

**TOWNSHIP OF RADNOR
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE NO. 2022-03**

AN ORDINANCE OF THE TOWNSHIP OF RADNOR, DELAWARE COUNTY, PENNSYLVANIA, CREATING A NEW CHAPTER 228 OF THE CODE OF ORDINANCES OF RADNOR TOWNSHIP, PROHIBITING THE SALE OR DISTRIBUTION OF KRATOM OR DELTA-8 AT ANY LOCATION, DISPENSARY, OR STORE WITHIN 1,000 FEET OF A SCHOOL, PLAYGROUND, OR DAYCARE AND PROVIDING REGULATIONS FOR SUCH LOCATIONS, DISPENSARIES, OR STORES.

WHEREAS, Radnor Township is a Home Rule Municipality within the Commonwealth of Pennsylvania; and

WHEREAS, Article 1, Section 1.02 of the Radnor Township Home Rule Charter provides that the Township may exercise any powers and perform any functions not denied by the Constitution of the United States or by the Constitution and applicable laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Radnor Township Board of Commissioners (Board) hereby finds that mitragynine and 7-hydroxymitragynine, also known as Kratom, and Delta 8 THC, have the potential for abuse and can pose a health, welfare, and safety concern to the community and its residents; and

WHEREAS, the use and/or sale of Kratom has been banned in six states and other local municipalities based upon information which has indicated its use is a health and safety risk; and

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

WHEREAS, the use and or sale of Delta-8 THC products have been either restricted or banned in eighteen (18) states; and

WHEREAS, the FDA and the Centers for Disease Control and Prevention issued drug warnings to the public regarding potential health risks of using Delta-8 THC products on September 14, 2021; and

WHEREAS, the FDA issued its warning because: 1) Delta-8 THC products have not been evaluated or approved by the FDA for safe use and may be marketed in ways that put the public at risk; 2) the FDA has received adverse event reports involving Delta-8 THC products; 3) Delta-

8 THC has psychoactive and intoxicating effects; 4) Delta-8 THC products often involve use of potentially harmful chemicals to create the concentrations of Delta-8 THC claimed in the marketplace; and 5) Delta-8 THC products should be kept out of reach of children and pets; and

WHEREAS, the Board hereby finds that the manufacturers of Delta-8 THC and 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 Commonwealth of Pennsylvania have established rules or regulations governing the production of Kratom or Delta-8 THC nor its use by or sale to minors; and

WHEREAS, it has been determined that it is in the best interests of the health, welfare, and safety of Radnor Township to address the sale of unregulated substances such as Kratom and Delta-8 THC at locations within Radnor Township in close proximity to schools, playgrounds, and daycare facilities.

NOW THEREFORE, be it hereby ENACTED and ORDAINED by the Radnor Township Board of Commissioners as follows:

ARTICLE I - RECITALS.

The facts and statements contained within the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

ARTICLE II - AMENDMENT.

The Radnor Township Code of Ordinances is hereby amended by creating a new Chapter 228, Sale of Unregulated Substances, within the Code of Ordinances that shall read as follows:

Chapter 228. Sale of unregulated substances.

§228-1. Purposes.

This Chapter is enacted to protect, preserve, and promote the health, safety, and welfare of the citizens of Radnor Township by prohibiting the sale, distribution, or delivery of any substance containing Kratom or Delta-8 THC within close proximity to schools, playgrounds, and daycares. It is the specific finding of Radnor Township that such substances may have a dangerous effect upon anyone using and/or ingesting said substances and that such substances should not be made available for retail sale to minors.

§228-2. 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 or Delta-8 THC products or that advertises, represents, or holds itself out as selling, preparing, maintaining, or otherwise distributing Kratom or Delta-8 THC products from a physical location within Radnor Township.

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.

DELTA-8 THC (Delta-8 tetrahydrocannabinol)

An extract or stimulant that is produced from a naturally occurring cannabinoid found in small traces in hemp and cannabis (marijuana) plants, and includes, but is not limited to, any food product, dietary supplement, or smoke or vape product containing such an extract or stimulant. Concentrated amounts of Delta-8 THC are typically manufactured from hemp-derived cannabidiol (CBD).

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.

§228-3. General prohibitions

- A. It shall be unlawful for any Dealer to offer, sell, distribute, or expose for sale any Kratom product or Delta-8 THC product within 1,000 feet of any school, playground, or daycare facility within Radnor Township. This separation distance shall be measured from the property line of the Dealer location to the property line of the school, playground or daycare.
- B. It shall be unlawful to offer, sell, give, deliver, distribute, or otherwise provide a Kratom product or Delta-8 THC product to any person under the age of twenty-one (21) years.

§228-4 Violations and penalties.

Any person who shall violate any of the provisions of this Chapter shall be guilty of a summary offense and, upon conviction thereof in any District Justice Court of the Commonwealth of Pennsylvania, shall be liable to a fine or penalty not to exceed \$1,000.00 for each and every offense and the costs of prosecution thereof. Each violation of any of the provisions of this Chapter shall be deemed to be a separate and distinct offense, and each day a violation continues shall be deemed to be a separate and distinct offense.

§228-5 Equitable Relief.

In addition to other remedies, the Township Board of Commissioners may institute suits, 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 shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

ARTICLE III – REPEALER.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ARTICLE IV - SEVERABILITY.

If any section, paragraph, subsection, clause, or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

ARTICLE V - EFFECTIVE DATE.

This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

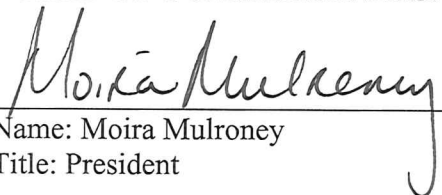
ENACTED AND ORDAINED this 28th day of March, 2022.

ATTEST:



Attest:

**RADNOR TOWNSHIP
BOARD OF COMMISSIONERS:**



Name: Moira Mulrone
Title: President