

ORDINANCE NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**ORDINANCE ADDING CHAPTER 4.128 TO THE SAN MATEO COUNTY
ORDINANCE CODE BANNING THE SALE AND DISTRIBUTION OF KRATOM AND
7-HYDROXYMITRAGYNINE (7-OH) PRODUCTS**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

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, kratom contains two primary alkaloids: mitragynine and 7-hydroxymitragynine (7-OH); and

WHEREAS, while 7-OH occurs naturally in small amounts in kratom leaves, manufacturers increasingly concentrate or synthesize 7-OH to produce highly potent products, such as tablets, gummies, drink mixes, and liquid extract shots, with opioid-like effects that can be significantly more potent than the effects of morphine; and

WHEREAS, the U.S. Food and Drug Administration (FDA) has issued stark warnings regarding concentrated kratom 7-OH products, noting that these “concentrated 7-OH opioid products are far more dangerous than traditional kratom leaf products” (Makary, M. A. (2025, July 29). *Letter to Colleagues regarding 7-*

hydroxymitragynine (7-OH). U.S. Food & Drug Admin. Retrieved from <https://www.fda.gov/media/187898/download?attachment>); and

WHEREAS, alarmingly, research cited by the FDA indicates that 7-OH is “13 times more potent than morphine,” while a 2025 National Institute on Drug Abuse study found that “7-OH resulted in respiratory depression at a magnitude three times more severe than morphine” (Makary, M.A. (2025, July 29). *Beware: Synthetic kratom — 7-OH — is powering a new opioid crisis*. N.Y. Post. Retrieved from <https://nypost.com/2025/07/29/opinion/beware-synthetic-kratom-7-oh-powers-a-new-opioid-crisis/>); and

WHEREAS, these products are widely sold in gas stations, smoke shops, and online retailers, often marketed as dietary supplements or wellness products; and

WHEREAS, because kratom products are largely unregulated and often lack clear labeling, consumers frequently cannot determine the potency or dosage of active ingredients; and

WHEREAS, public health officials are witnessing a nationwide surge in medical emergencies linked to enhanced kratom products, and according to the FDA Commissioner, the agency is “seeing increases in adverse events and related reports to poison control,” warning that “aside from addiction, 7-OH side effects include withdrawal symptoms, insomnia and anxiety, seizures, and fatal respiratory depression” (Makary, *Letter to Colleagues, supra*); and

WHEREAS, these products have also been found to cause nausea, vomiting, constipation, liver damage, high blood pressure, dizziness, confusion, and hallucinations, as well as more serious risks such as overdose and death, particularly when combined with alcohol, medications, or illicit drugs; and

WHEREAS, no federal law expressly bans the sale of kratom or 7-OH; however, due to the explosive popularity and high abuse potential of these products, federal regulatory agencies are already preparing to restrict them; and

WHEREAS, the FDA has confirmed it has “already issued warning letters to several firms for illegally distributing 7-OH products” and is “working alongside our partners at the [federal Drug Enforcement Agency (DEA)] to move forward with adding certain 7-OH products to the controlled substances schedules” (Makary, *Letter to Colleagues, supra*), and the DEA has listed kratom as a “Drug of Concern”; and

WHEREAS, no California state law expressly bans the sale of kratom or 7-OH; however, in October 2025, the California Department of Public Health issued a statewide consumer warning stating that kratom and 7-OH products may cause addiction, overdose, and death and are illegal to sell for human consumption in California under California’s Sherman Food, Drug, and Cosmetic Law; and

WHEREAS, because no law expressly bans the sale of kratom or 7-OH, federal and California regulatory agencies’ interpretations of existing law could be subject to legal challenge;

WHEREAS, the Board of Supervisors has a substantial interest in protecting residents in the County from the harms of kratom and 7-OH; and

WHEREAS, a ban on the sale and distribution of kratom and 7-OH is necessary to fill any potential regulatory gaps and to protect the health, safety, and welfare of San Mateo County residents from the harms of kratom and 7-OH use.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo ordains as follows:

SECTION 1. A new Chapter 4.128 is hereby added to the San Mateo County Ordinance Code to be numbered and entitled and to read as follows:

CHAPTER 4.128 KRATOM AND 7-HYDROXYMITRAGYNE (7-OH)

4.128.010 Purpose and authority.

This Chapter is enacted pursuant to the County's police powers to protect the public safety, health, and welfare, consistent with state and federal law. The purpose of this Chapter 4.128 is to advance the health, safety, and general welfare of the County of San Mateo citizens by eliminating retail access to kratom and 7-Hydroxymitragynine, natural products that can cause significant adverse health effects, including death, in humans who consume them.

4.128.020 Definitions.

For the purposes of this Chapter, the following definitions shall apply:

- (a) "7-OH product" means a product containing any detectable amount of 7-hydroxymitragynine.
- (b) "Kratom alkaloids" means any detectable amount of mitragynine, speciociliatine, speciogynine, paynantheine, 7-hydroxymitragynine, or any

natural, synthetic, or semi-synthetic alkaloid, derivative, isolate, metabolite, or structurally related constituent of *Mitragyna speciosa*.

- (c) “Kratom” or “Kratom product” means any product consisting of, or labeled or marketed as consisting of, any part of the leaf of *Mitragyna speciosa* in fresh, dehydrated, or dried form, including any extract, isolate, derivative, metabolite, or alkaloid thereof, whether natural, synthetic, or semi-synthetic, regardless of concentration. The term includes any food, dietary ingredient, supplement, tea, gummies, beverage, vaping liquid, smoking wrap, smoking accessories or paraphernalia, and any other substances intended for human consumption or inhalation that contains any part of the leaf of *Mitragyna speciosa*, or any extract, synthetic alkaloid, or synthetically derived compound of the plant or its leaf. This definition includes, but is not limited to, powders, capsules, pills, teas, gummies, beverages, vape liquids, smoke wraps, smoking accessories or paraphernalia, and any other substances intended for consumption or inhalation.
- (d) “Kratom leaf” means the leaf of the kratom plant, also known as *Mitragyna speciosa*, in any form.
- (e) “Person” means any natural person, partnership, cooperative association, limited liability company, corporation, personal representative, receiver, trustee, assignee, or any other entity.
- (f) “Synthetic alkaloid” means an alkaloid or alkaloid derivative or constituent that has been created by chemical synthesis or biosynthetic means (including but not limited to fermentation, recombinant techniques, yeast derived, enzymatic techniques), rather than traditional food preparation techniques such as heating or extracting. It also includes alkaloids that have been further exposed to chemicals or processes that would confer a structural change in the alkaloids contained within the extract.

4.128.030 Prohibition on Sale or Distribution of Kratom and 7-OH Products.

Except as otherwise authorized by law, it is unlawful for any Person to sell, attempt to sell, offer, distribute, or otherwise provide to any Person any kratom product or 7-OH product.

4.128.040 Public Nuisance.

Any violation of this Chapter is hereby declared a public nuisance, subject to all applicable civil, administrative, and criminal remedies and penalties according to the provisions and procedures contained in this Ordinance Code and state law, including,

but not limited to, an action for abatement or injunctive relief. All remedies provided herein shall be cumulative and not exclusive.

4.128.050 Enforcement.

- (a) Any Person violating, or causing the violation, of any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for a term not exceeding six (6) months, or by both such fine and imprisonment. Every day such violation continues shall constitute a separate offense.
- (b) A violation of this Chapter is grounds for revocation of a Tobacco Retailer Permit, in accordance with Section 4.98.290 of Chapter 4.98 of this Ordinance Code.
- (c) A violation of this Chapter is grounds for revocation of a license or permit to operate under Title 5 (Business Regulations) of this Ordinance Code, if applicable.
- (d) This Chapter shall not be interpreted to limit the applicable civil or administrative remedies available under law. All available enforcement procedures and remedies remain applicable including, but not limited to, administrative fines set forth in Chapter 1.40 of this Ordinance Code or other applicable law.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective 30 days from the date of adoption.

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