**SECTION: SAFETY & HEALTH**

**POLICY:** Modified Duty Assignments **EFFECTIVE DATE:** insert date adopted

**STATEMENT OF PURPOSE:**

The purpose of this policy is to establish a consistent framework for providing temporary modified duty statements to employees who are unable to perform their full job duties due to injury or illness. This policy works in conjunction with the Leave of Absence Policy, and the employee shall refer to the appropriate Leave Policy for defined terms. This policy covers a number of scenarios relating to an employee’s ability to return to work after experiencing an injury (work related or non-work related), personal sickness, or disability. These temporary restrictions must serve an operational need of the City.

**DEFINITIONS:**

1. Return to work with restrictions: Returning to work on a regular schedule with restrictions and receiving a Modified Duty Assignment, if available.
2. Returning to work on a reduced schedule basis: Returning to work on a reduced schedule with or without restrictions and potentially being placed in a Modified Duty assignment, if applicable.
3. Modified Duty: Modified Duty is an assignment which is for a specified and limited period and fulfills a necessary job function, appropriate to the employee’s skills and level of experience as determined by the city, and which the employee can perform without violating any medical restriction imposed as a result of a temporary disability, sickness or injury, for which the employee is compensated at his or her normal rate of pay and benefits.
4. Work-Related Injury: An injury or illness that occurs in the course and scope of employment and is compensable under the Texas Workers’ Compensation Act.
5. Non-Work-Related Injury: An injury or illness that occurs outside the scope of employment and is not covered under workers’ compensation.
6. Maximum Assignment Period: For full-time employees, no Modified Duty assignment may last for a cumulative period exceeding 180 Calendar Days. For part-time benefited employees, no Modified Duty assignment may last for a cumulative period exceeding work hour equivalent to the hours the employee would normally be scheduled to work in a one work-week period.
7. Interactive Process:A discussion about an employee's disability including the employee, health care provider, and employer where each shares information about the nature of the disability and the limitations that may affect his or her ability to perform the essential job duties. This discussion is the foundation of compliance with the Americans with Disabilities Act.

**APPLICABILITY:**

This policy applies to all employees, both sworn and non-sworn, who are temporarily unable to perform the full duties of their regularly assigned positions due to a verified medical condition resulting from either a work-related or non-work-related injury or illness. Different parameters may apply to those employees covered under civil service rules.

**POLICY:**

Employees who are released to return to work on a regular or reduced schedule basis but with temporary job restrictions, as supported by medical evidence documented on the “Physician’s Release to Return to Work” form, may be eligible for a Modified Duty assignment as defined in this section.

**PROCEDURES:**

1. The department head or designee, with the concurrence of the Human Resources Department, may assign the employee to perform certain Modified Duty assignments on a temporary basis, based on the “Physician’s Release to Return to Work” information provided. Failure of an Employee to report for Modified Duty assignments shall terminate the injury leave, short-term disability leave, or other leave benefit. The goal of this program is to enable employees to continue using skills and abilities temporarily limited by injury, sickness or disability when modified duty positions are available. An additional statement confirming the ability to perform the Modified Duty assignment may also be required.
2. In cases where the Employee is not able to return to work, the Employer may rely on the information contained in the “Certification of Health Care Provider” form to determine appropriate next steps.
3. An Employee must adhere to any restrictions noted on the “Physician’s Release to Return to Work” form even if the Employee has not missed any work.
4. Employees on modified duty are required to work a standard schedule of 8:00 a.m. to 5:00 p.m. Monday through Friday each week. No shift work, flex scheduling, or alternative work hours are permitted during the modified duty period.
5. Modified duty assignments are not a matter of right. The number, availability and duration of such assignments are limited by departmental needs as defined by the department head or designee.
6. The maximum time an employee may remain on modified duty is 180 calendar days per injury or illness, whether work-related or non-work related. Modified duty assignments shall not extend beyond this period unless explicitly approved by the City Manager or designee due to extraordinary circumstances.
7. Employees on modified duty shall not work over 40 hours per week and may not earn overtime or compensatory time. All work must occur during the designated modified duty hours.
8. Time worked must be accurately reported, and any absence during the modified duty period must be covered by appropriate leave (e.g., sick leave, vacation, or unpaid leave if other leave is exhausted).
9. While on modified duty, employees are prohibited from engaging in any outside employment, including part-time or secondary jobs, whether for compensation or not.
10. If restrictions as noted on the Physician’s Release to Return to Work form or “Certification of Health Care Provider” form are determined to be permanent, the Employee is not eligible for a Modified Duty assignment. If the employee’s restrictions change at any time, he/she must notify his/her department head/designee immediately and give the department and Human Resources a copy of the revised “Physician’s Release to Return to Work” form.

1. Limitation of Modified Duty Assignment: The Modified Duty assignment ends on the earliest of:
2. The date the employee is released to his/her regular schedule with no restrictions as evidenced on the Physician’s Release to Return to Work form;
3. The date the Physician determines the employee has permanent restrictions;
4. The date the maximum assignment period ends;
5. The date the employee fails to take a required medical examination, without good cause.

1. Assignment to a Modified Duty assignment does not in any way create a right for the employee to occupy that or any other position on a regular basis. At the end of the Modified Duty assignment, if an employee is unable to return to work without restrictions, he/she may be placed on the appropriate leave.
   1. While working a Modified Duty assignment, the employee may be required to provide periodic updates from his/her physician up to every 30 days. In conjunction with such review, the employee may be required to submit to a periodic physical examination as a condition of continued modified duty status.
   2. If a Modified Duty assignment is not available, a representative from Human Resources will determine what remaining leave benefits are available to the Employee, if any.
   3. If the Employee is unable to perform the Modified Duty assignment, he/she will contact the Physician to review and potentially update the “Physician’s Release to Return to Work” form.
2. Inability to Return to Work:
3. If the employee is unable to return to work, with or without restrictions, as noted on the “Physician’s Release to Return to Work” form or the “Certification of Health Care Provider” form, the employee must notify Human Resources as soon as possible, and is required to provide periodic updates from his/her physician every 30 days.
4. While off work, it is the responsibility of the employee to supply Human Resources with a current telephone number (listed or unlisted), email address, and a mailing address where the employee can be reached.
5. The employee will notify Human Resources as soon as practicable of all changes in return-to-work status.
6. Once available leave programs are exhausted, the employee will meet with a representative from Human Resources to conduct an interactive process to determine next steps. Those steps include:
   * 1. A review of the employee’s restrictions as noted on the “Physician’s Release to Return to Work” form or the “Certification of Health Care Provider” form.
     2. A review of the employee’s essential required tasks as noted in the employee’s job description and job site evaluation form. The employee will be given an opportunity to review the duties and discuss how he/she can perform the duties with or without accommodation.
     3. If reasonable accommodation is not possible, the employee and the representative from Human Resources will review the employee’s qualifications and look for other employment opportunities within the city. Any appointment to a new position must comply with the requirements of the accommodation request.
     4. If another employment opportunity is not available, the employee will be separated from employment with the city in accordance with applicable law, including the Americans with Disabilities Act (ADA) and Family and Medical Leave Act (FMLA), and state law as applicable. The Employee may also consider a voluntary resignation at this time.