

TOWN of FAIRHAVEN • BOARD of HEALTH
**RESTRICTION OF THE MANUFACTURING, SALE, AND
DISTRIBUTION OF KRATOM REGULATION**

Effective JULY 15, 2026

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ARTICLE I. PURPOSE and SCOPE:

The purpose of this regulation is to protect the health of the residents and general public in the Town of Fairhaven.

Whereas, Kratom, a tree-like plant indigenous to Southeast Asia, produces stimulant and sedative effects when orally ingested in tablet, capsule, or extract form. Kratom leaves can be chewed or dried and ingested as tea. Use of Kratom can lead to psychotic symptoms, and psychological and physiological dependence because it contains mitragynine and 7-hydroxymitragynine, two major psychoactive ingredients.¹

Whereas, Kratom is not regulated by the federal government or by the Commonwealth of Massachusetts.

ARTICLE II. AUTHORITY:

Whereas, the Massachusetts Supreme Judicial Court has held that “the right to engage in business must yield to the paramount right of government to protect public health by any rational means.”²

Therefore, in furtherance of its mission to protect, promote, and preserve the health and well-being of its residents, this regulation is promulgated under the authority granted to the Fairhaven Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that “boards of health may make reasonable health regulations,” the Board of Health enacts this Regulation Restricting the Manufacturing, Sale, and Distribution of Kratom.

¹ DRUG ENFORCEMENT ADMIN., GET SMART ABOUT DRUGS, available at <http://www.getsmartaboutdrugs.gov> (last visited February 13, 2023).

² *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)).

ARTICLE III. DEFINITIONS:

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

7-OH: (also known as 7-hydroxymitragynine, is a potent, opioid-like compound that occurs naturally in tiny amounts (often less than 0.05% of the total mass) in the leaves of the Southeast Asian kratom plant (*Mitragyna speciosa*).

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

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

Business Agent: An individual who has been designated by the owner or operator of any adult-use marijuana establishment, retail, or convenience store, to be the manager or otherwise in charge of said establishment.

Kratom: A tree-like plant indigenous to Southeast Asia.

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.

ARTICLE IV. KRATOM PRODUCTS

No person shall manufacture, distribute, or sell Kratom products in the Town of Fairhaven with the exception of Licensed Retail Tobacco Permit Holders (LTPH) to Adults aged 21 or older. LTPH's must have on file and be able to produce a list of products and their origin within 30 days of enactment of this regulation.

All Kratom products that are allowed to be sold under this regulation must contain:

- 1) Name & Address of Manufacturer;
- 2) Date, if applicable, of expiration;
- 3) Batch or Lot Number(s);
- 4) Dosage per serving;
- 5) Any applicable Warning labels or signs.

No person shall manufacture, distribute, or sell "7-OH" or any synthetic derivative products in the Town of Fairhaven or Kratom products that are more than 1% strength.

ARTICLE V. ENFORCEMENT AND PENALTIES:

- a) Any person or entity charged with violating this regulation shall receive a notice of violation from the Fairhaven Board of Health or its designated agent.
- b) 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:

1. In the case of a first violation, a fine of one thousand dollars (\$1000.00) and up to a (3) three day loss of license.
 2. In the case of a second violation within 36 months of a previous violation, a fine of two thousand dollars (\$2000.00) and up to a (7) seven day loss of license.
 3. In the case of three or more violations within a 36 month period, a fine of five thousand dollars (\$5000.00) and up to a (30) thirty day loss of license.
- c) The authority to inspect establishments for compliance and to enforce this regulation shall be held by Fairhaven Board of Health and its designees and the Fairhaven Police Department.
- d) Any person may register a complaint pursuant to this regulation to initiate an investigation and enforcement with the Fairhaven Board of Health and its designees.

Enforcement and Penalties continued:

- e) Violations of this regulation may be enforced by the non-criminal method of disposition as provided in Chapter 401, § 401-1 and as enabled pursuant to the Fairhaven enabling bylaw.
- f) Each day a violation exists shall be deemed to be a separate offense.
- g) A person who violates this regulation can request a Hearing before the Board of Health. This request must be made in writing and filed within seven (7) days after the date this violation was served or actually received.

ARTICLE VI. SEVERABILITY:

If any paragraph or provision of this Regulation is found to be invalid or unenforceable, against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions and shall continue in full force and effect.

ARTICLE VII. EFFECTIVE DATE:

This Regulation shall take effect on July 15, 2026, following its adoption by the Fairhaven Board of Health at its regularly scheduled meeting of July 15, 2026.

By the Fairhaven Board of Health:

Barbara Ackson, Chair

Brian Meneses, Vice-Chair

Justine Frezza, Clerk