2025-26

ANNUAL NOTIFICATION OF ALCOHOL AND OTHER DRUG INFORMATION

Information for Students, Faculty, and Staff

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Introduction

As a requirement of the Federal Drug-Free Schools and Communities Act Regulations [EDGAR Part 86], UC Berkeley distributes this annual notification of the alcohol and drug prevention programs of the university to all students and employees on an annual basis. To ensure that all members of the campus community receive the annual notification document, it is directly emailed to all student and employee university email addresses. In addition, the Annual Notification is embedded on the following university website. Questions about the Drug-Free Schools and Communities Act or alcohol and other drug programs, interventions, and policies may be directed to hpromo@berkeley.edu. Information in this notification is directly derived from university policies. No information in this notification is meant to supersede the policies.

Students and employees are subject to the university policies, as well as all applicable local, state, and federal laws. The university will impose appropriate sanctions on any member of the campus community who is found responsible for violating the law and/or university policy.

Campus Statement on Alcohol & Other Drugs

The University of California Berkeley was established as a public institution and is intrinsically devoted to the health, safety, and well-being of every individual in the campus community. Every member of the UC Berkeley community has a role in sustaining a safe, caring, and humane environment. Students, faculty, and staff are therefore responsible for fostering a healthy environment free of alcohol & other drug misuse. Toward that end, the campus provides education, prevention, and support services to minimize misuse; encourages treatment for members of the campus community; and sets expectations for conduct in accordance with applicable laws, university policies, and campus regulations.

Alcohol & Other Drug Programs Available to Students and/or Employees

Guiding Frameworks

Campus staff work closely with students, faculty, and community partners on year-round services and initiatives that aim to reduce risk, consequences, and harm from the use of alcohol and other drugs. We aspire to have multi-faceted programming grounded in the:

- CPN Comprehensive Prevention Framework and
- College AIM Alcohol Intervention Matrix

Comprehensive Prevention Framework Since 2011, UC Berkeley has periodically conducted the CPN - Alcohol Diagnostic Inventory (ADI), a comprehensive, research-driven assessment of our strengths and areas for improvement in the four core pillars of a Comprehensive Prevention Framework. In 2019, UC Berkeley received the following ADI designations:

- **Programming** - PROFICIENT: The scope and impact of current prevention programming.
- **Policy** - PROFICIENT: The effectiveness of campus alcohol policies related to their enforcement and adjudication.

- **Critical Processes** - EMERGING: The adherence to processes deemed critical to success in alcohol prevention.
- **Institutionalization** - DEVELOPING: The degree of institutional support for alcohol prevention and the extent of relationships that exist with a variety of constituencies that are essential to prevention success.

UC Berkeley received the **Campus Prevention Network Seal of Prevention in October 2020.** The Seal is awarded to institutions of higher education that meet the highest standards of digital prevention programming, aligned to evidence-based principles including socio-cultural relevance, reach and dosage, and outcomes evaluation (Principles of Effective Prevention Programs - published by Nation, et al. 2003). Awardees have also positioned prevention as central to key institutional outcomes, including recruitment, student success, retention, and advancement.

College AIM Alcohol Intervention Matrix Developed by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) with leading college alcohol researchers and staff, *CollegeAIM* helps schools identify effective alcohol interventions. While there are numerous options for addressing alcohol issues, they are not all equally effective. Key steps are

- **Priorities**: Clarifying which alcohol and other drug-related issues are of most concern to our campus. Strive to clearly define our campus needs and goals and keep them front and center.
- **Effectiveness**: Does research show that our current strategies are effective in addressing our priority issues? Might others be more effective?
- **Balance:** Realistically assess what we can do with our available resources. Strike a balance, if possible, between individual- and environmental-level strategies, and between strategies that will face few barriers and can be put in place quickly and others that may take longer to implement. Consider the financial cost relative to the program's expected effectiveness and the approximate percentage of the student body that the strategy will reach.

List of Programs

Overall Campus

Program Name: **Compliance and Enterprise Risk Committee, Subcommittee on Student Risk**
Brief description: The Student Risk Subcommittee of the campus-wide Compliance and Enterprise Risk Committee (CERC) is chaired by the campus Risk Manager. Membership is made up of student leaders and multiple campus units. The Subcommittee is charged with identifying methods to reduce the risks faced by students. Perhaps the most critical risk faced by students is alcohol misuse; thus, the first task of the Student Risk Subcommittee has been to address the risk of alcohol misuse by students.
Website: Campus Alcohol Website Risk Services
Contact Person: Laila DeBerry, Campus Risk Manager

Program Name: **First 8**
Brief description: This group is composed of multiple campus units, student leaders, and representatives from the Berkeley Fire Department, Berkeley Police Department, and Berkeley City Manager's Office. It meets every Wednesday during the first eight weeks ("First 8") of the fall semester to foster communication, spot trends, and coordinate efforts to reduce student risk. It continues to meet throughout the year in advance of historic and/or emerging high-risk events of concern to both the campus and the city.
Website: Risk Services

Contact Person: Leona Chen, Risk Analyst - Risk Services

Program Name: Do YOU! - Alcohol and Other Drugs (AOD)
Brief description: UHS staff work closely with students, staff, faculty, and community partners on year-round initiatives, information, and services that aim to reduce risk, consequences, and harm from the use of alcohol and other drugs. This website is designed to inform and support these efforts.
Website: Do YOU! - Alcohol and Other Drugs (AOD)
Contact Person: Dylan Pugh, Health Promotion - UHS

Program Name: **AOD Confidential Counseling & Support**
Brief description: Individual and group counseling and support to help students clarify and achieve their AOD goals (e.g. get what they want from their use, without the things they don't want). Also, support if concerned about others' use. Referrals to mental health and AOD services outside UHS. Mandated services (individual, groups) for those referred by the Center for Student Conduct, Residential Conduct, I-House, Co-ops, and other referring bodies.
Website: AOD Confidential Counseling & Support - UHS - Social Services
Contact Person: Robin Walley, AOD Specialist
Phone: 510-642-6074

Program Name: **PartySafe@Cal**
Brief description: Multi-faceted UHS - Health Promotion campaign that operates simultaneously to reach individual students, the student body as a whole, and the greater college community. Use our toolkits, education materials, videos, and consultation services to keep it social, not slurred.
Website: PartySafe@Cal
Contact Person: Dylan Pugh, Health Educator, Health Promotion - UHS

Program Name: Harm Reduction Expansion Project
Brief Description: Fentanyl Test Strip and Naloxone Training & Distribution Project. Seeks to expand existing harm reduction information, training, and resources to address risks of potential fentanyl contamination. Provides the following for students, staff, faculty, and student groups: Low to no-cost fentanyl test strips; Free Naloxone/Narcan; Harm reduction & recovery awareness education and training resources. Co-sponsored by The Collegiate Recovery Program and PartySafe@Cal
Website: FTS & Naloxone Training & Distribution
Contact Person: Dylan Pugh, Health Promotion-UHS, and Iz Enge,l Collegiate Recovery Program Coordinator, Center for Support and Intervention

Program Name: **Happy Neighbors**
Brief description: Creating awareness and optimal neighbor relations through peer education, connection building, and outreach. This program educates students and their neighbors about community expectations, city services, relevant policies and laws, and police and student conduct procedures for possible alcohol, party, and noise-related violations.
Website: Happy Neighbors
Contact Person: Jen Loy, Associate Director of Government & Community Relations

Program Name: Collegiate Recovery Program (CRP)
Brief Description: CRP is a campus community dedicated to supporting students in recovery and/or struggling with alcohol and other drug use by providing resources for recovery, health & wellness, and academic success. It aims to create an inclusive and supportive space open to students in all stages and manners of recovery. It uses a community-based peer support approach.
Website: Collegiate Recovery Program
Contact Person: Iz Engels, Collegiate Recovery Program Coordinator, Center for Support and Intervention
Email: itisiz@berkeley.edu

Program Name: Bears That Care (BTC)
Brief Description: Bears That CARE is an active bystander initiative to make our campus safer. Its alcohol education workshop focuses on how to be active bystanders and intervene in situations where alcohol is involved. In this workshop, we emphasize the social norms of party culture at Cal, discuss some facts and myths when it comes to alcohol consumption, present the intervention scale, and allow students to practice the recovery position.
Website: Bears That Care
Contact Person: Emilie Mitchell, Violence Prevention & Education Program Coordinator

Program Name: Hazing Prevention Collaborative (HPC)
Brief Description: The Hazing Prevention Collaborative is a multidisciplinary group of students and staff who have come together to reduce and prevent hazing in the UC Berkeley community. It seeks to shift the campus culture of organizational initiation to one of belonging, community responsibility, and transparency.
Website: Hazing Prevention Collaborative
Contact Person: Emilie Mitchell, Violence Prevention & Education Program Coordinator

Program Name: Path to Care
Brief description: Path to Care (PTC) offers many prevention and support services, meant to provide students, staff, and faculty with the best tools to prevent and be prepared to address issues that arise within their departments, courses, and organizations.
Website: PATH to Care
Contact Person: Kelsey Hoie Ferrell, Interim Director, PATH to Care Center

Program Name: Routine and Targeted Alcohol and Other Drug Enforcement and Training
Brief Description: Berkeley UCPD officers all receive standard law & enforcement training within the California POST police academy training and field training program which includes alcohol and other drugs. Individual officers also receive specialized training in relevant areas (e.g. DUI enforcement, drug influence, abuse recognition, etc.) UCPD conducts routine and targeted (time, place) enforcement efforts throughout the academic year.
Website: Berkeley UCPD

Program Name: Permitting Special Events with Alcohol on Campus
Brief Description: Any event on campus at which alcoholic beverages will be served or sold requires review and approval by UCPD. A summary of policies pertaining to alcoholic beverages at campus events is here. Organizers must complete an Alcohol Permit Request Form no less than seven (7) days in advance. This n*otification to UCPD does not guarantee that alcohol service will be approved*.
Website: Special Event and Security Assessments | Berkeley UCPD

Program Name: Reporting and Processing Student Behavioral Misconduct
Brief Description: The Center for Student Conduct appreciates the sharing of concerns and reporting incidents in order to help maintain a safe and secure campus environment. Alcohol or other drug violations or incidents involving a University of California, Berkeley student or student organization may be reported and will be processed according to the guidelines outlined on the website. If CSC finds them responsible, it assigns educational and/or disciplinary sanctions.
Website: Reporting Behavioral Misconduct - Center for Student Conduct (berkeley.edu)

New Undergraduates

Program Name: **Golden Bear Experience**
Brief description: New Student Services (NSS) empowers undergraduate students to succeed and facilitates their transition to UC Berkeley. This process is known as the Golden Bear Experience, which consists of two parts: Before Students Arrive (Golden Bear Prep) and After Students Arrive (Golden Bear Orientation, Bear Pact, Bear Perspectives) on campus. Several activities specifically address alcohol and other drug-related health and safety issues and education.
Website: Golden Bear Orientation
Contact: New Student Services
Email: nss@berkeley.edu

Program Name: AlcoholEdu
Brief description: Berkeley uses the AlcoholEdu online course to ensure every new student receives a base-level education on alcohol, cannabis, and e-cigarettes. Whether they are abstainers, moderate drinkers, or heavy drinkers, each student receives relevant content, personalized feedback, and practical strategies that are appropriate for their needs.
Website: AlcoholEdu
Contact person: Dylan Pugh, Health Promotion - UHS

CalGreeks

Program Name: General Advising
Brief description: Many fraternities and sororities work with their advisor to develop programs that follow policy and best practices with alcohol. Advisors work with groups to help develop safer cultures around alcohol at individual organizations.
Website: LEAD Center - Advisors
Contact person: Jeff Woods, Director, Fraternity & Sorority Life

Program Name: Mandatory Alcohol Education Program for CalGreeks Fraternities & Sororities
Brief description: All recognized fraternities and sororities in the CalGreeks community are required to implement at least one educational program each semester for at least 80% of their membership. Programs can vary from chapter to chapter; however, most chapters utilize Every Bear Goes Home, Berkeley Police Department, and PartySafe@Cal.

Website: http://lead.berkeley.edu/wp-content/uploads/2015/01/all-greek-social-code.pdf
Contact person: Jeff Woods, Director of Fraternity & Sorority Life

Program Name: Social & Risk Management Training
Brief description: Social & Risk Management Training (SRMT) is a two-part training at the beginning of both the Fall and Spring semesters. The SRMT has students learning the policies associated with being a fraternity/sorority; the policies associated with registering an event and how to register an event; how to intervene effectively at events; SVSH policies, responses, and campus resources; and information from the Berkeley Police Department and the Berkeley Fire Department.
Contact person: Jeff Woods, Director of Fraternity & Sorority Life

Program Name: CalGreeks Event Registration & Notification
Brief description: IFC fraternities and PHC sororities register their social events through IFC/PHC, and a weekly email is sent out that lists the registered events in the CalGreeks community.
Contact person: IFC Vice President of Risk; PHC Vice President of Risk; Jeff Woods, Director, Fraternity & Sorority Life

Program Name: CalGreeks Event Messaging
Brief description: Fraternity & Sorority Life sends out occasional emails (typically sent out before high-risk weekends) with information & resources to the CalGreeks community.
Contact person: Jeff Woods, Director, Fraternity & Sorority Life

Program: Greeks Against Sexual Assault (GASA)
Brief description: Greeks Against Sexual Assault (GASA) is a peer education program that provides workshops to fraternities and sororities on SVSH prevention.
Contact person: Jeff Woods, Director, Fraternity & Sorority Life

Intercollegiate Athletics

Program Name: PEDs and Supplement Use Education
Brief Description: E-learning module prepared by the US Council for Athletes' Health (USCAH) experts on facts and risks of dietary supplements and performance-enhancing drugs for athletes.
Website: USCAH
Contact Person: Ryan Cobb, Sr. Associate Athletic Director

Program Name: Cal IA Substance Use Policy & Screening
Brief Description: The NCAA drug-testing program, along with clear policies and effective education, protects student-athletes who play by the rules by playing clean. The purpose of the drug-testing program is to deter student-athletes from using performance-enhancing drugs, and it impacts the eligibility of student-athletes who try to cheat by using banned substances. The NCAA tests for steroids, peptide hormones, and masking agents year-round and also tests for stimulants and recreational drugs during championships.
Website: NCAA Drug Testing Program
Contact Person: Ryan Cobb, Sr. Associate Athletic Director

Student Organizations

Program Name: Signatory Training
Brief description: Introduction to leading a student organization for student signatories, covering topics such as room reservations, responsibilities of signatories, and leadership skills. Additional topics: how student leaders address difficult issues such as sexual assault, mental health, and alcohol.
Website: Student Organizations - OASIS
Contact person: Director for Organization Advising & Student Involvement Services (OASIS)

Residential Life, Cal Housing, and Berkeley Student Co-ops

Activity Name: **Residential Hall Staff Training**
Brief description: Hall staff, including Senior RAs, Theme Program RAs, RAs & RDs discuss and review signs of students who need medical attention due to alcohol intoxication and Residential Life's protocols for addressing incidents and documenting what happened.
Website: Residential Life
Contact person: Bona Lee, Assistant Director, Residential Life

Activity Name: Peer Review Board
Brief Description: The Peer Review Board is composed of students with experience living in the residence halls who strive to educate their peers about shared community standards and how their actions impact others through the Residential Conduct process.
Website: Residential Life
Contact person: Dale Morrow (They/Them), Assistant Director, Residential Support & Community Standards - Residential Life

Activity Name: Bear Necessities Guide
Brief Description: A guide supplied to all people who live on campus that includes resources related to resources and policies. This includes information regarding our alcohol and other drug policies, as well as what on-campus resources may be for someone who wants to engage with them.
Website: Residential Life
Contact person: Dale Morrow (They/Them), Assistant Director, Residential Support & Community Standards - Residential Life

Activity Name: Residential Conduct Poster Series
Brief Description: A series of 9 posters are placed throughout the residential community proactively highlighting the most violated residential conduct policies and campus resources. Specifically, there are posters for Alcohol, Drugs, and Smoking.
Website: Residential Life
Contact person: Dale Morrow (They/Them), Assistant Director, Residential Support & Community Standards - Residential Life

Activity Name: Substance-Free Housing
Brief description: Substance-free residence halls have risen in popularity and can be an important way for a campus to demonstrate support of students' healthy behaviors and choices.
Freeborn Hall is one building in the Unit 1 complex designated as a Substance-Free Environment. Residents actively agree to keep the community free of smoking, alcohol, and drugs. They plan and host substance-free programs, events, and activities. **Website:** Unit 1 - Housing - Freeborn Hall

Cloyne Court opened fresh after renovations in the Fall of 2014 as the Substance-Free Academic Theme House in the Berkeley Student Coop. Without the distraction of alcohol and other substances and with extended quiet hours, five expansive study rooms, and high-speed fiber-optic internet, Cloyne Court is the ideal environment for co-opers interested in focusing on academics. **Website:** Cloyne Court - Berkeley Student Coop

Activity Name: **Health Worker Program - Health Promotion - UHS**
Brief description: Health Workers are student volunteers trained to use health education and peer advising to promote self-care and healthy habits, risk management, and responding to health concerns effectively using home care or professional health services. AOD prevention and intervention awareness and skills are a core part of program activities.
Website: Health Worker Program - UHS
Contact person: Lauren Magdaleno, Health Promotion - UHS

Faculty & Staff Resources

Activity Name: Substance Abuse Assistance - Employee Assistance
Brief description: Employee Assistance offers support and guidance with a wide range of issues, including alcohol, drug, and other addictions. Our team can help you identify appropriate treatment resources, including rehabilitation centers and counseling for either yourself or someone you are concerned about.
Website: Substance Abuse Assistance
Contact: Employee Assistance, UHS-Tang Center
Phone: 510-643-7754
Email: employeeassistance@berkeley.edu

Health Risks Associated with Alcohol Abuse and Illicit Drug Use

Group / Substances	Possible Negative Consequences	Signs of Overdose	Steps to Take
Alcohol	• Amnesia - Blackout • Dizziness • Loss of motor control • Slurred speech • Impaired judgment • Incoherence • Vomiting • Withdrawal seizures • Death at high doses due to respiratory depression or choking on vomit	• Cold, clammy, pale, or bluish skin or extremities (fingernails, lips, etc.) • Unconscious or unable to be roused • Slow or irregular breathing • Puking or vomiting repeatedly An overdose is significantly more dangerous and potentially fatal when sedatives are combined.	1. Call 911 or 510-642-3333 (UCPD) from a mobile. 2. Ensure their airway is clear and put them in the recovery position on their side to prevent choking. 3. No food, drink, or drugs if vomited in the last three hours. 4. Stay with them while waiting for help. Side effects can continue to worsen. 5. When talking to 911 or paramedics, communicate what and how much was

			consumed, where it came from, and if they've vomited. 6. Ensure no interference with access to the patient.
Cannabis	● Anxiety ● Dissociation ● Loss of REM (dream-phase) sleep ● Overactive appetite ● Paranoia ● Poor memory Long-term use can lead to psychological dependence.	Lethal overdose has not been known to occur, but the experience can be very uncomfortable and cause nausea/vomiting. Combining with alcohol increases the chances of nausea and vomiting.	If vomiting while unconscious, place them in the recovery position, as choking on vomit can be fatal. However, cannabis users tend to be functional enough to prevent serious adverse effects on their own.
Benzodiazepines Diazepam (Valium) Alprazolam (Xanax) Lorazepam (Ativan) Clonazepam (Klonopin)	● Amnesia ● Dizziness ● Loss of motor control ● Impaired judgment ● Muscle weakness ● Nausea ● Slowed/stopped breathing ● Slurred speech ● Withdrawal seizures	Unconsciousness An overdose is unlikely to be fatal except when combined with alcohol, opioids, or other depressants.	1. Call 911. 2. Try to rouse them and keep them awake and alert if possible. 3. Place them in the recovery position to prevent any accidental choking if vomiting occurs.
Psychedelics LSD Psilocybin Mescaline DMT	● Depersonalization ● Intrusive or unwanted thoughts/feelings ● Triggering preexisting psychosis ● Paranoia A family history of schizophrenia may lead to an onset of psychosis.	Overdose has never occurred, but large amounts may lead to psychotic episodes or intense negative emotions.	BREATHE, RELAX, LET GO 1. Do your best to make them feel emotionally and physically safe. 2. Remind them they have consumed a mind-altering substance and that it will end. 3. Try guiding them through a calm breathing exercise (4 seconds in, hold, out, hold, repeat) if they are open. 4. Ensure all of their needs are met (hunger, thirst, temperature, the volume of surroundings, a comfortable environment, etc.) Call 911 only as a LAST RESORT if they are a danger to themself or others. But if they are experiencing a challenging episode, keep them safe and it will pass.
Stimulants Amphetamine (Adderall/Dexedrine)	● Aggressive mood (not typically true for MDMA)	● Hallucinations ● High body temperature ● Panic attacks	1. Hydrate / cool them down. 2. Calm them down / de-escalate the situation.

Methamphetamine Methylphenidate/CNS Stimulant (Ritalin/Concerta) Cocaine MDMA	• Chest pain • Dehydration • Headache • Increased heart rate/blood pressure • Insomnia • Paranoia • Psychosis • Vomiting • Potential suicidal ideation or depressive states after the experience • Death at high doses due to cardiac arrest	• Rapid and/or irregular heart rate • Seizures • Severe headache	3. Instruct them to practice slow breathing exercises to calm the heart and mind. 4. Call 911 if the above steps do not calm them down.
Dissociatives Ketamine Nitrous	• Anesthesia • Dizziness • Loss of motor control • Unconsciousness Long-term regular use of Ketamine may lead to bladder or kidney problems.	• Seizures • Unconsciousness • Vomiting Overdose is rare unless combined with other substances. Combining with alcohol or other sedatives can lead to more severe side effects.	1. Place into the recovery position if unconscious/unresponsive and at risk of vomiting. 2. Call 911 if they are unable to breathe.
Sedatives Zolpidem (Ambien) Barbiturates	• Amnesia • Anxiety • Dizziness • Impaired judgment • Loss of motor control • Slowed/stopped breathing • Slurred speech • Death at high doses	• Blue/purple extremities (fingernails, lips, etc.) • Cold skin/low body temperature • Seizures • Very slow or stopped breathing • Very slow or stopped heartbeat • Vomiting • Unconsciousness An overdose is significantly more dangerous and potentially fatal when sedatives are combined with alcohol or other sedatives.	1. Call 911. 2. Try to place them upright. If they cannot sit upright, place them in the recovery position. 3. Ensure their airway is clear. 4. Give them some water to sip on if they are able. 5. Ensure they are adequately warm. 6. Stay with them until help arrives, as side effects can worsen several hours after ingestion.
Opioids / Painkillers Oxycodone (OxyContin/Percocet) Hydrocodone (Vicodin) Morphine Methadone Fentanyl Heroin Codeine	• Contracted pupils • Drowsiness • Slurred speech • Death at high doses due to respiratory depression or choking on vomit	• Blue/purple extremities (fingernails, lips, etc.) • Gurgling noises • Pale/clammy skin • Shallow/slowed/stopped breathing • Slowed/stopped heart rate • Unconsciousness • Vomiting	1. Try to shout at or shake them to see if they are responsive. 2. Call 911. 3. Administer naloxone/Narcan if available. 4. Perform rescue breathing/chest compressions if they are not breathing. 5. Place them in the recovery position.

			6. Monitor and administer 2nd dose of naloxone/Narcan after 3 minutes if the person has not been revived.
PCP While PCP is technically a dissociative, it does not neatly fit into any substance class and thus deserves its own set of effects.	• Amnesia • Anesthesia • Anxiety • Dissociation • Increased blood pressure/heart rate • Shallow breathing • Death at high doses	• High blood pressure • High body temperature • Irregular heartbeat • Loss of motor control • Paranoia • Psychosis • Seizures • Unconsciousness • Uncontrollable eye movement • Vomiting	1. Call 911. 2. Support their physical or emotional safety in any way you can while you wait for help to arrive.

Alcohol and Other Drug Policies

The university strives to maintain a campus community and worksite free from illegal use, possession, or distribution of alcohol or of controlled substances as defined in schedules I through V of the Controlled Substances Act, 21 United States Code Sec. 812 and by regulation in 21 Code of Federal Regulations Sec.1308.

Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol or of controlled substances by university employees and students on university premises, at official university functions, or on university business is prohibited. In addition, employees and students shall not use illegal substances or abuse legal substances in a manner that impairs work performance, scholarly activities, or student life.

Employees found to be in violation of this policy, including student employees, if the circumstances warrant, may be subject to corrective action, up to and including dismissal, under applicable university policies and labor contracts; or may be required, at the discretion of the university, to participate satisfactorily in an employee support program.

Students found to be in violation of this policy may be subject to disciplinary action, up to and including dismissal, as set forth in the code of student conduct and in campus regulations; or may be required, at the discretion of the university, to participate in educational workshops and services.

Student Policies on Alcohol and Controlled Substances

All Students

All students are subject to the Code of Student Conduct, which prohibits the following:

102.17 Controlled Substances

Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of controlled substances, identified in federal and state law or regulations.

102.18 Alcohol

Manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations.

Students in Residence Halls

The Residential Code of Conduct contains the following policies pertaining to alcohol and other controlled substances:

A1. Alcohol

A. Possession, consumption, distribution, or being in the presence of alcohol by residents under the age of 21 is prohibited. This includes all other use of alcohol in violation of state law or University policy.

B. Consumption of alcohol by residents who are 21 or older is permitted only in the resident's assigned space, and with the provision that the door is closed and no individuals under the age of 21 are present. All other use of alcohol in violation of state law or University policy is prohibited.

C. Bulk quantities of alcohol, (i.e. quantities that could not reasonably be consumed responsibly in a single sitting by the individual(s) present), as well as common containers, and the manufacturing of alcohol, as well as games and/or devices used or intended for the rapid consumption of alcohol, are prohibited.

D. Violating any other policy while under the influence of alcohol is prohibited.

A3. Controlled Substances

A. Possession, use, manufacture, sale, distribution, consumption, or being in the presence of illegal drugs, controlled substances and/or marijuana (including medical marijuana), and including paraphernalia containing controlled substances or residue of controlled substances, is prohibited

B. Prescription medication may only be used by the person to whom it is prescribed for its intended purposes. Over-the-counter drugs may only be used in the manner in which they are intended.

C. Violating any other policy while under the influence of a controlled substance is prohibited.

UCB Responsible Bystander Alternative Resolution

The Berkeley campus strongly encourages students to report alcohol or controlled substance emergencies promptly. The campus recognizes that students may be reluctant to report emergencies due to fear of potential consequences for their own conduct. The intent of this policy is to remove barriers to seeking medical assistance and thus promote student safety. Students and campus-recognized student organizations (including registered student organizations, sponsored campus organizations, and affiliated campus organizations referred to henceforth as "RSOs") reporting an alcohol or controlled substance emergency will not be subject to the student conduct process if:

1. The reporting student or RSO may be in violation of any of the following Code of Student Conduct sections:

• 102.17 – Controlled Substances (Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, possession, use, or sale of controlled substances, identified in federal and state law or regulations).
• 102.18 - Alcohol (Manufacture, distribution, dispensing, possession, use, or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations).

and,

2. The student or RSO promptly seeks medical assistance on behalf of a student experiencing an alcohol or controlled substance emergency.

The student or RSO may be referred to the Center for Student Conduct to discuss participation in an appropriate educational program in a timely manner. Participation in the educational program will not create a reportable conduct record.

Individuals invoking this policy more than once may create a higher degree of concern and will be reviewed by the Center for Student Conduct for appropriate follow-up.

Records that fall under this policy will be maintained by the Center for Student Conduct.

This policy does not apply to any citation, arrest, or other action taken by police or law enforcement officials, and this policy is not applicable to potential violations of the Residential Code of Conduct.

Educational Actions and/or Disciplinary Sanctions

As of January 1, 2026, the Code of Student Conduct was revised to comply with California Assembly Bill 602 (2025), known as the Campus Overdose Prevention Act. Students receiving medical treatment for the personal use of drugs or alcohol shall not be subject to disciplinary action if they complete an appropriate rehabilitation/education program assigned by the Center for Student Conduct; commonly, this is an alcohol and other drug assessment with Social Services, but the student can work with the Center for Student Conduct to implement an appropriate alternative. If the student does not complete the appropriate rehabilitation/education program, they shall be subject to disciplinary action. This only applies to students one time per academic semester. For subsequent alleged violations within the same semester, the student may be subject to disciplinary action or offered a rehabilitation/education program. This does not apply when students may have engaged in other alleged violations of the code (such as hazing, physical abuse, or theft) or other campus policy (such as the Policy of Sexual Violence and Sexual Harassment or the Anti-Discrimination Policy), in which case a student is subject to disciplinary action.

Any student who otherwise violates the drug and alcohol policies is subject to disciplinary action, including sanctions as outlined in the Code of Student Conduct, in addition to any penalties resulting from violating local, state, and/or federal law. Disciplinary sanctions may include a warning, disciplinary probation, suspension, or dismissal from the university. Students residing in university housing may also lose the privilege of living on campus for violating university rules and regulations or the conditions of the housing contract. In most cases, the Center for Student Conduct and Residential Life will also assign developmental and educational interventions designed to promote greater awareness and improved decision-making for students and to further deter misconduct.

Faculty & Staff Policies on Alcohol and Other Drugs

Policy on Substance Abuse

The University of California Policy on Substance Abuse states that the university strives to maintain campus communities and worksites free from illegal use, possession, or distribution of alcohol. Unlawful manufacture, distribution, dispensing, possession, use, or sale of alcohol by university employees in the workplace, or university premises, at official university functions, or on university business, is prohibited. In addition, employees shall not use illegal substances or abuse legal substances in a manner that impairs work performance, scholarly activities, or student life. The university recognizes dependency on alcohol and other drugs as a treatable condition and offers programs and services for employees with substance dependency problems. Employees (including student employees) are encouraged to seek assistance from Employee Support Programs, health centers, and counseling or psychological services available on campus. Information obtained regarding an employee during participation in such programs or services will be treated as confidential.

To learn more about Employee Support Programs at Berkeley, please visit the Be Well at Work website.

Employees found to be in violation of the Policy on Substance Abuse, including student employees, may be subject to corrective action up to and including dismissal, or may be required to satisfactorily participate in an Employee Support Program.

Advertising

In accordance with campus policy, alcoholic beverages may not be advertised or promoted either on the Berkeley campus or at off-campus activities or events sponsored by campus units or campus-recognized groups and attended by students. Campus-recognized groups include organizations of students, employees, or alumni that are registered with the campus or that use the name of either the University of California or the Berkeley campus.

Research

Federal and state laws govern the purchase, storage, control, and use of alcohol by educational institutions. Regents' Business & Finance Bulletin BUS-2 addresses requirements for obtaining alcohol for research and clinical purposes on a tax-free basis and summarizes the associated safeguards.

The Federal Drug-Free Workplace Act of 1988 and the State Drug-Free Workplace Act of 1990 require that university employees directly engaged in the performance of work on a federal or state contract or grant must abide by the applicable policy as a condition of employment.

Employees working on federal contracts and grants shall notify the university within five calendar days if they are convicted of any criminal drug statute violation occurring in the workplace or while on university business. This requirement also applies to all indirect charge employees who perform support or overhead functions related to the federal contract or grant, and for which the federal government pays its share of expenses, unless the employee's impact or involvement is insignificant to the performance of the contract or grant. The university is required to notify the federal contracting or granting agency within ten calendar days of receiving notice of such conviction and to take appropriate corrective action or to require the employee to participate satisfactorily in available counseling, treatment, and approved substance-abuse assistance or rehabilitation programs within thirty calendar days of having received notice of such conviction.

Disciplinary Sanctions

Employees found to be in violation of the University of California Policy on Substance Abuse, found here, may be subject to corrective action, up to and including dismissal (e.g., Letter of Warning, Suspension, Termination), under the applicable personnel policies or collective bargaining agreements.

For a member of the faculty, disciplinary hearing proceedings shall be in accordance with procedures established by the Academic Senate. The administration of discipline shall be in accordance with procedures established by the University in consultation with the Academic Senate.

Student employees found to be in violation of the policy as a result of actions taken during the course of their activities as employees may be subject to corrective action under applicable personnel policies or collective bargaining agreements. Existing university policy provides that the loss of university employment shall not be a form of corrective action for students unless the conduct giving rise to the discipline is related to the employment.

In addition to, or in lieu of corrective action, employees may, as a condition of employment, be required to participate in a substance abuse assistance or rehabilitation program. If the employee continues to perform any job duties during the time of this participation, the employee will be expected to conform to the standards for satisfactory work performance.

Employees found to have engaged in other kinds of misconduct will be disciplined or discharged under the applicable personnel policies or collective bargaining agreements.

Federal, State, and Local Laws and Sanctions

Federal Sanctions

The possession, use, or distribution of illicit drugs is prohibited by federal law. Strict penalties are enforced for drug convictions, including mandatory prison terms for many offenses. The following information is an overview of federal penalties for first convictions. All penalties are doubled for any subsequent drug conviction.

Federal penalties and sanctions for illegal possession of a controlled substance. Additional penalties are imposed for trafficking.

21 U.S.C. 844 - Penalties for simple possession: First conviction: Up to one year imprisonment and fined at least $1,000 but not more than $100,000, or both. After one prior drug conviction: At least 15 days in prison, not to exceed two years and fined at least $2,500 but not more than $250,000, or both. After two or more prior drug convictions: At least 90 days in prison, not to exceed three years and fined at least $5,000 but not more than $250,000, or both. Special sentencing provisions for possession of crack cocaine: Mandatory at least five years in prison, not to exceed 20 years and fined up to $250,000, or both, if: 1) 1st conviction and the amount of crack possessed exceeds five grams. 2) 2nd crack conviction and the amount of crack possessed exceeds three grams. 3) 3rd or subsequent crack conviction and the amount of crack possessed exceeds one gram.

21 U.S.C. 844a Any individual who knowingly possesses a controlled substance that is listed in section 841(b)(1)(A) of this title in violation of section 844 of this title in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

21 U.S.C. 853(a) Any person convicted of a violation of this subchapter or subchapter II punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

21 U.S.C. 862 - Denial of Federal benefits to drug traffickers and possessors:

(a) Drug traffickers

(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall—

(A)at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B)at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C)upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) Drug possessors

(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall—

(A)upon the first conviction for such an offense and at the discretion of the court—

(i)be ineligible for any or all Federal benefits for up to one year;

(ii)be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii)be required to perform appropriate community service; or

(iv)any combination of clause (i), (ii), or (iii); and

(B)upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions

under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) Suspension of period of ineligibility

The period of ineligibility referred to in subsections (a) and (b) shall be suspended if the individual—

(A)completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B)has otherwise been rehabilitated; or

(C)has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

21 U.S.C. 881(a)(4) Forfeiture of vehicles, boats, aircraft or any other conveyance used to transport or conceal a controlled substance.

21 U.S.C. 881(a)(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment.

18 U.S.C. 922

(g) It shall be unlawful for any person—

(3)who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1)to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2)to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Miscellaneous. Revocation of certain Federal licenses and benefits, e.g., pilot licenses, public housing tenancy, etc., are vested within the authorities of individual Federal agencies.

California State Laws

25658 BPC: Furnishing an Alcoholic Beverage to a Minor

(a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

(b) Except as provided in Section 25667 or 25668, any person under 21 years of age who purchases any alcoholic beverage, or any person under 21 years of age who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under 21 years of age, and the person under 21 years of age thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to themselves or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under 21 years of age to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under 21 years of age, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), or Section 25667 or 25668, any person who violates this section shall be punished by a fine of two hundred fifty dollars ($250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b), where prosecution of the previous violation was not barred pursuant to Section 25667 or 25668, shall be punished by a fine of not more than five hundred dollars ($500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars ($1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of three thousand dollars ($3,000), or by both imprisonment and fine.

(f) Persons under 21 years of age may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish alcoholic beverages to minors. Notwithstanding subdivision (b), any person under 21 years of age who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under 21 years of age. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy

shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the department within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code.

(Amended by Stats. 2023, Ch. 613, Sec. 3. (SB 498) Effective January 1, 2024.)

25661 BPC: Possession of a Fake ID by a Minor

(a) Any person under 21 years of age who presents or offers to any licensee, or agent or employee of a licensee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually their own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who possesses any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred fifty dollars ($250), no part of which shall be suspended; or the person shall be required to perform not less than 24 hours nor more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars ($500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law.

(Amended by Stats. 2019, Ch. 505, Sec. 4. (SB 485) Effective January 1, 2020.)

25662 BPC: Possession of Alcoholic Beverage by Person under the Age of 21 in a Public Place

(a) Except as provided in Section 25667 or 25668, any person under 21 years of age who possesses any alcoholic beverage on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars ($250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars ($500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under 21 years of age making a delivery of an alcoholic beverage in pursuance of the order of a parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of employment. That person shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under 21 years of age at social gatherings, when those gatherings are open to the public, 10 or more persons under 21 years of age are participating, persons under 21 years of age are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under 21 years of age, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

(c) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law.

(Amended by Stats. 2019, Ch. 505, Sec. 5. (SB 485) Effective January 1, 2020.)

25620 BPC: Possession of Open Container

(a) Any person possessing any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, in any city, county, or city and county owned park or other city, county, or city and county owned public place, or any recreation and park district, or any regional park or open-space district shall be guilty of an infraction if the city, county, or city and county has enacted an ordinance that prohibits the possession of those containers in those areas or the consumption of alcoholic beverages in those areas.

(b) This section does not apply where the possession is within premises located in a park or other public place for which a license has been issued pursuant to this division.

(c) This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related activity.

(Amended by Stats. 2000, Ch. 381, Sec. 1. Effective January 1, 2001.)

23152 VEH: Driving Under the Influence

(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person’s blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) It is unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) Commencing July 1, 2018, it shall be unlawful for a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a motor vehicle when a passenger for hire is a passenger in the vehicle at the time of the offense. For purposes of this subdivision, "passenger for hire" means a passenger for whom consideration is contributed or expected as a condition of carriage in the vehicle, whether directly or indirectly flowing to the owner, operator, agent, or any other person having an interest in the vehicle. In a prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(f) It is unlawful for a person who is under the influence of any drug to drive a vehicle.

(g) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.

(Amended by Stats. 2016, Ch. 765, Sec. 1. (AB 2687) Effective January 1, 2017.)

23220 VEH: Ingesting while Driving

(a) A person shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while driving a motor vehicle on any lands described in subdivision (c).

(b) A person shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while riding as a passenger in any motor vehicle being driven on any lands described in subdivision (c).

(c) As used in this section, "lands" means those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(d) A violation of subdivision (a) or (b) shall be punished as an infraction.

(Amended by Stats. 2017, Ch. 232, Sec. 1. (SB 65) Effective January 1, 2018.)

23222 VEH: Open Container while Driving

(a) A person shall not have in their possession on their person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (c) of Section 23220, a bottle, can, or other receptacle, containing an alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b) (1) Except as authorized by law, a person who has in their possession on their person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (c) of Section 23220, a receptacle containing cannabis or cannabis products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose cannabis flower not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).

(2) Paragraph (1) does not apply to a person who has a receptacle containing cannabis or cannabis products that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has a loose cannabis flower not in a container, if the receptacle or loose cannabis flower not in a container is in the trunk of the vehicle.

(c) Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in Section 11362.7 of the Health and Safety Code, if both of the following apply:

(1) The person is carrying a current identification card or a physician's recommendation.

(2) The cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed.

(Amended by Stats. 2019, Ch. 610, Sec. 2. (AB 397) Effective January 1, 2020.)

23224 VEH: Possession of Alcohol in a Vehicle by a Person under 21

(a) No person under 21 years of age shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, they shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) No passenger in any motor vehicle who is under 21 years of age shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, they shall have a complete defense if they were following, in a timely manner, the reasonable instructions of a parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.

(c) If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under 21 years of age, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.

(d) Any person convicted for a violation of subdivision (a) or (b) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(Amended by Stats. 2019, Ch. 505, Sec. 14. (SB 485) Effective January 1, 2020.)

11376.5. HSC: Immunity for Seeking Medical Assistance "Good Samaritan Law"

(a) (1) Notwithstanding any other law, it shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose that is related to the possession of a controlled substance, controlled substance analog, or drug paraphernalia of the person seeking medical assistance, and that person does not obstruct medical or law enforcement personnel. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(2) Notwithstanding any other law, it shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or

drug paraphernalia, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(b) This section shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs, or laws prohibiting the forcible administration of drugs against a person's will.

(c) Nothing in this section shall affect liability for any offense that involves activities made dangerous by the consumption of a controlled substance or controlled substance analog, including, but not limited to, violations of Section 23103 of the Vehicle Code as specified in Section 23103.5 of the Vehicle Code, or violations of Section 23152 or 23153 of the Vehicle Code.

(d) For the purposes of this section, the following definitions shall apply:

(1) "Drug-related overdose" means an acute medical condition that is the result of the ingestion or use by an individual of one or more controlled substances or one or more controlled substances in combination with alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury. An individual's condition shall be deemed to be a "drug-related overdose" if a reasonable person of ordinary knowledge would believe the condition to be a drug-related overdose that may result in death, disability, or serious injury.

(2) "Seeks medical assistance" or "seek medical assistance" includes any communication made verbally, in writing, or in the form of data from a health-monitoring device, including, but not limited to, smart watches, for the purpose of obtaining medical assistance.
(Amended by Stats. 2023, Ch. 106, Sec. 1. (SB 250) Effective January 1, 2024.)

11364 HSC: Possession of Controlled Substance Paraphernalia

(a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) This section does not apply to an individual obtaining controlled substance checking services, as described in Article 5 (commencing with Section 11300) of Chapter 5.

(d) Until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of hypodermic needles or syringes.

(Amended by Stats. 2024, Ch. 701, Sec. 3. (AB 2136) Effective January 1, 2025.)

11351 HSC: Possession for Sale Controlled Substances

Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V

which is a narcotic drug, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(Amended by Stats. 2011, Ch. 15, Sec. 152. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

11377 HSC: Possession of Controlled Substance

(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(b) The judge may assess a fine not to exceed seventy dollars ($70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(c) It is not unlawful for a person other than the prescription holder to possess a controlled substance described in subdivision (a) if both of the following apply:

(1) The possession of the controlled substance is at the direction or with the express authorization of the prescription holder.

(2) The sole intent of the possessor is to deliver the prescription to the prescription holder for its prescribed use or to discard the substance in a lawful manner.

(d) This section does not permit the use of a controlled substance by a person other than the prescription holder or permit the distribution or sale of a controlled substance that is otherwise inconsistent with the prescription.

(Amended (as amended by Proposition 47) by Stats. 2017, Ch. 269, Sec. 6. (SB 811) Effective January 1, 2018. Note: This section was amended on Nov. 4, 2014, by initiative Prop. 47.)

11379.6 HSC: Manufacture of Controlled Substances

(a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and by a fine not exceeding fifty thousand dollars ($50,000).

(b) Except when an enhancement pursuant to Section 11379.7 is pled and proved, the fact that a person under 16 years of age resided in a structure in which a violation of this section involving methamphetamine occurred shall be considered a factor in aggravation by the sentencing court.

(c) Except when an enhancement pursuant to Section 11379.7 is pled and proved, the fact that a violation of this section involving methamphetamine occurred within 200 feet of an occupied residence or any structure where

another person was present at the time the offense was committed may be considered a factor in aggravation by the sentencing court.

(d) The fact that a violation of this section involving the use of a volatile solvent to chemically extract concentrated cannabis occurred within 300 feet of an occupied residence or any structure where another person was present at the time the offense was committed may be considered a factor in aggravation by the sentencing court.

(e) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

(f) All fines collected pursuant to subdivision (a) shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account, as established by Section 5 of Chapter 1295 of the Statutes of 1987. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.

(Amended by Stats. 2015, Ch. 141, Sec. 1. (SB 212) Effective January 1, 2016.)

11362.3 HSC: Smoke or Ingest Cannabis

(a) Section 11362.1 does not permit any person to:

(1) Smoke or ingest cannabis or cannabis products in a public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.

(3) Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.

(4) Possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(7) Smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, the following definitions apply:

(1) “Day care center” has the same meaning as in Section 1596.76.

(2) “Smoke” means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoke” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(3) “Volatile solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(4) “Youth center” has the same meaning as in Section 11353.1.

(c) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

(Amended by Stats. 2017, Ch. 27, Sec. 131. (SB 94) Effective June 27, 2017. Note: This section was added on November 8, 2016, by initiative Proposition 64.)

11357 HSC: Possession of Cannabis

(a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

(1) Persons under 18 years of age are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction and punishable by a fine of not more than one hundred dollars ($100).

(b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than eight grams of concentrated cannabis, shall be punished as follows:

(1) Persons under 18 years of age who possess more than 28.5 grams of cannabis or more than eight grams of concentrated cannabis, or both, are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or older who possess more than 28.5 grams of cannabis, or more than eight grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(c) Except as authorized by law, a person 18 years of age or older who possesses not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(d) Except as authorized by law, a person under 18 years of age who possesses not more than 28.5 grams of cannabis, or not more than eight grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

(Amended by Stats. 2017, Ch. 253, Sec. 15. (AB 133) Effective September 16, 2017. Note: This section was amended on Nov. 4, 2014, by initiative Prop. 47, and on Nov. 8, 2016, by initiative Prop. 64.)

11550 HSC: Under the Influence of Narcotics

(a) A person shall not use, or be under the influence of any controlled substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.

(b) (1) A person who is convicted of violating subdivision (a) when the offense occurred within seven years of that person being convicted of two or more separate violations of that subdivision, and refuses to complete a licensed drug rehabilitation program offered by the court pursuant to subdivision (c), shall be punished by imprisonment in a county jail for not less than 180 days nor more than one year. In no event does the court have the power to absolve a person convicted of a violation of subdivision (a) who is punishable under this subdivision from the obligation of spending at least 180 days in confinement in a county jail unless there are no licensed drug rehabilitation programs reasonably available.

(2) For the purpose of this section, a drug rehabilitation program is not reasonably available unless the person is not required to pay more than the court determines that he or she is reasonably able to pay in order to participate in the program.

(c) (1) The court may, when it would be in the interest of justice, permit a person convicted of a violation of subdivision (a) punishable under subdivision (a) or (b) to complete a licensed drug rehabilitation program in lieu of part or all of the imprisonment in a county jail. As a condition of sentencing, the court may require the offender to pay all or a portion of the drug rehabilitation program.

(2) In order to alleviate jail overcrowding and to provide recidivist offenders with a reasonable opportunity to seek rehabilitation pursuant to this subdivision, counties are encouraged to include provisions to augment licensed drug rehabilitation programs in their substance abuse proposals and applications submitted to the state for federal and state drug abuse funds.

(d) In addition to any fine assessed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against a person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and a defendant shall not be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(e) (1) Notwithstanding subdivisions (a) and (b) or any other law, a person who is unlawfully under the influence of cocaine, cocaine base, heroin, methamphetamine, or phencyclidine while in the immediate personal

possession of a loaded, operable firearm is guilty of a public offense punishable by imprisonment in a county jail for not exceeding one year or in state prison.

(2) As used in this subdivision “immediate personal possession” includes, but is not limited to, the interior passenger compartment of a motor vehicle.

(f) Every person who violates subdivision (e) is punishable upon the second and each subsequent conviction by imprisonment in the state prison for two, three, or four years.

(g) This section does not prevent deferred entry of judgment or a defendant’s participation in a pre-guilty plea drug court program under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code or with a violation of subdivision (e) shall be ineligible for deferred entry of judgment or a pre-guilty plea drug court program.

(Amended by Stats. 2014, Ch. 819, Sec. 1. (AB 2492) Effective January 1, 2015.)

Berkeley Municipal Codes

13.36.070 Consumption of alcoholic beverages--In places open to public view prohibited--Exceptions.

A. It is unlawful for any person to partake of any spirituous, malt, vinous, or alcoholic liquors or other alcoholic beverages in or on any park, playground, or community house, or in an automobile while said automobile is on any alley, street, or highway, or on public or private property which is open and accessible to the general public or open to public view.

B. It is also unlawful to possess a previously opened alcoholic beverage container that still contains an alcohol beverage in any public place owned or controlled by the City, or in any recreation and park district, regional park, or open space district within the City.

C. Exceptions to this section are as follows:

1. The consumption of wine or beer may be allowed in community houses during hours when they are normally closed to the general public subject to rules promulgated by the City Manager;

2. The consumption and/or sale of wine, champagne and beer may be allowed at events permitted pursuant to Chapter 6.46 of 13.44; and

3. The consumption and/or sale of wine, champagne and beer may be allowed in open air restaurants and cafes which are open to public view, whether located on private or public property, if and to the extent permitted by state and local laws and ordinances, including the Berkeley Zoning Ordinance.

D. This section shall only be enforced solely as an infraction. (Ord. 7149-NS § 1, 2010: Ord. 6579-NS § 3, 2000: Ord. 6301-NS § 1, 1995: Ord. 5660-NS § 1, 1985: Ord. 5267-NS § 1, 1980: Ord. 5232-NS § 1, 1980: Ord. 2795-NS § 6, 1949)

13.36.075 Open alcoholic beverage containers.

A. Prohibited conduct. No person who has in their possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing

with Section 23000) of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensed premises. Any person violating this provision shall be guilty of an infraction.

B. Required posting of signs. All retail package off-sale alcoholic beverage licensees licensed pursuant to Division 9 of the Business and Professions Code to operate in the City of Berkeley shall post such licensed premises with permanent signs clearly visible to: (1) the patrons of the licensee; (2) persons using the parking lot immediately adjacent to the licensed premises; and (3) to persons on the public sidewalk immediately adjacent to the licensed premises, that the provisions of subsection A. are applicable. Such signs shall include language that states that possession of any opened alcoholic beverage container outside the store is prohibited by law. Any licensee who does not so post the required signs is guilty of an infraction.

C. Definitions.

1. As used in subsection A., "posted premises" means those premises which are subject to licensure under any retail off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises, and any public sidewalk immediately adjacent to the licensed premises which are posted with notices pursuant to subsection B.

2. As used in this section, "parking lot immediately adjacent to the licensed premises" means any parking lot which is contiguous to the licensed premises and is utilized by the patrons of the licensed premises.

D. Severability. The subsections of this section are severable. The invalidity of a section or subsection shall not affect the validity of the remaining sections or subsections.

E. Non-Exclusivity. Nothing in this section shall affect or preclude the enforcement of other laws regulating the possession of opened alcoholic beverages in public places or places open to the public. (Ord. 5976-NS §§ 1--6, 1990)

13.36.090 Solicitation of sale of drugs in public places prohibited.

It is unlawful for any unauthorized or unlicensed person, to solicit or to cause the solicitation of any person over the age of eighteen years old for the sale, purchase or transfer of a controlled substance without prescription in a public place or in any place open to the public or exposed to public view. The term controlled substance shall mean all substances included within Health and Safety Code Section 1100F. (Ord. 5453-NS § 2, 1982)

13.36.100 Violation--Penalty.

Except as provided herein, any person who shall be convicted of a violation of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable as set forth in Chapter 1.20 of this code. Provided, further, that a person who violates any provision of Berkeley Municipal Code Section

13.36.070 shall be charged with either a misdemeanor or an infraction and shall upon conviction be punishable as set forth in Chapter 1.20 of this code. (Ord. 6372-NS § 1, 1997: Ord. 5962-NS § 1, 1989: Ord. 5453 § 1, 1982: Ord. 2795-NS § 7, 1946)

13.49.030 Hosting, permitting, allowing a gathering where minors consuming alcoholic beverages prohibited--Reasonable steps to prevent consumption--Self-reporting.

A. 1. Except as permitted by state law, it is unlawful for any person to permit, allow, or host a Gathering at their place of residence or other private property, public place, or any other premises under their control where Alcoholic Beverages have been consumed by a Minor, if such person either knows or reasonably should know that a Minor has consumed an Alcoholic Beverage.

2. A person who permits, allows or hosts a Gathering shall be deemed to have actual or constructive knowledge that a Minor has consumed Alcoholic Beverages if the person has not taken all reasonable steps to prevent the consumption of Alcoholic Beverages by Minors as set forth in subdivision (D) below.

3. A person who permits, allows or hosts a Gathering shall be rebuttably presumed to have actual or constructive knowledge that Minors have consumed Alcoholic Beverages if such person is present at the premises of the Gathering at the time any Minor consumes an alcoholic Beverage.

B. This Section shall not apply if all Minors who are consuming an Alcoholic Beverage are being supervised by their Parents or Guardians.

C. This Section shall not apply to any location or place regulated by the California Department of Alcohol and Beverage Control.

D. It is the duty of any person who permits, allows or hosts a Gathering at their place of residence or other private property, public place, or any other premises under their control, where Minors will be present, to take all reasonable steps to prevent the consumption of Alcoholic Beverages by any Minor at the Gathering. Reasonable steps are controlling access to Alcoholic Beverages at the Gathering, controlling the quantity of Alcoholic Beverages at the Gathering, verifying the age of persons attending the Gathering by inspecting drivers licenses or other government-issued identification cards to ensure that Minors do not consume Alcoholic Beverages at the Gathering, monitoring the activities of persons at the Gathering, and monitoring the conduct of Minors at the gathering.

E. A person who hosts a Gathering shall not be in violation of this Chapter if they seek assistance from the Police Department or other law enforcement agency to remove any person who refuses to abide by the host' s performance of the duties imposed by this Chapter, or terminate the Gathering because the host has been unable to prevent Minors from consuming Alcoholic Beverages despite having taken all reasonable steps to do so, as long as such request is made before any other person makes a complaint about the Gathering. (Ord. 6975-NS § 1 (part), 2007)

13.49.040 Violation--Penalty.

A. Violation of this Chapter is a misdemeanor punishable as set forth in Chapter 1.20 of this code, but may be charged, in the discretion of the citing officer, as an infraction. Violations of this Chapter shall not be charged as misdemeanors unless the citing officer observes egregious violations or aggravating circumstances.

B. Civil penalties under Chapter 1.28 shall be no less than $250 for the first violation, and shall be increased for subsequent violations by the same person.

C. Nothing in this Chapter in any way limits any other remedy that may be available to the City, or any penalty that may be imposed by the City, including but not limited to, under Chapters 1.24, 1.28, 13.40, 13.46 and 13.48. (Ord. 6975-NS § 1 (part), 2007)

Chapter 12.24

MARIJUANA POLICY

12.24.010 Purpose.

The unjust laws restricting the cultivation and use of marijuana must be repealed. The much publicized paraquat poison scare in 1978 revealed again how the government's efforts to stop the use of marijuana are more likely to harm our citizens than to protect them. The people of Berkeley have supported decriminalization efforts on the ballot in 1972 and 1973, and through this initiative intend to do so again. It has been six years since the last such ballot measure passed, and still the laws against marijuana remain on the books and continue to be enforced. We are impatient for reform of the marijuana laws, and the return of our basic freedoms of life, liberty and the pursuit of happiness.

The ordinance codified in this chapter will:

A. Allow the people of Berkeley to become more economically self-reliant as increased cultivation of marijuana for personal use reduces the current expenditure of millions of dollars for marijuana grown outside Berkeley;

B. Reduce the current expenditure of public funds for senseless enforcement of marijuana laws; available funds should be used for needed community services, not harassment;

C. Remove the fear of prosecution from people who need to use marijuana for treatment of glaucoma, chemotherapy side effects and other medical problems;

D. Decrease tension between the police and members of the community who are made to feel like criminals as a result of marijuana law enforcement;

E. Reduce the theft of marijuana plants by making it possible to report such thefts to the police; and

F. Instruct the City government to support all efforts toward the reform of marijuana laws. Therefore, the purpose of this chapter is to establish the marijuana policy for the City. (Ord. 5137-NS § 1, 1979)

12.24.020 Efforts to decriminalize and/or legalize marijuana in California.

It is the desire of the people of Berkeley that marijuana be legalized in California. In this context, the people of Berkeley fully support the present statewide efforts to further decriminalize and/or legalize marijuana. The City Council is directed to lobby in favor of the decriminalization and legalization of marijuana, and shall seek to ensure that the Berkeley Police Department undertakes similar lobbying. (Ord. 5137-NS § 5, 1979)

12.24.030 Law enforcement priority of marijuana statutes.

The City Council shall seek to ensure that the Berkeley Police Department gives lowest priority to the enforcement of marijuana laws. (Ord. 5137-NS § 2, 1979)

12.24.040 Arrests and citations for violations of marijuana statutes.

The City Council shall seek to ensure that the Berkeley Police Department makes no arrests and issues no citations for violations of marijuana laws. (Ord. 5137-NS § 3, 1979)

12.24.050 No expenditure of funds for enforcement of marijuana statutes.

The City Council shall not expend or authorize the expenditure, nor shall any expenditures be made by the City, of public funds for any activity or activities performed by any employee or agent of the City, including but not limited to members of the Berkeley Police Department, directed toward enforcement of Sections 11357, 11358, 11359, and/or 11360 of the California Health and Safety Code. (Ord. 5137-NS § 4, 1979)

12.24.060 University of California police to adhere to City policy.

The people of Berkeley declare that the police of the University of California at Berkeley should adhere to the marijuana policy of the City as established by this chapter. (Ord. 5137-NS § 6, 1979)

12.24.070 Berkeley Police Department reporting requirement.

The City Council shall ensure that the Berkeley Police Department reports semiannually to it and the Berkeley Police Review Commission regarding all marijuana law enforcement activities, if any, engaged in by the Berkeley Police Department, and by county, state, federal and/or other law enforcement agencies within Berkeley. (Ord. 5137-NS § 7, 1979)