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# Jasper County, Iowa

Ordinance Number V-V / Nov. 25 / 1997 - A

**An Ordinance Establishing Policies Relating to  
Drug and Alcohol Use/Abuse Involving  
Employees, Contractors, and Other Persons  
Performing Safety Sensitive Functions Subject to the  
Provisions of 49 C.F.R., Part 382  
and/or Iowa Code §730.5  
and Providing Procedures and Penalties for Violations**

**BE IT RESOLVED,  
THAT THE FOLLOWING ORDINANCE BE ENACTED BY JASPER COUNTY, IOWA:**

§1 > **Applicability.** This ordinance shall be apply to

(a) each part-time and each full-time employee of Jasper County, Iowa performing or required to perform any safety sensitive functions or duties which require such person to possess and maintain a valid commercial driver's license ("CDL") under the provisions of 49 Code of Federal Regulations ("C.F.R."), Part 382, including any amendments thereto; and,

(b) each person and each employee or independent contractor of each person or legal entity contracting for services to be provided to, received from, or in any manner funded in whole or in part by or through Jasper County, Iowa performing or required to perform any safety sensitive functions or duties which require such person to possess and maintain a valid commercial driver's license ("CDL") under the provisions of 49 Code of Federal Regulations ("C.F.R."), Part 382, including any amendments

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thereto.

**§2 > Definition of "Drug".** The term "drug" as used herein or in 49 C.F.R., Part 382 or Iowa Code §730.5 shall be consistent with the respective definitions contained within such statutory and regulatory provisions of law and shall include (but not be limited to) all controlled substances as now or hereafter defined and referenced under Iowa Code Chapter 204. Such term shall specifically include all alcoholic beverages and all other forms of ingestible alcohol as well as any substance the possession or use of which is deemed unlawful under any state or federal statute, rule or regulation.

**§3 > Prohibited Acts.** No person defined under foregoing §1(a) or §1(b) shall use, possess, or have in his or her system any drug during any part of any period of employment unless (a) such drug has been prescribed by an Iowa-licensed physician, and (b) a true copy of such physician's prescription for such drug has been previously provided to such person's immediate supervisor, and (c) such person has concurrently provided to his or her immediate supervisor a writing signed by such physician clearly stating that such person/patient is able and authorized to fully perform all required safety sensitive functions of employment while using such prescribed drug without any endangerment or increased risk of harm to such person/patient or any other person.

**§4 > Contract Term for All Service Providers and Recipients.** The provisions of this ordinance shall be deemed without further expression or direct reference an integral part of each contract or agreement for services to be provided to, received from, or in any manner funded in whole or in part by or through Jasper County, Iowa if such contract for services in any manner requires such contracting party to employ or otherwise use any person performing any duties material to performance of such contract requiring a person to possess and maintain a valid commercial driver's license ("CDL") under the provisions of 49 Code of Federal Regulations ("C.F.R."), Part 382, including any amendments thereto. Notwithstanding the foregoing contract requirement, Jasper County, Iowa shall have no liability or obligation for oversight or payment for any expenses incurred due to a violation of any provision of this ordinance by any such person. Any failure or refusal on the part of any such contracting person or entity or service provider or recipient to comply with the procedural mandates of this ordinance hereinafter shown shall be grounds for unilateral termination of such contract or services by Jasper County, Iowa, without recourse on the part of such other contracting party, service provider or recipient.

**§5 > Random (No Probable Cause) and Specific Probable Cause Drug**

**Testing as a Condition of Continued Employment or Service/Contract.** All persons defined under foregoing §1(a or b) shall, as a condition of continued employment or service, submit to random (no probable cause necessary) and specific probable cause drug testing immediately upon request by any supervisory personnel or upon request by any Jasper County officeholder or department head to the full extent authorized and in the manner provided under the provisions of 49 C.F.R., Part 382 and/or Iowa Code §730.5, as may be from time to time amended. Any failure or refusal of such person to fully submit to any such requested random or specific probable cause drug testing shall result in an immediate termination of employment or service.

**§6 > Procedures, Waiver of Privileges, Penalties for Failure to Comply.** Drug testing and related procedures shall be in accord with guidelines established or authorized under the provisions of 49 C.F.R., Part 382, and Iowa Code §730.5, as each may be from time to time amended. All persons defined under foregoing Sections 1(a) and 1(b) shall immediately upon demand from Jasper County, Iowa or any of its officials, department heads or other supervisory personnel sign or procure a written waiver of any privilege of communication in any manner relating to evaluation and/or treatment for any drug use or abuse, failing which such person shall be deemed to have voluntarily resigned from employment with Jasper County, Iowa and/or any contract shall be deemed to have been breached and unilaterally terminated by the other contracting party and with Jasper County, Iowa reserving all rights attendant with any such breach and unilateral termination of contract.

**§7 > Expenses for Testing/Treatment [First Time Only] for §1(a) Persons.** Expenses for drug testing and treatment [first time only] involving persons defined under foregoing §1(a) shall be born by Jasper County, Iowa or via its health insurance provider benefit plan to the minimum extent required under the provisions of 49 C.F.R., Part 382, and Iowa Code §730.5, as each may be from time to time amended.

**§8 > Available Remedies for Violation.**

(a) Available employment remedies for any person defined under §1(a) of this ordinance following any conviction for possession or use by, or any finding of any positive drug presence involving, any person defined under foregoing §1(a) shall include immediate termination of employment or hire to the extent and under the circumstances allowed or otherwise authorized under the provisions of 49 C.F.R., Part 382, and/or Iowa Code §730.5, as each may be from time to time amended. Termination procedures shall follow those established under such aforesaid provisions and (to the extent

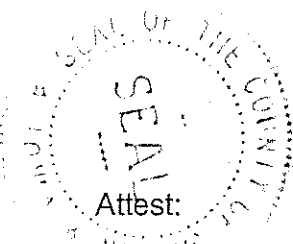
not inconsistent therewith) applicable provisions of those Jasper County, Iowa personnel and employment policies approved in writing from time to time by the Jasper County Board of Supervisors (which shall at all times be available to all §1(a) and §1(b) persons at the office of the Auditor of Jasper County, Iowa during reasonable hours upon request and payment of any applicable copying fees.

(b) Available contract remedies for Jasper County, Iowa relative to any person or entity defined under §1(b) of this ordinance following any conviction for possession or use by, or any finding of any positive drug presence involving, any person or any person employed by, hired by, or subcontracted by a person or entity defined under foregoing §1(b) whose participation under such contract is deemed by Jasper County, Iowa to be material thereto shall include immediate termination of such contract by Jasper County, Iowa without recourse against Jasper County, Iowa and with reservation unto Jasper County, Iowa all other remedies allowed under law or in equity, including damages for breach due to any violation of any provision of this ordinance.

Passed and approved on the following roll call vote on the 25th day of November, 1997.

SUPERVISOR	AYE	NAYE
Glenn Jesse	absent	
Leo Van Elswyk	X	
Loren Milligan	X	

Leo Van Elswyk  
 Leo VanElswyk, Chairperson,  
 Jasper County Board of Supervisors



Linda Gifford  
 Linda Gifford, Jasper County Auditor