

ORDINANCE NO. 25-__

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA ADDING
DIVISION 20 TO TITLE 3 OF THE CODIFIED ORDINANCES OF THE
COUNTY OF ORANGE REGARDING RESTRICTIONS ON THE SALE,
DISTRIBUTION, AND POSSESSION OF KRATOM

The Board of Supervisors of the County of Orange, California ordains as follows:

SECTION 1.

WHEREAS, it is the intent of the Board of Supervisors to prohibit the sale, distribution, or possession of kratom and 7-hydroxymitragynine products within unincorporated Orange County that contain more than 2% of 7-hydroxymitragynine in the alkaloid fraction, recognizing the significant health risks associated with elevated concentrations of this alkaloid; and

WHEREAS, kratom (*Mitragyna speciosa*) is a tropical tree native to Southeast Asia, and its leaves are often consumed in powdered or extract form for their stimulant and sedative effects; and

WHEREAS, the active compounds in kratom include mitragynine and 7-hydroxymitragynine. While mitragynine is present in higher concentrations, 7-hydroxymitragynine is more potent and is largely responsible for the stronger pain-relieving, sedative, and euphoric effects; and

WHEREAS, 7-hydroxymitragynine binds to opioid receptors in the brain and has been shown to have euphoric and mood-enhancing effects, particularly at higher doses, which can increase its appeal for recreational use; and

WHEREAS, 7-hydroxymitragynine is believed to be more potent than morphine in terms of pain relief. Research has shown that it binds to opioid receptors in the brain with greater affinity than morphine, making it significantly more powerful in relieving pain. This greater potency raises significant concerns about its safety profile, especially regarding the potential for addiction, overdose, and adverse physical and psychological effects, including nausea, vomiting, and potential psychosis. These risks are compounded when products contain higher concentrations of 7-hydroxymitragynine; and

WHEREAS, scientific research and health advisories have raised concerns over the safety of kratom products, particularly those with higher concentrations of 7-hydroxymitragynine, which may increase the potential for abuse and harm to public health; and

WHEREAS, several cities in California have taken steps to regulate or ban kratom products, recognizing the need to protect public safety, especially among vulnerable populations. For example, Newport Beach, San Diego, and Oceanside have all enacted a complete ban on the sale, distribution, and possession of all kratom products – irrespective of the concentration of 7-hydroxymitragynine content; and

WHEREAS, the Board of Supervisors of Orange County is committed to safeguarding the health and well-being of its residents by ensuring that products available for sale do not pose undue health risks; and

WHEREAS, it the Board of Supervisors wishes to restrict the sale and distribution of kratom and 7-7-hydroxymitragynine products containing more than 2% of 7-hydroxymitragynine in the alkaloid fraction, thereby reducing potential risks to public health and safety.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE DOES ORDAIN TO ADD DIVISION 20 TO TITLE 3 OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE.

SECTION 2. Division 20 is added to Title 3 of the Codified Ordinances of the County of Orange to read as follows:

Division 20. KRATOM

Sec. 3-20-1 Authority and Purpose.

This article is enacted pursuant to the County's plenary police powers to protect public safety, health and welfare. The express purpose of this article is to protect public health and safety by regulating access to kratom productions containing more than 2% of 7-hydroxymitragynine in the alkaloid fraction.

Sec. 3-20-2 Definitions.

For purposes of this article, the following definitions apply.

(a) "7-OH product" means a product containing 7-hydroxymitragynine.

(b) "Attractive to children" means any of the following:

(1) Use of images that are attractive to children, including, but not limited to, images of any of the following, except as part of required health warnings:

(A) Cartoons, toys, or robots.

(B) Any real or fictional humans.

(C) Fictional animals or creatures.

(D) Fruits or vegetables, except when used to accurately describe ingredients or flavors contained in a product.

(2) Likeness to images, characters, or phrases that are popularly used to advertise to children.

(3) Imitation of candy packaging or labeling, or other packaging and labeling of cereals, sweets, chips, or other food products typically marketed to children.

- (4) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandee
 - (5) Brand names or close imitations of brand names of candies, cereals, sweets, chips, or other food products typically marketed to children.
 - (6) Any other image or packaging that is easily confused with commercially available foods that do not contain kratom and are typically marketed to children.
 - (7) Any other packaging used that is attractive to children considering all relevant facts and circumstances.
- (c) “Kratom leaf” means the leaf of the kratom plant, also known as *mitragyna speciosa*, any form.
- (d) “Kratom leaf extract” means the material obtained by extraction of kratom leaves by any means.
- (e) “Kratom product” means a product consisting of kratom leaf, kratom leaf extract, or both.
- (f) “Total kratom alkaloids” means the sum of mitragynine, speciociliatine, speciogynine, paynantheine, and 7-hydroxymitragynine in a kratom product.

Sec. 3-20-3 Prohibition on Sale or Distribution of Kratom and 7-OH Products.

- (a) Except as otherwise authorized by law, an individual, business, or other entity shall not sell, attempt to sell, offer, provide, or distribute a kratom product or 7-OH product to a person under 21 years of age.
- (b) Except as otherwise authorized by law, an individual, business, or other entity shall not sell, attempt to sell, offer, provide, or distribute a kratom product or 7-OH product with a level of 7-hydroxymitragynine that is greater than 2 percent of the total kratom alkaloids in the product.
- (c) Except as otherwise authorized by law, an individual, business, or other entity shall not sell, attempt to sell, offer, provide, or distribute a kratom product or 7-OH product that is attractive to children.
- (d) Any individual, business, or other entity that sells, attempts to sell, offers, provides, or distributes a kratom product or 7-OH product shall conduct age-verification to ensure compliance with subdivision (a).

Sec. 3-20-4 Packaging of Kratom and 7-OH Products.

- (a) Packaging of a kratom product or a 7-OH product offered for retail sale shall be child resistant for the life of the product. Both of the following packages are considered child resistant for the purposes of this section:

- (1) A package that has been certified as child resistant under the requirements of the Poison Prevention Packaging Act of 1970 (15 U.S.C. Sec. 1471 et seq.) and any regulations promulgated pursuant to that act.
- (2) Plastic packaging that is at least four mils thick and heat sealed without an easy-open tab, dimple, corner, or flap, provided that the package maintains its child resistance throughout the life of the product.

Sec. 3-20-5 Violations and Penalties.

Any person who violates section 3-20-3 is guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for a period of not more than six (6) months or by both such fine and imprisonment. This section shall not serve to limit any other legal remedies or actions that the County may have to address violations of section 3-20-3. A violation of section 3-20-3 is grounds for a revocation of a business license, if applicable, pursuant to section 5-2-16 of the Codified Ordinances.

Sec. 3-20-6 Severability

If any section, paragraph, sentence, clause, phrase or portion of this article is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have adopted this article irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the article be enforced.

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