

ORDINANCE NO. 4339

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE BY ADDING NEW
CHAPTER 9.92 THEREOF PROHIBITING THE SALE, DISTRIBUTION AND POSSESSION
OF KRATOM

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. WHEREAS, it is the intent of the City Council to prohibit the sale, distribution, or possession of kratom and other products within the City of Huntington Beach 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

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

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

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

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

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

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

The U.S. Food and Drug Administration has issued several warning letters to various companies for illegally marketing products containing enhanced levels of 7-hydroxymitragynine, culminating in a formal request to the Drug Enforcement Administration

(DEA) on July 29, 2025, to place 7-hydroxymitragynine products on the controlled substance list; and

The City Council 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

The City Council wishes to restrict the sale and distribution of kratom and other products containing more than 2% of 7-hydroxymitragynine in the alkaloid fraction, thereby reducing potential risks to public health and safety.

SECTION 2. New Chapter 9.92 is added to the Huntington Beach Municipal Code to read as follows:

“Chapter 9.92 SALE, DISTRIBUTION, AND POSSESSION OF KRATOM PROHIBITED

§ 9.92.010 Purpose and Intent.

§ 9.92.020 Definitions.

§ 9.92.030 Sale, distribution and possession of kratom prohibited.

§ 9.92.040 Violations and Penalties.

§ 9.92.050 Severability.

§ 9.92.010 Purpose and Intent.

This article is enacted pursuant to the City’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 and other products containing more than 2% of 7- hydroxymitragynine in the alkaloid fraction.

§ 9.92.020 Definitions.

For purposes of this article, 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:

(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.

(b) "Kratom leaf" means the leaf of the kratom plant, also known as *mitragyna speciosa*, 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 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.

(f) "Synthesized" means an alkaloid or alkaloid derivative 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 has been further exposed to chemicals or processes that would confer a structural change in the alkaloids contained within the extract.

§ 9.92.030 Sale, distribution and possession of kratom prohibited.

(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 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 any product with a level of 7-hydroxymitragynine that is greater than 2 percent of the total 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 that is attractive to children.

(d) Any individual, business, or other entity that sells, attempts to sell, offers, provides, or distributes a kratom product shall conduct age-verification to ensure compliance with subdivision (a).

(e) No person or entity shall offer for sale any kratom product that contains or is adulterated with synthesized or semi-synthesized kratom alkaloids or kratom constituents.

§ 9.92.040 Violations and Penalties.

Any person who violates section § 9.92.030 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 City may have to address violations of § 9.92.030. A violation of § 9.92.030 is grounds for a revocation of a business license, if applicable, pursuant to § 5.08.300 of the Huntington Beach Municipal Code.

§ 9.92.050 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 City Council 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.

SECTION 3. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on _____, 2025

Mayor

REVIEWED AND APPROVED:



City Manager

ATTEST:

City Clerk

INITIATED AND APPROVED:



Police Chief

APPROVED AS TO FORM:

City Attorney 