



IMPORTANT NOTICE

Date: September 17, 2026

Re: New Restrictions on the Retail Sale and Distribution of Nitrous Oxide

Dear Retailer:

On September 15, 2026, the Sonoma County Board of Supervisors adopted Ordinance No. 6572, adding Article VII to Chapter 14 of the Sonoma County Code. The ordinance restricts the retail sale, distribution, and offer of nitrous oxide (“N₂O”) and related devices in the unincorporated areas of Sonoma County.

The ordinance is intended to reduce access to N₂O products susceptible to recreational inhalation while preserving legitimate medical, dental, commercial, industrial, research, automotive, and food-production uses. It supplements, and does not replace, existing state and federal laws governing N₂O.

The ordinance takes effect October 15, 2026. This letter provides notice of the new requirements so that retailers can bring their businesses into compliance before that date.

The ordinance takes effect October 15, 2026.

Where the ordinance applies

The ordinance applies to all persons and businesses engaged in covered retail sales within the unincorporated areas of Sonoma County. It applies whether or not a business holds a Sonoma County Tobacco Retail License. It does not apply within an incorporated city unless that city independently adopts its own ordinance.

This notice is being provided to tobacco retailers because County inspections have documented N₂O products offered for sale at some businesses that also sell tobacco products. Selling tobacco products is one factor the County may consider when evaluating the circumstances of an N₂O sale, but it does not, by itself, establish a violation.

What the ordinance prohibits

Unless one of the exceptions applies, the ordinance prohibits the retail sale, distribution, offer, or other provision to a consumer for personal use of:

- N₂O in cartridges, cylinders, or other forms; and

- Any cartridge, compressed-gas cylinder, apparatus, container, attachment, nozzle, or other device designed to contain, dispense, or administer N₂O, including whipped-cream chargers and similar cartridges.

Because the ordinance covers an **offer** of a prohibited product, a business may violate the ordinance by continuing to display or offer a prohibited product for retail sale.

Exceptions for lawful uses

The ordinance contains limited exceptions, including:

- Finished, factory-sealed food or beverage products containing N₂O solely as a propellant or preservative;
- Qualifying food-grade N₂O cartridges sold solely for food or beverage preparation;
- Certain wholesale transactions to businesses for lawful commercial operations;
- Products specifically designed and labeled for vehicle performance;
- Authorized medical, dental, pharmacy, and pharmaceutical distribution;
- Qualifying research and development uses; and
- Other circumstances exempted under state or federal law.

Whether an exception applies depends on the product, the purchaser, the intended use, and the circumstances of the particular transaction. Ordinary retail counter sales to individual consumers generally will not qualify for exceptions intended for wholesale, commercial, medical, dental, automotive, pharmacy, or research uses.

Requirements for food-grade N₂O cartridges

A cartridge or container qualifies as a “Food Grade N₂O Cartridge” only if it is factory sealed, intended solely for food or beverage preparation, and:

1. Complies with applicable food-grade purity standards, as certified by the manufacturer;
2. Is not flavored or marketed in a manner suggesting recreational inhalation; and
3. Is clearly and conspicuously labeled for food or beverage preparation only and not for inhalation.

Labeling alone is not sufficient to establish that a product is intended solely for food or beverage preparation when other circumstances indicate recreational use.

Retailers relying on this exception should maintain documentation showing that the product satisfies these requirements, including the manufacturer’s certification of compliance with applicable food-grade purity standards.

Separate dispensing devices

The exception for a Food Grade N₂O Cartridge does not automatically exempt a separate dispenser, apparatus, nozzle, or other device designed to contain, dispense, or administer N₂O. Unless another exception applies, the retail sale or offer of such a device to an individual consumer for personal use is prohibited.

Factors relevant to recreational inhalation

When determining whether a seller knew or had reason to know that N₂O or a related device would be used for unlawful recreational inhalation, the County may consider factors including:

- Whether the business engages in the sale of tobacco products;
- Product packaging or advertising that promotes inhalation or euphoric effects;
- Flavoring, cartoon imagery, candy references, or other marketing reasonably likely to appeal to minors;
- Sale of N₂O in combination with balloons, inhalation masks, crackers, or similar accessories commonly associated with recreational inhalation;
- Statements or conduct by a purchaser indicating intended recreational use;
- The quantity, frequency, or circumstances of the sale; and
- Other circumstances reasonably indicating unlawful recreational use.

The County may evaluate these factors together with all other relevant evidence. The sale of tobacco products, standing alone, does not establish an N₂O violation.

Large quantities of N₂O

Unless an exception applies, possession of any of the following creates a rebuttable presumption that the person is attempting to sell or distribute N₂O in violation of the ordinance:

- A refillable or disposable N₂O cylinder with a net content of six pounds or more;
- A total of 200 or more standard eight-gram N₂O cartridges; or
- An equivalent amount of N₂O.

The presumption may be rebutted by credible evidence of lawful use or an applicable exception.

Wholesale transactions

The wholesale exception is limited to sales or distributions to a business entity for use in its lawful business operations and solely for a purpose exempted under the ordinance. The seller must not know or have reason to know that the recipient intends to violate the ordinance.

A person relying on the wholesale exception must:

- Maintain records—such as invoices, resale certificates, or purchase orders—demonstrating the lawful commercial purpose of the transaction;

- Keep those records for at least two years;
- Maintain the records at the business location or a designated business office; and
- Make the records available for inspection within a reasonable time upon lawful request by authorized County personnel.

Additional requirements for Tobacco Retail License holders

Compliance with the N₂O ordinance is a condition of maintaining a Sonoma County Tobacco Retail License.

A violation of the ordinance by a license holder—or by its agents or employees acting within the course and scope of their employment—also constitutes a violation of Chapter 32A and provides an independent basis for suspension, revocation, nonrenewal, administrative penalties, or other enforcement action authorized under Chapter 32A.

For purposes of Chapter 32A's progressive enforcement provisions, an N₂O ordinance violation will be counted as a violation occurring at the licensed location.

What retailers should do before October 15, 2026

Before the ordinance takes effect, retailers should:

- Review all N₂O products and related devices currently displayed, offered, distributed, or sold by the business;
- Review product packaging, labeling, advertising, placement, and accompanying accessories;
- Determine whether each product and transaction qualifies for a specific exception under the ordinance;
- Obtain and retain documentation supporting any exception on which the business intends to rely;
- Remove from display and discontinue the offer, sale, and distribution of any product or device that does not qualify for an exception; and
- Train employees on the ordinance's requirements before the effective date.

Inspections

Authorized County officials may inspect a business subject to the ordinance during regular business hours for the limited purpose of determining compliance with the ordinance and applicable licensing requirements.

A Sonoma County Tobacco Retail License holder must permit compliance inspections, as authorized by Chapter 32A, of all areas of the licensed premises during business hours. Failure to provide or arrange for access for an authorized inspection or investigation may itself constitute a violation of Chapter 32A.

Enforcement and penalties

Violations may be addressed through criminal, civil, administrative, nuisance-abatement, or Tobacco Retail License enforcement. These remedies are cumulative and may be pursued independently or concurrently, as authorized by law.

Available enforcement remedies include:

- Misdemeanor prosecution, punishable by a fine of up to \$1,000, imprisonment in the County Jail for up to six months, or both;
- Civil penalties of up to \$1,000 per violation;
- Administrative citations and penalties;
- Suspension, revocation, or nonrenewal of a Tobacco Retail License;
- Injunctive or other equitable relief; and
- Seizure, impoundment, or abatement of N₂O, devices, or related items possessed, offered, sold, or distributed in violation of the ordinance, pursuant to applicable law and nuisance-abatement procedures.

Each day that a violation continues may constitute a separate violation.

Questions and ordinance materials

Questions about the ordinance or its application may be directed to:

Carley Moore
Tobacco-Nicotine Prevention Program
Carley.Moore@sonomacounty.gov
(707) 565-6680

The complete ordinance, including all definitions, exceptions, and enforcement provisions, is enclosed and is available with the Board materials at:

Sonoma County Board File No. 2026-0950

Thank you for your attention to these requirements and for your cooperation.

Sincerely,

Terese Voge

Terese Voge, MPA
Health Program Manager
Tobacco-Nicotine Prevention & Compliance Program
Sonoma County Department of Health Services

Attachments: Nitrous Oxide Ordinance No. 6572. Please note translation is available on the [Muni Code website](#) located on the upper right of the screen. The ordinance will take a few weeks to post on the web.

https://library.municode.com/ca/sonoma_county/codes/code_of_ordinances.