

## **Refusal to Work Policy Township of Springwater**

Approved: July 12, 2010  
Effective: July 12, 2010  
Next Review: July 2011

Department: All Departments  
Subject: Health & safety, work  
refusal  
Policy Number: A09 - RE

### **A. Policy Statement**

The Township of Springwater is committed to the health and safety of employees, contractors, visitors and the general public.

### **B. Purpose**

The purpose of the Refusal to Work Policy is to inform workers about their right to refuse work that they believe to be unsafe.

### **C. Scope**

This policy applies to all employees of the Township including part-time firefighters, temporary workers (supplied labour) and contractors.

### **D. General**

This Policy shall be administered by departments.

This Policy shall be referred to as the 'Refusal to Work Policy'.

This Policy shall come into force and effect on the day of passage.

This Policy shall be reviewed annually.

### **E. Authority**

The authority for employees to refuse work that is unsafe is authorized through the *Occupational Health and Safety Act*, Part 5, Section 43.

The authority for the Refusal to Work Policy shall be by the endorsement of the Township of Springwater's Joint Health and Safety Committee and by the approval of the Township of Springwater Council.

**ATTACHMENT A  
OCCUPATIONAL HEALTH & SAFETY ACT  
REFUSAL TO WORK**

The Township of Springwater will comply with the provisions for refusal to work as cited within the *Occupational Health and Safety Act*, Section 43 – Right to Refuse or to Stop Work Where Health and Safety In Danger:

**Refusal to work**

(3) A worker may refuse to work or do particular work where he or she has reason to believe that,

- (a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
- (b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself;
- (b.1) workplace violence is likely to endanger himself or herself; or
- (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker. R.S.O. 1990, c. O.1, s. 43 (3).

**Report of refusal to work**

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of the refusal to the worker's employer or supervisor who shall forthwith investigate the report in the presence of the worker and, if there is such, in the presence of one of,

- (a) a committee member who represents workers, if any;
- (b) a health and safety representative, if any; or
- (c) a worker who because of knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

who shall be made available and who shall attend without delay. R.S.O. 1990, c. O.1, s. 43 (4).

**Worker to remain near work station**

(5) Until the investigation is completed, the worker shall remain,

- (a) in a safe place that is as near as reasonably possible to his or her work station; and

- (b) available to the employer or supervisor for the purposes of the investigation. 2009, c. 23, s. 4 (3).

### **Refusal to work following investigation**

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that,

- (a) the equipment, machine, device or thing that was the cause of the refusal to work or do particular work continues to be likely to endanger himself, herself or another worker;
- (b) the physical condition of the workplace or the part thereof in which he or she works continues to be likely to endanger himself or herself;
- (b.1) workplace violence continues to be likely to endanger himself or herself; or
- (c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention continues to be likely to endanger himself, herself or another worker,

the worker may refuse to work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof. R.S.O. 1990, c. O.1, s. 43 (6).

### **Investigation by inspector**

(7) An inspector shall investigate the refusal to work in consultation with the employer or a person representing the employer, the worker, and if there is such, the person mentioned in clause (4) (a), (b) or (c). 2001, c. 9, Sched. I, s. 3 (11).

### **Decision of inspector**

(8) The inspector shall, following the investigation referred to in subsection (7), decide whether a circumstance described in clause (6) (a), (b), (b.1) or (c) is likely to endanger the worker or another person. 2009, c. 23, s. 4 (5).

### **Idem**

(9) The inspector shall give his or her decision, in writing, as soon as is practicable, to the employer, the worker, and, if there is such, the person mentioned in clause (4) (a), (b) or (c). R.S.O. 1990, c. O.1, s. 43 (9).

### **Worker to remain at a safe place pending decision**

(10) Pending the investigation and decision of the inspector, the worker shall remain, during the worker's normal working hours, in a safe place that is as near as

reasonably possible to his or her work station and available to the inspector for the purposes of the investigation. 2009, c. 23, s. 4 (6).

Exception

[\(10.1\)](#) Subsection (10) does not apply if the employer, subject to the provisions of a collective agreement, if any,

- (a) assigns the worker reasonable alternative work during the worker's normal working hours; or
- (b) subject to section 50, where an assignment of reasonable alternative work is not practicable, gives other directions to the worker. 2009, c. 23, s. 4 (6).

**Duty to advise other workers**

[\(11\)](#) Pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the workplace or in the part of the workplace being investigated unless, in the presence of a person described in subsection (12), the worker has been advised of the other worker's refusal and of his or her reasons for the refusal. R.S.O. 1990, c. O.1, s. 43 (11).

**ATTACHMENT B  
PROCEDURES FOR THE REFUSAL TO WORK POLICY**

A. General

In the event that a worker raises a health and safety concern or complaint to their supervisor, the supervisor shall:

- Investigate in the presence of the worker and establish with the worker whether a health and safety issue exists and if it is a complaint or work refusal.
- If determined to be a safety complaint and the task is unsafe, the supervisor shall undertake immediate corrective action

B. Health & Safety Refusal

Workers in the province of Ontario have the right to refuse work which they have reason to believe is unsafe. A worker may refuse work or refuse to do particular work where he / she or another worker may be endangered by:

- Equipment, machine, device or things
- Physical condition of the workplace
- Equipment, machine, device or thing that is to be used or the physical condition of the workplace is in contravention of the Act or regulations and may endanger himself / herself or another worker.

Should there be a work refusal the following procedures apply:

**Stage One:**

1. Worker has reason to believe work or task is unsafe
2. The report shall be made to the supervisor (preferably in writing) and should outline the worker's reason(s) for believing the work to be unsafe
3. The worker shall remain in a safe place near his or her work station
4. Supervisor shall forthwith investigate in the presence of the worker, a worker representative from the Joint Health and Safety Committee and, if possible, a certified member
5. The supervisor shall respond to the worker in writing, outlining the remediation timelines, if applicable. If there will not be a remediation plan, the reasoning behind it.
6. Should the issue be resolved and corrective action taken, if required, the worker shall return to work. If the issue is not resolved, proceed to Stage Two.

**Stage Two:**

1. Following the investigation, should the worker have reasonable grounds to believe that the work or task continues to be unsafe, they must remain in a safe place near his or her work station. The Ministry of Labour shall be notified.
2. Refused work may be offered to another worker providing it is offered in the presence of a worker representative from the Joint Health and Safety Committee, if possible a certified member. This worker shall also be advised of the other worker's refusal and his or her reasons for the refusal.
3. The Ministry of Labour inspector shall investigate in consultation with the Township, the worker and their representation.
4. The inspector shall give his or her decision, in writing, as soon as is practicable to all involved parties. Any applicable changes can be made in order to return the worker to their duties.

A certified member of the Joint Health and Safety Committee may also request the investigation of a health and safety concern and initiate the work refusal procedure as outlined by this policy.

**C. Reprisals by Employer Prohibited**

Workers who invoke their right to refuse work they have reason to believe to be unsafe are protected by the *Occupational Health and Safety Act*. As per Part V1, sec. 50(1):

*No employer or person acting on behalf of an employer shall,*

- a) Dismiss or threaten to dismiss a worker;*
- b) Discipline or suspend or threaten to discipline or suspend a worker;*
- c) Impose any penalty upon a worker; or*
- d) Intimidate or coerce a worker, because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the Coroners Act.*

**D. Documentation**

The documentation for a work refusal will include the following information:

- Name of the worker refusing the work
- Date and time of work refusal notification
- Supervisor's name
- Name of Joint Health and Safety Committee member
- Worker's reason for work refusal
- Investigation notes from supervisor and result

- Time a Ministry of Labour investigator was contacted and the time the inspector arrived and departed
- Results of any decisions made by a Ministry of Labour inspector
- Signature of all affected parties

A template of this form is available in Attachment E.

E. Training

Training and review of the Refusal to Work Policy will be provided annually to all workers.

**ATTACHMENT C  
ROLES AND RESPONSIBILITIES**

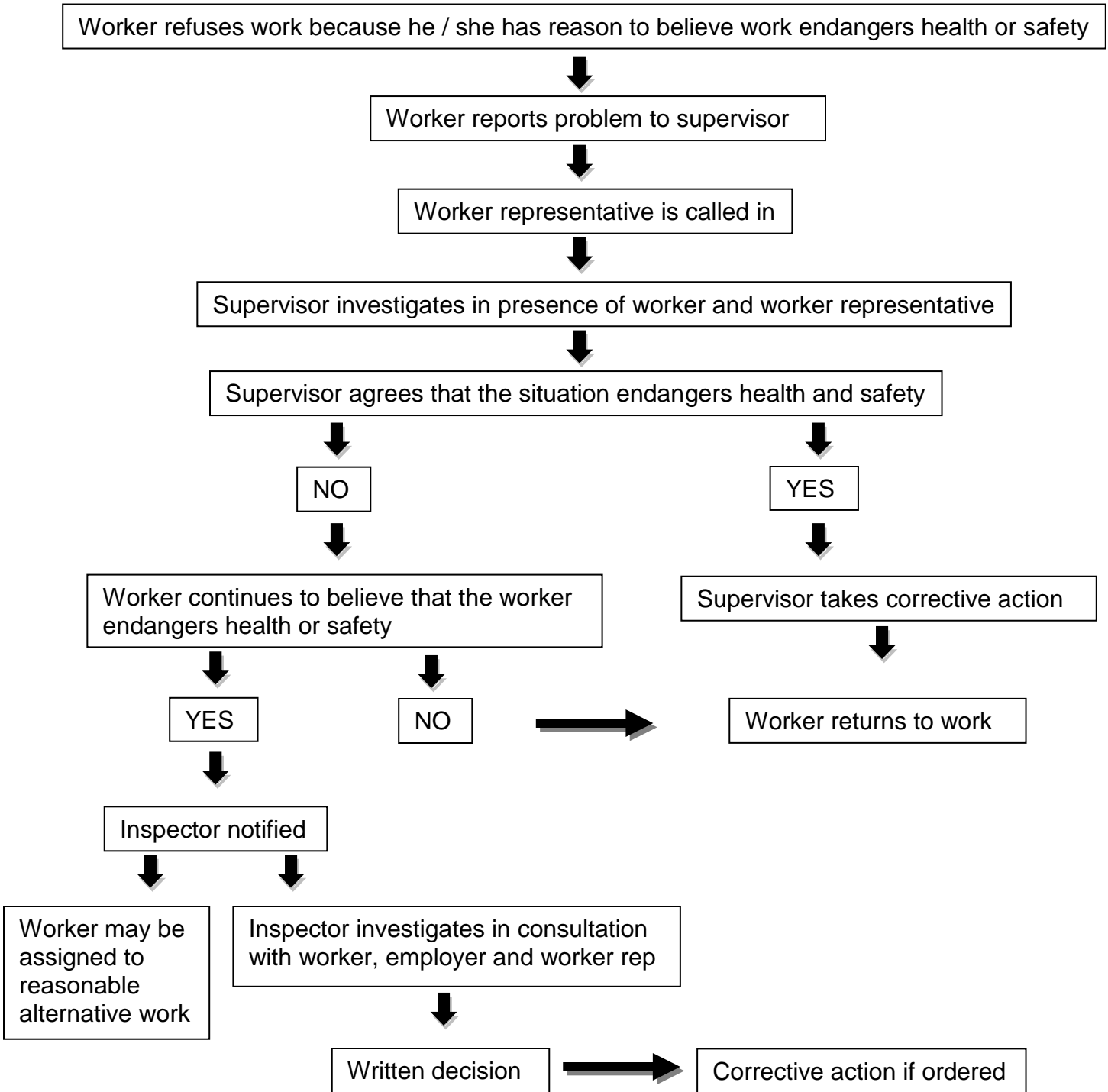
**A. Supervisor**

The supervisor is responsible for investigating any reports of unsafe work conditions and resolving the concern, as defined by the procedures.

**B. Worker**

The worker is responsible for immediately informing the supervisor of any unsafe work conditions and follows the proper procedures.

**ATTACHMENT D  
WORK REFUSAL CHART**



**ATTACHMENT E  
REFUSAL TO WORK FORM**

Name of Employee: \_\_\_\_\_

Name of Supervisor: \_\_\_\_\_

Date of Refusal Notification: \_\_\_\_\_ Time of Refusal Notification: \_\_\_\_\_

Name of JHSC Member \_\_\_\_\_

Worker's Reason for Worker Refusal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Investigation Notes from Supervisor and Results:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time MOL Inspector was:

Contacted: \_\_\_\_\_ Arrived: \_\_\_\_\_ Departed: \_\_\_\_\_

Results of Decision from MOL Inspector:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Worker's Signature

\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
JHSC Member's Signature