

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NUMBER _____

5 AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
6 FRESNO AMENDING THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY
7 ADDING NEW CHAPTER 10.72 REGULATING AND PROHIBITING THE SALE AND
8 DISTRIBUTION OF KRATOM TO MINORS IN UNINCORPORATED AREAS OF
9 FRESNO COUNTY TO A PERSON UNDER 21 YEARS OF AGE.

10 The Board of Supervisors of the County of Fresno ordains as follows:

11 **Section 1. FINDINGS.** The Board of Supervisors of the County of Fresno hereby finds
12 and declares as follows:

13 WHEREAS, it is the intent of the Board of Supervisors to prohibit the sale and
14 distribution in unincorporated areas of Fresno County, to persons under 21 years of
15 age, of kratom and other products that contain more than 2% of 7-hydroxymitragynine
16 in the alkaloid fraction, recognizing the significant health risks associated with
17 elevated concentrations of this alkaloid;

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

21 WHEREAS, the active compounds in kratom include mitragynine and 7-
22 hydroxymitragynine. While mitragynine is present in higher concentrations, 7-
23 hydroxymitragynine is very potent and is largely responsible for its strong pain-
24 relieving, sedative, and euphoric effects;

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

4 WHEREAS, the potent effects of kratom alkaloids raise significant concerns
5 about its safety profile, especially regarding the potential for addiction, overdose, and
6 adverse physical and psychological effects, including nausea, vomiting, and potential
7 psychosis. These risks are compounded when products contain higher
8 concentrations of 7-hydroxymitragynine;

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

13 WHEREAS, the U.S. Food and Drug Administration has issued several
14 warning letters to various companies for illegally marketing products containing
15 enhanced levels of 7-hydroxymitragynine, culminating in a formal request to the Drug
16 Enforcement Administration (DEA) on July 29, 2025, to place 7-hydroxymitragynine
17 products on the controlled substance list;

18 WHEREAS, the Board of Supervisors is committed to safeguarding the health
19 and well-being of its residents by ensuring that products available for sale do not
20 pose undue health risks to persons under the age of 21; and

21 WHEREAS, the Board of Supervisors wishes to restrict the sale and
22 distribution of kratom and other products containing more than 2% of 7-
23 hydroxymitragynine in the alkaloid fraction in unincorporated areas of Fresno County,
24 to persons under 21 years of age, thereby reducing potential risks to public health
25 and safety.

1 NOW, THEREFORE, the Board of Supervisors hereby ORDAINS as follows:

2 **SECTION 2.** The Ordinance Code of the County of Fresno is hereby amended by
3 adding a new Chapter 10.72 to read as follows:

4 Chapter 10.72 – SALE AND DISTRIBUTION OF KRATOM TO MINORS
5 PROHIBITED

6 Section 10.72.010 – Purpose and Intent.

7 Section 10.72.020 – Definitions.

8 Section 10.72.030 – Sale and distribution of kratom to minors prohibited.

9 Section 10.72.040 – Violations and Penalties.

10 Section 10.72.050 – Severability.

11 Section 10.72.010 – Purpose and Intent.

12 This Chapter is enacted pursuant to the County's plenary police powers under California
13 Constitution, Article XI, Section 7, to protect public safety, health, and welfare. The
14 express purpose of this Chapter is to protect public health and safety by regulating access
15 to kratom and other products containing more than 2% of 7- hydroxymitragynine in the
16 alkaloid fraction in unincorporated areas of Fresno County, to persons under 21 years
17 of age.

18 Section 10.72.020 – Definitions.

19 For purposes of this Chapter, the following definitions apply.

20 A. "Attractive to children" means any of the following:

- 21 1. Use of images that are attractive to children, including, but not limited to,
22 images of any of the following, except as part of required health warnings:
- 23 i. Cartoons, toys, or robots.
 - 24 ii. Any real or fictional humans.
 - 25 iii. Fictional animals or creatures.

- iv. 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 of such terms 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.
- B. "Kratom leaf" means the leaf of the kratom plant, also known as *Mitragyna speciosa*, in any form.
- C. "Kratom leaf extract" means the material obtained by extraction of kratom leaves by any means.
- D. "Kratom product" means a product consisting of or labeled as consisting of any part of a leaf of the plant *Mitragyna speciosa* in fresh, dehydrated, or dried form, or a kratom extract, or any product that contains any kratom alkaloid or metabolite.
- E. "Total kratom alkaloids" means the sum of mitragynine, speciociliatine, speciogynine, paynantheine, and 7-hydroxymitragynine in a kratom product or product described as containing 7-hydroxymitragynine or *Mitragyna speciosa*.

1 F. "Synthesized" means an alkaloid or alkaloid derivative that has been created by
2 chemical synthesis or biosynthetic means (including but not limited to;
3 fermentation, recombinant techniques, yeast derived, enzymatic techniques),
4 rather than traditional food preparation techniques such as heating or extracting.
5 It also includes alkaloids that has been further exposed to chemicals or processes
6 that would confer a structural change in the alkaloids contained within the extract.

7 Section 10.72.030 – Sale and distribution of kratom to minors prohibited.

8 A. Except as otherwise expressly authorized by law, an individual, business, or other
9 entity shall not sell, attempt to sell, offer, provide, or distribute a kratom product in
10 unincorporated areas of Fresno County to a person under 21 years of age.

11 B. Except as otherwise expressly authorized by law, an individual, business, or other
12 entity shall not sell, attempt to sell, offer, provide, or distribute any product in
13 unincorporated areas of Fresno County to a person under 21 years of age with a
14 level of 7-hydroxymitragynine that is greater than 2 percent of the total alkaloids in
15 the product.

16 C. Except as otherwise expressly authorized by law, an individual, business, or other
17 entity shall not sell, attempt to sell, offer, provide, or distribute a kratom product in
18 unincorporated areas of Fresno County that is attractive to a person under 21
19 years of age.

20 D. Except as otherwise expressly authorized by law, an individual, business, or
21 other entity shall not sell, attempt to sell, offer, provide, or distribute a kratom
22 product in unincorporated areas of Fresno County if such kratom product
23 contains a label from the manufacturer or distributor that has been removed or
24 altered to conceal or modify the existence of kratom as an ingredient or
25 component of the product.

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2 E. Any individual, business, or other entity that sells, attempts to sell, offers, provides,
3 or distributes a kratom product in unincorporated areas of Fresno County shall
4 conduct age verification to ensure compliance with this Chapter.

5 F. Any individual, business, or other entity that sells, attempts to sell, offers,
6 provides, or distributes a kratom product in unincorporated areas of Fresno
7 County shall cause all kratom products to be placed behind the counter of a retail
8 establishment and available only upon request of a lawful purchaser.

9 G. No person or entity shall offer for sale in unincorporated areas of Fresno County
10 to a person under 21 years of age any kratom product that contains or is
11 adulterated with synthesized or semi-synthesized kratom alkaloids or kratom
12 constituents.

13 H. No person or entity shall offer for sale in unincorporated areas of Fresno County
14 any kratom product if such person or entity is not also authorized to offer for sale
15 tobacco products.

16 Section 10.72.040 – Violations and Penalties.

17 A. Administrative Citation. The County may, at its discretion, issue an administrative
18 citation for any violation of section 10.72.030. The administrative penalty to be
19 assessed for each violation of section 10.72.030 shall be as follows: (i) First
20 violation, one thousand dollars (\$1000.00); (ii) Second occurrence of the same
21 violation within one year of the first violation, two thousand dollars (\$2,000.00); (iii)
22 Third or subsequent occurrence of the same violation within one year of the first
23 violation, three thousand dollars (\$3,000.00).

1 B. Injunctive Relief. In addition, the County Counsel may institute a civil action to
2 ensure compliance with section 10.72.030, including an action for injunctive relief
3 and/or to recover damages incurred as a result of any violation.

4 C. Business License Revocation. A violation of this Chapter is also grounds for a
5 revocation of a business license, if applicable, pursuant to Title 6 of the Ordinance
6 Code of the County of Fresno.

7 D. This Chapter may be enforced by the the County Health Officer, as consistent with
8 Health and Safety Code 101030, the County Health Officer is responsible for
9 enforcing County ordinances adopted by the Board of Supervisors; therefore,
10 County staff enforcing County ordinance Chapter 10.72 of Title 10 are an extension
11 of the County Health Officer's authority and are acting as an extension to the
12 County Health Officer.

13 E. Private Right of Action. Any aggrieved person may enforce the provisions of this
14 Chapter by means of a civil lawsuit. In addition to any other available remedy, any
15 person who violates the provisions of this Chapter shall be liable for treble the
16 actual damages with regard to each and every such violation, or \$1,000, whichever
17 is greater, and shall be liable for reasonable attorneys' fees and costs of litigation.
18 In addition, a jury or a court may award punitive damages where warranted.

19 Section 10.72.050 – Severability.

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

1 **SECTION 3.** This ordinance shall take effect thirty (30) days after its adoption.

2 THE FOREGOING, was passed and adopted by the following vote of the Board of
3 Supervisors of the County of Fresno this ____ day of _____, 2025, to wit:

4 AYES:

5 NOES:

6 ABSENT:

7 ABSTAINED:

8
9 _____
Ernest Buddy Mendes, Chairman of the Board
of Supervisors of the County of Fresno

10 **ATTEST:**

11 Bernice E. Seidel
12 Clerk of the Board of Supervisors
County of Fresno, State of California

13 By: _____
14 Deputy

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16 FILE # _____

17 AGENDA # _____

18 ORDINANCE # _____
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