



Dear Montana State Students, Faculty and Staff:

The Drug Free Schools and Communities Act Amendments of 1989 require that institutions of higher education receiving any form of financial assistance provide students and employees with information regarding drug and alcohol use, including, but not limited to: sanctions related to their use or misuse, prevention and support programs available, and policies related to alcohol and/or other drugs.

Myriad partners across the Montana State University-Bozeman campus strive to maintain a healthy and safe campus. Alcohol and drug misuse and abuse lie at the center of our concern for student and employee safety and welfare. Additionally, ample research highlights the dangers of alcohol and/or drug abuse or misuse on college campuses and in communities. Therefore, we aim to: 1. educate on the dangers of alcohol and drugs; 2. reduce the harm associated with abuse/misuse of drugs and alcohol; and, 3. support prevention and recovery efforts.

The [Dean of Students'](#), [Office of Health Advancement](#) and [Counseling and Psychological Services](#) websites provide information on alcohol and drug laws and policies, standards of conduct, prevention programs and treatment options and resources available to students. Additionally, I encourage you to review this document and our Annual Security Report found on our [Clery compliance website](#) for more detailed information. If you have any questions, please contact Marci Torres, Assistant Director, University Health Partners at marci.torres@montana.edu.

Sincerely,

A handwritten signature in cursive script that reads 'Matt R Caires'.

Dr. Matt Caires
Dean of Students, Montana State University

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Alcohol, Other Drugs, & MSU

The Montana State University community seeks to foster a campus environment conducive to academic inquiry, productive campus life, and thoughtful study and discourse. The University Code of Conduct and its Human Resources policies support these goals and aim to foster a healthy, safe, and productive campus and community; to promote moral and ethical development; and to encourage students and employees to abide by city, state, and federal laws as well as safe and healthy personal practices. As such, multiple departments and divisions at Montana State work steadfastly to prevent dangerous, illegal, and unhealthy behaviors including misuse and/or abuse of alcohol and/or drugs.

Employees at Montana State are subject to the [Drug, Alcohol and Tobacco Free Workplace Policy](#) and the drug and alcohol policies outlined on the [MSU Policies and Procedures webpage](#). This includes reference to the Montana Board of Regents Policy, the Drug-Free Workplace Act, and the Drug-Free Schools and Communities Act and Amendments. Along with outlining the health risks of alcohol and drug use and providing information about employee education and assistance programs, the policy states: Compliance with Montana State University drug and alcohol policies is required, and violations of the policies will result in disciplinary action, up to and including, termination of employment. Employees may be required to successfully complete a drug and alcohol rehabilitation program before returning to work as a condition of continued employment.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in the student conduct process are conducted with fairness, but do not include the same protections of due process afforded by the courts in criminal cases. Due process, as defined within these procedures, assures written notice and a hearing before an impartial board or hearing officer. No student will be found in violation of the MSU Code of Student Conduct without a determination that is more likely than not that a policy violation occurred. Any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student. Further, as a federally funded institution, MSU adheres to all federal laws when it comes to alcohol and drug use or distribution. This holds true for marijuana as well. Using marijuana on campus or distributing marijuana on or off campus is a violation of MSU's code of conduct even if a student has a medical card. Finally, the University's alcohol and drug policies also apply off campus when there is a nexus that involves the university.

These pages provide students with important information about drugs, alcohol, and the university's policies regarding these substances. Included is information on the health risks associated with abuse of alcohol and other drugs, the kinds of help available to those with drug and alcohol related problems, the university's policies related to drug and alcohol use, and the sanctions the institution may impose on those who violate these policies. State and federal laws applicable to the use and abuse of alcohol and other drugs are also presented.

Because of the health and social risks of alcohol and drug abuse, Montana State University provides alcohol and drug abuse prevention education, counseling, and treatment programs designed to reach all segments of the campus community.

MSU Policies Related to Alcohol and Other Drugs

Introduction

MSU has a Campus Alcohol and Drug Policy that promotes a healthy campus environment. That Policy is found at www.montana.edu/policy/campus_alcohol_drug and it conforms to the requirements of the Drug Free Schools and Communities Act, and the Montana Board of Regents Policy 503.1, Alcoholic Beverages.

Standards of Conduct

MSU's policy prohibits unlawful possession, consumption, use, distribution or sale of illicit drugs and alcohol by students and employees on campus property. These acts are prohibited by both the Student Conduct Code and the Personnel Policies and Procedures Manual. UPD has primary responsibility for the enforcement of State underage drinking laws as well as the enforcement of Federal and State drug laws.

MSU is a tobacco-free campus, which includes all nicotine delivery devices. Even though recreational and medical marijuana is legal in the state of Montana, University policy prohibits use in compliance with federal and state law which prohibits the possession and/or use of drug paraphernalia at educational institutions. On December 20, 2019, the President signed legislation raising the federal minimum age of sale of tobacco products from 18 to 21 years of age.

Alcoholic Beverages

Montana Board of Regents Policy 503.1 provides that consumption of alcoholic beverages is permitted on property belonging to the Montana University System only as follows:

- 1) Within student living quarters, consumption of alcohol is allowed only by persons of legal age. Legal consumption by students in student living quarters shall not interfere with the rights of other residents and their guests or cause the normal operation of residence halls/student housing to be disrupted.
- 2) Within approved areas on campus property that are used or rented as approved by the President.

Approval Process

MSU has established procedures for obtaining approval for events where alcohol will be available. See Section 890.00 of the Facilities Use Manual.

University Student Housing

All events involving alcohol held on campus must receive approval from University Catering. University Catering provides information about policies, laws, and the procedures to initiate the University's approval process. The requirements for events with service of alcoholic beverages are found in the Campus Alcohol and Drug Policy and the Facilities Use Manual.

MSU's policy allows the possession and consumption of alcohol in the privacy of student rooms or individual family and graduate housing units, in accordance with applicable State law (legal

drinking age in Montana is 21). However, it does not allow alcoholic beverages to be consumed in public areas such as hallways and lounges. If a public area is used for an event and alcohol will be present, the event sponsor must follow the requirements in Section 890 of the Facilities Use Manual. Also, the Policy does not allow parties or activities in student rooms where large amounts of alcohol are present.

Residence Hall social funds (managed by Residence Hall Association (RHA)) may not be used for the purchase of alcoholic beverages. Approved University Student Housing sponsored functions involving alcohol must also adhere to the state law and the policies of the university. Off-campus events organized or sponsored by University Student Housing may serve alcohol only in accordance with the Campus Alcohol and Drug Policy.

Fraternity/Sorority Organizations

MSU Policy provides that possession and consumption of alcoholic beverages at Fraternity/Sorority houses and functions are subject to policies established by the Board of Regents, Montana State University, IFC/Panhellenic policies, and with national chapter policies, local ordinances, and State laws.

Any Fraternity/Sorority events must follow MSU's Alcohol and Drug Policy including its provisions concerning prohibitions on: alcohol at open parties; use of alcohol at recruitment functions; the use of Chapter funds for the purchase of alcohol. Events with alcohol must also meet the requirements for registration with university officials and other related requirements and procedures.

ASMSU, Departmental and Other Registered Student Organizations

MSU's Alcohol and Drug Policy also regulates the use of alcohol at gatherings or events of ASMSU, registered student organizations, and other organized student groups. Such groups must follow MSU's policies and procedures governing the use of alcohol at events and must receive prior approval in accordance with Section 890.00 of the Facilities Use Manual. No organizational or ASMSU funds are allowed to be used to buy alcohol.

Stadium and Sports Facilities

Alcohol use is not allowed in sports facilities except in specific locations (e.g., Stadium Club) or as authorized under Section 890.00 of the Facilities Use Manual. Alcohol concessions at Football games and at tailgating are allowed in accordance with the requirements of MSU policies.

University Employees and Outside Groups

MSU's Alcohol and Drug policy also requires employee or private party events using University facilities that involve the service of alcohol to comply with the requirements of Section 890.00 of the Facilities Use Manual. No organizational funds of employee groups may be used to purchase alcohol.

Alcohol Marketing Guidelines

MSU's Policy also regulates alcohol advertising and marketing on campus. It prohibits reference to alcoholic beverages, free drinks, and drinking games, and regulates any allowed advertising.

Illegal Drugs

MSU's Policy also prohibits the use, possession, manufacture, sale, or distribution of any illegal drugs on University property or at University sponsored events, including the non-medical use of prescription drugs.

Prescription Drug Abuse

Students' inappropriate use of prescription drugs to "get high," cram for exams, or use to enhance sports performance is a violation of MSU's policy. Prescription drugs, when mixed with alcohol, are particularly dangerous and potentially lethal. This is especially true of opiates, such as OxyContin, Vicodin or other painkillers. Harmful effects of prescription drug abuse include:

- 1) Mental health: increased irritability, agitation, anger, apathy, depression, paranoia (delusions and Hallucinations), violence, and dependence.
- 2) Physical health: drastic changes in sleep patterns, sudden weight loss or gain, stunted growth, and dependence.

Medical and Recreational Marijuana

Although Montana state law permits the use of recreational and medical marijuana, i.e., use by persons possessing lawfully issued medical marijuana cards or those over the age of 21, federal laws prohibit marijuana use, possession and/or cultivation at educational institutions and on the premises of other recipients of federal funds. Therefore, MSU's Policy prohibits the use, possession or cultivation of marijuana for recreational or medical purposes in any Montana State University property, inclusive of housing; nor is it allowed at any University-sponsored event or activity off campus.

Health Risks of Alcohol and Drug Abuse

Abusive use of alcohol and/or the use of illicit drugs or misuse of prescription drugs can be detrimental to the physical and mental health of students and members of the surrounding community. The various risks are classified and described in this section of the Report.

Social, Academic, and Personal Risks of High-Risk Substance Abuse

Social, academic and personal risks are associated with students who drink alcohol, use illicit drugs or abuse prescription drugs. High-risk and illegal use of alcohol and illicit drugs are the most prominent health and safety risks to the MSU student population, which can result in significant legal and academic problems. Prevalence of this type of alcohol use (also known as "binge drinking" or heavy episodic drinking) and/or use of drugs can directly or indirectly lead to:

- 1) Social problems: driving under the influence, fighting, unwanted sexual contact, vandalism, trouble with authorities, unsafe sexual behavior, among others.
- 2) Academic problems: poor grades, missed classes, memory loss, falling behind in class work or projects.
- 3) Personal problems: depression, illness and injury, experiencing unwanted attempted or completed sexual intercourse, suicide, being the victim of violence or racial harassment, being unable to control drinking or drug use.

Second-Hand Effects

“Second hand” effects result from other peoples’ drinking or drug use, often experienced by students who choose not to use drugs or alcohol in a high-risk manner. These problems are typically most prominent among students living in close quarters (e.g., residence halls or Greek houses). Effects include: disruptions of sleep or studying, having one’s property damaged, feeling unsafe, having one’s membership in an organized group adversely affected, and decreased enjoyment of campus activities. Non- students, i.e., community members, are also at risk of experiencing problems as a result of student drinking or drug use (e.g., intoxicated driving, vandalism, violence, sexual assault).

Risks Associated with Dependency or Addiction

For some students, substance use escalates to dependency. Adverse effects of dependency can include illnesses such as liver disease, peripheral neuropathy, and cerebella degeneration. Additional health risks to students with chemical or psychological dependency include the personal problems listed above in addition to blackouts, alcoholic hallucinations, and delirium tremens. Prescribed medications and illicit drugs can be abused with or without dependency, leading to potential dependency, acute intoxication (can include depression or euphoria, altered time perception, impairment of immediate memory, overdose, stupor, shock, coma or death), acute withdrawal, psychosis, or aggravation of existing mental illness.

Symptoms of dependency include the following:

- 1) psychological craving: intense feeling of need for the drug which may be accompanied with antisocial behavior involved in the procurement of the substance;
- 2) physiological dependence: withdrawal symptoms are displayed when use of the substance is discontinued; and
- 3) tolerance: need to increase the dose of the substance to obtain the desired effects.

In compliance with the Drug Free Schools and Communities Act, Montana State University publishes information regarding the University’s educational programs related to drug and alcohol abuse prevention; sanctions for violations of federal, state, and local laws and University policy; a description of health risks associated with alcohol and other drug use; and a description of available treatment programs for MSU students and employees. A complete description of these topics, as provided in the University’s annual notification to students and employees, is available online on the [Office of the Dean of Students](#) website. Additional information related to student use of AOD use is available online at [Office of Health Advancement Alcohol and Drug Assistance Center](#)

Education, Prevention, and Treatment Programs

Because of the health and social risks of alcohol and drug abuse, Montana State University provides alcohol and drug abuse prevention education, counseling and treatment programs, and recovery programs designed to reach all segments of the campus community.

All incoming students regardless of their age are required to take Alcohol EDU and Sexual Assault Prevention Education. Both programs are science-based, interactive online programs, providing

students with facts and skill-based information on alcohol and sexual assault, other consequences of alcohol abuse, including alcohol's impact on the brain, body, and behavior. The program matches course content to each student based on his or her behavior, attitudes, and what he or she already knows about alcohol.

Whether students choose to drink or not, the online education is designed to encourage informed decision-making about alcohol use as well as providing skills to respond to the drinking and risk behaviors of friends and peers. The program delivers information with a non-judgmental tone that supports students in making their own plan to reduce the risk of harm associated with drinking while in college.

This program is one of many efforts at MSU to support better decision-making and a healthier campus environment where everyone can live, study, work and play. MSU Office of Health Advancement provides education programs addressing risk reduction as well as policy development to prevent substance misuse.

Details about online educational programs and the Office of Health Advancement are available at 406-994- 4380 or www.montana.edu/oha

Student Treatment and Assistance - Alcohol and Drug Assistance Center/Insight Program

The MSU Office of Health Advancement provides a voluntary, confidential resource to assist all students who are impacted directly or indirectly by chemical abuse through its Alcohol and Drug Assistance Center/Insight Program, including the MIP (Minor in Possession) program.

INSIGHT is a state approved three-level assistance and intervention program open to all MSU students, either by self-referral or by referral from MSU offices, departments or the local court system. This program can be contacted at (406) 994-5937, and is located at 1106 S 6th Avenue. Student confidentiality will be respected. The Center provides referral and pre-assessment support.

The Center:

- Offers referral assistance to students and their friends who have alcohol and other drug use issues.
- Offers workshops, seminars and training related to substance abuse.
- Provides support to friends and family who are affected by someone else's substance use/abuse.
- Supports other MSU offices, faculty and staff in issues relating to alcohol/drugs.
- Provides factual information and dispels myths about alcohol and other drugs.
- Disseminates information on local treatment and recovery program options.
- Provides information, support and referral for those students affected by behavioral compulsions and for students who are/were affected by chemical abuse within a family.

The Center also offers limited family counseling and referral. A licensed counselor will meet and consult with family or friends of students on a limited basis in order to discuss options and offer support. The Center also provides treatment referrals. The three levels (Focus Seminar, Brief Alcohol Screening and Interventions for College Student— BASICS, and Intervention and Referral) are described in detail on the Insight website.

Students can also call Insight at 406-994- 5937.

A full-time licensed clinical and addiction counselor works specifically with substance abuse issues. This service is provided as part of the health fees and is free to participants.

The Office of Health Advancement/Insight program also supports Students in Recovery. The Insight office staff also includes an MIP Case Coordinator and graduate student employees. Graduate students facilitate the Level I Focus Seminars; the licensed counselor conducts the BASICS program and oversees Levels III interventions. This program also provides support meetings for those in recovery and sober activities and community service.

Centers for Students in Recovery

The MSU Office of Health Advancement provides the Center for Students in Recovery. This is a community for students in sobriety, their allies, and those looking to gain or maintain recovery from addictive disorders. They provide sober events, fellowship, wellness mentoring and other resources. The Center provides recreational opportunities, service work, academic and professional growth as well as a peer-based recovery mentorship program that helps students manage and excel in challenging situations, on and off campus.

Details are available www.montana.edu/oha or email at crs@montana.edu. The Center is located at 1106 S 6th Ave.

The Center for Recovering Students offers several Alcoholic Anonymous and Marijuana Anonymous meetings throughout the week. For more information on meeting times and dates please contact 406-994-5937.

Students and Employees – General Counseling Services

In addition to the Student Alcohol and Drug Assistance/Insight Program, general counseling is available through MSU's [Counseling and Psychological Services](#) located in 211 Swingle, 406-994-4531. Assessments and individual counseling for students whose lives have been affected by their own or someone else's substance abuse are available. Persons who voluntarily avail themselves of University services shall be assured that applicable professional standards of confidentiality will be observed.

These counseling and rehabilitation services include:

- 1) Training professional staff and student staff on drug abuse information, intervention and referral;
- 2) Conducting education programs for students who have demonstrated abusive behavior with drugs;
- 3) Conducting individual counseling for members of the university community with drug problems;
- 4) Conducting drug abuse assessments;
- 5) Providing consultation, information and referral for students, staff and faculty with drug problems;
- 6) Designing and developing referral opportunities for members of the university community who desire to seek professional assistance beyond the campus. This will be done in cooperation with the employee assistance program and MSU Human Resources; and
- 7) Providing, with peer involvement, a system of intervention and referral services for students, faculty and staff.

This program has been designed to make faculty, students, administrators, and other employees served by the program comfortable, to give choice in the selection of assistance, to maintain confidentiality of clients, and to provide professional service.

Employees needing help in dealing with drug/alcohol problems or information on insurance coverage for treatment and rehabilitation programs may also contact Human Resources. In addition, the MUS system provides the EAP and Work-life Services through Reliant Behavioral Health. This program provides a 24-hour crisis help line and access to in-person counseling for employees. Supervisors are provided with fast access to phone consultations, training about the EAP management topics which include a Drug-Free workplace. EAP resources can be found here: <https://choices.mus.edu/eap-work-life.html> or call Toll Free 1-866-248-4532

Enforcement and Sanctions

MSU's policy provides that students who violate the University alcohol and drug abuse policy, city or state laws are subject to disciplinary action as a student under the Student Conduct Code; and employees violating the policy are subject to discipline under personnel policies or applicable collective bargaining agreement. Individuals may also be subject to criminal prosecution.

Student sanctions may include reprimand, probation, suspension, expulsion and/or restitution as well as required attendance at educational and/or treatment programs.

Employee sanctions may include disciplinary measures up to and including termination. MSU may require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who violates campus policy. (Personnel Policies and Procedures Manual.)

Criminal sanctions, regardless of status, may include jail, probation, mandatory counseling and/or education, fines, and suspension or revocation of driving privileges. Groups displaying

unreasonable and irresponsible conduct or violating this University Alcohol/ Other Drugs policy will jeopardize continuance of the University- recognized or supported event and access to University service and facilities.

Biennial Review

MSU's Office of the Dean of Students and the Office of Health Advancement reviews the University's drug and alcohol abuse prevention programs for students and employees biennially to determine the programs' effectiveness and to implement changes if needed. The review will include the collection of information about a) the number of drug and alcohol-related violations and fatalities that occur on campus or as part of the institution's activities which are reported to campus officials; and b) the number and types of sanctions imposed by the institution as a result of those drug and alcohol-related violations and fatalities.

A written report of the review shall be prepared and maintained by MSU for a period of at least three years.

Montana State Medical Amnesty Policy

Purpose

Montana State University recognizes that certain barriers may exist that would prevent students from seeking medical assistance for themselves or others when someone's health and/or safety is at risk due to alcohol and/or drug use, or where other health issues arise where alcohol or drugs are being used. Therefore, to ensure that students receive prompt and appropriate attention for urgent medical situations, and to ensure there are no impediments to seeking such assistance, Montana State University implemented this Medical Amnesty policy.

Policy

To promote the safety, health, and wellbeing of students at Montana State University, the University expects its students and organizations to immediately contact university staff, emergency medical services or law enforcement when they have reason to believe a fellow student is too impaired/intoxicated from alcohol/drug use to seek competent professional medical help on their own, or otherwise in need of urgent medical attention. Students should act immediately and not wait for any conditions to worsen when the health and safety of someone is at risk.

Montana State University students and organizations who seek out and respectfully and fully comply with university, medical, or law enforcement personnel when having violated the alcohol and/or drug policy outlined in the Student Conduct Code will not be subject to disciplinary sanctions nor have conduct files created for the related alcohol/drug violations. However, if other violations occur concurrently with the alleged violations, students will be held accountable for those violations.

a. Amnesty for the reporting of sex-based discrimination, sexual harassment, sexual misconduct, dating violence, domestic violence, or stalking, can be found in the Discrimination, Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Stalking and Retaliation policy.

b. Students assisting and/or those in need of assistance must

affirmatively contact university staff, emergency medical services or law enforcement and request their presence in order to receive amnesty. Bringing a medical issue to the attention of law enforcement or emergency medical services after they are on scene for other purposes will not result in amnesty protection. If students and organizations involved do not reach out to emergency medical services or law enforcement, they may be subject to disciplinary measures.

c. The Dean of Students or a designee will record the names of students or organizations involved in the incident for the purpose of accurate recording and future evaluation of each student's conduct. These records shall be maintained separately from any disciplinary records but may be considered as relevant information in future decision making. In order for this provision to apply, students involved in the incident may be required to participate in an alcohol/drug education program or seek medical treatment for alcohol and/or drug abuse, but these requirements will not be recorded as sanctions.

d. Repeated use of this Medical Amnesty Policy for the purpose of avoiding disciplinary action by the University will be considered interference with the conduct process and may lead to additional disciplinary measures at the discretion of the Dean of Students or designee.

Tobacco-Free Campus

Tobacco use and secondhand smoke have been identified by the Surgeon General to be the cause of preventable diseases. Additionally, in 2009, the Montana legislature decreed that the "right to breath smoke-free air has priority over the desire to smoke" (Montana Code 50-40-102). It is the policy of MSU to promote the health, wellness, and safety of all employees, students, guests, visitors, and contractors while on campus. Therefore, the campus has been free of tobacco-use since August 1, 2012.

Any violation of the University's [Tobacco Free Campus Policy](#), which includes nicotine delivery devices and prohibits the use of tobacco (including cigarettes, cigars, pipes, smokeless tobacco and all other tobacco products) by students, faculty, staff, guests, visitors, and contractors is prohibited on all properties owned or leased by MSU, including:

- all interior space on the MSU campus and property leased by MSU, including the agricultural research centers and other remote sites;
- all outside property or grounds on MSU's campuses, including areas such as walkways, breezeways, parking lots, and patios;
- all outside property leased by MSU;
- all vehicles leased or owned by MSU;
- all indoor and outdoor athletic facilities.

Sanctions Related to Alcohol and Other Drugs

Code of Student Conduct Sanctioning Guidelines

Montana State utilizes a progressive discipline approach when resolving conduct code

violations. When considering outcomes for alcohol or drug violations, all cases are contextualized. For instance, not all violations are resolved the same way. There are obvious variables that could impact the outcomes listed below, including level of intoxication, the intoxicant, etc.

If a student has been cited or arrested for an alcohol or drug-related law violation, the conduct officer may allow court-ordered sanctions to substitute for University sanctions. This is especially relevant to alcohol and drug education classes and community service.

- Recommended Sanctions for a first violation of an alcohol or drug policy are a University Warning and the completion of an Alcohol/Drug Education course.
- Recommended Sanctions for a second violation are conduct probation/residence hall probation or relocation and/or an additional level of Alcohol or Drug Education.
- Recommended Sanctions for a third violation are conduct suspension, housing removal and/or additional Alcohol or Drug Education, including a substance abuse assessment.

City of Bozeman Municipal Ordinance Sanctions ARTICLE 4. Alcohol Policy

Section 4.04.010 - General provisions and intent

The city commission declares that alcohol possession and consumption by minors, high risk drinking behaviors by minors, and the supply and sale of alcohol to minors have negative and detrimental impacts on the community and are, therefore, a nuisance, and constitute conduct calculated to disturb the public peace of the city and threaten the health, safety and welfare of the citizens of Bozeman.

Significant problems exist when persons possess and consume alcoholic beverages in an irresponsible manner. Such persons create a public safety hazard by their consumption of alcoholic beverages and the subsequent driving of motor vehicles or violent encounters on public property. Therefore, because of the negative and detrimental impacts of such behaviors on the community, the irresponsible consumption and possession of alcoholic beverages which disturb the public peace of the city are declared a nuisance and threaten the health, safety and welfare of the citizen of Bozeman.

It is the intent of the city commission to address those areas related to alcohol access, consumption and usage which are not otherwise addressed by the current law in the state. Violations such as Endangering Welfare of Children (MCA 45-5-622), Unlawful Transactions with Children (MCA 45-5-623), Unlawful Attempt to Purchase or Possession of Intoxicating Substance (MCA 45-5-624), Driving under the Influence of Alcohol or Drugs or Operation with Alcohol Concentration of .08 or More (MCA 61-8-401 and 61-8-406), and Operation of Vehicle by Person under Twenty-One with Alcohol Concentration of .02 or More (MCA 61-8-410) have all been specifically addressed by state law as noted and will be enforced within the city under those laws. Disorderly Conduct and Public Nuisance (MCA 45-8-101 and 45-8-111) violations shall be addressed by state code. Noise issues shall be addressed through chapter 16, article 6, as applicable.

Sec. 4.04.030. - Public drinking or display of open alcoholic beverages; open containers; prohibited. Public drinking or display or exhibition of open alcoholic beverages (open container) as defined in section 4.04.020 is prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of open alcoholic beverages (open container) within the city limits.

Sec. 4.04.070. - Violation; penalty.

It is a misdemeanor for any person to violate any of the provisions of this article.

Anyone found guilty of the offense of having an open container under section 4.04.030 shall be fined an amount not less than \$100.00 and not to exceed \$500.00 or be imprisoned in the county jail for a term not to exceed six months, or both. The first \$100.00 of a fine under this section may not be suspended. C. Upon conviction, the court may, in its discretion, order the payment of the costs of prosecution or imprisonment, or both, as part of the sentence.

City of Bozeman Municipal Ordinance Sanctions ARTICLE 8. – Medical Marijuana

Sec. 16.08.150. - Applicability; failure to maintain state authorization.

For purposes of this division, the definitions, words, phrases, and expressions as set forth in this division are to be construed the same as those set forth in the Montana Marijuana Act (MCA 50-46-301 et seq.).

Any individual or entity licensed under this division to conduct any transaction, use or business involving marijuana, in addition to the requirements of this division, is subject to all other requirements of this Code, and the Montana Marijuana Act and any limits on possession, clean air, etc., and any applicable administrative rules established by the state. Should such rules or laws change, any person or entity licensed under this division shall immediately come into compliance with any newly adopted rules.

Notwithstanding the above, nothing in this Code shall be construed to authorize any person or entity to perform any act or conduct any enterprise not in conformance with state or federal law.

Compliance with this Code does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities.

Each individual or entity issued a license under this division shall at all times maintain authorization from the State of Montana under the Montana Medical Marijuana Act to acquire, possess, cultivate, manufacture, deliver, transfer, or transport medical marijuana. Failure to maintain authorization under the Medical Marijuana Act shall be cause for immediate suspension of a license issued under this division and may be cause for revocation or cause for criminal prosecution as provided by law.

Division 3. – Public Use and Display

Sec. 16.08.300. - Purpose and intent.

The purpose of this division is to identify acts regarding the use of marijuana as authorized in Title 50, Chapter 46, MCA within the city that are not authorized to be conducted in a manner open or visible to the general public. In addition, the purpose of this division is to identify that acts related to smoking, consuming, or displaying marijuana in certain public areas are to be punished as criminal acts and as such shall be subject to

criminal penalties. The purpose of establishing these acts where the use is further limited by the city as criminal is to protect the public's health, safety, and general welfare.

It is the intent of this division that the visible or open display, smoking, or consumption of marijuana by registered cardholders is to be confined to private property where that property or portions thereof are not adapted and fitted for public travel or are not in common use by the public. (Ord. No. 1786, § 5(8.52.010), 7-26-2010; Ord. No. 1869, § 2, 7-22-2013)

Sec. 16.08.320. - Public display, smoking, or consumption of marijuana prohibited.

No person authorized by the Montana Marijuana Act (MCA 50-46-301 et seq.) to acquire, possess, cultivate, manufacture, deliver, transfer, or transport marijuana, may, on the ways of the city open to the public, display, smoke, or consume marijuana in an open or visible manner. A violation of this section is an absolute liability offense. (Ord. No. 1786, § 5(8.52.030), 7-26-2010; Ord. No. 1869, § 2, 7-22-2013)

Sec. 16.08.330. - State law superseded and applicable.

The provisions of this division shall be superseded by the Montana Marijuana Act (MCA 50-46-301 et seq.), only in so far as this division expands the limitations on the use of marijuana authorized under the Montana Marijuana Act. All other provisions of state law related to marijuana shall be applicable. (Ord. No. 1786, § 5(8.52.040), 7-26-2010; Ord. No. 1869, § 2, 7-22-2013)

Sec. 16.08.340. - Violation and penalty.

A violation of section 16.08.320 is a misdemeanor and upon conviction a person shall be fined not more than \$500.00 or imprisoned in the Gallatin County Detention Center for a period not to exceed six months or both such fine and imprisonment. A person so convicted shall also be required to pay all costs and expenses of prosecution and the courts as authorized by law. (Ord. No. 1786, § 5(8.52.050), 7-26-2010)

Sec. 16.08.350. - No private right of action.

Nothing in this division shall be construed to create a private right of action regarding the acquisition, possession, cultivation, manufacture, delivery, transfer, or transport of marijuana.

State of Montana Laws and Sanctions

Montana's Underage Consumption of Alcohol Law

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance.

A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages. A person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

Relevant Age	Offense Level	Penalty
<i>Under 18</i>	1st Offense	Shall be fined an amount not less than \$100 and not to exceed \$300

<i>years of age who is convicted</i>		and: <ul style="list-style-type: none"> · shall be ordered to perform 20 hours of community service; · shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available; and · if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b).
	2nd Offense	Shall be fined an amount not less than \$200 and not to exceed \$600 and: <ul style="list-style-type: none"> · shall be ordered to perform 40 hours of community service; · shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available; · if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and · shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8).
	3rd or Subsequent Offense	Shall be fined an amount not less than \$300 or more than \$900 and: <ul style="list-style-type: none"> · shall be ordered to perform 60 hours of community service, · shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available, and · shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8). <p>If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).</p>
<i>18 Years of age or older who is convicted</i>	1st Offense	Shall be fined an amount not less than \$100 or more than \$300 and: <ul style="list-style-type: none"> · shall be ordered to perform 20 hours of community service; and · shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9).
	2nd Offense	Shall be fined an amount not less than \$200 or more than \$600 and: <ul style="list-style-type: none"> · shall be ordered to perform 40 hours of community service; and · shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both.
	3rd or Subsequent Offense	Shall be fined an amount not less than \$300 or more than \$900, and: <ul style="list-style-type: none"> · shall be ordered to perform 60 hours of community service; · shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the sentencing court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and

		· in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months
<i>A person under the age of 21 (Attempts to purchase an intoxicating substance)</i>		A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

Montana’s Medical Amnesty Law

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance

A person under 21 years of age may not be charged or prosecuted under subsection if:

- I. the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment;
- II. the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or
- III. the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment.

Montana’s Carrying False Identification Law

61-5-302. Unlawful use of license or identification card.

It is a misdemeanor for a person to:

- I. Display or cause or permit to be displayed or have in the person’s possession a canceled, revoked, suspended, fictitious, or altered driver’s license, identification card, or tribal identification card;
- II. Lend the person’s driver’s license, identification card, or tribal identification card to any other person or knowingly permit its use by another;
- III. Display or represent as one’s own any driver’s license, identification card, or tribal identification card not issued to the person;
- IV. Fail or refuse to surrender to the department upon its lawful demand a driver’s license or identification card that has been suspended, revoked, or canceled;
- V. Use a false or fictitious name in an application for a driver’s license or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in an application; or
- VI. Permit any unlawful use of a driver’s license, identification card, or tribal identification card issued to the person.
- VII. Fines typically range between \$280 and \$500.

Montana’s Public Drunkenness Law

61-8-508. Intoxicated pedestrian

Except in an authorized crosswalk, a person who is under the influence of alcohol or any drug may walk or stand in the public right-of-way, as defined in 60-1- 103, but not on a roadway or a shoulder as is otherwise permissible under 61-8-506(2). Fines typically range between \$100 and \$500.

Montana’s Driving Under the Influence of Substances Law

61-8-401. Driving under influence of alcohol or drugs - definitions.

It is unlawful and punishable, as provided in 61-8-442, 61-8-714, and 61-8-731 through 61- 8-734, for a person who is under the influence of:

- I. Alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;
- II. A dangerous drug to drive or be in actual physical control of a vehicle within this state;
- III. Any other drug to drive or be in actual physical control of a vehicle within this state; or
- IV. Alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state.
- V. Fines typically range between \$600 and \$5,000.

Offense Level	Penalty
1st Offense	<ul style="list-style-type: none"> a) Shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000. b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.
2nd Offense	<ul style="list-style-type: none"> a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401 shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less than 7 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than \$2,400 or more than \$4,000 and by imprisonment for not less than 14 days or more than 1 year. b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.
3rd Offense	<ul style="list-style-type: none"> a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-401 shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of

	<p>not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000.</p> <p>b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.</p> <p>c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.</p>
4th Offense -Felony	<p>4. If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration, driving under the influence of delta-9-tetrahydrocannabinol, or aggravated driving under the influence.</p> <p>5. If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465.</p>

Montana’s law on selling or furnishing alcohol to minors

16-6-305. Age limit for sale or provision of alcoholic beverages – liability of provider.

Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person’s parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age.

A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

For the purposes of this section, “intoxicating quantity” means a quantity of an alcoholic beverage that is sufficient to produce:

1. A Blood, breath, or urine alcohol concentration in excess of 0.05;
2. Substantial or visible mental or physical impairment.

A person is guilty of a misdemeanor who:

1. Invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person;
2. Permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or
3. holds out the person to be 21 years of age or older to the owner of the establishment or to the owner’s employee.

It is unlawful for any person to fraudulently misrepresents the person’s age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card.

A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is

judicially determined to be the result of the intoxicated condition created by the violation.

Montana’s open container laws

61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway.

Except as provided in subsection 2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

This section does not apply to an open alcoholic beverage container:

1. In a locked glove compartment or storage compartment;
2. In a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
3. Behind the last upright seat of a motor vehicle that is not equipped with a trunk;
4. In a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or
5. In the immediate possession of a passenger:
 - a. of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or
 - b. in the living quarters of a camper, travel trailer, or motor home.

A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver’s record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a violation of this section.

Montana’s possession laws

45-9-102. Criminal possession of dangerous drugs.

Except as provided in Title 50, chapter 46, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101. This subsection does not apply to the possession of synthetic cannabinoids listed as dangerous drugs in 50-32-222.

Drug Type	Level of Offense	Penalty
Marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish	1st Offense	Guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence

	2nd or Subsequent Offense	Fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or by both.
Heroin as listed in 50-	1st Offense	Guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both
Opiate, as defined in 50-32-101-Felony	1st Offense	Shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222
Methamphetamine	2nd or Subsequent Offense	Shall be punished by: <ul style="list-style-type: none"> i. imprisonment for a term not to exceed 5 years or by a fine not to exceed \$50,000, or both; or ii. commitment to the department of corrections for placement in an appropriate correctional facility or program for a term of not less than 3 years or more than 5 years. If the person successfully completes a residential methamphetamine treatment program operated or approved by the department of

		corrections during the first 3 years of a term, the remainder of the term must be suspended. The court may also impose a fine not to exceed \$50,000.
		A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsections (2) through (5) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

45-10-103. Criminal possession of drug paraphernalia.

Except as provided in Title 50, chapter 46, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

Federal Guidelines

The [United States Controlled Substances Act](#) established sanctions for possession and distribution of controlled substances, based on the schedule of the drug and the amount involved. However, in addition, the statutory sanctions for possession and distribution are subject to the "Sentencing Guidelines for U.S. Courts." Imposition of the guidelines may lead to higher offense levels and, thus, stricter penalties than otherwise indicated. Courts must make adjustments in the offense level for victim-related considerations, defendant's role in the offense, multiple counts, obstruction and acceptance of responsibility. Finally, the guidelines establish sentences for each offense based on the defendant's criminal history. Federal penal sanctions range from: manufacture, distribution or trafficking of large amounts of heroin, cocaine, PCP, methamphetamine, Schedule I and II hallucinogens, marijuana, hashish, or any of their derivatives (30 years to life, regardless of the defendant's criminal history) to Possession of any Schedule III-V drug if defendant has lowest level or criminal history (0-4 months).

Further, if serious injury or death results from the crime, minimums of up to 10 years (serious injury) and 20 years (death), plus fines of up to \$4,000,000 may be added. These penalties maybe doubled for defendants with past felony drug convictions. Finally, penal sanctions in the federal system are "real time," with reductions in sentences only for good behavior.

Besides the criminal sanctions, the consequences of unlawful or irresponsible alcohol or drug use include, but are not limited to:

1. Restrictions on future employment opportunities
2. The loss of Federal Financial Aid (Mandatory for Drug Offenses)
3. Potential risks for injury, including permanent disability

4. The risk of being a victim of a crime and / or committing additional crime(s)
5. The loss of driving privileges
6. Additional sanctions on your educational record and future educational opportunities

The following resources are available to review ever-evolving federal laws, definitions and penalties regarding alcohol and drugs:

- [Controlled Substance Act](#)
- [List of Controlled Substance Schedules](#)
- [Drugs of Abuse DEA Resource Guide 2020](#) which includes Federal Trafficking Penalties

Gallatin County Community Addiction Assistance/ Resources Emergency Numbers

Emergency Contacts and Other Resources	
Bozeman Police	Emergency: 911 Non-Emergency: 406-582-2000
Gallatin County Sheriff	406-582-2100
University Police	406-994-2121
University Resources	
American Indian Council	406-994-4880
Counseling and Psychological Services	406-994-4531
Diversity and Inclusion Student Commons	406-994-5801
Insight- Alcohol and Drug Assistance Center	406-994-5937
Office of the Dean of Students	406-994-2826
Office of Health Advancement	406-994-4380
Office of Institutional Equity	406-994-2042
University Student Housing	406-994-2661
University Health Partners	406-994-2311
Veteran Services	406-994-3661
VOICE Center	406-994-4380
Voice Center 24-Hour Confidential Support	406-994-7069
Women’s Center	406-994-3836
Gallatin County Resources	
Alcoholics Anonymous	406-585-4079
Alcohol and Drug Services of Gallatin County	Emergency: 211 Non-Emergency: 406-586-5493
Bozeman Help Center	406-586-3333
Hope House	406-585-1130
Haven	406-586-4111
Montana Tobacco Quit line	800-784-8669