



## ADMINISTRATION POLICY #A-05-20

### WORK REFUSAL POLICY

#### THE PURPOSE OF THIS POLICY IS TO:

To ensure the health and safety of all employees, the Town of Drumheller has developed the work refusal policy to outline when an employee may refuse work they feel is unsafe and the procedures the Town will take when a refusal is made. Any employee who refuses to perform their duties because of a legitimate safety concern will not face any reprisal because of this action.

#### SCOPE

The Work Refusal Policy applies to Town of Drumheller, its employees, vendors, visitors and clients who are on Town premises or acting on behalf of the Town at all times and without exception.

#### DEFINITIONS

Imminent Danger: Under section 35(2) of the Alberta Occupational Health and Safety Act. Imminent danger is defined in relation to any occupation as:

- a) A danger that is not normal for that occupation, or
- b) A danger under which a person engaged in that occupation would not normally carry out the persons work.

#### GENERAL GUIDELINES

All workers have the legal right to refuse unsafe work that either puts them in imminent danger, requires them to perform work they have not been properly trained to do, or with safety hazards that could reasonably be avoided with proper safety equipment, procedures, or necessary repairs. Danger may be defined as, but not limited to,

- 1) A dangerous condition or task that is not normal for a worker's occupation, or
- 2) A dangerous condition that develops during the course of work and under which a person engaged in that occupation would not normally carry out.

When an employer or supervisor at a work site finds or knows of a condition at the work site that is or is likely to be dangerous to the health and safety of a worker, the employer or supervisor shall not require or permit any worker to do that work until the dangerous condition is remedied.

Section 31(1) of Alberta's *Occupational Health and Safety Act* states that a worker has the right to refuse to work or do particular work where the worker believes there exists a dangerous condition at the worksite. A worker may;

- a) Refuse any work if, on reasonable and probable grounds, the worker believes that there is a danger to the health or safety of that worker;
- b) Refuse any work, if on reasonable and probable grounds, the worker believes that there is a danger to the health and safety of another worker or another person,
- c) Refuse to operate any tool, appliance, device or equipment if, on reasonable and probable grounds, the worker believes that this will cause a danger to the health or safety of that worker, another worker present or another person at the work site.

The Town of Drumheller takes the health and safety of our employees seriously. No employee who refuses work that he/she deems to be unsafe will be subject to employer reprisals in the form of discipline, dismissal, threats of dismissal, penalties, or suspension.

#### WORK REFUSAL PROCEDURE

In the event of work being refused or stopped, the following actions are required:

#### EMPLOYEE

1. After the completion of a worksite hazard assessment form the worker must immediately inform the employer or supervisor, or an appropriate designate, of a work refusal with an explanation of the existing condition they believe puts them in danger. Once reported the worker shall start the work refusal report process.
2. The refusing worker must remain in a safe place near the work site and available to the employer so the employer may complete an inspection and a written report of the refusal to work.
3. The employer shall give a copy of the written report to the reporting worker when completed. The dangerous condition shall be remedied by this time. Should the worker deem the condition to not be remedied the worker who initially refused to perform the work may file a complaint with an Occupational Health and Safety Alberta officer.
4. An investigation by an officer shall be conducted. Please refer to the Continued Work Refusal Section below for more information.
5. If the worker deems the dangerous condition to have been remedied, the worker will return to work.

## SUPERVISOR/EMPLOYER REPRESENTATIVE

1. If a worker believing on reasonable grounds that there is a dangerous condition at a work site the worker shall advise the employer, supervisor or employer representative immediately. If a dangerous condition is found to exist, the employer or supervisor if at all reasonably practicable shall remedy the condition immediately. If the employer or supervisor does not remedy or is unable to remedy the dangerous condition immediately the employer or supervisor shall then, or when it is safe and practical to do so, inspect the dangerous condition in the presence of the worker and one of the following persons, when safe and practical to do so and when the presence of the worker or one of the following persons does not create a danger to anyone;
  - A Joint Health & Safety Committee member who represents the worker
  - A Health & Safety Representative, or
  - If no committee or representative available then another worker selected by the worker refusing to do the work.
2. The employer or supervisor required to inspect shall take any necessary action to remedy any dangerous condition, or ensure that the action is taken.
3. Until the dangerous condition is remedied the reporting worker may continue to refuse to work or to do particular work to which the dangerous condition may relate.
4. The employer or supervisor shall not assign or request another worker to do the work until it is determined that the work does not present a danger to the health and safety of any person or that a dangerous condition does not exist.
5. Where the employer assigns another person to do the work the employer shall advise the worker, in writing, of a) the first worker's refusal, b) the reasons for the refusal, c) the reason why in the opinion of the employer, the work does not constitute a danger to the health and safety of any person and that a dangerous condition is not present, and d) the worker's right to refuse to do dangerous work.
6. If a worker has refused to work or do particular work the worker is entitled to the same wages and benefits they would normally receive and the employer may reassign the worker temporarily to alternate work. A work reassignment shall not be used in any manner that could be construed as reprisal or discriminatory against the worker.
7. The supervisor or employer representative should interview the worker and complete a work refusal form to ensure sufficient information has been collected in order to conduct a proper investigation.

Following the investigation, immediate steps shall be taken to correct a dangerous condition if not previously remedied.

8. The supervisor should ensure that no other worker is assigned to perform the work for which the work refusal was made until the investigation has been completed and any resolutions have been implemented.
9. When the investigation has been completed, the employer will prepare a written report detailing the nature of the refusal, the investigation that took place and the actions taken, if any. A copy of the final written report will be given to the worker who originally made the refusal.
10. In the event that a worker is unsatisfied with the provided resolution and continues to refuse work, an Occupational Health and Safety officer will be notified and request for an investigation must be made. Please refer to the continued work refusal section below for more information.
11. The employer or supervisor may assign other reasonable work during the employee's normal work hours for a worker that has refused work. The worker will receive no loss of pay or reprisal for refusing unsafe work.

#### CONTINUED WORK REFUSAL

In the event that a worker continues to refuse work:

1. The worker, employer, or a representative of either must notify the Occupational Health and Safety Office. They can be reached at the toll-free number 1-866-415-8690.
2. An officer shall investigate the matter and decide if there exists a dangerous condition. the officer shall complete a written report, and issue any order the officer considers necessary and give a copy of that report to the worker who refused the work, the employer the JHSC and the HSC and any other person who filed a complaint.
3. If an officer decides that a dangerous condition is not present, the office shall in writing inform the worker and employer of that decision. Inform the JHSC, HSC or the HS Representative and worker that the worker is no longer entitled to refuse the work.
4. During the investigation and until a decision from the Occupational Health and Safety Officer has been delivered, no worker will be assigned the work in question, unless the requirements of part 4 sec 31(7) of the OHS act are adhered to.
5. If the officer decides there is a dangerous condition or a danger to the worker's health and safety or to the health and safety of any other worker or person the officer shall make a written report stating the decision and make any order the officer considers necessary and provide a copy of the report and order to the worker who refused to do the work, the employer, the joint work site health and safety committee or the health and safety representative, and any other person who filed a complaint.
6. If the officer decides that a dangerous condition is not present, the officer shall in writing inform the employer and the worker, inform the joint health and safety committee or the

health and safety representative and inform the worker that the worker is no longer entitled to refuse to do the work.

7. If the worker continues to refuse to return to work following the officer's report that a dangerous condition is not present continued refusal to work may require disciplinary action within the Town of Drumheller Human Resources Policy.

#### Payment for Refused Work

- A refusal of unsafe work, up to the point the Occupational Health and Safety Officer rules the job is safe or a solution to address the complaint is initiated, allows the worker entitlement to payment at their appropriate rate.
- A person acting as a worker representative during a work refusal is paid at either the regular or the premium rate, whichever is applicable.
- The Town of Drumheller is not required to continue payment in the event that refused work has been inspected and a safe ruling has been made and a written decision has been issued by the Occupational Health and Safety Officer

#### Administration

This policy is the responsibility of the Chief Administrative Officer and will be reviewed at least every 3 years.

Adopted by: Health and Safety Committee

Date: June 24<sup>th</sup>, 2020



Chief Administrative Officer

Next review date June 2023

Attachments:

Work Refusal Flowchart  
Work Refusal Report

## WORK REFUSAL REPORT FORM

Safety Related Work Refusal Report & Tracking Form  
RE: Section 43 of the Workplace Health and Safety Act

Name of Refusing employee: \_\_\_\_\_

Position of Employee: \_\_\_\_\_

Date of Refusal: \_\_\_\_\_ Time: \_\_\_\_\_ AM/PM \_\_\_\_\_

Name of Supervisor receiving report: \_\_\_\_\_ Phone # \_\_\_\_\_

Name of Worker representative called: \_\_\_\_\_

Name of Management Representative called: \_\_\_\_\_

Name of Health & Safety Officer: \_\_\_\_\_

Step 1	A worker may refuse to perform work that they believe is unsafe. Report refusal to supervisor immediately (Section 43(1), (2)). Please include full details of the reasons for refusal.					
Description	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> </table>					
Step 2	Supervisors receiving notice of refusal shall investigate and remedy the unsafe conditions. Section (43(3)) ( include full details of conditions observed, concerns noted or recommendations.					
Details	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> <tr><td style="height: 20px;"> </td></tr> </table>					
Continued Refusal Details	Worker may continue to refuse ( if Worker believes work is still unsafe) Section (43(5)):					
Alternate Work	Alternate work or other directions given to refusing employee ( include results)					
Assigning other workers	If another employee was offered the same work, the employer shall ensure the new employee is informed of the refusal & the reason why (Section 43(6)) Attach the workers signed acknowledgement. <b>(Optional)</b>					
Step 3	Site Safety Committee involvement Section 43(3): Management designate investigates with safety committee worker co-chair, a worker member of the safety committee or a worker chosen by the refusing worker. Detail conditions observed, concerns noted, recommendation, name of worker representative)					

Step 3 Continued

Safety Committee Decision	
Details	Worker may continue refusal ( Section 43(5)) (Include reason given)
Step 4	Workplace Safety & Health Divison may be contacted at 945-3446 or after hours at 945-0581; Section 43.1 (1); Provide name of officer contacted.
Details	Workplace Safety & Health Officer investigation details:   Decision of Workplace Safety & Health Officer   
Details	Appeal of Safety decision Section Sec 37 ( include reason given): Appeal to Director of Workplace Safety & Health by worker or employer:   

1. Were pictures taken of the safety concern? YES or NO      If yes, are they attached? YES or NO
2. Did a second employee refuse? YES or NO
3. Inform your supervisor/manager of a RIGHT TO REFUSE situation as soon as possible.
4. Inform Occupational and Environmental Safety & Health of RIGHT TO REFUSE situation as soon as possible.

\_\_\_\_\_  
Managers Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

# WORK REFUSAL FLOW CHART

