RESOLUTION NO. 019-14

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING A LIGHT DUTY POLICY

WHEREAS, employees who become ill or are injured in connection with the performance of their duties should be returned to work as soon as possible, consistent with their medical restrictions; and

WHEREAS, the City of Port Orchard is committed to providing employees productive work during their recovery from an on the job injury or illness; and

WHEREAS, a written and adopted Light Duty Policy supports a return to work program that has many benefits, such as: faster, more effective healing for the employee, containing and reducing the costs of Worker’s Compensation due to employee injury and time loss, and improved morale by providing support to employees with alternate assignments during recuperation; and

WHEREAS, at the May 20, 2014 Work Study Session, a presentation was made to update the City Council on the status of the Safety Health and Investment Project grant along with the introduction of a draft Light Duty Policy; and

WHEREAS, the Light Duty Policy has been reviewed by the City’s employment attorney and representatives of the collective bargaining groups; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: the Light Duty Policy set forth in the attached Exhibit A is hereby adopted.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the Clerk in authentication of such passage this 22nd day of July 2014.

ATTEST:

Brandy Rinearson, CMC, City Clerk

Timothy C. Matthes, Mayor
City of Port Orchard Light Duty Policy

INTRODUCTION:

Light-duty assignments under this policy are temporary job assignments for employees who suffer an on-the-job illness or injury that temporarily limits his/her ability to perform their regular work assignment. Such light-duty assignments are temporary assignments only, are not vacant or permanent positions within the City's workforce, and are not available to employees on a "permanent" basis. The availability of such light-duty assignments depends upon the employee's restrictions and the business needs of the City at that time. The existence of this light duty policy does not in any way guarantee that light duty will be available at any given time or for any particular duration; however, the offering and availability of light duty assignments shall be evenly applied to all City employees to the extent feasible. The City reserves the right, in its discretion, to determine whether to offer a light duty assignment. No employee shall be "entitled" to receive a light duty assignment under this policy.

This policy is not intended to address circumstances where an employee is medically determined to have sustained permanent restrictions upon his/her ability to perform their respective essential job functions. In such cases, the City will review the employee's situation separately and in compliance with the Americans With Disabilities Act (ADA), any other applicable law, as well as any other applicable City policies in order to determine what, if any, reasonable accommodations may be appropriate and any other legal requirements. Similarly, the City shall review and process situations where an employee suffers an off-the-job injury or illness in full compliance with the ADA and any other applicable authority to determine what, if any, reasonable accommodations may be appropriate.

GENERAL LIGHT DUTY PROCEDURES:

1. The City seeks to work with employees who suffer an on-the-job illness or injury so that they may return to work as soon as safely possible and with the employee’s treating health care provider’s concurrence.

2. As discussed above, the City may, in appropriate circumstances, explore whether an employee should receive a light duty assignment. Provided, however, for safety reasons no employee will be permitted to work in a light duty assignment unless the City receives a written statement from the employee’s treating health care provider in advance approving the assignment.

3. If the City offers a light duty assignment to an employee, and the employee receives the required release from his/her treating health care provider to return to work on a light duty basis, the injured employee will promptly report to the Department Director (unless the employee is on other approved leave from the City) with a form furnished by the City and completed by his/her treating health care provider indicating any restrictions. Nothing herein shall be construed so as to mandate the acceptance of a light duty assignment by an employee if the employee is on approved leave (either paid or unpaid) from the City. After reviewing what, if any, restrictions are indicated by the treating health care provider, the City will then determine whether it is appropriate to proceed with the light duty assignment under consideration.
4. The City reserves the right to determine the availability and appropriateness of all light duty assignments. When considering a light duty assignment as part of the process under this policy, the Department Director (or other City designee) will meet with the employee to the extent necessary to review his/her physical restrictions and to determine his/her skills, knowledge and abilities relevant to the assignment under consideration. This information will be used in determining light duty assignments for which the employee is qualified and physically capable of safely performing. The City may discontinue a previously approved light duty assignment only if the employee becomes unable to safely perform said assignment, upon completion of the tasks/work related to said assignment, the employee is unable to return to his/her regular assignment within a reasonable period of time (determined on a case-by-case basis, taking into account the particular facts and circumstances), and/or if the City no longer has a business need to perform the functions of the assignment.

5. The City reserves the right to consider, in appropriate circumstances (as determined by the City in its discretion), whether other City Departments (outside of the subject employee’s Department) may have light duty assignments to which the employee could be assigned.

6. The employee and the applicable Department Director (or designee) shall promptly notify the Human Resources Coordinator of any changes relating to the respective light duty assignment. The Human Resource Coordinator may then communicate, to the extent necessary and appropriate, with the insurance carrier and health care provider as applicable. To assist with the effective implementation of this policy, the Human Resources Coordinator may also communicate with the employee and the applicable Department Director from time to time, as may be necessary.

7. All forms of pay and benefits of an injured employee on a light duty assignment will be paid by the City during the duration of said assignment to the extent required by applicable City policy and/or any applicable Union Collective Bargaining Agreement. Employees who refuse to accept light duty assignments offered pursuant to this policy, and which are approved by their treating health care provider, may be ineligible to receive time loss payments under Washington State’s Workers’ Compensation laws. Requests from employees to utilize accrued paid time off (for example, sick or vacation leave) in lieu of accepting a light duty assignment will be processed in accordance with the applicable City policy and/or Union Collective Bargaining Agreement (if any). The City will, of course, comply with Washington State’s Workers’ Compensation laws in regard to any compensation (or other) requirements for employees suffering an on-the-job injury or illness who do not receive a light duty assignment under this policy.

8. Employees assigned to light duty shall not be assigned any job duties which fall outside the restrictions set by the applicable health care provider.

9. The City may require employees working on a light duty assignment to periodically furnish a written statement at reasonable intervals from his/her treating health care provider confirming that he or she remains incapable of performing his/her regular job duties. In general, the City will review the status of an employee’s respective light duty assignment every 30 days, taking into account, among other things, the City’s business needs and the employee’s condition, in order to determine if continuation of the assignment is appropriate. Provided, however, the timing of the foregoing review may be modified as appropriate depending upon the particular circumstances of the respective employee’s situation.

10. Light duty assignments under this policy are intended to be of a temporary and short-term duration. The specific duration of any light duty assignment will be handled on a case-by-case basis, taking into account the factors set forth above in this policy.