

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NUMBER 25-031

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 IN CERTAIN FORMS AND TO MINORS IN
9 UNINCORPORATED AREAS OF FRESNO COUNTY TO A PERSON UNDER 21
10 YEARS OF AGE.

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 10.72 – SALE AND DISTRIBUTION OF KRATOM TO MINORS
PROHIBITED

Section 10.72.010 – Purpose and Intent.

Section 10.72.020 – Definitions.

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

Section 10.72.040 – Violations and Penalties.

Section 10.72.050 – Severability.

Section 10.72.010 – Purpose and Intent.

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

Section 10.72.020 – Definitions.

For purposes of this Chapter, the following definitions apply.

A. "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:

- i. Cartoons, toys, or robots.

1 ii. Any real or fictional humans.

2 iii. Fictional animals or creatures.

3 iv. Fruits or vegetables, except when used to accurately describe
4 ingredients or flavors contained in a product.

5 2. Likeness to images, characters, or phrases that are popularly used to
6 advertise to children.

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

9 4. The terms "candy" or "candies" or variants in spelling of such terms such as
10 "kandy" or "kandee."

11 5. Brand names or close imitations of brand names of candies, cereals,
12 sweets, chips, or other food products typically marketed to children.

13 6. Any other image or packaging that is easily confused with commercially
14 available foods that do not contain kratom and are typically marketed to
15 children.

16 7. Any other packaging used that is attractive to children considering all
17 relevant facts and circumstances.

18 B. "Kratom leaf" means the leaf of the kratom plant, also known as *Mitragyna*
19 *speciosa*, in fresh, whole, dehydrated, or dried form, not concentrated, modified
20 (other than cutting and packaging), nor contained in or combined with any other
21 substance or solution.

22 C. "Kratom leaf extract" means the material obtained by extraction of kratom leaves
23 by any means.

1 D. "Kratom product" means a product consisting of or labeled as consisting of any
2 part of a leaf of the plant *Mitragyna speciosa* in fresh, dehydrated, or dried form,
3 or a kratom extract, or any product that contains any kratom alkaloid or metabolite.

4 E. "Total kratom alkaloids" means the sum of mitragynine, speciociliatine,
5 speciogynine, paynantheine, and 7-hydroxymitragynine in a kratom product or
6 product described as containing 7-hydroxymitragynine or *Mitragyna speciosa*.

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

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

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

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

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

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

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

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

14 G. No person or entity shall offer for sale in unincorporated areas of Fresno County
15 any kratom product that contains or is adulterated with synthesized or semi-
16 synthesized kratom alkaloids or kratom constituents.

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

20 I. This ordinance does not prohibit offering for sale to those persons at least 21
21 years of age in unincorporated areas of Fresno County "kratom leaf," as defined
22 in section 10.72.020 B or a kratom product with a level of 7-hydroxymitragynine
23 that is less than 2 percent of the total alkaloids in the product, provided there is
24 compliance with all other regulations set forth in this ordinance.

25 Section 10.72.040 – Violations and Penalties.

- 1 A. Administrative Citation. The County may, at its discretion, issue an administrative
2 citation for any violation of section 10.72.030. The administrative penalty to be
3 assessed for each violation of section 10.72.030 shall be as follows: (i) First
4 violation, one thousand dollars (\$1000.00); (ii) Second occurrence of the same
5 violation within one year of the first violation, two thousand dollars (\$2,000.00); (iii)
6 Third or subsequent occurrence of the same violation within one year of the first
7 violation, three thousand dollars (\$3,000.00).
- 8 B. Injunctive Relief. In addition, the County Counsel may institute a civil action to
9 ensure compliance with section 10.72.030, including an action for injunctive relief
10 and/or to recover damages incurred as a result of any violation.
- 11 C. Business License Revocation. A violation of this Chapter is also grounds for a
12 revocation of a business license, if applicable, pursuant to Title 6 of the Ordinance
13 Code of the County of Fresno.
- 14 D. This Chapter may be enforced by the the County Health Officer, as consistent with
15 Health and Safety Code 101030, the County Health Officer is responsible for
16 enforcing County ordinances adopted by the Board of Supervisors; therefore,
17 County staff enforcing County ordinance Chapter 10.72 of Title 10 are an extension
18 of the County Health Officer's authority and are acting as an extension to the
19 County Health Officer.
- 20 E. Private Right of Action. Any aggrieved person may enforce the provisions of this
21 Chapter by means of a civil lawsuit. In addition to any other available remedy, any
22 person who violates the provisions of this Chapter shall be liable for the actual
23 damages with regard to each and every such violation, or \$1,000, whichever is
24 greater, and shall be liable for reasonable attorneys' fees and costs of litigation. In
25 addition, a jury or a court may award punitive damages where warranted.

1 Section 10.72.050 – Severability.

2 If any section, paragraph, sentence, clause, phrase or portion of this article is held invalid
3 or unconstitutional by any court of competent jurisdiction, such portion shall be deemed
4 severable, and such holding shall not affect the validity of the remaining portions hereof.

5 The Board of Supervisors hereby declares that it would have adopted this article
6 irrespective of the invalidity of any particular portion thereof and intends that the invalid
7 portions should be severed, and the balance of the article be enforced.

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

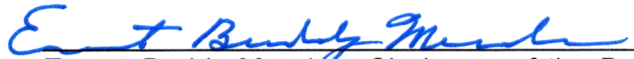
9 THE FOREGOING, was passed and adopted by the following vote of the Board of
10 Supervisors of the County of Fresno this 9th day of December, 2025, to wit:

11 AYES: Supervisors Bredefeld, Chavez, Magsig, Mendes, Pacheco

12 NOES: None

13 ABSENT: None

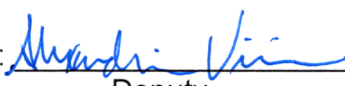
14 ABSTAINED: None

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Ernest Buddy Mendes, Chairman of the Board
of Supervisors of the County of Fresno

17 **ATTEST:**

18 Bernice E. Seidel
19 Clerk of the Board of Supervisors
County of Fresno, State of California

20
21 By:  _____

Deputy

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23 FILE # 25-1334

24 AGENDA # 7

25 ORDINANCE # 25-031