

DRAFT
**REGULATION OF THE CITY OF NORTHAMPTON BOARD OF HEALTH
PROHIBITING THE MANUFACTURING, SALE, AND DISTRIBUTION OF
SYNTHETICALLY DERIVED CANNABINOIDS, SYNTHETICALLY DERIVED
KRATOM AND UNREGULATED NOVEL INTOXICATING PRODUCTS**

A. Authority:

This regulation is promulgated under the authority granted to local Boards of Health by Massachusetts General Laws, Chapter 111, Sections 31 and 122, which authorize Boards of Health to adopt reasonable health regulations and take action to protect the public from sources of disease and health risks.

B. Statement of Purpose

The Northampton Board of Health recognizes that the sale and distribution of synthetic and unregulated psychoactive substances including but not limited to synthetically altered cannabinoids and synthetically derived kratom products pose an emerging threat to public health, particularly among youth and vulnerable populations. These substances are often: manufactured without oversight; sold without proper labeling, dosage guidelines, or ingredient transparency; associated with unpredictable or harmful health effects; and readily available in convenience stores, vape shops, and online with no safeguards.

The Food and Drug Administration (FDA) has recently recommended a scheduling action to control certain synthetic kratom products, specifically, 7-hydroxymitragynine (7-OH) under the Controlled Substances Act.¹ The FDA recommendation is not focused on natural kratom leaf products.

C. Definitions:

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

Board of Health: The Northampton Board of Health and its designated Board of Health agents.

Board of Health Agent (BOH): Any person designated by the Northampton Board of Health or the Northampton Department of Health and Human Services to carry out and enforce the provisions of this regulation. A Board of Health Agent shall have all powers assigned under Massachusetts General Laws, including inspection authority, issuance of orders, and initiation of enforcement actions.

Business Agent: Any individual who owns, operates, manages, or has control over the operations of an establishment engaged in the sale or distribution of products regulated under this regulation, including but not limited to store owners, managers, and employees responsible for inventory, purchasing, or compliance.

Kratom: Any part of the plant *Mitragyna speciosa*.

Natural Raw Kratom: Any unadulterated form of the plant *Mitragyna speciosa*, including its leaves (whole, crushed, or powdered), stems, or other plant parts, that have not been chemically altered, synthesized, or had their alkaloid concentrations artificially increased or mixed with any other ingredients.

Synthetically Derived Kratom: Any synthetically derived kratom product that has been altered from its natural plant form through chemical synthesis or the use of synthetic alkaloid analogs or concentrates beyond what occurs naturally in the plant.

Synthetically Derived Cannabinoid: Any synthetically derived cannabinoid that is altered by a chemical reaction that changes the molecular structure of any natural cannabinoid derived from the plant Cannabis to another cannabinoid found naturally in the plant Cannabis. Synthetically Derived Cannabinoids include but are not limited to delta-8 and delta-10.

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 of any establishment, business, cultivation property, or retail store.

Permit Holder: Any person or entity that holds a permit with the Department of Health & Human Services in the City of Northampton.

Retail Establishment: Any store, kiosk, gas station, vape shop, convenience store, smoke shop, or other physical location engaged in the sale of consumer goods.

Unregulated Synthetic Products: Any psychoactive substance not approved by the U.S. Food and Drug Administration (FDA) or Massachusetts Cannabis Control Commission and not specifically authorized for sale under Massachusetts law, and not exempted under this regulation including novel psychoactive substances (NPS) or “legal highs.”

Unregulated Novel Intoxicating Products: Any substance, compound, or mixture, whether natural, synthetic, or semi-synthetic, that is intended for human consumption or ingestion, inhalation, absorption, or any other method of introduction into the human body, that:

1. Has psychoactive, intoxicating, or mood-altering effects; and

2. Is not approved by the U.S. Food and Drug Administration for such use; and
3. Is not otherwise regulated or scheduled under Massachusetts or federal law.

This definition includes, but is not limited to, novel cannabinoids, synthetic opioids, synthetic stimulants, synthetic hallucinogens, and any chemical analogs or derivatives thereof, except for those lawfully prescribed or otherwise legally authorized.

D. Prohibition

No person, business, or other entity shall sell, offer for sale, distribute, or otherwise provide for human consumption any of the following within the City of Northampton:

1. Synthetically Derived Kratom - Any synthetically derived kratom products that contain synthetic or semi-synthetic alkaloids, chemical analogs, or derivatives not naturally occurring in the kratom plant (*Mitragyna speciosa*).
2. Synthetically Derived THC - Any tetrahydrocannabinol (THC) or THC analog that is produced through chemical synthesis or conversion from hemp-derived cannabidiol (CBD) or other cannabinoids, except for those products that are lawfully regulated by the Commonwealth of Massachusetts.
3. Unregulated Novel Intoxicating Products - As defined in Section “Definitions”, any natural, synthetic, or semi-synthetic substance, compound, or mixture with psychoactive, intoxicating, or mood-altering effects, not approved by the U.S. Food and Drug Administration, and not otherwise regulated or scheduled under Massachusetts or federal law.

E. Exemptions

This regulation does **not** apply to:

1. Cannabis products sold through state-licensed medical or adult-use dispensaries regulated by the Massachusetts Cannabis Control Commission.
2. Raw, unaltered kratom leaf or powder, provided it is properly labeled with a full list of ingredients clearly displayed on the package, with serving size and dosing recommendations included and it does not violate state or federal law.

F. Enforcement and Penalties:

1. Any person or entity charged with violating this regulation shall receive a notice of violation from the Northampton Board of Health or its designated agent.

2. It shall be the responsibility of the establishment owner and/or his or her manager or business agent to ensure compliance with this regulation. In the case of a violation, the violator shall receive:
 - I. **First offense:** \$300 fine.
 - II. **Second offense:** \$300 fine and 3 day suspension of BOH retail permits to operate
 - III. **Third offense:** \$300 fine and 30 day suspension of BOH retail permits to operate.
 - IV. **Subsequent offenses:** \$300 fine and possible revocation of all BOH permits including but not limited to retail food permit and tobacco permit after a hearing.
3. Every day that a violation exists shall be deemed to be a separate offense. Separate but simultaneous violations shall be treated as separate violations. Multiple permit suspensions may not be served concurrently.
4. Any person who receives notice of a violation of this regulation may request a hearing before the Board. The request must be made in writing and filed within seven (7) days of the date the violation was received.
5. The authority to inspect establishments for compliance and to enforce this regulation shall be held by the Northampton Board of Health and its designees and the Northampton Police Department.
6. Any person may register a complaint pursuant to this regulation to initiate an investigation and enforcement with the Northampton Board of Health and its designees.
7. Before suspending or revoking any permit issued by the Board, 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 seven (7) 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 therefore in writing. If after hearing, the Board finds that a violation of this regulation occurred, the Board shall suspend or revoke the subject permit. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings concerning the same offense. Upon suspension or revocation of a permit, all

permitted products must be removed from the retail establishment. Failure to remove such products shall constitute a separate violation of this regulation.

- 8. Failure to comply with the terms of a permit suspension imposed pursuant to this regulation may subject the permit holder to an additional suspension of all BOH-issued permits for thirty (30) consecutive business days.
- 9. For establishments operating without a Board of Health permit, any violation of this regulation may result in criminal prosecution in accordance with applicable state and local laws.

G. Severability:

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

H. Effective Date:

This regulation shall take effect on October 1, 2025.

Signatures:

Name	Signature	Date
Joanne Levin		
Cynthia Suopis		
Suzanne Smith		
Janet Grant		

Dated: _____

Appendix: Additional Information on Synthetically Derived Cannabinoids & Synthetically Derived Kratom

Whereas, hemp is defined as “the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”¹

Whereas, tetrahydrocannabinol (THC) is the chemical responsible for most of marijuana’s psychological effects.²

Whereas, adult-use marijuana can be distinguished from hemp because it contains more than 0.3 percent (0.3%) delta-9 THC concentration, which is a naturally occurring cannabinoid.

Whereas, delta-8, delta-10, and other forms of THC are isomers of delta-9 and, except for trace amounts, are not found naturally in the plant cannabis, but are instead synthetically produced in laboratories.³

Whereas, in Massachusetts, adult-use marijuana is legal, but products containing delta-8, delta-10, and other synthetically derived cannabinoids are not.⁴

Whereas, delta-8 and similar synthetically derived products are psychoactive.⁵

Whereas, Synthetically Derived Kratom, a tree-like plant indigenous to Southeast Asia, produces stimulant and sedative effects when orally ingested in tablet, capsule, or extract form. Synthetically Derived Kratom leaves can be chewed or dried and ingested as a tea.

¹ Implementation of Agricultural Improvement Act of 2018, 85 Fed. Reg. 51,640 (Aug. 21, 2020).

² Alina Bradford, *What is THC?*, LIVE SCIENCE (May 18, 2017), [available at https://www.livescience.com/24553-what-is-thc.html](https://www.livescience.com/24553-what-is-thc.html).

³ Kristina Etter, *I Stand Corrected: The Truth About Delta-8 THC*, MEDIUM (March 17, 2021), [available at https://medium.com/seed-stem/i-stand-corrected-the-truth-about-delta-8-thc-e8085725ed9e](https://medium.com/seed-stem/i-stand-corrected-the-truth-about-delta-8-thc-e8085725ed9e).

⁴ MASS. DEPT. OF AGRIC. RES., HEMP IN MASSACHUSETTS: FAQs, [available at https://www.mass.gov/guides/hemp-in-massachusetts-faqs#-is-it-legal-to-manufacture-delta-8-thc-from-hemp?-\(last visited Feb. 13, 2023\)](https://www.mass.gov/guides/hemp-in-massachusetts-faqs#-is-it-legal-to-manufacture-delta-8-thc-from-hemp?-(last%20visited%20Feb.%2013,%202023)).

⁵ See U.S. FOOD & DRUG ADMIN., 5 THINGS TO KNOW ABOUT DELTA-8 TETRAHYDROCANNABINOL – DELTA-8 THC, [available at https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc](https://www.fda.gov/consumers/consumer-updates/5-things-know-about-delta-8-tetrahydrocannabinol-delta-8-thc) (last visited February 13, 2023).

Use of Synthetically Derived Kratom can lead to psychotic symptoms, and psychological and physiological dependence because it contains mitragynine and 7-hydroxymitragynine, two major psychoactive ingredients.⁶

Whereas, neither synthetic, hemp-derived products like delta-8 nor Synthetically Derived Kratom are regulated by the federal government or in Massachusetts.

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 public health by any rational means.”⁷

Whereas, the United States Food & Drug Administration has not approved “any prescription or over-the-counter drug products containing Synthetically Derived kratom or its two main chemical components, mitragynine and 7-hydroxymitragynine.”⁸

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of its residents, and pursuant to the authority granted to the Northampton Board of Health pursuant to G. L. c. 111, §31, the Board of Health enacts this Regulation Prohibiting the Manufacturing, Sale, and Distribution of Synthetically Derived Cannabinoids and Synthetically Derived Kratom.

⁶ DRUG ENFORCEMENT ADMIN., GET SMART ABOUT DRUGS, available at <http://www.getsmartaboutdrugs.gov> (last visited February 13, 2023).

⁷ Druzik v. Bd. of Health of Haverhill, 324 Mass. 129, 139 (1949) (citing Lawrence v. Bd. of Registration in Med., 239 Mass. 424, 428 (1921)).

⁸ FDA. (2025, July 29). FDA and Kratom. U.S. Food and Drug Administration. <https://www.fda.gov/news-events/public-health-focus/fda-and-kratom>