



Frequently Asked Questions – Kratom in Retail Food Establishments in Yellowstone County

1. Is RiverStone Health banning kratom everywhere in Yellowstone County?

No, this is not a ban. RiverStone Health is beginning the enforcement of existing regulations, applicable to all Counties in Montana, prohibiting the sale of unapproved dietary ingredients, products or additives in retail food establishments.

2. Why is RiverStone Health only focusing on retail food establishments?

As the Yellowstone City–County Health Department, RiverStone Health is responsible for inspecting and licensing a variety of local businesses of public health concern, including food establishments, body art facilities, hotels, public pools and others. Each business type is regulated under a specific set of environmental health and hygiene standards.

Retail food establishments are required to comply with the Montana Food Code. The sale of kratom products in retail food establishments violates multiple provisions of the Montana Food Code, including:

- Unsafe or unapproved food additives
- Unapproved sources of food products
- Adulterated food products

3. What is considered a retail food establishment?

According to the Montana Food Code, a "Retail food establishment" means an operation, whether mobile or at a temporary or stationary facility or location, that meets one or more of the conditions in subsections (21)(a)(i) and (21)(a)(ii) and that may include a central processing facility that supplies a transportation vehicle or a vending location or satellite feeding location. A retail food establishment:

- (i) stores, processes, packages, serves, or vends food directly to the consumer or otherwise provides food for human consumption at a venue that may include: a) a restaurant; b) a market; c) a satellite or catered feeding location; d) a catering operation if the catering operation provides food directly to a consumer or to a conveyance used to transport people; e) a vending location; f) a conveyance used to transport people; g) an institution; or h) a food bank; and (ii) relinquishes possession of food to a consumer directly or indirectly by using either a delivery service, as is done for grocery or

restaurant orders, or a common carrier that provides deliveries. The term is not dependent on whether consumption is on or off the premises or whether there is a charge for food served to the public.

4. What has changed? Why now?

These are not new regulations. The Montana Food Code, which dictates health inspections in retail food establishments, was adopted in 2015 and applies throughout Montana.

Due to the proliferation of kratom products in Yellowstone County, RiverStone Health began reviewing our statutory responsibilities in regulating these products. Staff consulted with the Board of Health, relevant legal authorities, and the Montana Department of Public Health and Human Services before determining it was necessary to move forward with enforcement of existing laws in 2026.

Throughout this process, environmental health staff have engaged food establishment owners and operators of the food code rules. Further, an August 2025 report issued by the Montana Department of Justice provided mounting evidence of kratom as an emerging public health threat. While nothing has changed in current laws and regulations, we will move forward with uniform enforcement of Montana's food code without regard to any unapproved food ingredients.

5. Is kratom sold in bottles or cans considered a food? Are kratom drinks regulated as food?

Yes, under the Montana Food Code, "food" means an edible substance, beverage, or ingredient used, intended for use or for sale for human consumption. Kratom products sold as drinks, including those packaged in bottles or cans, meet the definition of food and are regulated accordingly.

6. Can I still buy kratom at non-food establishments?

Yes, kratom products may still be available in vape shops and other specialty stores. Montana is working on additional regulations and may move to ban or limit the sale of kratom and/or synthetic 7-OH entirely. Kratom is the subject of a rapidly changing regulatory environment at both the state and federal level.

7. Why is RiverStone Health focusing on all kratom products instead of 7-OH?

At this time, there are no kratom or 7-OH products listed as 'safe' on the US Drug and Food Administration's (USDA) Generally Recognized as Safe (GRAS) list. Only foods and ingredients listed on the GRAS list may be sold in retail food establishments. Instead, the Food

and Drug Administration and USDA have listed kratom as a ‘drug and chemical of concern.’

8. What ability does RiverStone Health have to enforce kratom regulations?

RiverStone Health’s environmental health team and Health Officer work closely with the County Attorney’s Office to enforce violations related to non-compliance or in rare cases, the need to immediately close an establishment due to an imminent health hazard.

Food establishments observed selling kratom during their routine inspection will receive a note on their inspection report and will enter an enforcement process. The establishment will have two opportunities to correct the violation by removing the products from sale. If kratom is still being sold upon the third inspection, the establishment will be referred to the County Attorney’s Office and RiverStone Health will notify DPHHS that they are not approved for a retail food license.

9. Are any other Montana communities enforcing these regulations?

Yes, the food code applies throughout the state of Montana. The Blackfeet Nation has taken their concerns a step further to adopt a full ban across tribal lands.

10. Can a business operate without a license?

No, Montana Code Annotated §§ 50-50-201 and 50-57-201 requires all food establishments meeting the definition of a retail, wholesale or temporary food establishment to be properly licensed and/or permitted prior to operation.

11. Where can I learn more about Montana’s food code?

To learn more about Montana’s rules and regulations regarding retail food establishments, visit: <https://dphhs.mt.gov/publichealth/EHFS/RetailFood/>

12. What is the timeline for enforcement of these regulations?

Compliance is a two-way street, operating on a “three strike” system here in Yellowstone County. Our sanitarians will provide education and guidance on the laws and work with businesses toward a solution. Everyone will be treated equally following our compliance procedure, but the timeline may differ on a case-by-case basis. On the rare occasion a business does not come into compliance after this process, we will work with our County Attorney's office and the State of Montana to resolve the issue.

13. Are there examples of other ingredients that are not allowed in foods or beverages?

Yes. Other examples of ingredients that cannot be added to foods or beverages and sold include cannabis, nicotine, charcoal, and many more. We love the creativity of our local entrepreneurs, but all ingredients need to be what the FDA calls "generally recognized as safe" (GRAS). To learn more about the GRAS list, visit: <https://www.fda.gov/food/food-ingredients-packaging/generally-recognized-safe-gras>

14. Don't alcohol and cannabis cause more harm? Why not do more to regulate those products?

Alcohol and cannabis are already regulated by the Montana Department of Revenue through the Cannabis and Alcohol Regulation Division. This team focuses on licensing, inspections, compliance, education, and outreach related to these products. RiverStone Health provides additional outreach and education to prevent and treat misuse of these products, but the state does the heavy lifting of regulation. Kratom is unregulated in the state of Montana at this point in time.

15. How does this impact local kava houses?

Kava houses are considered licensed food establishments, and therefore, must also follow the food code as it relates to kratom and other unapproved substances. Kava bars can continue to sell and serve kava products because kava is approved as a supplement by the FDA.

16. How do you know kratom is a public health threat? Is there data to back this up?

The FDA states "kratom is not lawfully marketed in the U.S. as a drug product, a dietary supplement, or a food additive in conventional food". The DEA also refers to kratom as a "drug and chemical of concern". Since 2020, there have been 29 deaths in Montana associated with kratom use. Further, the number of intoxicated driving incidents associated with kratom use has approximately doubled in the past year (Department of Justice, 2025). As kratom use and its impacts become more widespread, more data will be available in Yellowstone County and Montana. According to preliminary information from area healthcare providers, kratom has been associated with an increase in hospital admissions, opioid use disorders, intoxicating driving incidents, overdoses, and even fatalities. Once this data becomes public, RiverStone Health will add it to this FAQ.

17. Can someone overdose from kratom?

Yes. There have been a growing number of overdoses associated with kratom, involving mitragynine and 7-OH. While 7-OH drastically increases a risk of overdose, several remain associated with mitragynine products alone. Risk of overdose increases with consuming a) mitragynine with other substances like alcohol, opioids, and benzodiazepines, b) higher doses

or more concentrated products; and c) unregulated products. Because kratom is not an approved supplement, additive, or supplement in the United States, it is not regulated or tested. This makes it difficult to guarantee the potency of kratom sold and can increase the risk of contamination with other products like lead. People with underlying health conditions including heart disease, liver issues, and more are at increased risk of overdose.