

ORDINANCE NO. 2025-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA AMENDING CHAPTERS 8.34 AND 8.36 OF THE PALM DESERT MUNICIPAL CODE RELATING TO TOBACCO RETAILER LICENSING AND SMOKING REGULATIONS TO COMPLY WITH CALIFORNIA FLAVORED TOBACCO LAWS, REGULATE KRATOM SALES AND POSSESSION, AND ENHANCE PUBLIC HEALTH PROTECTIONS AND MAKING A FINDING OF EXEMPTION UNDER CEQA.

City Attorney's Summary

The purpose of this ordinance is to amend Palm Desert Municipal Code Chapters 8.34 and 8.36 to align with state flavored tobacco laws, enhance tobacco retailer licensing requirements, regulate the sale, distribution, and possession of kratom products by prohibiting synthetic kratom products, restricting sales of natural kratom leaf products to persons 21 and older, and prohibiting possession by persons under 21 and strengthen smoking regulations to adopt best practices to protect public health and reduce youth access to tobacco and kratom products.

WHEREAS, the City of Palm Desert is committed to protecting the public health, safety, and welfare of its residents by regulating the sale and use of tobacco and kratom products and reducing exposure to secondhand smoke; and

WHEREAS, the California Legislature has enacted several laws, including Senate Bill No. 793 (2020), Assembly Bill No. 935 (2023), Senate Bill No. 1230 (2024), and Assembly Bill No. 3218 (2024), collectively strengthening restrictions on the sale of flavored tobacco products and enhancing enforcement mechanisms to prevent youth access and protect public health; and

WHEREAS, Senate Bill No. 793, effective December 21, 2022, following voter approval via Proposition 31, prohibits tobacco retailers from selling, offering for sale, or possessing with intent to sell most flavored tobacco products and tobacco product flavor enhancers, with exceptions for flavored shisha tobacco sold by licensed hookah retailers, premium cigars sold in cigar lounges, and looseleaf tobacco, as codified in California Health and Safety Code Section 104559.5; and

WHEREAS, Assembly Bill No. 935 enhances enforcement of the flavored tobacco ban by aligning penalties with the Stop Tobacco Access to Kids Enforcement (STAKE) Act, allowing civil penalties ranging from \$1,000 to \$20,000 or more for violations and mandating license suspension or revocation for repeated violations; and

WHEREAS, Senate Bill No. 1230, known as the Strengthen Tobacco Oversight Programs (STOP) and Seize Illegal Tobacco Products Act, effective January 1, 2025, authorizes the California Department of Tax and Fee Administration (CDTFA) to seize

flavored tobacco products and imposes a \$50 per package penalty, with license suspension for a second seizure and revocation for a third, and increases STAKE Act penalties for sales to minors; and

WHEREAS, Assembly Bill No. 3218, effective January 1, 2025, requires the California Attorney General to establish an Unflavored Tobacco List (UTL) by December 31, 2025, deeming any tobacco product not on the UTL as flavored and prohibited for sale, expands the definition of tobacco products to include synthetic nicotine and nicotine analogs, and prohibits distributors, wholesalers, and delivery sellers from selling non-UTL products or flavor enhancers; and

WHEREAS, these state laws collectively aim to reduce youth tobacco use, protect marginalized communities disproportionately targeted by flavored tobacco marketing, and address the public health risks associated with nicotine addiction and secondhand smoke exposure; and

WHEREAS, the California Air Resources Board has classified secondhand smoke as a toxic air contaminant with no safe level of exposure, necessitating robust local regulations to limit smoking in public places and places of employment; and

WHEREAS, 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, with active compounds including mitragynine and 7-hydroxymitragynine (7-OH), the latter being more potent and largely responsible for stronger pain-relieving, sedative, and euphoric effects; and

WHEREAS, research has shown that 7-OH has euphoric and mood-enhancing effects, particularly at higher doses, increasing its appeal for recreational use, and binds to opioid receptors in the brain with greater affinity than morphine, raising significant concerns about its safety profile, including the potential for addiction, overdose, and adverse physical and psychological effects such as nausea, vomiting, and potential psychosis, with risks compounded when products contain higher concentrations of 7-OH; and

WHEREAS, health advisories, including those from the United States Food and Drug Administration (FDA), have raised concerns over the safety of kratom products, particularly those with higher concentrations of 7-OH, which may increase the potential for abuse and harm to public health, culminating in the FDA's formal request to the U.S. Drug Enforcement Administration (DEA) on July 29, 2025, to place 7-OH products on the controlled substance list; and

WHEREAS, kratom is not approved for any medical use by the FDA, is designated as a "Drug of Concern" by the DEA, and while legal in California with restrictions on packaging and sales to minors under 21 years old pursuant to Assembly Bill No. 1088 (effective 2025), several states and local jurisdictions, including cities in California such as San Diego and Oceanside, have banned or regulated kratom to protect public safety, especially vulnerable populations; and

WHEREAS, local law enforcement, including the Riverside County Sheriff's Office and District Attorney's Office, has reported a significant increase in DUI arrests involving kratom as the primary active drug, with documented arrests and deaths associated with its use, underscoring its impairment risks and lack of proven medical benefits; and

WHEREAS, the City Council finds that prohibiting synthetic kratom products, restricting sales of natural kratom leaf products to persons 21 and older, and prohibiting possession by persons under 21 will protect public health, particularly youth, given the unproven benefits, documented risks, and alignment with the City's tobacco control goals sales and distribution will protect public health, given the unproven benefits, documented risks, and alignment with the City's tobacco control goals; and

WHEREAS, Chapters 8.34 and 8.36 of the Palm Desert Municipal Code regulate tobacco retailer licensing and smoking, respectively, but require updates to align with state flavored tobacco laws, incorporate electronic smoking devices, regulate kratom sales, distribution, and possession, and enhance enforcement coordination; and

WHEREAS, the proposed amendments to Chapter 8.34 update definitions to include electronic devices and nicotine analogs, explicitly prohibit the sale of flavored tobacco products and synthetic kratom products, permit limited sales of natural kratom leaf products to persons 21 and older with age verification and other safeguards, adopt proximity restrictions, enhance inspection requirements, strengthen enforcement mechanisms, and require coordination with state agencies for enforcement, ensuring compliance with Health and Safety Code Section 104559.5 and related provisions while implementing targeted kratom regulations; and

WHEREAS, the proposed amendments to Chapter 8.36, building on prior revisions, clarify the regulation of electronic smoking devices, align definitions with state law, and add enforcement coordination to address flavored tobacco and kratom-related use, while maintaining exceptions consistent with state law; and

WHEREAS, these amendments are necessary to protect public health, prevent youth access to addictive tobacco and kratom products, reduce exposure to secondhand smoke, and ensure that Palm Desert's regulations are consistent with state law; and

WHEREAS, the City Council finds that these changes are in the public interest and will promote the health, safety, and welfare of the community.

THE CITY COUNCIL OF THE CITY OF PALM DESERT DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Amendment to Chapter 8.34. Chapter 8.34 *Tobacco Retailer License* of the Palm Desert Municipal Code is hereby amended in its entirety to read as set forth in Attachment A, incorporated herein by reference.

SECTION 2. Amendment of Chapter 8.36. Chapter 8.36 *Regulation and Prohibition of Smoking* of the Palm Desert Municipal Code is hereby amended in its entirety to read as set forth in Attachment B, incorporated herein by reference.

SECTION 3. CEQA Exemption. The City Council finds that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code Regs. § 15000 *et seq.*). This ordinance is not a “project” under CEQA Guidelines Section 15378(b)(5), as it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. The amendments to Chapters 8.34 and 8.36 update tobacco retailer licensing (including kratom regulations) and smoking regulations, including definitions, enforcement, proximity restrictions, and fines, which are administrative actions with no physical environmental impact. Even if considered a project, the ordinance is exempt under CEQA Guidelines Section 15061(b)(3), the “common sense” exemption, because there is no possibility of a significant environmental effect. The ordinance regulates tobacco and kratom sales and public smoking to protect health, with measures like pharmacy sales bans and smoking prohibitions, none of which involve construction, land use changes, or activities affecting air, water, or habitat.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. Posting and Publication. The City Clerk of the City of Palm Desert, California, is hereby directed to publish a summary of this Ordinance in the *Desert Sun*, a newspaper of general circulation, published and circulated in the City of Palm Desert, California, and shall be in full force and effective thirty (30) days after its adoption.

ADOPTED ON _____, 2026.

EVAN TRUBEE
MAYOR

ATTEST:

ANTHONY J. MEJIA
CITY CLERK

I, Anthony J. Mejia, City Clerk of the City of Palm Desert, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Desert City Council on _____, 2026, and adopted at a regular meeting of the City Council held on _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on _____ .

ANTHONY J. MEJIA
CITY CLERK

