes; and

WHEREAS, the City Council finds that adoption of this Ordinance is a proper exercise of the City’s police powers to protect the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CANYON LAKE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference. The City Council expressly finds that the facts set forth in the recitals constitute the facts establishing the urgency for adoption of this Ordinance.

Section 2. **Findings and Purpose.** The City Council finds that Nitrous Oxide misuse presents significant risks to the public health, safety, and welfare. Nitrous Oxide is capable of lawful use in food preparation, medical and dental settings, and certain commercial and automotive applications. However, the City Council further finds that Nitrous Oxide is also subject to recreational misuse and abuse, and that local regulation is necessary to reduce its availability for unlawful use and to protect the community.

Section 3. **Municipal Code Amendment.** Chapter 11.91 of the Canyon Lake Municipal Code is hereby added to read as follows:

CHAPTER 11.91
REGULATION OF NITROUS OXIDE

11.91.010 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

“Device” means any cartridge, compressed gas cylinder, apparatus, container, balloon, attachment, nozzle, or other object used to contain, dispense, or administer Nitrous Oxide.

“Nitrous Oxide” means the colorless nonflammable gas sometimes identified as N₂O, which is sometimes used in aerosols and sometimes used as an anesthetic, and which, when inhaled, produces loss of sensibility to pain, often preceded by exhilaration and laughter. Nitrous Oxide is often informally or colloquially referred to as “laughing gas,” “NOX,” “galaxy gas,” and “whippits,” among others.

“Person” means any individual or legal entity however constituted or organized.

“Wholesale capacity” means the sale or distribution of Nitrous Oxide, or a device to dispense or administer Nitrous Oxide, to a person or entity that will use the Nitrous Oxide or device in services or products for resale or in a lawful commercial, medical, dental, industrial, automotive, or culinary operation. Examples include, but are not limited to, commercial sale of dentistry supplies to dentists or dentistry offices, commercial sale of devices for use in food production or in a commercial kitchen, and commercial sale of Nitrous Oxide for the purpose of producing food products for commercial sale, including whipped cream canisters.

11.91.020 Prohibition on Sale or Distribution of Nitrous Oxide.

Except as otherwise authorized by law or allowed under this Chapter, it is unlawful for any Person to sell, attempt to sell, offer for sale, distribute, furnish, provide, or otherwise transfer to any Person Nitrous Oxide, a device to dispense or administer Nitrous Oxide, or any device that contains any quantity of Nitrous Oxide.

11.91.030 Exemptions to Prohibitions.

This Chapter does not apply to the sale, attempted sale, offer for sale, distribution, furnishing, provision, or other transfer of Nitrous Oxide, or a device containing, dispensing, or administering Nitrous Oxide, in any of the following exempt circumstances:

- A. The Nitrous Oxide is contained in a food product for use as a propellant.
- B. The Nitrous Oxide or device is sold, attempted to be sold, offered for sale, distributed, furnished, provided, or otherwise transferred in a wholesale capacity for lawful commercial, medical, dental, industrial, automotive, or culinary purposes. This exemption shall not apply if the seller, distributor, or provider knows or has reason to know that the recipient intends to use the

Nitrous Oxide or device in violation of California Penal Code section 381b or any other applicable law.

C. The Nitrous Oxide or device is specifically designed for use in a vehicle to enhance the performance of the vehicle, is sold by a licensed retailer, and is flavorless.

D. The Nitrous Oxide is sold, attempted to be sold, offered for sale, distributed, furnished, provided, or otherwise transferred specifically 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 laws, rules, and regulations.

E. The Nitrous Oxide or device is sold, attempted to be sold, offered for sale, distributed, furnished, provided, or otherwise transferred by a pharmacist, pharmacist intern, or pharmacy, as those terms are defined by the California Business and Professions Code, as may be amended, in the course of lawful pharmacy duties, or by wholesalers licensed by the California State Board of Pharmacy.

F. Any other circumstance exempted under state or federal law.

Any sale, distribution, furnishing, provision, or transfer of Nitrous Oxide contemplated under this section shall comply with all applicable documentation, recordkeeping, and transaction requirements set forth in California Penal Code section 381e, as may be amended, and any other applicable law.

11.91.040 Product Seizure, Evidence, and Disposal.

A. Any Nitrous Oxide, device to dispense or administer Nitrous Oxide, device that contains any quantity of Nitrous Oxide, package, container, advertisement, record, document, or other item that is sold, offered for sale, provided, distributed, furnished, possessed for sale, marketed, labeled, displayed, stored, or maintained in violation of this Chapter may be seized, impounded, held as evidence, or otherwise handled in accordance with applicable law.

B. Any item seized pursuant to this Chapter shall be handled in accordance with applicable law enforcement, code enforcement, evidentiary, property, and due process requirements, including any applicable requirements governing notice, storage, retention, release, forfeiture, destruction, or disposal.

C. Upon a final administrative, civil, or criminal determination that any seized item violates this Chapter, or upon other lawful authorization, such item may be destroyed or otherwise disposed of in a manner approved by the Chief of Police or designee and consistent with applicable law.

D. Nothing in this section limits, supersedes, or restricts the authority of any peace officer, code enforcement officer, or other authorized enforcement official to seize contraband, evidence, or other property pursuant to any other provision of this Code, state law, federal law, warrant, court order, consent, exigent circumstance, or other lawful authority.

11.91.050 Business License and Permit Remedies.

A. A violation of this Chapter may constitute grounds for denial, suspension, revocation, or nonrenewal of any City business license, business tax certificate, permit, entitlement, approval, or other City authorization held by or requested by the violator, to the extent authorized by this Code and applicable law.

B. To the extent authorized by this Code and applicable law, the City may withhold issuance or renewal of a City business license, business tax certificate, permit, entitlement, approval, or other City authorization for any business, responsible party, or property where violations of this Chapter have occurred until the violations are corrected and all final penalties, fines, administrative citations, abatement costs, storage costs, disposal costs, and other recoverable costs have been paid.

C. Any denial, suspension, revocation, nonrenewal, or withholding of a City business license, business tax certificate, permit, entitlement, approval, or other City authorization pursuant to this section shall be carried out in accordance with all applicable notice, hearing, appeal, and due process requirements under this Code and applicable law.

11.91.060 Cost Recovery.

A. The City may recover all costs reasonably incurred in investigating, enforcing, prosecuting, and abating violations of this Chapter, including, but not limited to, staff time, inspection costs, enforcement costs, administrative costs, attorneys' fees where authorized by law, abatement costs, storage costs, disposal costs, and any other costs recoverable under this Code or applicable law.

B. Costs recoverable under this section may be recovered through any procedure authorized by this Code or applicable law, including administrative proceedings, civil action, nuisance abatement proceedings, collection against a responsible party, or any other lawful method.

C. Recovery of costs pursuant to this section shall be cumulative and shall not limit the City's ability to pursue any other remedy, penalty, fine, fee, charge, lien, assessment, or enforcement mechanism authorized by this Code or applicable law.

11.91.070 Violations and Enforcement.

A. Any Person violating any provision of this Chapter may be charged as a misdemeanor or an infraction, at the discretion of the City Attorney or other official authorized by law. In the event a misdemeanor charge is filed, the City Attorney is authorized, to the extent permitted by law, to reduce the charge to an infraction.

B. In addition to, or in lieu of, criminal enforcement, violations of this Chapter may be enforced by administrative citation, civil action, injunctive relief, nuisance abatement, business license or permit remedies, cost recovery, or any other administrative, civil, or criminal remedy authorized by this Code or applicable law.

C. A violation of this Chapter may be punished as a misdemeanor by a fine not exceeding one thousand dollars, by imprisonment in the County jail for a period not exceeding six months, or by both such fine and imprisonment, to the extent permitted by law. A violation charged as an infraction shall be punishable as provided by law.

D. Each day that a violation continues shall constitute a separate offense.

E. The remedies provided in this Chapter are cumulative and not exclusive. Nothing in this Chapter shall be construed to limit any other remedy, penalty, or enforcement authority available to the City under this Code or applicable law.

Section 4. **Clerical Errors.** The City Council directs the City Clerk to correct any clerical errors found in this Ordinance, including, but not limited to, typographical errors, irregular numbering, and incorrect section references.

Section 5. **Severability.** Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid, unenforceable, or unconstitutional.

Section 6. **Effective Date.** This Ordinance shall take effect and be in force thirty (30) days from passage and adoption.

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Section 7. Publication. The City Clerk shall cause the Ordinance or a summary thereof to be published in accordance with state law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2026, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Jeremy Smith, Mayor

ATTEST & CERTIFIED:

I, Sheryl Garcia, City Clerk of the City of Canyon Lake, hereby attest to the Mayor’s signature above and certify that the City Council duly adopted this Ordinance as recorded in the vote tally stated herein.

Sheryl L. Garcia, MMC, CPM
City Clerk

APPROVED AS TO FORM:

Steven Pacifico, City Attorney