

## **OSHA INSPECTIONS POLICY**

### **1.0 PURPOSE:**

To provide City of Wilson employees and management a policy on the correct handling of a workplace inspection by an OSHNC (Occupational Safety & Health of North Carolina) Compliance Officer or representative.

### **2.0 SCOPE**

This policy applies to all departments within the City of Wilson; both City employees and contractors.

### **3.0 DEFINITIONS**

**“CATASTROPHE”** means an incident where there is a fatality and/or an accident where there is hospitalization of three (3) or more employees.

**“CITATION”** means the document presented by OSHNC informing the employer and employees of the regulation and standards alleged to have been violated and the proposed length of time set for their abatement.

**“IMMINENT DANGER”** means conditions exist where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately before the danger can be eliminated through normal enforcement procedures.

**“PROGRAMMED INSPECTIONS”** means inspections aimed at specific high-hazard industries, workplaces, occupations, or health substances, or other industries identified in OSHA’s current inspection procedures.

### **4.0 INSPECTION PROCEDURES**

#### **4.1 Greeting the Compliance Officer**

4.1.1 When an OSHNC Compliance Officer arrives at any City facility or work location, the Compliance Officer will identify himself and present an identification card. The City employee present will be courteous and professional to the Compliance Officer at all times.

4.1.2 The City employee will then immediately notify their supervisor, who will in turn, notify their division head and the Safety & Health office at 399-2238 describing the place of the inspection and the name of the Compliance Officer.

If the Safety & Risk Manager cannot be contacted, the employee must then contact the Director of Personnel at 399-2249.

4.1.3 The division head should attend and accompany the Compliance Officer throughout the inspection. If not possible, the division head may select a representative to attend the inspection.

4.1.4 The Safety & Risk Manager or the City representative will ask the Compliance Officer what type of inspection is to be performed.

4.1.4.1 Programmed Inspection: The OSHNC Compliance Officer tours the entire facility or work area and chooses that work site from a random pick or scheduled list.

4.1.4.2 Complaint Inspection: The OSHNC Compliance Officer has arrived as a result of a complaint filed by an employee reporting a hazard they believe exists. Normally, Compliance Officers are only interested in the specific site or area the complaint addresses.

**NOTE:** If the Compliance Officer sees a violation other than in the complaint area, a citation and fine may still be imposed. For this reason, the Compliance Officer should be escorted to the area of the complaint by the most direct route.

4.1.4.3 Special Inspection:

4.1.4.3.1 Imminent Danger - these inspections are given the top priority. If a Compliance Officer observes a hazard of this magnitude, he may use legal means to compel the City to stop or remove employees from the hazard.

4.1.4.3.2 Catastrophes and Fatalities - these inspections follow the reporting of a fatality and accident resulting in the hospitalization of three (3) or more employees.

4.1.4.4 Follow Up Inspection: The Compliance Officer has returned to follow up on the abatement of specific hazards from a previous inspection.

4.1.5 If the inspection is to take place within any City facility, the City representative will call Building Maintenance and have a maintenance employee accompany the inspection.

## 4.2 **During the Inspection**

4.2.1 When performing the inspection, the Compliance Officer should never be left alone. A City employee must accompany the Compliance Officer throughout the inspection. The only exception is during employee interviews, which will be discussed later in this section.

4.2.2 Any violations noted during the inspection will be corrected on the spot.

4.2.2.1 If the violation involves maintenance to a facility, the Building Maintenance representative will immediately attempt to repair or replace any defective items to correct the violation.

4.2.2.2 If the violation involves the performance of an employee, that employee will immediately be instructed to cease from the unsafe activity.

**NOTE:** Correction either verbal or written to the employee committing the unsafe activity will be held to a later time in private. City employees will never be verbally corrected or made an example of in front of the Compliance Officer!

4.2.3 The City representative will also note all violations noted by the Compliance Officer. If there are any pictures or videotapes made by the Compliance Officer, the same photo or scene recording will be made by the City employee. If a City camera is not available, the City representative shall make written notes as to what the Compliance Officer photographed or recorded.

### 4.3 **Employee Interviews**

4.3.1 The law allows OSHNC Compliance Officers to privately interview employees of their choosing. Members of City management will cooperate fully and not in any way interfere with the interview process.

4.3.2 The Compliance Officer may on City time, pull the employee from their regularly scheduled duties. If this is not convenient or the employee is not on duty, then an agreed to a time will be made when the Compliance Officer may meet the selected employee.

4.3.3 Members of City management will not press, berate, or intimidate any employee who has been selected for an OSHNC interview trying to gain information as to the content. This violation will result in disciplinary action up to and including termination for that member of management.

### 4.4 **Documentation Review**

4.4.1 The OSHNC Compliance Officer may request certain documents during the inspection. City representatives are to make all *requested* documentation available. If the Compliance Officer doesn't ask for a specific document, don't voluntarily provide it unless those additional documents may better clarify a situation.

### 4.5 **Closing Conference**

4.5.1 A closing conference will be scheduled at the end of the inspection. It is at this time when the Compliance Officer will review all violations noted and accompanying potential citations made. If the Compliance Officer has not offered, the City representative will request that a closing conference be performed.

4.5.2 The following members of City management should attend the closing conference:

Division Head - (where the inspection took place)  
Safety & Risk Manager  
Personnel Director or Director of Administration  
Department Director

- 4.5.3 All corrective action(s) that have taken place since the beginning of the inspection should be brought to the attention of the OSHNC Compliance Officer during the closing conference.

**NOTE: Penalties can be minimized or eliminated by immediate attention and correction to noted violations before the closing conference is completed.**

## 5.0 FOLLOW UP, ABATEMENT, AND APPEAL PROCESS

### 5.1 Responsibilities

- 5.1.1 The division head is responsible for the entire abatement process. The Safety & Risk Manager will be available to assist in ensuring the corrections are made within the OSHA regulations and standards.
- 5.1.2 The division head, in coordination with the Safety & Risk Manager will ensure all violations are abated within the agreed upon time frame.

### 5.2 Delivery of Citation

- 5.2.1 An official letter (registered mail) will be sent to a City representative for any citations found during the inspection. Copies of the original must be sent to the Safety & Health Office, division head, and department head.
- 5.2.2 A copy of the citation must be posted in a conspicuous place within the work area cited. The citation may be posted on a bulletin board in the employee break area or division office area if posting at the violation site is impractical. The citation document must stay posted conspicuously until the hazard has been abated.

### 5.3 Notice Of Contest

- 5.3.1 Once the citation notice has been received, if there are any cited violations the City wishes to contest, the division head will immediately contact the OSHNC Area Director *in writing* requesting a meeting to discuss abatement periods and/or contest specific citations. The division head will always request a meeting with the Area Director no matter how small the violations.

**NOTE: The City has fifteen (15) working days after receipt of the citation notice to schedule a meeting with the Area Director to contest any of the alleged violations. After this, the citation will become a FINAL ORDER by OSHNC and the City will be barred from further appeal.**

- 5.3.2 The Notice of Contest must clearly identify the City's basis for filing. Content should include; the citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.
- 5.3.3 A copy of the Notice of Contest must be posted, just as the citation, in a conspicuous place for all employees to review. The Notice of Contest must stay posted until the hazard has been abated or the dispute has been resolved.

#### 5.4 **Petition for Modification of Abatement**

- 5.4.1 If after a good faith effort to abate the violations the division head finds more time is needed to make corrections, the division head will notify in writing, a Petition for Modification of Abatement. The petition must be made to the OSHNC Area Director.
- 5.4.2 The Petition for Modification of Abatement must contain:
  - 5.4.2.1 steps taken to achieve compliance,
  - 5.4.2.2 the additional time needed,
  - 5.4.2.3 the reasons additional time is needed, and
  - 5.4.2.4 interim steps being taken to safeguard employees against the cited hazard during the intervening period.
- 5.4.3 A copy of the petition must be posted near the site of violation or work area and stay posted until the hazard has been abated.

#### 6.0 **CITATIONS AND PENALTIES**

Supervisors should be aware that civil and criminal charges can be brought *personally* against members of supervision if it can be shown that the supervisor intentionally created a hazard or knowingly failed to correct it.

These are the types of violations that may be cited and the penalties that may be proposed.

- 6.1 **Other-Than-Serious Violation** - A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A penalty from \$0 to \$7000 for each violation may be assessed.
- 6.2 **Serious Violation** - A violation where there is a substantial probability that death or serious physical harm could result. The penalty for a serious violation is assessed from \$1500 to a maximum of \$7000 depending in the gravity of the violation.
- 6.3 **Willful Violation** - A violation that the employer intentionally and knowingly commits. The employer is aware that a hazardous condition exists, knows that the condition violates a standard or other obligation of the OSHA Act, and makes no reasonable effort to eliminate it. Penalties of up to \$70,000 may be proposed for each willful violation. The minimum willful violation is \$5000.

**NOTE:** An employer who is convicted in a criminal proceeding for a willful violation of a standard that has resulted in the death of an employee may be fined up to \$250,000 (or \$500,000 if the employer is a corporation) or imprisoned up to six (6) months, or both. A second conviction doubles the possible term of imprisonment.

- 6.4 **Repeated Violation** - A violation of any standard, regulation, rule, or order where, upon re-inspection, a substantially similar violation is found and the original citation has become a final order. Violations can bring a fine of up to \$70,000 for each such violation.
- 6.5 **Failure-to-Abate Violation** - Failure to correct a prior violation may bring a civil penalty of up to \$7000 *for each day* that the violation continues beyond the prescribed abatement date.