

## Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED  
STATE RECORDS

JAN 03 2017

County

of Suffolk

DEPARTMENT OF STATE

**Local Law No. 37-2016 A Local Law to prohibit the sale of Kratom in Suffolk County**

Be it enacted by the County Legislature of the

(Name of Legislative Body)

County

of Suffolk

as follows:

### **Section 1. Legislative Intent.**

This Legislature hereby finds and determines that the County of Suffolk is a national leader in regulating drugs and other dangerous substances to protect the health and welfare of County residents.

This Legislature further finds and determines that as the County of Suffolk becomes aware of unregulated substances, it acts quickly to determine the nature of the substance and its harmful effects and, if necessary, regulates its use. In recent years, Suffolk County has restricted the sale and use of bath salts, synthetic cannabinoids, salvia divinorum and the recreational use of dextromethorphan.

This Legislature finds that mitragyna speciosa, an opioid-like plant, and its most active chemical, mitragynine, commonly known as Kratom, are increasingly used around the world to obtain a "legal high".

This Legislature determines that Kratom is indigenous to Southeast Asia and has traditionally been used by laborers in small doses as an herbal drug to fight fatigue and relief from muscle strain. More recently, Kratom has been used in large doses for recreational purposes.

This Legislature also determines that many Kratom users consume Kratom leaves boiled in tea or in powder and pill forms.

This Legislature further finds and determines that Kratom affects the brain like an opiate and can be highly addictive. Disturbingly, some people mistakenly embrace Kratom as a natural pain killer and benign substitute for more dangerous substances.

This Legislature also finds that long-term use of Kratom has significant negative health effects, including anorexia, weight loss, nervousness, insomnia, constipation, and skin hyperpigmentation. Withdrawal symptoms are very similar to opiate withdrawal, including severe depression, anxiety, psychosis, chills, jerky limb movement and muscle aches.

This Legislature further finds that overdoses of Kratom are also dangerous, causing hallucinations, delusions, listlessness, tremors, aggression, constipation and nausea.

This Legislature hereby finds that Kratom has been outlawed in several nations, including Thailand, which produces the majority of the world's supply of Kratom. Presently Kratom is banned in Indiana, Tennessee, Vermont and Wisconsin.

This Legislature further finds that the federal Food and Drug Administration (FDA) has determined that Kratom and its derivatives pose a threat to public health and have the potential to be abused. Accordingly, the FDA has issued an import alert on all dietary supplements and bulk dietary ingredients that contain Kratom or *Mitragyna Speciosa*.

This Legislature also finds that, to protect the health and safety of its residents, Kratom should not be available in Suffolk County.

Therefore, the purpose of this law is to prohibit the sale and distribution of Kratom in the County of Suffolk.

## **Section 2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

"KRATOM" shall mean the plant species *Mitragyna speciosa* and/or the plant's active chemical extract, mitragynine, also known as biak-biak, kratom, gratom, ithang, kakuam, katawn, kedemba, ketum, krathom, krton, mambog, madat, Maeng da leaf, nauclea, *Nauclea Speciosa*, or thang.

"PERSON" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.

## **Section 3. Prohibitions.**

No person may sell, offer for sale or otherwise distribute Kratom in the County of Suffolk to any person under the age of 21.

## **Section 4. Penalties.**

Any person who knowingly violates the provisions of this article shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to one year's imprisonment.

## **Section 5. Applicability.**

This law shall apply to all actions occurring on or after the effective date of this law.

**Section 6. Reverse Preemption.**

This law shall be null and void on the date that statewide or federal legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provision of this section.

**Section 7. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 8. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 9. Effective Date.**

This law shall take effect immediately upon filing in the Office of the Secretary of State.

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2016 of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 2016 in accordance with the applicable provisions of law.

*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. 37 of 2016 of the (County) of Suffolk was duly passed by the Suffolk County Legislature on December 06, 2016, and was returned signed by the County Executive and was deemed duly adopted on December 23, 2016, in accordance with the applicable provisions of law.

*(Name of Legislative Body)*

*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum).**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2016 of the County of Suffolk was duly passed by the Suffolk County Legislature on \_\_\_\_\_, 2016 and was approved by the County Executive on, 2016. Such local law was submitted to the people by reason of a mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general election held on November \_\_\_\_\_ 2016, in accordance with the applicable provisions of law.

*(Name of Legislative Body)*

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum).**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2016 of the County of Suffolk was duly passed by the Suffolk County Legislature on \_\_\_\_\_, 2016, and was (approved/disapproved) by \_\_\_\_\_ on \_\_\_\_\_, 2016. Such local law was submitted to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 2016 in accordance with the applicable provisions of law.

*(Name of Legislative Body)*

*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 2016 of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 2016 became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 2016 of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 2016, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph  2 , above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town, or Village Clerk or officer  
designated by local legislative body

Date:  12/27/16

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF  Suffolk

I, the undersigned, hereby certify that the foregoing local law contains the correct text and the all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Signature

County Attorney

Title

County  
of  Suffolk

Date:  12/28/2016