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## Legal Standards & References

- *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 and regulations made thereunder, including;

O. Reg. 213/91	Construction Projects
O. Reg. 278/05	Designated Substance – Asbestos on Construction Projects and in Building and Repair Operations
R.R.O. 1990, Reg. 851	Industrial Establishments
O. Reg. 297/13	Occupational Health and Safety Awareness and Training

## Definitions

- “competent” means a person who:
  - a) is qualified because of knowledge, training, and experience to organize the work and its performance;
  - b) is familiar with provisions of this Act and the regulations that apply to the work; and
  - c) has knowledge of any potential or actual danger to health and safety in the workplace
- “Corporation” means the municipal corporation of the Town of Fort Erie
- “employer” is a person who employs or contracts for the services of one or more workers. The term includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor, subcontractor to perform work or supply services.
- “legislation” includes provincial statutes and regulations
- “supervisor” is a person appointed by an employer, who has charge of a workplace or authority over a worker

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- “worker” is a person who is paid monetary compensation to perform work or supply services. This may also include the Mayor and members of council.
- “workplace” is any land, premises, location or thing at, in or near which a worker works. This includes all areas within the confines of the Town of Fort Erie where a town worker may be required to work.

### Policy Statement

It is the policy of The Corporation to:

- provide and maintain a legal, respectful, healthy and safe workplace for all employees and visitors
- provide workers and supervisors with job-specific, appropriate and regular health and safety information, instruction and skills upgrades

### Purpose and Scope

The Corporation shall ensure that every supervisor will at a minimum, meet the definition of a “competent person” as defined in the *Occupational Health and Safety Act*. This competency shall be measured by ensuring that supervisors are:

- Qualified based on their knowledge, training and experience to organize the work and its performance
- Familiar with and knowledgeable of the Occupational Health & Safety Act and applicable regulations including the definition and duties of a supervisor
- Aware of all actual and potential health and safety hazards in their area of responsibility and communicate this information to their workers
- Knowledgeable of written instructions, measures and Safe Work Standards to be taken for the protection of their workers
- Ensuring that their workers are knowledgeable about their health and safety and their related roles and responsibilities.

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- Able to identify, react and subsequently deal with incidents of workplace harassment & violence and ensure that initial detailed information is recorded and promptly forwarded to all responsible parties.

This Standard applies to every supervisor and manager who has charge of a workplace or authority over a worker.

### **Standards/Procedures**

1. Applicants being considered for a supervisory role will be assessed in part on their health and safety knowledge, training and experience.
2. A new supervisor will participate in a health and safety orientation, including a basic occupational health and safety awareness training program that meets legislative requirements.
3. A supervisor will complete all health and safety training deemed mandatory by the Corporation.
4. A supervisor's health and safety leadership and performance will be assessed as part of the Corporation's annual Performance Management program.
5. A supervisor will ensure that safe and healthy working conditions are maintained in the supervisor's assigned work area(s) and will;
  - Be familiar with and ensure that each worker is fully aware of and complies with the Corporation's Health & Safety Policy, Safe Work Standards and the *Occupational Health and Safety Act* and applicable regulations that apply to their work
  - Establish/contribute to the establishment of standard operating procedures and/or job safety analysis for any specific hazardous operations or conditions within their area of responsibility and ensure that they are communicated and understood by workers
  - Inform workers about hazards in the workplace and ensure that they receive proper training and instruction – including written instructions where prescribed – and have demonstrated an understanding of the work and possible hazards prior to work being performed

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- Ensure workers use and/or wear the proper protective equipment required for their work
- Investigate situations where a worker is exercising the right to refuse unsafe work
- Investigate situations believed dangerous by a worker or JHSC certified member
- Ensure workers use machines with the required guards in place
- Co-operate with government inspectors
- Ensure that the physical workplace is inspected once a month
- Verify that contractors comply with the Corporation's Health & Safety Policy and practices
- Act immediately on any danger the supervisor is aware of in the workplace
- Assist and co-operate with members of the Joint Health and Safety Committee
- Investigate and report all incidents and accidents and determine corrective action
- Hold accountable all persons reporting to them including lead hands, contractors and others
- Commend worker health and safety performance
- Take every precaution reasonable to protect workers

## Due Diligence

In health and safety terms, “due diligence” means that supervisors will “take every precaution reasonable in the circumstances for the protection of the worker” This known as the “general duty clause”.

Due diligence is evidence that a supervisor can use as a defense in a court of law. The due diligence defense is only applicable when responding to a specific violation set out under the *Occupational Health and Safety Act*, demonstrating that an organization took all steps necessary and reasonable to prevent injuries or incidents in the workplace. The application of due diligence requires ongoing measures that represent ample knowledge, effective processes and sufficient

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documentation. It is very difficult to prove due diligence, or an effective health and safety history without proper documentation.

- **KNOWLEDGE:** Ample knowledge requires being familiar with all work processes and potential hazards in the workplace. This involves, for example, understanding and keeping others informed of the legal obligations and hazards within the workplace.
- **PROCESS:** Formal processes in the workplace will also help demonstrate due diligence. This involves taking action through policies and procedures, as well as finding remedies for defects in work areas in a timely and effective manner. This can be achieved by performing routine daily checks of the work area. Action can also be taken by:
  - a) Ensuring proper training
  - b) Monitoring compliance
  - c) Enforcing procedures

Another form of action involves communicating any risks or changes in the workplace to a supervisor's workers including the following communication tools:

- a) Conducting meetings or safety talks
- b) Health & Safety bulletin boards
- c) Utilizing departmental Joint Health and Safety Committee members
- d) Introduction as part of a JSA

## Documentation

A due diligence defense can only be established if there is documented evidence of a compliance history, including:

- Recording training attendance including name of facilitator and type and date of training
- Follow-up documentation for incidents and workplace inspections
- Documenting employee complaints

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- Documenting and communicating control measures to address safety concerns

**REMEMBER: “If it’s not written down, it didn’t happen**

### **Roles and Responsibilities**

#### Corporation (employer)

- Only appoint those supervisors who are considered “competent persons” under the *Occupational Health and Safety Act*
- Provide ongoing support and training to supervisors to ensure their role as “competent persons” is maintained on a regular basis
- Ensure that supervisors are provided with the proper resources such as training courses and information that they require to fulfill their ongoing obligations as supervisors
- Communicate current information regarding legislative updates and changes as they become available

#### Supervisors

- The supervisor shall **Implement, Support & Enforce** the Health & Safety program at the worker level
- The supervisors three main safety activities are (1) Communicating, (2) Inspecting and (3) Enforcing

#### Human Resources/Safety

- Human Resources/ Safety will provide ongoing support to ensure that supervisors are kept current with changing and additional safety legislation that impacts on the supervisors ability to act in a competent manner

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- Human resources/ Safety will assist Supervisory staff and provide information regarding Inquiries concerning safety training and or availability of resource personnel for safety talks or demonstrations etc.

### **Communication**

- Every new and amended standard is shared with the Joint Health and Safety Committee for review and comment prior to approval
- Notice of approval is communicated via email and Health and Safety bulletin boards
- Copies of all standards are consolidated in binders available in every workplace

### **Training**

- Every employee receives health and safety learning at orientation and regularly thereafter.
- The employees who conduct the Self-Assessment will receive specific training on how to use the self-assessment tool.

### **Evaluation**

The Corporation's Health and Safety Policy is reviewed and updated annually in consultation with the JHSC.

### **Acknowledge Success/Make Improvements**

Human Resources and/or the JHSC may make recommendations regarding the provision and maintenance of a corporate health and safety policy.

Improvements are incorporated as part of the annual review. Successes are acknowledged at the annual Safety and Attendance Banquet.

**This Standard takes effect immediately and remains in effect until replaced by a new Standard of superseded by legislation/regulation.**

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Chief Administrative Officer

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Worker Co-Chair, JHSC

Reviewed (Date):	By (Name and Initial):
June 14, 2015	T. Mather

*\*This document can be made available in an accessible format upon request.*