



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## **ORDINANCE O-25-09**

### **AN ORDINANCE AMENDING CHAPTER 3 (GENERAL POLICE REGULATIONS) OF THE BOROUGH CODE OF THE BOROUGH OF HIGHLANDS TO ESTABLISH SECTION 3-27 (SALE OF UNREGULATED SUBSTANCES) REGULATING THE SALE OF KRATOM PRODUCTS**

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, any municipality may make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, the Borough of Highlands (the "Borough") wishes to amend Chapter 3 (General Police Regulations) to establish Section 3-27 to be entitled "Sale of Unregulated Substances," concerning, among other things, the sale of mitragynine and 7-hydroxymitragynine, also known as Kratom, within the Borough; and

**WHEREAS**, the Borough finds that mitragynine and 7-hydroxymitragynine, also known as Kratom, has the potential for abuse and can pose a threat to the health, welfare, and safety of the community and its residents; and

**WHEREAS**, the use and/or sale of Kratom has been banned in six (6) states and regulated in twenty-two (22) states based upon information which has indicated its use is a health and safety risk; and

**WHEREAS**, Kratom is not approved in the United States for medical use; and

**WHEREAS**, on September 11, 2019, the US Food and Drug Administration (FDA) issued a warning about Kratom because of its morphine-like properties which could, if misused, expose users to the risks of addiction, abuse, and dependence; and

**WHEREAS**, scientific literature has disclosed serious concerns regarding the toxicity of Kratom in multiple organ systems, including depressed respiratory function, nervousness, agitation, aggression, sleeplessness, hallucinations, delusions, tremors, skin hyperpigmentation, nausea, vomiting, constipation, and severe withdrawal signs and symptoms; and

**WHEREAS**, the Borough hereby finds that the manufacturers of Kratom products are packaging and labeling these products in ways that appeal to children such as gummies, chocolates, cookies, candies; and

**WHEREAS**, neither the federal government nor the State of New Jersey have established rules or regulations governing the production of Kratom nor its use by or sale to minors; and

**WHEREAS**, it is in the best interest of the health, safety and welfare of the Borough and its residents to address the sale of unregulated substances, specifically Kratom, at locations within the Borough in close proximity to schools, playgrounds, parks and daycare facilities.

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Borough of Highlands as follows:

## **SECTION I.**

Chapter 3 (General Police Regulations) of the Borough Code is hereby amended by creating Section 3-27, Sale of Unregulated Substances, that shall read as follows:

### **Section 3-27 SALE OF UNREGULATED SUBSTANCES**

#### **Section 3-27.1 Purpose.**

This section is enacted to protect, preserve, and promote the health, safety, and welfare of the citizens of and visitors to the Borough by prohibiting the sale, distribution, or delivery of any substance containing Kratom within close proximity to schools, playgrounds, parks, and daycare facilities which are frequented by children and families.

#### **Section 3-27.2 Definitions.**

When used in this Chapter the following words have the meanings as provided below:

**DEALER:** a person that sells, prepares, maintains, or otherwise distributes Kratom products or that advertises, represents, or holds itself out as selling, preparing, maintaining, or otherwise distributing Kratom from a physical location within the Borough.

**DISTRIBUTE:** the actual, constructive, or attempted transfer from one person to another of a substance, whether or not there is an agency relationship, and includes a sale.

**PERSON:** any individual, corporation, firm, partnership, joint venture, association, agency or other group acting as a unit, or combination thereof, including, but not limited to, a store, restaurant, hotel, bakery, delicatessen, grocery store, convenience store, bar, gas station, or food or drink company.

**KRATOM:** an extract or stimulant that is produced from the leaves of an evergreen tree (*Mitragyna speciosa*) native to Southeast Asia, which contains mitragynine and/or 7-hydroxymitragynine, including, but not limited to, any food product or dietary supplement containing such an extract or stimulant.

#### **Section 3-27.3 General Prohibitions.**

- a. It shall be unlawful for any Dealer to offer, sell, distribute, or expose for sale any Kratom product within 1,000 feet of any school, playground, park, or daycare facility within the Borough. This separation distance shall be measured from the property line of the Dealer location to the property line of the school, playground, park or daycare facility.
- b. It shall be unlawful to offer, sell, give, deliver, distribute, or otherwise provide a Kratom product on outside vendors or carts. Kratom products may only be sold inside storefronts.

#### **Section 3-27.4 Insurance Requirements.**

Any Dealer who sells, distributes, or delivers any substance containing Kratom shall provide a certificate of Commercial General Liability Insurance - Occurrence Form with the following limits to the municipal clerk annually:

\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate  
\$1,000,000 Products/Completed Operations  
\$1,000,000 Personal Advertising Injury  
\$2,000,000 Products/Completed Operations Aggregate

#### **Section 3-27.5 Violations and Penalties.**

Any person who shall violate any of the provisions of this Chapter shall be subject to the penalty provisions contained in Chapter 3-9.

**Section 3-27.6 Equitable Relief.**

In addition to other remedies, the Borough may institute litigation, in equity or at law, to restrain, prevent, or abate a violation of this Chapter. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings may be recoverable from the violator in any manner as may now or hereafter be provided by law.

**SECTION II. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

**SECTION III. REPEALER.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION IV. EFFECTIVE DATE.** This Ordinance shall take effect upon its passage and publication in accordance with law.

First Reading and Set Hearing Date for O-25-09:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

DATE OF VOTE: May 7 2025

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Nancy Tran, Municipal Clerk  
Borough of Highlands

Public Hearing for O-25-09:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

DATE OF VOTE: May 21, 2025

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Carolyn Broullon, Mayor

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Nancy Tran, Municipal Clerk  
Borough of Highlands