



City of Tupelo Employee Handbook	Policy#	608
Sec. 6 – Employee Conduct	Effective Date	
608 Drug and Alcohol-Free Workplace	Supersedes:	1/1/19

608 Drug and Alcohol-Free Workplace

The employees of the City of Tupelo carry out duties and job functions ranging from law enforcement, security, firefighting, operation of vehicles and equipment and daily interaction with fellow employees and all ages of the general public which directly or incidentally affect public health or safety. It is the City of Tupelo's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, all employees are required to report to work in an appropriate mental and physical condition necessary to perform the duties and functions of their employment with the City of Tupelo.

Employees shall not manufacture, sell, distribute, solicitate, possess with intent to sell or distribute, or use alcohol or any other drug, while on duty and whether on or off any premises owned or occupied by the City of Tupelo, subject to the provisions contained in this Policy. The legal use of medically prescribed drugs, except as prescribed in Policy 608.1, is permitted while the employee is on-duty only if it does not impair an employee's ability to perform the essential functions of the job and does not endanger other individuals in the workplace or the general public.

Employees are hereby noticed of the Drug-Free Workplace Workers' Compensation Premium Reduction Act contained in Miss. Code Ann. § 71-3-201 *et seq.* (1972, as amended), the Federal Drug-Free Workplace Act contained in 41 U.S.C.A. § 8102, *et seq.*, and the existence of all rights, privileges, and obligations contained in the aforesaid code sections. All records, documents and communications made by and between the City of Tupelo and an employee related to the Drug-Free Workplace Policy shall be maintained confidentially unless otherwise compelled by law to produce those records, documents or communications.

To enforce this policy, all employees of the City of Tupelo are subject to the Drug and Alcohol Testing Program contained in policy 608.2. If an employee tests positive for any alcohol, drug or other substance in violation of this policy, or any other employment policy, the employee shall experience disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences in accordance with the laws of the State of Mississippi and the United States of America. As a part of this policy, employees shall notify the City of Tupelo of any criminal drug statute conviction for a violation occurring in the workplace no later than 5-days after the conviction.

608.1 Medical Cannabis

In accordance with the terms of the Mississippi Medical Cannabis Act (Miss. Code Ann. § 41-137-1, *et seq.*), the City of Tupelo is in no way obligated to allow the use, ingestion, or possession of medical cannabis or any medical cannabis product by employees while employed by the City of Tupelo; nor is the City of Tupelo prohibited from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hiring, discharging, tenure, terms, conditions, or privileges of employment as a result, in whole or in part, of that individual's use of medical cannabis or any medical cannabis product, regardless of the individual's impairment or lack of impairment resulting from the medical use of medical cannabis.

All employees of the City of Tupelo are prohibited from possessing, smoking, ingesting, or otherwise engaging in the use of, or being under the influence of, medical cannabis, regardless of form or characteristic, while on duty or on any premises owned or occupied by the City of Tupelo. Any employee



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having participated in a properly issued drug screening test in accordance with Policy 608.2, and is shown to have the presence of any medical cannabis-related intoxicant (including, but not limited to, THC) in their system, shall be in violation of this policy. Employees who violate the drug-free workplace policy remain subject to disciplinary action, up to and including termination of employment.

608.2 Drug and Alcohol Testing

The City of Tupelo finds that, as a matter of policy, employees shall not possess, use or sell illegal drugs and should not be under the influence of any intoxicating substance while on duty. To enforce the City's policies concerning the possession and use of drugs and alcohol by employees and candidates for employment, the City of Tupelo shall conduct random and routine testing for the presence of drugs and alcohol. This policy is implemented in accordance with Miss. Code Ann. § 71-7-1 *et seq.*, otherwise known as the Mississippi Drug and Alcohol Testing Act. Employees of the City of Tupelo are hereby advised of their rights and obligations contained in the Act.

Circumstances Under Which Testing Will Occur

The following is a description of the circumstances under which City of Tupelo employees will be required to undergo drug and alcohol testing:

- a. The City of Tupelo will require all applicants for employment to undergo a post-offer, pre-employment fitness for duty medical examination to determine each employee's physical and mental readiness to perform the essential functions of the job. As a part of this medical examination, a drug and alcohol test will be conducted to ensure that each employee is able to perform the essential functions of the job. Refusal to submit to the test will be grounds for withdrawal of the offer of employment. A confirmed positive test result will also be grounds for the withdrawal of any offer of employment or termination if results are obtained after the first day of employment.
- b. The City of Tupelo will allow reasonable suspicion drug and alcohol testing based on a belief that an employee is using or has used drugs and/or alcohol in violation of the policies of the City of Tupelo. Reasonable belief under this policy that an employee is using or has used drugs and/or alcohol in violation of the policies of the City of Tupelo will be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. And may be based upon, among other things, the following:
 - a. Observable phenomena, such as direct observation of drug and alcohol use and/or symptoms or manifestations of being under the influence of a drug or alcohol;
 - b. Abnormal conduct or erratic behavior while at work, excessive or pattern absenteeism, excessive tardiness, or marked deterioration in work performance;
 - c. A report of drug use provided by reliable and credible sources and which has been independently corroborated;
 - d. Evidence that an individual has tampered with a drug and alcohol test during his employment with the City of Tupelo;
 - e. Information that an employee is involved in the use, possession, sale, solicitation or transfer of drugs or alcohol while performing any job, duty, task or assignment related to their employment with the City of Tupelo, whether on premises or not.
- c. The City of Tupelo, through an independent provider, will conduct random, neutral selection drug and alcohol tests which shall be required of all employees.



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- d. The City of Tupelo, through an independent provider, may also require an employee to be tested for the presence of drugs and/or alcohol in the event that there is an on-the-job accident or incident that results in actual or potential damage to any property or harm to any person. The employee shall be required to be available for testing immediately following the accident/incident and for the next 32-hours immediately after the accident/incident and shall refrain from the use of drugs and alcohol until testing is complete.

Substances Tested For

The City of Tupelo may test employees for the presence of alcohol, marijuana, tetrahydrocannabinol (THC), cocaine, amphetamines, opiates, phencyclidine (PCP or Angel Dust), and/or any other substance having psychological and/or physiological effects on a human being, including controlled dangerous substances and controlled substance analogs or volatile substances, which through its deliberate introduction into the body, may impair a person's ability to perform any task, assignment, duty or function of their employment. The City of Tupelo reserves the right to add additional substances to the testing protocol on a determination that the best interest of the City of Tupelo will be served. The addition of a substance or substances to the testing protocol will only be done following a thirty (30) day employee notification period.

Effect of a Positive Drug and/or Alcohol Test Result

Any employee who has a positive test result for any of the substances listed above or who otherwise violates this policy will experience disciplinary action, up to and including immediate termination of employment. An employee who refuses to submit to drug and alcohol testing administered in accordance with this policy shall be immediately terminated. Employees that have a positive test result for any of the substances listed above, and in lieu of termination or other disciplinary actions, may be granted an opportunity to take part in a drug and alcohol abuse rehabilitation program in accordance with Policy 608.3 contained herein.

Drug and Alcohol Testing Procedures

The City of Tupelo will contract with a provider to conduct drug and alcohol testing under this policy. The provider will conduct all of the tests required under this policy to include specimen collection, chain of custody procedures, obtaining necessary laboratory results, medical review officer services, and any other services incident to the drug and alcohol testing program. Testing will conform to scientifically accepted analytical standards to confirm the presence of drugs or alcohol and the level of drugs or alcohol in the employee's system.

Employees and job applicants identified under this policy to be alcohol/drug tested shall be allowed to provide notice to the City of Tupelo, through the provider, of currently or recently used prescription or non-prescription drugs at the time of the taking of the specimen.

Confidentiality

All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by the City of Tupelo or the provider on its behalf, through its drug and alcohol testing program



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are confidential communications under certain circumstances as allowed by the Mississippi Drug and Alcohol Testing Act.

All information obtained, however, shall be the property of the City of Tupelo. The City of Tupelo will not release to any person other than the employee or job applicant, information related to drug and alcohol test results unless:

- a. The job applicant has expressly, in writing, granted permission for the employer to release such information;
- b. It is necessary to introduce a positive confirmed test result into an administrative or judicial proceeding where the information is relevant to the hearing or proceeding;
- c. The information must be disclosed to a federal or state agency or other unit of the state or United States government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract;
- d. Disclosed to a drug abuse rehabilitation program for the purpose of evaluation or treatment of an employee; or
- e. There is a risk to public health or safety that can be minimized or prevented by the release of such information.

Contesting a Test Result

An Employee who receives a confirmed drug and/or test result may contest the validity of that result or explain it. An employee who has a confirmed positive test result will be informed in writing and may be terminated immediately. The employee has ten (10) working days from the date they receive the written notice to submit a written explanation as to why the test result is invalid, or explain the circumstances causing the confirmed test. As a part of their response, the employee may request a retest of the original specimen at his or her own expense. If the employee fails to submit a timely written explanation, the test will be considered final, and the employee will be terminated. If the employee's timely written explanation 1) fails to prove that a prescribed drug was taken as directed **and** 2) fails to prove the prescribed drug taken as directed did not result in impairment while on duty, the employee's timely explanation will be deemed as unsatisfactory.

608.3 Employee Assistance Program

Any employee of the City of Tupelo that feels that he or she has developed an addiction or dependence on alcohol or drugs is encouraged to seek assistance. All requests for assistance will be confidential. Requests for assistance may be made directly to the Human Resources Director. Employees seeking assistance will be referred to substance abuse assistance/rehabilitation programs made available through the City of Tupelo Employee Assistance Program. An employee's participation in this program is at the discretion of the Human Resources Director with consultation from the Employee's Department Head.