

Regulation of the Walpole Board of Health

Prohibiting the Manufacturing, Sale, and Distribution of Synthetic Kratom, Synthetically Derived Variants, and Products Containing Elevated Levels of 7-Hydroxymitragynine

A. Statement of Purpose

Whereas, kratom, a plant also known as *Mitragyna speciosa* that is native to Southeast Asia¹, is synthetically and semi-synthetically used to produce alkaloids and alkaloid derivatives, as well as elevated levels of 7-hydroxymitragynine, which are added to products at an enhanced level beyond what would be found naturally².

Whereas synthetic kratom products produces both sedative and stimulant effects when synthetically enhanced and orally ingested via capsule/pill, tablet, powder, vape products, edible, gummy, drink mix, or extract form³.

Whereas, use of synthetic kratom products that contain synthetic or semi-synthetic alkaloids or elevated 7-hydroxymitragynine levels can lead to physical, psychological, and psychotic symptoms as well as physiological and psychological dependence⁴.

Whereas, the current regulatory gaps that allow for availability and accessibility despite public health concerns calls for immediate regulatory action to address this threat to public health.

Whereas, synthetic kratom and derived products are not regulated by the State of Massachusetts or the federal government.

Whereas, the Massachusetts Supreme Judicial Court has held that "...[t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means".

Now, therefore it is the intention of the Walpole Board of Health to regulate the manufacturing, sale, and distribution of synthetic kratom, including synthetically derived, products that contain synthetic or semi-synthetic alkaloids or elevated levels of 7-hydroxymitragynine.

B. Authority

This regulation is promulgated pursuant to the authority granted to the Walpole Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states "Boards of health may make health regulations".

¹ NIH. (2022, March). *Kratom*. National Institute on Drug Abuse. Retrieved from <https://nida.nih.gov/research-topics/kratom>

² FDA (2025, July 29). *Products Containing 7-OH Can Cause Serious Harm*. FDA. Retrieved from <https://www.fda.gov/consumers/consumer-updates/products-containing-7-oh-can-cause-serious-harm>

³ NIH. (2022, March). *Kratom*. National Institute on Drug Abuse. Retrieved from <https://nida.nih.gov/research-topics/kratom>

⁴ Drug Enforcement Administration. (2020, April). *Kratom*. Drug Enforcement Administration. Retrieved from https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf

C. Definitions

For the purposes of this regulation, the following words shall have the following meanings:

Board: The Walpole Board of Health and its designated board of health agents.

Board of Health Agent: The Health Director and any town employee designated by the Board of Health, which may include Board of Health and health department staff, law enforcement officers, fire officials, and code enforcement officers.

Business Agent: An individual who has been designated by the owner or operator of any business to be the manager or otherwise in charge of said establishment.

Compliance Check: An enforcement activity where a person is sent into an establishment to attempt to purchase a restricted or prohibited product.

Person: Any individual, firm, partnership, association, corporation, company or organization of any kind, including, but not limited to an owner, operator, manager, proprietor, or person in charge or an establishment, business, or retail store.

Semi-Synthetic or Synthetic Kratom: Any synthetically manufactured or derived product that is created to imitate or enhance the effects of those found from kratom plants, including, but not limited to semi-synthetic or synthetic mitragynine, semi-synthetic or synthetic 7-hydroxymitragynine, and other semi-synthetically/synthetically derived compounds of the kratom plant. This includes kratom-derived products that have undergone one or more of the following processes such as chemical synthesis, modification, alteration, or conversion; or through biological processes that do not naturally occur in kratom plants⁵. Semi-synthetic and synthetic kratom may be marketed and sold in different forms, including but not limited to capsule/pill, tablet, vape products, edibles, gummy, drink mix or extract form.

7-Hydroxymitragynine: Refers to a synthetically and semi-synthetically created and increased concentration version of 7-hydroxymitragynine, which appears naturally in small amounts in the leaves of the kratom plant, an evergreen tree in the *Rubiaceae* family native to the Southeast Asia called *Mitragyna speciosa*, which can produce both sedative-like (opioid-like) and stimulant-like effects, and it may be marketed in different forms, including but not limited to capsule/pill, tablet, powder, vape products, edible, gummy, drink mix, or extract form.

7-OH: Abbreviation for 7-hydroxymitragynine.

D. Manufacturing, Sale, and Distribution of Semi-Synthetic and Synthetic Kratom Products

1. No person shall manufacture, distribute, sell, or offer for sale semi-synthetic or synthetic kratom products, or any semi-synthetically/synthetically derived variant of kratom product, nor shall any person sell any product that contains 7-hydroxymitragynine at an amount that is greater than 2% of the total alkaloid content of the product in any of its forms in the Town of Walpole.

⁵ Kingdom Kratom (n.d.) *What is 7-OH (7-Hydroxymitragynine)? The Complete Guide to Understanding Synthetic Kratom.* Kingdom Kratom. Retrieved from <https://kingdomkratom.com/what-is-7%E2%80%91oh-the-complete-guide-to-synthetic-kratom/>

2. This regulation is not intended to prohibit the sale of unadulterated, naturally occurring kratom leaf or kratom leaf powder that has not been synthetically derived or modified and that complies with the concentration limits set for 7-hydroxymitragynine.

E. Violations

1. Any person or entity charged with violating any provision of this regulation shall receive a notice of violation from the Walpole Board of Health or its designated agent. A Person can appeal such a violation if requested within 7 days of receiving this violation, and then the Board of Health shall conduct a hearing to determine the facts of the violation.

2. It shall be the responsibility of the establishment owner and/or their manager or business agent to ensure compliance with all sections of this regulation. The violator shall receive:

(1) In the case of a first violation, fine of one hundred dollars (\$100.00).

(2) In the case of a second violation within 36 months of the current violation, a fine of two hundred dollars (\$200.00) and a suspension of any permit issued by the Board, including but not limited to a permit to sell tobacco products, for seven consecutive business days.

(3) In the case of three or more violations within a 36-month period, a fine of three hundred dollars (\$300.00) and a revocation of any permit issued by the Board, including but not limited to a permit to sell tobacco products.

3. Every day that a violation exists shall be deemed to be a separate offense. If multiple violations occur stemming from the same inspection or compliance check, they shall be treated as separate violations.

4. Failure to pay a fine issued pursuant to this regulation within 21 days of the date of the notice of violation shall constitute a separate and subsequent violation of this regulation subject to the penalties set forth at paragraph 2 of this section. Payment of a fine is not required while an appeal is pending.

5. Any person who receives notice of a violation of this regulation may request an appeal hearing before the Board. The request must be made in writing, signed by the violator or the violator's attorney, filed with, and received by the Walpole Health Department within ten (10) business days of the date of the notice of violation.

6. Any resident who desires to register a complaint pursuant to this regulation of synthetic kratom and/or synthetically derived products may do so by contacting the Walpole Health Department.

7. Before suspending or revoking pursuant to this regulation of semi-synthetic/synthetic kratom and semi-synthetically/synthetically derived products, any permit issued by the Walpole Board of Health, including a permit to sell tobacco products, the Board shall provide notice of the intent to suspend or revoke such permit, which notice shall contain the reasons therefor and shall establish a time and date for a hearing, to be held no earlier than

ten (10) business days from the date of the notice. The permit holder or their designee shall have the opportunity to be heard and shall be notified of the Board's decision and the reasons therefor in writing. If after hearing, the Board finds that a violation of this regulation occurred, the Board shall suspend or revoke the subject permit. Such suspension or revocation shall not be carried out sooner than ten (10) business days of the date of the Board's decision. For purposes of such suspensions or revocations, the Board shall carry them out unless it receives an order of stay or injunction from the appropriate court before the date the suspension or revocation is set to go into effect. Upon suspension or revocation of a permit, all products subject to that permit must be removed from the retail establishment. Failure to remove such products shall constitute a separate violation of this regulation. Multiple permit suspension may not be served concurrently.

8. Failure to comply with the terms of a permit suspension imposed pursuant to this regulation may subject the permit holder to additional fines, as provided in paragraph 2 of this section, and suspension of all Board-issued permits for thirty (30) consecutive business days.

F. Enforcement

Enforcement of this regulation shall be by the Walpole Board of Health or its designated agent(s).

G. Severability

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

H. Effective Date

This regulation of semi-synthetic/synthetic kratom and semi-synthetically/synthetically derived products, including those containing elevated 7-hydroxymitragynine levels, shall take effect for the Town of Walpole on April 8, 2026.