



## ORINDA PERSONNEL RULES

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## 1 GENERAL PROVISIONS

1.1 Purpose: The purpose of these personnel rules is to provide consistency and structure in the administration of personnel matters, and to achieve a common understanding of certain basic city policies and procedures which generally apply in all circumstances. These rules are not intended to supersede any Memoranda of Understanding and any amendments, employer-employee resolutions, or employment contracts and to the extent these rules are inconsistent, the Memorandum of Understanding and any amendments, employer-employee resolution, or employment contracts will control. In addition, these rules are not intended to supplant appropriate managerial discretion in matters not specifically addressed by these rules.

1.2 Applicability: The policies, rules and regulations stated in this document apply to all employees of the City unless otherwise expressly provided. The document does not apply to officials, independent contractors, volunteers or other individuals working with the City unless expressly stated or applicable federal or state law provides otherwise.

1.3 At-Will Employment: The City Manager, members of the Management Group, consisting of those at the Department Head level, and employees classified as temporary, seasonal or project, whether full-time or part-time, are employed on an at-will basis. This means that either the employee or employer may end the employment relationship at any time, with or without cause and with or without prior notice. The policies, rules and regulations stated in this document that are inconsistent with at-will employment, such as but not limited to disciplinary procedures and reduction in force rules, shall not apply to at-will employees.

1.4 Violation of Rules: Violation of the provisions of these rules and regulations shall be grounds for appropriate disciplinary action, up to and including termination of employment.

1.5 Duties Delegable: The duties and responsibilities assigned to the City Manager, department heads, and other supervisors may be delegated to other responsible employees as appropriate.

1.6 Adoption and Amendment: These rules may be adopted and thereafter amended by the City Council after meeting and consulting with the appropriate employee units.



## 2 MANAGEMENT AUTHORITY

2.1 Management Functions: The City of Orinda is required by law to exercise certain powers and authority to manage the municipal services and the work force performing those services. The following functions, which are within the authority of the City Council and exercised directly and through the City Manager and department heads, are not subject to negotiation, grievance or any other procedural limitations set forth in these rules except as otherwise provided by law. The rights include, but are not limited to:

2.1.1 Organization: Determine and modify the mission and organization of City government and its constituent work units, commissions, boards and volunteers.

2.1.2 Delivery of Services: Determine the nature, standards, levels, and mode of delivery of services to be offered to the public.

2.1.3 Personnel: Determine the methods, means, number, kinds, and selection of personnel by which services are to be provided.

2.1.4 Efficiency: Maintain the efficiency of governmental operations.

2.1.5 Goods and Services: Determine whether goods or services shall be made or provided by the City, or shall be purchased or contracted for.

2.1.6 Application of Technology: Exercise complete control and discretion over the use of City technology.

2.1.7 Direction of Employees: Direct employees, including scheduling and assigning work, work hours and overtime.

2.1.8 Employee Performance Standards: Establish employee performance standards and require compliance.

2.1.9 Discipline Employees: Dismiss, suspend, demote, reduce in pay, reprimand, withhold salary increases and benefits, or otherwise discipline employees, subject to the requirements of applicable law and these rules and regulations.

2.1.10 Dismiss Employees: Dismiss employees from duty because of lack of work or lack of funds or for other legitimate business reasons not relating to job performance.

2.1.11 Implementation: Implement rules, regulations, and directives consistent with law and the specific provisions of these personnel rules.

2.1.12 Protect the Public: Take all necessary actions to protect the public and carry out the City's mission in emergencies.

### 3 CLASSIFICATION PLAN

3.1 Introduction: Every City position shall be assigned to a Pay and Benefits Classification and an Employment Group. Revisions to either classification or group shall be approved by the City Manager and adopted by the City Council.

3.2 Pay and Benefits Classifications: Each employee shall be assigned to one of the following Pay and Benefits Classifications, as established by the City Manager, for purposes of specifying the appropriate pay range, benefits and employee rights for the position.

3.2.1 Regular Full-Time Employee: A person assigned to an authorized position who is scheduled to work a 40 hour work week and who has completed the introductory period of employment as defined in Chapter 5 "Introductory Period."

3.2.2 Regular Part-Time Employee: A person appointed to an authorized position who is scheduled to work at least 20 but less than 40 hours per week and who has completed the introductory period of employment as defined in Chapter 5 "Introductory Period."

3.2.3 Temporary Employee: A person employed for a specified duration who is scheduled to work at least an estimated 1,000 hours or 125 days during a (12) twelve month period.

3.2.4 Seasonal Employee: A person employed for either a specified or unspecified duration who is scheduled to work less than 1,000 hours or 125 days during a twelve (12) month period.

3.2.5 Project Employee: A person employed for the duration of a specific project or grant.

3.3 Employment Groups: Positions in the classification system shall be assigned to one of the following Employment Groups:

3.3.1 Management: Positions with responsibility for administering and formulating policy for the City or a department within the City and with primary responsibility for hiring, transferring, promoting, assigning and scheduling work, disciplining and dismissing employees. Members of the management group serve at the will of the City Manager and may be terminated without cause.

3.3.2 Mid-Management: Positions directly supporting management, with some supervisory duties, or those positions requiring specialized knowledge, skills, and certifications attained through completion of a recognized course of instruction.

3.3.3 Confidential: Positions in which employees are assigned tasks and/or have access to confidential information related to employee-employer relations.

3.3.4 General: All other positions not assigned to any of the above groups.

3.4 Change of Group: New positions shall be assigned by the City Manager to an employment group. All new regular positions shall be authorized by City Council action.

3.5 Acting Assignment: From time to time the City may assign an employee to work out of his/her regular classification in an acting capacity. If the period is at least 10 consecutive working days, the employee shall receive compensation equal to the next highest step of the new classification which results in not less than a five percent (5%) increase over the employee's current compensation, and benefits as regarding the acting position. However, an employee may not be paid above the top step for the new classification. All such assignments require advance approval of the City Manager. The employee so assigned shall return to his/her regular rate of compensation and benefits when returned to regular duty. No employee shall be assigned an acting role for more than one hundred eighty (180) working days in any twelve (12) month period without express approval of the City Manager.

3.6 Working Out of Classification: When it is necessary for an employee in a regular position to perform duties of a higher paid classification or perform higher level duties of a significant nature, and the employee does not meet the minimum qualifications of the higher level classification or the employee is performing duties of a higher level that do not require a change in classification, a five (5) percent increase in base salary shall be paid to the employee. The higher level pay shall begin the 41st hour of the assignment. There is no maximum duration, however; each assignment shall be reviewed after six months to determine if circumstances have changed. All such requests require advance approval of the City Manager. When the employee is no longer performing the duties, the employee shall return to his/her regular rate of pay.

3.7 Reclassification: Reclassification requests, resulting from changing job responsibilities or other circumstances, must be approved or requested by the City Manager prior to referral to Human Resources for review. Reclassification is a change in the allocation of an individual position to its appropriate classification based upon a comparative analysis and evaluation of the job content, difficulty and responsibility. Reclassification may involve raising the position to a higher classification, reducing it to a lower classification, or reallocating the position to another classification at the same pay level. Such action shall not be construed as a promotion or demotion.

## 4 EMPLOYMENT SELECTION

4.1 Employment Standards: The City of Orinda will employ the applicant best qualified for an available position. Continued employment will be based on the employee's job performance, available funding, and demonstrated need for the position.

4.2 Authorization to Work: The City of Orinda complies with the requirements of federal law and employs only applicants who are lawfully authorized to work in the United States.

4.3 Job Openings: Open positions will be announced in the manner deemed by the City Manager to be most appropriate for the position to be filled. Position vacancies may be filled by an open competitive test, by promotion, by temporary appointment, transfer, re-employment, demotion, or by the appointment of individuals from eligible lists, if any, as determined appropriate by the City Manager from time to time.

4.4 Qualification: Applicants who most closely meet the City requirements may be invited to participate in the examination process. Meeting the minimum qualifications for a position does not assure an applicant will be invited to participate in the examination process.

4.5 Subjects and Method of Examinations: The goal of the examination process is to determine certain qualifications of applicants in an objective, consistent and fair manner. The type of examinations used as the basis for employment selection shall be determined by the City Manager on the recommendation of the appropriate department head in consultation with Human Resources. Examinations may be written, oral, practical demonstration, physical or any combination and shall be reasonably related to the requirements of the position to be filled.

4.6 Qualifying Grade and Rating Examinations: The minimum grade or standing which determines eligibility shall be based upon all factors in the exam(s). Applicants who fail any one part of the exam(s) maybe disqualified.

4.7 Eligible Lists: Employment eligible lists based on selected test and interview results shall be effective for six (6) months following the date approved by the City Manager. Eligible lists may be extended, by the City Manager, two (2) times for an additional six (6) month period each time, for a maximum period of eighteen (18) months.

4.8 Reference/Background Investigation: The City verifies prior employment and conducts reference checks on applicants. Candidates may also be subject to a background check which may include a credit review (if applicable to the position for which they applied), personal history, education, professional credential, military record, Department of Motor Vehicle record and criminal records. An employee under consideration for promotion may also be subject to a background check. A written authorization will be obtained before a background check is conducted. Final offers of employment or promotion may be delayed until the City has completed this investigation process. The City will not ask any applicant to disclose, orally or in writing, information concerning the conviction history of the

applicant until the City has determined the applicant meets the minimum qualifications for the position, as stated in any notice issued for the position.

4.9 Emergency Appointments: Certain employees designated by the City Manager may make emergency appointments in order to meet the immediate requirements of an emergency such as an extraordinary fire, flood or earthquake which threatens public life or property. All emergency appointments shall be reported to the City Manager as soon as possible. The personnel ordinances or rules affecting appointments and employment do not apply when such emergency conditions occur.

4.10 Employment of Relatives: To avoid conflicts of interest, members of the immediate family of elected or appointed officials shall not be appointed to City employment. Immediate family members of employees shall not be appointed, transferred, promoted or demoted into the same department or be placed in such a position as to evaluate a relative or be in the same line of supervision without prior City Manager approval. The decision of the City Manager is final in all cases. For the purposes of this policy, immediate family member is defined as spouse, spousal equivalent, parents, children, siblings, grandparents or other dependents living in the home as well as the immediate family of the spouse or spousal equivalent.

4.11 Pre-Employment Physical Examinations: Candidates who have received an offer of employment may be required to undergo a physical examination prior to reporting to work. A medical doctor who is selected by and paid for by the City shall perform the examination. Examinations or inquiries are limited to those that are job-related and consistent with business necessity and where all entering employees in the same job classification are subject to the same examination or inquiry.

## 5 INTRODUCTORY PERIOD

5.1 Purpose: For an employee assigned to a position other than temporary or seasonal, an introductory period regarded as a part of the testing process to closely observe the work performance, progress, and adjustment of the new employee is required. During this period, benefits for newly hired employees apply only to the extent outlined, in these rules, for introductory employees. Promoted regular employees retain the level of benefits that they were eligible for before the promotion.

5.2 Regular Appointment Following Introductory Period: All initial and promotional appointments shall be subject to an introductory period of six (6) months. The City Manager may extend the period for an additional six (6) months, if more time is needed to adequately assess the employee's suitability for the job. After successful completion of the introductory period, the employee shall advance to regular status, and all benefits shall apply as outlined in these rules for regular employment status. Written notice should be given to the employee indicating status at the end of each period.

5.3 Rejections During Introductory Period: An introductory employee whose performance does not meet the required standards of work performance may be terminated at any time without cause, without notice, and without right of appeal during the introductory period.

5.4 Rejection Following Promotion: Regular employees rejected during or at the conclusion of a promotional appointment introductory period shall be reinstated to the position from which they were promoted, or to as similar a position as possible, unless circumstances, including unavailability of an open position, warrant demotion or dismissal.

5.5 Effect of Leaves on Introductory Period: The granting of any approved leave of absence during the introductory period shall result in an extension of the introductory period for the same amount of time as the length of the leave.

5.6 At-Will Employees: These employees serve at will and employment may be terminated without cause. There is no introductory period for Management, temporary, seasonal and project employees.

## 6 CHANGES IN EMPLOYMENT STATUS

6.1 Promotion: Promotion to a position with a higher pay range shall be based on merit only. Promoted employees will be placed on the appropriate step of the pay range as determined by the current procedures in force under the applicable Memorandum of Understanding, the Unrepresented Employee Manual or other procedures established by the City Manager for employees not covered by either of those documents.

6.2 Reclassification: Employees reclassified as provided by Section 3.7, will be placed on the appropriate step of the pay range as determined by the current procedures in force under the applicable Memorandum of Understanding, the Unrepresented Employee Manual or other procedures established by the City Manager for employees not covered by either of those documents. An employee reclassified to a position with a higher pay range will not be paid below the bottom step of the new classification. An employee classified to a position with a lower pay range will not be paid above the top step of the new classification.

6.3 Flexible Staffing: Certain pairs of specified positions in the City have similar job duties and are designated level one and level two dependent upon level of autonomy, certification, experience, or any combination thereof. The City reserves the right to conduct an open recruitment to fill a vacancy in a second level position or to fill the vacancy by advancement of a qualified employee from the first level position. Advancement will be based on merit; e.g. exceptional job performance and, if applicable, receipt of professional registration. The advanced employee's anniversary review date will be twelve (12) months from date of advancement. The amount of actual salary increase will be based solely on merit as determined by the evaluation.

6.4 Reductions in Force: The level of City services provided may be reduced or other changes to City services may be required for reasons of economy or efficiency. In such an event, it may be necessary to terminate employment or reduce the hours of one or more City employees. The City Manager shall make reasonable efforts to give primary consideration to (a) business necessity and (b) job performance, competence, and seniority whenever reductions in force are necessary. Employees shall be given at least thirty (30) days' notice of any proposed reduction in force, except where necessary to protect the public and carry out the City's mission. The City's decision to reduce its work force is a management right; thus, no due process rights under Chapter 9 or grievance rights under Chapter 23 exist, and the decision is not subject to the meet and confer requirements, except as otherwise required by law. Employees covered by a Memorandum of Understanding may have additional reduction-in-force terms in the Memorandum of Understanding.

6.4.1 Re-Employment Lists: Names of all regular employees whose positions have been terminated due to a reduction in force shall be placed on a re-employment list for two (2) years.

6.4.2 Re-Employment: When a vacancy occurs in a class from which employees were laid off, the qualifying employees on the re-employment list shall be notified of the vacancy prior to announcing the recruitment and shall be offered the opportunity to apply for the position.

In such an event, the City Manager shall consider the name(s) on the re-employment list prior to considering other candidates. The City retains the right not to appoint former employees.

6.5 Placement After On-the-Job Disability: The City will make a reasonable attempt, in accordance with federal and state law, to place employees in positions for which they qualify when they become disabled by an on-the-job injury or illness. The City also complies with applicable requirements of federal and state laws for covered disabilities that are not the result of an on-the-job injury or illness.

6.6 Demotion or Termination for Cause: The City may demote or discharge an employee for cause at any time; consistent with Section 9 of these rules and regulations. Members of the management group and employees classified as temporary, seasonal or project are under at will employment, and may be demoted or discharged at any time, with or without cause or advance notice.

6.7 Resignation in Lieu of Dismissal: When dismissal is deemed appropriate by the City, an employee may resign to avoid dismissal. Resignation must be voluntary, without coercion.

6.8 Resignation: An employee who intends to leave his or her position with the City should file a written resignation notice at least ten (10) working days before leaving. The notice should state the effective date and reasons for leaving and should be submitted to the department head, to be forwarded to Human Resources for processing and filing. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future re-employment by the City. Employees shall turn in any keys, identification cards, equipment, and any other City-owned property to the department head prior to his/her last day of City of Orinda employment.

6.9 Retirement: An employee planning to retire from the City shall provide a written notice to the department head, to be forwarded to Human Resources for processing and filing, at least sixty (60) calendar days prior to the effective date of retirement.

6.10 Rescinding Notices: Notice of resignation or retirement is final when given and may not be rescinded. An employee who gives notice of retirement but does not timely and successfully complete the retirement application process, will be separated on the basis of resignation.

6.11 Continuation of Health Benefits: For information on continuation of health benefits, please refer to Section 18.12 "C.O.B.R.A."

6.12 References: Responses to requests for references by potential new employers and credit agencies will be given only on the prior written authorization of the employee. Job references will provide the date of hire, positions held and most current salary, but nothing else without the specific written consent of the employee.



6.13 Fitness For Duty: If at any time the supervisor, department head or City Manager believes an employee is unable to perform assigned duties in a safe and efficient manner, the employee may be required to undergo a Fitness For Duty Examination. The purpose of the examination is to determine the employee's physical or psychological ability to meet the position requirements. The examination shall be performed by a medical doctor selected and paid for by the City. The doctor's report shall be the basis for determining whether any change of duties is warranted. It is City policy to comply with the Americans with Disabilities Act and the disability rights provisions of the California Fair Employment and Housing Act. When the City is aware that an employee has a covered disability and may need reasonable accommodation to perform the essential functions of the job, the City will engage in a good faith interactive process with the employee in an effort to identify possible reasonable accommodations. If you have questions about the interactive process or believe that you may need a reasonable accommodation to perform the essential functions of your job, please contact your supervisor or the Human Resources staff.

## 7 RULES OF CONDUCT

7.1 Intent: The purpose of the policy statement and procedures in this Chapter is to provide a workplace which promotes both employee safety and satisfaction and the competent and efficient delivery of services to the citizens of Orinda and other members of the public. Any employee who violates any of the provisions of this Chapter shall be subject to discipline up to and including termination.

7.2 Equal Opportunities in Employment: The City of Orinda provides equal employment opportunities for all applicants and employees. The City does not unlawfully discriminate on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national or ethnic origin, citizenship, ancestry, age, physical disability, mental disability, medical condition, family care status, veteran or military status, marital status, sexual orientation, or any other basis protected by federal, state, or local law or ordinance or regulation. The City also makes reasonable accommodations that do not impose undue hardship on the conduct of city business for protected applicants and employees who seek such accommodations because of a qualified physical or mental disability. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, transfer, and social and recreational programs. It is the responsibility of every City official, manager and employee to conscientiously follow this policy. Unlawful disparate treatment based on any of the factors listed in this section is prohibited.

7.3 Prohibition of Unlawful Harassment: The City is committed to providing a workplace free of sexual harassment (which includes harassment based on gender, pregnancy, child birth, or related medical conditions), as well as harassment based on such factors as race, color, religion, sex (including pregnancy, child birth, or related medical conditions), national or ethnic origin, citizenship, ancestry, age, physical disability, mental disability, medical condition, family care status, veteran or military status, marital status, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation. The City will use its best efforts to protect employees from workplace harassment by non-employees, including members of the public, within the constraints imposed by law.

For purposes of this Chapter, unlawful harassment includes verbal, physical, and visual conduct that creates an intimidating, offensive, or hostile working environment or that interferes with work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission to or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, the following: slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons based

upon an employee's sex, race, color; national origin, religion, age, physical disability, mental disability, medical condition, ancestry, marital status, sexual orientation, family care or medical leave status, or veteran status.

Sexually harassing conduct in particular includes all of these prohibited actions as well as other unwelcome conduct such as requests for sexual favors, conversation containing sexual comments, and unwelcome sexual advances.

7.4 Workplace Violence: The City is committed to providing a safe, violence free workplace. For that reason, the City strictly prohibits officials, employees, consultants, customers, visitors, or anyone else on City premises or engaging in a City-related activity from behaving in a violent or threatening manner.

Workplace violence includes, but is not limited to, the following:

- Threats of any kind;
- Threatening, physically aggressive, or violent behavior, such as intimidation or attempts to instill fear in others;
- Other behavior that suggests a propensity toward violence, which can include belligerent speech, excessive arguing or swearing, sabotage, or threats of sabotage of City property, or a demonstrated pattern of refusal to follow City policies and procedures;
- Defacing City property or causing physical damage to the facilities; or
- With the exception of public safety personnel, bringing weapons or firearms of any kind on City property, in City parking lots, or while conducting City business. This includes replicas or non-operational weapons or firearms that could reasonably be mistaken for an operational weapon or firearm.

7.5 Reporting Requirement: In order to effectively carry out the policies set forth above and to protect all city personnel from unlawful discrimination, harassment, and workplace violence, the City management must know about and respond to any prohibited conduct as soon as possible. Therefore, any incident of unlawful discrimination, harassment or workplace violence prohibited by this Chapter shall be reported immediately to any department head with whom the employee feels comfortable or to Human Resources, or to a Collective Risk Management Team Member, or to the 24-hour hot-line number: (800) 576-5262. Our ID is: 10061. An employee who observes such an incident, as well as the person who experiences the conduct which violates the rules of this Chapter, has a mandatory duty to report the incident immediately. Failure to report an incident of discriminatory conduct, harassment, or workplace violence as described in this Chapter may result in discipline.

7.6 Investigation: Every report of any violation of these rules of conduct will be investigated promptly and thoroughly. Each investigation will be handled with due care and sensitivity, and the utmost attention will be given to preserving the privacy of all persons involved. Confidentiality will be maintained as much as possible. However, due to the overriding need to investigate thoroughly and also because of the due process rights of the employee who is alleged to have violated the rules of this chapter, total confidentiality

cannot be guaranteed in every case. An employee who violates the confidentiality of such an investigation unnecessarily, or who fails to cooperate in such an investigation, may be subject to discipline.

7.7 Retaliation: Retaliation against any person for cooperating in an investigation, opposing unlawful discrimination or harassment or for making a report as required by this Chapter is absolutely prohibited and will result in discipline up to and including termination.

7.8 Complaint to DFEH: Employment discrimination, sexual harassment, and retaliation for opposing discrimination and sexual harassment, or for participating in investigations of sexual harassment are illegal. In addition to notifying the City about incidents of discrimination, harassment or retaliation, affected employees may also direct their complaints to the California Department of Fair Employment and Housing ("DFEH"), which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. The employee can contact the nearest DFEH office at the locations listed in the City's DFEH poster or by checking the state government listings in the local telephone directory.

7.9 Drug-free Workplace: For the health and safety of all employees and members of the public, the use of alcohol or possession and/or use of illegal drugs, or both, and being under the influence of alcohol, illegal drugs, or both, during working hours is prohibited. This prohibition also covers legal drugs that are obtained illegally or without proper medical authorization.

7.10 Information Technology Policy: The City believes that both productivity and efficiency are improved through the use of electronic information systems such as the Internet and E-mail. The city encourages employees to use these resources in the work place for research, education and communications, provided such use is strictly for city related business and is conducted in keeping with the city's standards of professionalism.

7.10.1 Applicability: The following policy applies to all employees, volunteers, and other affiliates who use city provided access to the Internet and/or E-mail, regardless of the user's location when accessing the network.

7.10.2 Business Use: Information systems, including, but not limited to those listed in Section 7.10.6 below, are intended strictly for business use during regular office hours, and limited personal use during non-business hours, and are the exclusive property of the City of Orinda. The city reserves the right to block access to any Internet sites which are determined to be non-applicable for city related business.

7.10.3 No Expectation of Privacy: Under state law, all city electronic information systems are public and no right to privacy is granted to city employees who use these systems. Employees and other users of the Internet, E-mail, and voice-mail, are advised that the City of Orinda will, from time to time, monitor systems activities. In that regard, the City of Orinda may conduct reviews of the content of messages and files and web sites visited on the

Internet, including random reviews, when, in the exercise of its business judgment, the City of Orinda determines that it would be prudent to do so.

7.10.4 Prohibited Use-Internet: The following uses of the Internet are prohibited:

- a. Any unlawful use;
- b. Use for personal gain or solicitation;
- c. Transmission of confidential information to unauthorized destinations or recipients;
- d. Copying, transmitting or receiving copyrighted or licensed software in violation of license or copyright restrictions;
- e. Browsing, posting messages on bulletin boards, social media, or participating in chat rooms, except for city related business;
- f. Offensive or harassing statements or language including disparagement of others based on such factors as their race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national or ethnic origin, citizenship, ancestry, age, physical disability, mental disability, medical condition, family care status, veteran or military status, marital status, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation;
- g. Sending or soliciting obscene, offensive or suggestive graphic images or messages;
- h. Threats, libel, slander, or defamation;
- i. Political endorsements;
- j. Use of software not required for city business, or any games, or any other entertainment software;
- k. Purchasing items not intended for city related business through the Internet;
- l. Downloading of applications or programs from the Internet, unless permission is granted by the department head. This is required in order to prevent infection of the city's local network by computer viruses.

7.10.5 Prohibited Uses-E-mail: The following uses of E-mail are prohibited:

- a. Any unlawful use;
- b. Use for personal gain or solicitation;
- c. Transmission of confidential information to unauthorized destinations or recipients;
- d. Copying, transmitting or receiving copyrighted or licensed software in violation of license or copyright restrictions;
- e. Browsing, posting messages on bulletin boards, or participating in chat rooms, except for city related business;
- f. Offensive or harassing statements or language including disparagement of others based on such factors as their race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national or ethnic origin, citizenship, ancestry, age; physical disability, mental disability, medical condition, family care status, veteran or military status, marital status, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation;
- g. Sending or soliciting obscene, offensive, or suggestive graphic images or messages;
- h. Threats, libel, slander, or defamation;
- i. Political endorsements.

7.10.6 Current and Future Technology: Information Technology and Information Systems includes all electronic devices, software and means of electronic communications including any of the following: personal computers and workstations; laptop and tablet computers, mini and mainframe computers; computer hardware such as disc drives, solid state drives and tape drives; peripheral equipment such as printers, modems, fax machines and copiers; computer software operating systems, applications and associated files and data, including software that grants access to external services, such as the Internet; electronic mail; telephones; mobile phones, pagers, voice mail systems and instant messaging systems. It is also intended to broadly include new or emerging devices, technology, software and means of communications that may be developed or implemented in the future.

7.10.7 Violations: Violations of the City's Internet or E-mail policy shall be reviewed on a case by case basis and may result in disciplinary action up to and including termination. Employees should be aware that access to Internet sites from city computers leaves an electronic trail which may be tracked back to a City computer and that E-mail messages which have been erased from the hard drive on an individual computer may still be retrieved by computer technicians.

## 8 PERFORMANCE EVALUATIONS

8.1 Goals of Performance Evaluations: Performance evaluations are conducted to communicate organizational goals and objectives; establish individual employee performance objectives; document employees' performance in relation to the objectives set; counsel the employee on how to improve performance, and improve interaction and understanding between the evaluator and the employee and for other work-related purposes. Evaluation of part-time, temporary, seasonal and project employees may be different from the evaluation program outlined in this Chapter.

8.2 Performance Evaluation Schedule: Regular performance evaluations should be completed at the end of the six-month introductory period (if applicable), at the end of any extension of introductory period, and annually after that, fifteen (15) days prior to the scheduled effective date of the performance-based salary advancement, as described in Section 8 of these rules. An evaluation may be given at any other time the supervisor deems appropriate.

8.3 Performance Evaluation System: The City shall have in place a formal and consistent performance evaluation system. The system may, from time to time, with notice, be changed.

8.3.1 Evaluation: The system shall consist of evaluation from at least the supervisor and may include one or more of: self-evaluation, peer evaluation, supervisee evaluation, and constituent evaluation.

8.3.2 Supervisor Evaluation: The evaluation form is the official record of the employee's performance evaluation and is the primary basis for salary adjustments and changes in job position. The supervisor will consider information from evaluation form(s) from other evaluators, as may be required by procedures in current use, when completing the supervisor's evaluation form.

8.4 Discussing the Performance Evaluation: The supervisor shall meet with the employee to discuss the evaluation. If necessary, the supervisor may discuss the evaluation with the department head or Human Resources prior to the interview with the employee.

8.5 Signatures: When the performance evaluation interview is completed, both the employee and the supervisor shall sign the original form indicating that it has been discussed. Signing of the form indicates only that the performance interview was held. The employee may complete the comment section of the evaluation form at this time or may request a copy of the form in order to prepare a written response.

8.6 Written Response by Employees: An employee who wishes to provide written comments on the evaluation must return written comments to the evaluator/supervisor no later than five (5) working days after the meeting to discuss the performance evaluation.

8.7 Final Approval: After the 5-day response period has passed or the employee has provided written comments, whichever is sooner, the evaluator/supervisor shall submit the

evaluation to the department head for review and signature prior to submittal to the City Manager for final approval of the recommended rating and related compensation adjustment. Both the evaluation form and a change form, noting changes in status and terms of employment, if any, signed by the supervisor, shall be submitted for the City Manager's signature.

8.8 Completion of Performance Evaluation Process: The completed and fully signed forms shall be submitted to Human Resources for processing and adjustment of compensation in accordance with Chapter 10 of these rules. The completed evaluation forms and applicable attachments shall be placed in the employee's personnel file.

8.9 Performance Evaluation Rating System: The rating system shall be clearly explained on the evaluation form and any salary adjustments will be based on the overall rating of the employee's performance.



## 9 DISCIPLINARY PROCEDURES

9.1 Purpose: Employees are expected to meet certain standards of job performance, interpersonal skills and conduct. The City may discipline an employee whose conduct or performance fails to meet reasonable City standards, i.e., for cause. Discipline may be imposed for a single incident or for a pattern of conduct. Discipline is intended to focus the attention of the employee on the performance problem and, except in cases of termination, to encourage change.

9.2 Grounds for Disciplinary Action: The department head may dismiss, suspend, demote or otherwise discipline any employee for cause. Causes for disciplinary action include, but are not limited to, the following:

- Violation of federal, state or local law affecting the City;
- Violation of City personnel rules;
- Possession, distribution, sale, use, or being under the influence of alcoholic beverages or illegal drugs or controlled substances (other than prescription drugs for personal use obtained and used in accord with medical authorization) while on City property, while on duty, or while operating a vehicle on City business;
- Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment;
- Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- Neglect of duty;
- Negligent or willful damage to public property or waste of public supplies or equipment;
- Improper or unauthorized use of City vehicle or equipment or misappropriation of supplies: loss or misuse of City equipment may require the employee to bear the cost of replacing or recovering equipment or supplies;
- Absence without leave or without authorization from supervisor;
- Claim of leave under false pretense, or misuse of leave;
- Furnishing false information to secure appointment;
- Theft or misappropriation of City funds or property;
- Acceptance by an employee of any bribe, gratuity, kickback, favor or other items of value including meals and travel when it appears the favor or gratuity is given in the hope or expectation of receiving preferential treatment;
- Unreasonable failure to undergo a medical examination authorized by these rules;
- Excessive absenteeism or tardiness;
- Falsification of payroll time sheets;
- Unlawful harassment;
- Failure to report incidents or observations of harassment, or other unlawful activities;
- Failure to cooperate with the investigation of harassment or other unlawful activities;
- Actual or threatened physical violence;
- Threatening, intimidating, coercing any member of the City community;
- Vulgar or abusive language;

- Possession or use of dangerous or unauthorized materials, such as explosives, firearms, or other similar items, while on City property, while on duty, or while operating a City vehicle;
- Sleeping, or giving the appearance of sleeping, while on duty;
- Failure to obtain or maintain a certificate or license required for current position;
- Failure to comply with accepted safety practices;
- Job abandonment;
- Insubordination;
- Failure to exercise good judgment.

9.3 Types of Discipline: Disciplinary actions include counseling, oral reprimand, written reprimand, reduction in pay or benefits, suspension without pay, demotion and termination. Discipline may include any one or any combination of actions, and the actions may not necessarily be applied in any defined order.

9.4 Informal Discipline: An employee who receives counseling or an oral or written reprimand does not have the right to respond or to appeal the discipline in the manner described in the sections found under section 9.8 below.

9.4.1 Counseling: A supervisor may counsel an employee concerning a minor performance problem. The supervisor may make a note of the discussion in writing, describing the date of the meeting, the subject, and the employee's response, if any, and place the note in an employee file kept by the supervisor.

9.4.2 Reprimand: A supervisor may issue an oral or written reprimand. The written reprimand, or a memorandum for an oral reprimand, shall state specific details concerning the subject of the reprimand, describe the plan for improvement and the employee's response, if any, and show the date of the reprimand. The employee shall sign and receive a copy of the written reprimand or memorandum of oral reprimand, and the original shall be filed in the employee's personnel file.

9.5 Formal Discipline-General: No employee shall be subject to disciplinary action in the form of reduction in pay or benefits, suspension without pay, demotion and termination unless, as set forth specifically in this chapter, the employee has received (1) written notice of the proposed action, the date action will be taken, and the reasons for the action; (2) a written copy of the charges and either a copy or access to the materials on which the action is based; (3) the right to respond to the charges; and (4) a written decision after the response has been made or the response time has run, unless exigent circumstances warrant immediate measures.

9.6 Initiation of Formal Discipline: The Department Head shall make the initial determination that formal disciplinary action is necessary and what form of discipline is appropriate.

9.7 Notice of Proposed Action: The Department Head shall give the employee written notice stating what action is proposed, the date when the proposed action is to be taken, and a

specific description of the charges and the particular facts and grounds for the action. The material on which the notice is based and which is relied on to support the proposed action shall be assembled and made available to the employee for review. The notice shall inform the employee when and where the employee may review the materials and of the right to receive a copy of such materials. Material which is not available for the employee to review shall not be used to support the discipline.

9.8 Employee Response: The employee is entitled to five working days from the date of the notice of proposed action to respond to the charges. The response may be oral or written, and shall be made to Human Resources. If the employee requests a meeting within the 5-day response period, Human Resources will arrange for and attend such a meeting to hear the employee's response no later than ten working days after the date of the Notice of Proposed Action. The department head may also attend. The meeting shall be closed to all other persons, except that the employee may be accompanied by a personal representative of the employee's choice. Failure to respond or request a meeting to respond within the 5-day response period shall constitute a waiver by the employee of further rights to object to the proposed action.

9.9 Status of Employee After Notice of Proposed Action: The employment status of an employee against whom disciplinary action is proposed shall not change until a final decision is given under section 9.10, except that the employee may be placed on paid administrative leave at the option of the department head.

9.10 Decision: After considering the Notice of Proposed Action, the charges and materials on which the proposed action is based and the response, if any, of the employee, Human Resources shall determine the disciplinary action to be taken, if any.

9.11 Notice of Decision: Human Resources shall notify the employee in writing of the disciplinary action to be taken within ten working days after (1) the date of a meeting for the employee's response, if a meeting was requested within the 5-day response period, or (2) the expiration of the 5-day period for the employee's response if a meeting was not requested. This notice shall be served on the employee by certified mail or personal service except that, if service by either of these methods is refused or evaded by the employee, notice may be served by first-class mail addressed to the employee at the employee's most recently recorded address. Alternatively, the department head may require the employee to return to the work site for personal service of the notice.

The notice of decision shall set forth the following:

1. No disciplinary action will be taken, or
2. Disciplinary action will be taken, and
  - The type of disciplinary action;
  - The date discipline will begin and the duration of the discipline;
  - The reasons for the discipline, setting forth specific facts which are the basis for the decision.

3. A statement of the employee's right to appeal the decision, setting forth the time limit.

9.12 Appeal of Disciplinary Action: If Human Resources determines that discipline shall be imposed and that the discipline will be suspension without pay, loss of pay, demotion or discharge, the employee may appeal the decision to the City Manager as provided in this section 9.12. The employee must deliver a written notice of appeal no later than ten working days after the date of the notice of decision. The notice of appeal shall be personally served on the City Manager or the City Clerk at the City's administrative office or sent by certified mail deposited within the ten-day notice period. The notice of appeal shall state the grounds for the appeal, with specific facts supporting the grounds for appeal.

9.13 Status During Appeal: The specified discipline may be imposed after the Notice of Decision has been served on the employee. Filing a notice of appeal shall not stay the imposition of discipline. If the discipline is modified or reversed on appeal, the employee shall be entitled to reinstatement as appropriate, back pay as appropriate, or both, as the case may be.

9.14 Appeal Hearing: If the employee files a notice of appeal, an evidentiary hearing before the City Manager shall be held within a reasonable time after receipt of the notice of appeal, as determined by the City Manager. The hearing shall be confidential.

9.14.1 Written Record: A written record of the hearing shall be made, and shall be retained by Human Resources for a period of two years after a determination on the appeal has been made.

9.14.2 Appearances: The employee shall not normally be required to appear at the hearing. However, the City shall have the right to call the employee as a witness. The employee may be represented at the hearing by any person that the employee designates. Unless otherwise mutually agreed upon by the employee and the City's representative, any and all witnesses other than the department head to be called by either the employee or City shall be excluded from the hearing room unless actually testifying.

9.14.3 Hearing Procedure: The hearing shall proceed generally in the following order:

- a) The City's representative and the employee may make preliminary opening statements;
- b) The City's representative shall present oral or documentary evidence, or both, in support of the City's position; the employee may cross-examine any witness called by the City;
- c) The employee may present evidence on the employee's own behalf; the City's representative may cross-examine witnesses called by the employee; and
- d) The City's representative and the employee may make closing statements.

9.14.4 Evidence: Evidence may be presented as follows:

- a) Both the City and the employee may call witnesses and present rebuttal evidence as they deem necessary and appropriate;
- b) The City Manager shall rule on any objections made to the admissibility of evidence or otherwise relating to the conduct of the hearing. These rulings shall be final. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner most conducive to determinations of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the City Manager shall not be invalidated by any informality in the proceedings, and the City Manager shall not be bound by technical rules of evidence; and
- c) Oral evidence shall be taken only on oath or affirmation.

9.14.5 Decision on Appeal: At the conclusion of the hearing, and in no case later than ten working days after the hearing, the City Manager shall cause findings and recommendations to be prepared in writing. The City Manager shall, at a minimum, find whether the City has shown by a preponderance of the evidence that the charges in support of the disciplinary action have been substantiated. Such a finding shall be made as to each charge. If the City Manager finds that none of the charges are supported by the evidence presented, the decision shall be that no disciplinary action be taken. If the City Manager finds that any or all of the charges are supported, the City Manager may order that:

- a) The proposed disciplinary action be carried out; or
- b) Disciplinary action be modified as deemed appropriate under the circumstances; or
- c) No disciplinary action be taken.

The City Manager shall impose the disciplinary action which the City Manager determines to be appropriate to the circumstances and in the best interests of the City. This decision shall be made in writing.

The City Manager's decision and a copy of the City Manager's findings and conclusions shall be filed as a permanent record with Human Resources. The City Manager shall deliver a copy of the decision and of such findings and conclusions to the affected employee, along with written notice that a writ of mandate seeking judicial review of the administrative decision pursuant to Code of Civil Procedure Section 1094.5 must be filed no later than the 90th day following the date on which the decision becomes final. The City Manager's decision is the final decision in the City's administrative process.

9.15 Court Review: A writ of mandate seeking judicial review of the administrative decision pursuant to Code of Civil Procedure Section 1094.5 may be filed no later than 90 days following the date on which the administrative decisions become final.

## 10 PERFORMANCE-BASED COMPENSATION

10.1 Intent: The City of Orinda will compensate an employee based on the employee's on-the-job performance. The objectives of the performance based compensation system are (1) to attract and retain quality employees and (2) to encourage and fairly reward job achievement by providing differential salary increases based on employee performance.

10.2 Salary and Wage Plan Preparation: The City Council shall adopt a Salary and Wage Plan from time to time. The Plan shall identify the minimum, maximum and all related salary steps within the salary range for each job position.

The City Manager or designee is authorized to represent the City in the meet and confer process established pursuant to the Meyers-Milias-Brown Act, Government Code Section 3500, et seq., for the purpose of reaching an agreement on wages and conditions of employment for inclusion in the Salary and Wage Plan.

10.3 Determination of Compensation: Adjustments to an employee's compensation level shall be based on the employee's performance evaluation. Performance based salary adjustments shall be made solely at the discretion of the City and shall not be subject to grievance or appeal processes unless the salary is adjusted downward. Except for a reduction in force due to business necessity, voluntary demotion or a reclassification to a lower paid position, a reduction in pay is a form of discipline and is subject to the procedural rules of Chapter 9.

10.4 Performance-Based Salary Advancement: Rules for salary advancement within an established salary range are listed below:

10.4.1 Rating and Advancement: Based on the most recent performance evaluation and associated rating, an employee may advance 0 to 3 steps within the range. The rating system with corresponding salary step increases shall be clearly defined on the evaluation form, reflecting the adopted structure as per section 10.2.

10.4.2 Effective Date for Compensation Determination: An employee's anniversary date is the effective date for performance based salary advancement. This date is applicable even if no performance based salary adjustment is provided because either (1) job performance rating is below the minimum to qualify for an increase or (2) the employee is at the top of the salary range for that position.

10.4.3 Effect of Leaves of Absence on Performance-Based Salary Advancement: The anniversary date for an employee on an approved leave of absence that exceeds 15 consecutive working days shall be postponed from the original anniversary date by a period equal to the length of the leave of absence.

## 11 PAYROLL PROCEDURES

11.1 Personnel Records: The payroll records shall be prepared and maintained by the Finance Department. Employee status records will be maintained by Human Resources (See Section 22, below). It is the employee's responsibility to report a change of home address to Human Resources within one (1) week of the change.

11.2 Pay Days and Pay Periods: Employees shall be paid on a bi-weekly basis, with pay days and timesheets due on alternating Fridays. In the event that a pay day or time sheet due date falls on a holiday, the pay day or time sheet due date will be on the preceding work-day.

11.3 Payroll Deductions: Payroll deductions from employee paychecks fall into two categories: required and voluntary. Required by federal or state law or by City policy are garnishments, Medicare, federal and state withholding depending on W4 determination, union "fair share" fees (where applicable) and may include contributions to the section 457(b) retirement plan. Voluntary deductions may include contributions to the section 457(b) retirement plan, employee share of medical coverage fees, additional life insurance premiums, retirement plan loans, automatic savings plans, and Union dues.

11.4 Time Report Sheets: For purposes of record keeping, employees shall submit time records in a manner and on a schedule as provided by the Finance Department. Payroll data for all employees will be compiled from time records in a form approved by the City Manager. Falsification of time records is prohibited.

11.5 Work Week for Payroll Purposes: The standard work week is defined as forty (40) hours beginning 12:01 A.M. Saturday. The forty (40) hour work week may be scheduled within any fixed and regularly recurring period of 168 hours or seven (7) consecutive 24-hour periods, based on the work flow needs of the City and individual departments. The work week may be changed as permitted by law when advisable for operational reasons or to accommodate flexible and compressed work schedule.

11.6 Determining Hourly Rates of Pay: The hourly pay rate for regular salaried positions is determined by multiplying the monthly salary for the position by 12, dividing the product by 2,080 hours, and rounding to the nearest one cent. The hourly pay rate for all other positions shall be established in accordance with the Salary and Wage Plan approved by the City Council.

11.7 Final Pay: If an employee provides at least seventy-two (72) hours' notice, the employee shall receive the final paycheck on the last day of work. If less than seventy-two (72) hours' notice is given, the City shall issue the final check within the time prescribed by law. If an employee is terminated, the final paycheck shall be issued on the last day of employment.



## 12 WORK WEEK

12.1 Hours of Business: Unless otherwise established and authorized by the City Manager/designee, all City offices shall be kept open from 8:00 a.m. to 5:00 p.m. Monday through Friday.

12.2 Scheduled Work Hours for Full-Time Employees: Regular full-time employees are scheduled to work a total of forty (40) hours during each work week. The customary work day is from 8:00 a.m. to 5:00 p.m. with a one (1) hour unpaid lunch period.

12.3 Lunch or Meal Periods: A regular schedule for lunch or meal periods may be authorized by the supervisor or department head. The supervisor or department head may establish a thirty (30) minute lunch period in lieu of the regular one (1) hour lunch period.

12.4 Break Periods: Employees shall be allowed one fifteen-minute break for each four (4) hour period worked. Breaks are generally scheduled in the middle of each four (4) hour work period. However, the supervisor or department head shall have the authority to arrange break times which best meet the needs of the department and the City.

## 13 FLEXIBLE AND COMPRESSED WORK SCHEDULES

13.1 Policy: Flexible and compressed work schedules are considered an option that an employee may request and is available upon final approval by the City Manager. Flexible and compressed work schedules may not be feasible for certain employees due to the design and preset schedule of a particular position. However, there are other jobs in which the general public might benefit from flexible and compressed work schedules. Flexible and compressed work schedules may be revoked at any time either to the individual if the department director determines the action is warranted, or to all employees if the City Manager deems appropriate.

13.2 Policy Guidelines: Refer to Administrative Regulation 2.1

## 14 OVER TIME AND COMPENSATORY TIME OFF

14.1 Introduction: All employees are categorized as either exempt or non-exempt from the hours and wage requirements of the Fair Labor Standards Act (FLSA).

14.1.1 Exempt Category: Management and Mid-Management Employment Groups, as defined in Section 3.3 of these rules, are in this category.

14.1.2 Non-exempt Category: Confidential and General Employment Groups, as defined in Section 3.3 of these rules, are in this category.

14.2 Applicability: The policies, rules, and regulations stated in sections 14.3 through 14.9 of these rules apply to employees in the non-exempt category.

14.3 Payment of Overtime and Compensatory (Comp) Time: The Fair Labor Standards Act (FLSA) requires the payment of overtime, or the granting of compensatory time off, at a rate of one and one-half times the hours worked in excess of forty (40) hours in each workweek for non-exempt employee classifications.

14.4 Overtime Approval: All hours worked in excess of forty (40) hours in a workweek, unless performed as a result of emergency conditions, must receive prior approval of the supervisor. In the case of overtime worked in an emergency situation, the supervisor shall be notified of the overtime worked as soon as possible.

14.5 Overtime Limits: Overtime approved by the supervisor or department head may not exceed budgeted amounts, unless approved by the City Manager.

14.6 Overtime Calculation: For purposes of calculating overtime and compensatory time off, "hours worked" means the combination of hours worked, paid holidays, and authorized paid general leave during a forty (40) hour workweek.

14.7 Compensatory Time in Lieu of Overtime: Eligible employees who wish to accrue compensatory time in lieu of payment for overtime shall so indicate on their time sheet. The maximum compensatory time accrual may not exceed sixty (60) hours at any point in time (forty overtime hours worked multiplied by 1.5). Overtime hours worked which would result in the accrual of more than sixty (60) hours compensatory time shall be paid in the pay period they are earned.

14.8 Use of Compensatory Time: Use of accrued compensatory time shall be subject to the rules for use of general leave as contained in section 16 of these rules.

14.9 Cash Payment of Compensatory Time: Employees may choose cash payment of accrued compensatory time at their discretion, at any time during their employment, to be paid on the next regular pay date. Cash payment for accrued compensatory time shall be made upon termination of employment.

14.10 Management Leave: In lieu of overtime compensation, employees in the Mid-Management group and in the Management group are eligible for a stipulated number of hours of annual management leave, which may be used upon approval of the department

head. Unused management leave does not carry forward to the next fiscal year; nor is it eligible for cash payment.

## 15 HOLIDAYS

15.1 Scheduled Holidays: The City observes the following holidays:

Independence Day  
Labor Day  
Veterans' Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve (Half Day)  
Christmas Day  
New Year's Day  
Martin Luther King's Birthday  
Presidents' Day  
Memorial Day

15.2 Weekend Holidays: Holidays which fall on a weekend will be observed according to the Federal or State holiday schedule. Generally, when a holiday falls on a Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday. If the preceding Friday or succeeding Monday is also a holiday, then the holiday is observed on the next preceding or succeeding work day.

15.3 Holiday Pay: Regular full-time and regular part-time employees are entitled to receive time off with pay at their regular hourly rate for the holiday. An employee who resigns may not select a holiday as the employee's last day of employment. Employees with irregular appointments, including without limitation, temporary and seasonal employees, are not eligible for holiday pay.

15.4 Holiday Pay for Regular Part-Time Employees: Holiday pay for regular part-time employees shall be paid on a pro-rated formula, based on the number of hours per week budgeted for their position during the fiscal year. For example a regular part-time employee whose position is budgeted to work twenty (20) hours per week will receive one-half of that received by regular full-time employees or four (4) hours of paid holiday time. ( $20 \text{ divided by } 40 = .50 \times 8 = 4$ ). As noted, employees with irregular appointments, including without limitation, temporary and seasonal employees, are not eligible for holiday pay.

15.5 Discretionary Floating Holidays:

15.5.1 Definition: A "floating" holiday is a one-day paid leave to be scheduled with the consent of both the supervisor and the employee.

15.5.2 Accrual: In addition to the holidays listed above, full time regular employees who are employed as of September 30th of the fiscal year are entitled to two (2) floating holidays for the fiscal year. Employees hired October 1st through March 31st are entitled to one (1) floating holiday for the fiscal year. Employees hired after March 31st are not eligible for any floating holidays for the fiscal year. Part-time regular employees are similarly entitled to a

pro-rated number of hours/days based on their regular scheduled hours. Employees shall be paid for accrued unused floating holidays at the time of separation of employment.

15.5.3 Scheduling Floating Holidays: Floating holidays may be used at any time during the fiscal year, upon advance approval of the supervisor or department head. Floating holidays must be used during the fiscal year (July 1 through June 30) and may be combined with other scheduled time off. They may not be carried over to the following fiscal year.

15.5.4 Leaves of Absence: Floating holidays do not accrue during periods of unpaid absence which exceed ninety (90) cumulative days per fiscal year. For purposes of this policy, unpaid is defined as receiving neither City-paid wages nor wage replacement payments from the City's workers' compensation insurance. Wage replacement payments from the City's LTD insurance plan do not qualify as wages for the purpose of this policy.

15.6 Holiday Pay for Employees Required to Work on a Holiday: Non-exempt category employees who are eligible for holiday pay in accordance with these rules and who are required to work on the holiday shall receive the following compensation: eight (8) hours of pay at the straight time rate of pay plus an amount equal to the straight time rate of pay for the first eight (8) hours worked on the holiday and an amount equal to one and one half times the rate of pay for all hours worked in excess of eight (8) hours during the holiday; or an amount equal to the straight time rate of pay for the first eight (8) hours worked on the holiday and an amount equal to the one and one half times the rate of pay for all hours worked in excess of eight (8) hours during the holiday, plus eight (8) hours accrued general leave, subject to maximum general leave accrual rules.

## 16 GENERAL LEAVE

16.1 Definition: In lieu of vacation and sick leave, regular employees shall accrue general leave.

16.2 General Leave Accrual Start Date: General leave shall begin accruing on the first day of the month following the date of employment.

16.3 Rate of Accrual:

16.3.1 Regular Full-Time: Regular full-time employees shall accrue nineteen (19) days during the first year of continuous employment. This rate of accrual shall increase by one (1) day for each subsequent year of continuous employment; up to a maximum accrual of twenty-five (25) days of general leave. For purposes of this section, "continuous employment" is defined as the period between the start date for general leave accrual and each succeeding anniversary of the start date except as otherwise provided in other sections of these rules. Employees with irregular appointments, including without limitation, temporary and seasonal employees, are not eligible for general leave.

16.3.2 Regular Part-Time: Regular part-time employees shall accrue general leave as provided above, subject to a pro-rated formula based on the average budgeted number of hours per week for their position during the fiscal year. For example, a regular part-time employee whose position is budgeted to work twenty (20) hours per week shall accrue one-half of that accrued by regular full-time employees. As noted, employees with irregular appointments, including without limitation, temporary and seasonal employees, are not eligible for general leave.

16.3.3 Periods of Non-Accrual: General leave ceases to accrue during periods of unpaid absence. For purposes of this policy, unpaid is defined as receiving neither City-paid wages nor wage replacement payments from the City's workers' compensation insurance. Wage replacement payments from the City's LTD insurance plan do not qualify as wages for the purpose of this policy.

16.4 Maximum Accrual of General Leave: Employees may accrue general leave up to 480 hours. Part-time employees may accrue general leave up to 240 hours. After accruing 240 or 480 hours the employee does not accrue additional general leave until the employee uses sufficient general leave to fall below the maximum accrual amount.

16.5 Use of General Leave:

16.5.1 Eligibility for Use: Employees shall not be eligible to use general leave until ninety (90) days after their employment date, unless special approval is granted by the City Manager. Under no circumstances shall paid general leave be authorized beyond the amount which has been accrued by the employee

16.5.2 Minimum Increments of Leave Usage: Accrued general leave shall be available to employees in one-quarter hour increments.

16.5.3 Request for Leave: Except in the event of unforeseeable events, requests for general leave must be submitted in writing to the department head or supervisor two weeks prior to the beginning of the requested time off. All requests for time off are subject to department head approval. The department head has discretion to waive the two week notification requirement.

16.5.4 Unscheduled Use of General Leave: Circumstances such as personal illness or accident, family member illness or accident, or other personal or family emergency may necessitate the use of general leave without prior notice or approval. In such cases, the employee shall notify the supervisor or department head as soon as the employee becomes aware that use of general leave is necessary. In cases of personal or family illness or accident of a non-emergency nature, employees should notify the supervisor or department head within one (1) hour after the time established for reporting to work on the first day of such leave and as often afterwards as requested by their supervisor or department head. The department head may request that the employee submit a doctor's certificate for unscheduled absences due to illness of duration of three (3) or more days.

16.6 Holidays Falling Within Authorized General Leave: In the event one or more City holidays fall within a period of authorized paid general leave, such holidays shall not be charged as general leave.

16.7 Payment of Accrued General Leave Upon Termination of Employment: An employee who terminates employment shall be paid a lump sum for all accrued general leave earned and unused as of the effective date of termination. The payment shall be calculated at the employee's existing regular rate, not including bonuses. The employee shall not be entitled to adjustments in the payment due to any subsequent retroactive general salary increases. For purposes of Retirement Benefits calculations, any cash pay-out of accrued General Leave will be considered eligible base salary.

Except with the approval of the City Manager, an employee may not use more than 32 hours of general leave during the last 20 work days of employment with the City.

16.8 Annual Cash-Out of General Leave: Once per fiscal year, each employee who has more than 160 general leave hours accrued in total may elect a cash-out of a portion of his/her accrued general leave. An employee may choose a cash-out of a maximum of 40 hours in any fiscal year, provided that a minimum of 160 hours remain accrued after the cash-out.



## 17 LEAVES OF ABSENCE

17.1 Eligibility: Regular full-time and regular part-time employees are eligible for leave, as defined beginning with section 17.8, as follows:

Family and Medical Leave (includes California Family Rights Leave)

Pregnancy Disability Leave

Unpaid Personal Leave Bereavement Leave

Work-Incurred Injury Or Illness Leave

Military Leave

Jury Leave

School Visit Leave

Emergency Leave

Voting Leave

17.2 Leave Request: A leave request must be approved by the employee's department head, then submitted to the City Manager for final consideration. Except in circumstances which prevent advance notice, the employee should provide a minimum of thirty (30) days' notice. If family and medical leave is requested, Human Resources will provide the notice concerning rights and benefits required by law.

17.3 Holiday Pay and General Leave Accrual During Unpaid Leaves: There are no paid holidays and general leave ceases to accrue during periods of unpaid absence. For purposes of this policy, unpaid is defined as receiving neither City-paid wages nor wage replacement payments from the City's workers' compensation insurance. Wage replacement payments from the City's LTD insurance plan do not qualify as wages.

17.4 Effect on Anniversary Dates: An unpaid leave of absence of 30 or more cumulative days in a twelve month period constitutes a break in continuous employment. As a result, a regular employee's general leave accrual date and performance evaluation date shall be extended by the amount of time equivalent to the amount of unpaid leave time taken for the length of all authorized leaves of absence exceeding 30 cumulative days in a twelve month period. These time extensions shall be rounded to the nearest whole month. For example, unpaid leave of 40 cumulative days would extend an employee's general leave accrual date and performance evaluation date one month; unpaid leave of 47 cumulative days would extend these dates for 2 months.

17.5 Insurance Benefit Premiums During Leaves: Regular employees who are receiving compensation during approved leave of absence, either from General Leave accruals or workers' compensation benefits, shall have their insurance benefit premiums paid on the same basis as if they were not on leave. Unless otherwise stated in these rules and regulations, employees who are granted an unpaid leave of absence and who wish to continue health insurance coverage may do so at their expense at the City's group rates, in

accordance with COBRA provisions. Employees must arrange for benefit payments prior to commencement of the leave in order to avoid a lapse in insurance coverage.

17.6 Return Notice: An employee who is granted a leave of absence which exceeds thirty (30) days must provide the City with two (2) weeks' notice prior to the anticipated return to work date. Failure to return to work from any leave of absence on the next scheduled work day following the expiration of a leave of absence may result in discipline, including termination.

17.7 Reduction or Restructuring of Work Force During Leaves of Absence: If business conditions require a reduction or restructuring of the work force, employees on an approved leave of absence will be treated as active employees in accordance with Chapter 6 of these rules.

17.8 Family Leave and Medical Leave (FML): Refer to Administrative Regulation 2.2.

17.9 Pregnancy Disability Leave: Refer to Administrative Regulation 2.2.

17.10 Unpaid Personal Leaves: A personal leave of absence is a leave of absence without pay and without benefits or a voluntary reduction in hours with a corresponding reduction in pay and benefits for any reason other than those specified in this Chapter 17. During any month in which the total hours worked is less than one-half (1/2) of the employee's regular schedule, that month shall not be included toward service credit. A personal leave of absence shall not exceed four (4) months and may be granted only once during each five (5) years of employment with the City. The City Manager retains sole discretion in all matters pertaining to personal leaves of absence. Reinstatement after a personal leave of absence is not guaranteed, and the city retains the right to fill the position with a regular assignment if necessary.

17.11 Bereavement Leave: In the event of a death in the immediate family of a regular employee, up to three (3) working days off may be granted per incident. This limitation is in response to the need to ensure uninterrupted City services. Leave time may, with written authorization from the department head, be extended. For the purpose of this policy, immediate family is defined as the employee's spouse or domestic partner, mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchild or dependent. The employee may elect to use accrued general leave, management leave, accrued compensatory time, any combination of accrued paid leave, or take the leave without pay.

17.12 Paid Work-Incurred Injury or Illness Leave: All City employees are covered by the City's Workers' Compensation Insurance policy, providing temporary disability benefits for qualified work-incurred injuries or illnesses in accordance with State Workers' Compensation Laws and the provisions of the City's Workers' Compensation Insurance Plan. The laws provide that all eligible employees shall be entitled to receive temporary disability wage replacement payments in the event of a qualified work incurred injury or illness. Eligibility is determined solely by the insurance provider. If eligible, in addition to disability

payments, necessary hospital, medical, and surgical expenses may be covered under the policy, with payment being made directly to the hospital or physician. The City is responsible only for all the necessary reporting paperwork.

17.12.1 Reporting Accidents and Injuries: An employee who is injured or becomes ill in the course of employment must immediately report the incident to the employee's supervisor and Human Resources. The supervisor is responsible for submitting, within 24 hours of the incident, a statement giving all details of the incident and signed by the employee. An employee who fails to promptly report a work incurred injury or illness to Human Resources may be subject to discipline.

17.12.2 Salary Continuation Benefits: An employee eligible for temporary disability payments under the Workers' Compensation laws will receive salary continuation payments for related lost time at the applicable workers' compensation rate, according to Workers' compensation rules.

17.12.3 Salary Continuation Integration with Accrued General Leave: Employees receiving approved temporary disability payments under the Workers' Compensation laws may elect to use accrued general leave, management leave, compensatory leave, or any combination of accrued leave in excess of the Workers' Compensation benefit in order to maintain their regular income level. Under such circumstances, employees shall use sufficient leave to allow them to be paid the difference between their full salary and the temporary disability payments received, in order to maintain the regular net pay received in the period before the Injury. Accrued leave hours shall be charged to the extent of wages paid by the City.

17.12.4 Salary Continuation and Benefit Discontinuance After On-the-Job Disability: City employees who are permanently disabled by an on-the-job injury or illness, and no longer covered by Workers' Compensation, benefits, may use accrued general leave, management leave, compensatory leave, or any combination of accrued leave to continue wage payment. When all accrued leave has been exhausted, the disabled employee is no longer entitled to wage and benefit continuation as allowed by state and federal laws. The employee may also continue to receive health and welfare benefits during the period of paid disability. An employee on unpaid leave who wishes to continue health insurance coverage may do so at his or her expense at the City's group rates, in accordance with COBRA provisions.

17.12.5 Dismissal After On-the-Job Disability: Unless otherwise prohibited by law, if no vacant or suitable positions are available the disabled employee may be dismissed after the treating physician's finding of "permanent and stationary" disability is issued. In such cases, the City's review and appeal procedures shall apply.

17.12.6 Anniversary Date: Only a regular employee who is absent from work as the result of a qualified work-incurred injury or illness shall retain the normal performance evaluation date and general leave accrual date. An employee who has not completed the introductory period is ineligible for certification of regular status during a work-incurred

injury or illness leave and the date for completion of the introductory period will be extended to reflect the amount of time absent.

17.13 **Military Leave:** Military leave shall be granted in accordance with federal and state laws. A copy of the military orders requiring leave must be submitted to the employee's supervisor immediately upon receipt by the employee. When possible, a request for military leave should be submitted 30 days in advance of the first day of leave. Within 10 business days prior to the expiration of military leave or by the date specified when military leave is approved, a returning employee must give notice of his or her intent to return to work, request an extension, request a new leave or submit a resignation. Time limits for returning to work and other terms of the leave vary depending on the nature, length and circumstances of the military leave and will be reviewed in connection with each leave request. An introductory employee shall be granted military leave, and the introductory period shall be extended by an amount of time equivalent to the amount of time on military leave.

17.14 **Jury Summons and Witness Subpoena Leave:** Regular full-time and part-time employees who are summoned for jury duty or subpoenaed as a witness at a court trial shall receive compensation at their regular rate of pay only for those hours required to serve which occur during their regularly scheduled work week. Payment is subject to the following conditions:

- All employees are required to provide a copy of the jury or subpoena notice to their immediate supervisor immediately upon receipt;
- Upon return from jury duty all employees are required to submit documentation of attendance as a juror or court witness;
- Any payments received for serving on the jury, except travel expenses, shall be remitted to the City within five days of receipt by the employee. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by employees.

Employees will not be compensated as above when subpoenaed to appear in a matter for which they are a party to the proceedings.

Seasonal, temporary and introductory employees are not compensated by the City when absent for jury or witness duty.

A department head may request the City Manager's assistance to relieve an employee from serving as a juror if the employee's absence from City service would pose an undue burden or hardship upon the efficient operation of the City.

17.15 **School Visit Leave:** An employee who is a parent, grandparent or duly appointed guardian with custody of a child in a licensed day care facility or in kindergarten through 12th grade may be granted up to 40 hours in a 12-month period (not to exceed 8 hours in one month) to visit the school site, if reasonable prior notice is given to the department head. Written proof of the date and time of the visit signed by an appropriate school official may be required to be provided to the supervisor on return to the job. The employee must use

accrued general, management, or compensatory leave for this purpose. If accrued leave is exhausted, the employee's supervisor may recommend an alternative work schedule to accommodate the leave.

17.16 Emergency Leave: Regular employees may use any of the preceding categories of leave without the required length of notice in cases of emergency. Department head approval (retroactive if necessary) is required in all cases.

17.17 Voting Leave: Any employee, if he or she does not have sufficient time outside of working hours to vote, may request up to two (2) hours of paid leave either at the beginning or end of scheduled working hours to enable him or her to vote.

17.18 Other Legally Mandated Leaves: The City will provide other leaves, as required by law. Such leaves shall be unpaid, except as otherwise required by law. However, employees may use eligible paid leave benefits to remain in paid status while taking an otherwise unpaid leave.

## 18 HEALTH AND WELFARE BENEFITS

18.1 Introduction: The information contained in this section is intended to provide an overview of the City's group health and welfare insurance benefits. To the extent that this information is inconsistent with the provider contract on file with Human Resources, the provider contract is the controlling document.

18.2 Health and Welfare Benefits Overview: The City provides group health and welfare insurance benefits to eligible employees. Human Resources shall maintain records of the terms and conditions of health and welfare benefit contracts, benefit levels, and administration procedures. Terms, conditions, benefit levels and administration requirements may change.

18.3 Eligible Employees: All regular and introductory full-time and part-time employees are eligible for the health and welfare benefits described in this section. Temporary and seasonal employees are not eligible for health and welfare benefits but are covered by the City's workers' compensation insurance and other benefits mandated by federal and state law. Project employees are not eligible, except as determined by the City Manager, consistent with the eligibility terms of the specific benefit plan. Normally, the City Manager's determination will be made at the time of recruitment or appointment.

18.4 Benefits for Regular Part-Time Employees: Unless otherwise specified in writing, regular part-time employees shall receive health and welfare benefits on a pro-rated formula, based on the number of hours per week budgeted for their position during the fiscal year. For example, a regular part-time employee whose position is budgeted to work twenty (20) hours per week shall receive one-half the benefit premium contribution received by regular full-time employees. ( $20 \text{ divided by } 40 = .50 \text{ or } 50\%$ ). The employee shall pay the remaining premium(s) through regular payroll deductions.

18.5 Commencement of Benefits: With the exception of workers' compensation insurance coverage, which begins on the employee's first day of work, the benefits described in this section shall begin on the first day of the month following the first date of employment.

18.6 Medical Insurance: The City provides eligible employees with a choice of qualified medical insurance providers as well as the option to waive the City's medical insurance coverage if covered under another existing plan.

18.6.1 Cash in Lieu of Medical Insurance Benefits: Employees who provide proof of existing and continuing medical insurance coverage from another source may elect, by written memorandum to the payroll department, to receive cash in lieu of the City's coverage. The cash in lieu payment amount will be according to the negotiated amount indicated in the employee's respective employment agreement. An election to re-enroll in a City medical coverage plan can occur only with the permission of the insurance provider.

18.7 Dental Insurance: The City shall provide eligible employees with a dental insurance program.

18.8 Vision Insurance: The City shall provide eligible employees with a vision insurance program, per the applicable employment agreement for the employee's group.

18.9 Life Insurance: The City shall provide term life insurance coverage in an amount equal to the employee's annual base salary to a maximum that may be established by the terms of the insurance contract. The IRS requires that employers report calculated amounts of compensation on employees' W2's. The calculation is based on coverage provided above a stipulated amount. The employee may elect to purchase additional coverage for which premiums will be paid for by the employee through regular payroll deductions.

18.10 Accidental Death and Dismemberment Insurance: The City shall provide Accidental Death and Dismemberment (AD&D) insurance coverage. Details are provided in the policy document.

18.11 Long Term Disability Insurance: The City shall provide Long Term Disability (LTD) coverage. The purpose of LTD insurance is to provide employees with a portion of their normal income when an injury or illness occurs on or off the job which prevents them from working for more than thirty (30) days. Disabilities related to pregnancies are also covered under the LTD plan. Benefits generally begin following a 30-day "elimination period". Employees may use accrued general leave, management leave, compensatory leave, or any combination of accrued leave during the elimination period and may also use such leave to supplement the LTD wage replacement payments. If applicable, Workers Compensation wage replacement benefits may also be integrated with LTD benefits. See Section Seventeen (17) for possible effect on benefits.

18.12 C.O.B.R.A.: The Consolidated Omnibus Budget Reconciliation Act of 1985 requires the City to offer employees and their families an opportunity for a temporary extension of health coverage upon separation of employment. The specific provisions and restrictions of the Act are available from Human Resources.

18.13 Flexible Benefits Plan: Effective January 1, 2002, the City of Orinda implemented a full flexible benefits plan for eligible City employees. Full description of the plan can be requested from Human Resources.

18.14 Pre-tax Transportation Benefit: Under IRS Code Section 132(f) (4), employers may provide certain transportation fringe benefits, including transit passes, to employees on a tax-free basis pursuant to a compensation reduction agreement. The City of Orinda offers a pre-tax purchase program for BART tickets used for commuting purposes by its employees.

Employees elect a periodic payroll deduction to cover the cost of monthly BART tickets. The City purchases tickets, and the employee then redeems available deduction amounts for BART tickets. Redemptions must be for personal commute-related use only, and only to the extent of commute related travel.

Detailed information and the BART Ticket Pre-Tax Purchase Program Application may be obtained from Human Resources.

## 19 RETIREMENT BENEFITS

19.1 Introduction: The information contained in this section is intended to provide an overview of the City's group health and welfare insurance benefits. To the extent that this information is inconsistent with the provider contract on file with Human Resources, the provider contract is the controlling document.

19.2 Regular Employees: All regular employees are provided with retirement benefits through the City's retirement plan in lieu of the Social Security retirement system. The City's retirement benefits consist of a 457(b) plan and a 401(a) plan which are provided through benefit contracts with the International City Management Association Retirement Corporation (ICMA-RC). Details shall be found in the employment agreement appropriate to the employee's employment group.

19.3 Temporary and Seasonal Employees: Temporary and seasonal employees are not covered by the City's retirement plan but are required to contribute to the 457(b) Plan in lieu of payments to the Social Security retirement system.

19.4 Medicare Benefits: The City participates in the federal Medicare system, in accordance with the law, on behalf of all employees.



## 20 TRAINING AND DEVELOPMENT

20.1 Training Program: Training and other professional development opportunities relating to the improvement of the delivery of City services will be provided to the regular employee depending on available budgeted funds, employee performance, and department staffing needs, as determined at the discretion of the department head and the City Manager. Such training programs may include lecture courses, demonstrations, assignment of reading matter, or other methods as may be deemed appropriate for the purpose of improving the on-the-job effectiveness, skills and knowledge of City employees. The City Manager or department head may require an employee to attend specific training as appropriate.

20.2 Attending Conferences, Seminars, and Workshops: Department head approval is required prior to registering for any training program, outside conference, seminar, or workshop for which city funds are required or which will occur during regular working hours, or both.

20.3 Expense Reimbursement: In order to receive reimbursement for eligible personal expenses after attendance at a training program, the employee shall complete a "yellow" reimbursement form, available from Finance Department. The form will identify expenses eligible, receipts necessary, and methods of reimbursement calculation.

20.4 Compensable Time: Non-exempt regular employees in the General employment group shall be paid for any overtime hours incurred as a result of attending a City-requested one-day meeting. Overtime will not be paid for any non-business portion of a seminar or workshop. An employee who voluntarily chooses to attend a seminar or conference on regularly scheduled hours or day(s) off shall not be paid overtime for attendance.

20.5 Professional Associations and Technical Groups: The City Manager may approve payment for membership in craft, trade or other professional organizations for a regular employee. The employee shall provide evidence of active participation to justify continued membership payment. The City may reimburse the costs of attendance at professional association meetings and workshops. With prior approval, the City may allow the employee to attend the workshop on City time.

20.6 Expenses Related to Course of Instruction or Certification: If a regular employee has received approval to complete a formal course of instruction or certification related to his/her position, the employee shall be eligible for educational expense reimbursement of fifty percent (50%) of the cost of tuition and books or certification, up to a maximum of \$1,000.00 per fiscal year. To be eligible for educational expense reimbursement, an employee must have completed one (1) year of service prior to entering the study program. Only courses and certification which are directly related to the employee's current position or career progression will be considered for educational expense reimbursement. All educational expense reimbursement is subject to the prior approval of the City Manager. Class and study time must be outside of the employee's regular working hours. Travel and related expenses shall not be compensated by the City. To receive tuition and book reimbursement, the employee shall submit receipt(s) and proof of a passing grade for all approved courses within

sixty (60) days of completion of the course. To receive certification expenses reimbursement, the employee shall submit receipt(s) and proof of certification within sixty (60) days of certification.

20.7 Repayment to City: If tuition and book reimbursement is granted under section 20.6, the employee shall execute an Educational Expense Reimbursement Contract and agree to repay tuition and book expenses to the City under stipulated circumstances. If the employee resigns or retires within one (1) year of receiving tuition reimbursement from the City, the employee shall be responsible for paying the City back on a pro-rata basis. For example, for each month short of one (1) year after the tuition reimbursement date, the employee shall repay the City 1/12 of the reimbursed amount.

20.8 Recognition for Training and Professional Development: Records of participation in and successful completion of training and educational programs shall be maintained in the employee's personnel file and may be considered when employee performance evaluations are conducted. Such information may also play a role in promotion decisions.

## 21 SAFETY AT WORK

21.1 Policy: The City is committed to the goal of providing a safe workplace, in accordance with state and federal law.

21.2 Management Responsibility: Human Resources will oversee and maintain records of the City's system for communicating with employees on health and safety matters. Human Resources may establish and enforce safety rules and training and employee recognition programs to help ensure that employees comply with safe and healthy work practices. Human Resources may also conduct periodic inspections to identify and evaluate unsafe or hazardous conditions and work practices.

21.3 Employee Responsibility: Each employee of the City is responsible for identifying workplace hazards and unsafe conditions. The employee shall immediately report any such hazards or unsafe conditions to the supervisor, department head, Human Resources, or City Manager. Retaliation against an employee for reporting a workplace hazard is prohibited.

21.4 Adherence to City Rules: Employees are required to observe all City rules and instructions, both verbal and written, relating to the safe performance of their work. Failure to comply with any safety rule or instruction may be grounds for disciplinary action, up to and including termination.

21.5 Injury and Illness Prevention Program: Please see the City's Injury and Illness Prevention Program for additional details. Copies are available from Human Resources.

## 22 SECURITY AND PRIVACY

22.1 Personnel Files: The City maintains one official personnel file for each employee, which is the sole property of the City of Orinda. A separate confidential medical file will also be maintained for medical information, such as medical reports, leave certifications, personal illness, etc. Additional files may be maintained for other documents that are not appropriate for the general personnel file such as workers' compensation matters, some pre-employment documents, investigations, etc. All files and records related to employment with the City shall be confidentially maintained by Human Resources in accordance with state and federal guidelines.

22.1.1 Access to Personnel Files: An employee shall have the right to view the employee's personnel files in the presence of Human Resources. An employee may, with advance notice of at least one week (or as otherwise provided in the applicable terms for an employee's work group), have copies of items in the file that have been signed by the employee. Supervisors and managers may access appropriate personnel files on a "need to know" basis for legitimate business purposes. External requests for access or copies are to be referred to Human Resources.

22.1.2 Updating Personnel Files: The employee shall notify Human Resources of changes in name, address, telephone number, driver's license, number of dependents, marital status, beneficiary designation, education certificates, or any other pertinent information within one (1) week of the event causing the change.

22.2 Outside Inquiries: When confidential information about a city employee is requested by anyone other than the employee, the City will verify position(s), salary, and employment dates only. Any other information, including address and phone numbers, will be released only with prior written authorization from the employee or by court order. All reference inquiries regarding City employees shall be referred to Human Resources.

22.3 Inspection of City Property: The City reserves the right, at all times, and with or without prior notice, to inspect and search any and all City property, if there is reasonable cause, to determine if misuse of City property has occurred and to promote safety in the workplace in compliance with state and federal laws. Such inspections may be conducted during or after business hours. Whenever possible, an inspection shall be conducted in the presence of the employee, with due regard for the employee's privacy rights.

22.3.1 City Property: Desks, storage areas, work areas, lockers, file cabinets, computer hardware and software systems including Internet, E-mail communications, office telephones, modems, facsimile machines, duplicating machines, and City vehicles are City property. All such areas and items shall be kept clean and shall only be used for work purposes, except as provided in sections 22.3.2 and 22.3.3.

22.3.2 City Vehicles: Refer to Administrative Regulation 4.2, Use of City Vehicles and Privately Owned Vehicles on City Business.

22.3.3 Use of Telephones: The City recognizes that employees may occasionally find it necessary to use City telephones for family related personal use. Such calls should be kept to a minimum and should be made only during break or lunch periods, if possible. All personal long distance calls should be made using a personal billing card or be reimbursed to the City in a timely manner. Abuse of telephone privileges may result in disciplinary action up to and including termination. Employees that have occasion to use a cellular phone while operating a motor vehicle must also refer to and comply with Administrative Regulation 4.1.

## 23 GRIEVANCE RESOLUTION PROCEDURES

23.1 Matter Subject to Grievance Procedure: A grievance is a claim that the City has violated or misapplied provisions of these Personnel Rules or applicable labor agreements. The grievance resolution procedures do not apply to performance evaluations, performance-based salary determinations, and disciplinary matters.

23.2 Informal Resolution Procedure: Informal resolution of a grievance shall be required prior to requesting formal resolution. To initiate informal discussion of a grievance, the employee shall provide the supervisor with a written description of the circumstances causing the grievance. Within 5 working days after receipt of the grievance, the supervisor and the employee shall discuss the grievance collaboratively and mutually identify a resolution of the perceived problem. Within 5 working days after the meeting, the supervisor shall provide the grievant with a written memorandum of the meeting, stating the resolution identified, if any.

23.3 Reporting Time Limitation: An employee who wishes to bring a grievance to the attention of the supervisor must do so within five (5) working days after the occurrence of the grievance-causing events, or within five (5) working days after the employee could reasonably be expected to have knowledge of the events.

23.4 Formal Grievance Procedure: If the employee does not feel that the grievance has been satisfactorily resolved by informal discussion, the employee may request formal resolution of the grievance.

23.4.1 Written Complaint: A written grievance shall be submitted to Human Resources with a copy to the employee's immediate supervisor. The grievance shall contain the following information: name of grievant; date the grievance was initiated; statement of any previous action upon the grievance; a clear statement of the nature of the grievance; a proposed solution to the grievance; and the signature of the grievant. The grievance must be submitted within ten (10) working days from the date the informal grievance decision was received.

23.4.2 Hearing: Human Resources shall meet with the employee and the supervisor, separately or together, at the discretion of Human Resources, to resolve the subject of the grievance. No more than ten (10) working days after meeting with the employee and the supervisor, Human Resources shall issue a final written decision concerning the grievance.

23.5 Appeal Process: The employee may submit a written appeal to the City Manager if the decision of Human Resources does not resolve the grievance to the employee's satisfaction. The employee appeal must be presented within ten (10) working days after receipt of the formal grievance decision. If no appeal has been submitted within ten (10) working days from the date of receiving the formal decision, the supervisor's formal decision shall be considered as final.

23.6 City Manager Decision: Upon receipt of an appeal of a formal grievance, the City Manager shall discuss the grievance with the employee, the supervisor or department head, any other involved parties, and the employee's representative, if any. Within fifteen (15) working days, the City Manager shall render a formal decision in writing to the employee. Such a decision shall be considered as final.

23.7 Fact Finding Committee: An employee who reports directly to the City Manager may file an appeal to the Personnel Committee of the City Council. Within fifteen (15) working days, the City Council Personnel Committee shall respond to the employee in writing. The City Council Personnel Committee's response shall be considered as final.

23.8 Representation: The employee shall have the right to one representative, either Union or other professional representation, at formal and informal grievances.

## 24 CONFLICT OF INTEREST

24.1 Definition: The term "conflict of interest" describes any circumstance that could cast doubt on an employee's ability to act with total objectivity with regard to the interests of the City of Orinda. The City has developed the following policies in an effort to limit the possibility of such conflicts arising.

24.2 Acceptance of Gratuities: With the exception of de Minimis cost edible gifts that can be consumed on the premises by employees, an employee may not solicit or directly or indirectly accept any gift, gratuity, cash or check from any person or organization, for either the performance or non-performance of assigned duties.

24.3 Outside Employment: No employee shall engage in employment or outside business activity that may constitute a conflict of interest for the employee or the City. Employees shall advise the City Manager in writing before engaging in any employment or business activity other than employment with the city.

An employee who has non-city employment is expressly prohibited from wearing any City uniform, emblem, badge or other employee identification when engaged in non-city employment.

No employee shall engage in non-city employment during the employee's working hours for the City.

24.4 Family Members: Written approval from the City Manager is required before an employee may conduct business on behalf of the City with a member or the employee's family or a business or organization in which the employee or a family member has a significant association or interest.

24.5 Employee Questions: Employees who have questions about whether an activity may constitute a conflict of interest should discuss the matter with the supervisor, department head or the City Manager before becoming involved.



25 MISCELLANEOUS

25.1 Reimbursement Policy: Employees shall be reimbursed for expenses incurred as a direct result of employment, subject to budgetary appropriation and the approval of the City Manager. Appropriate documentation and timely submittal of requests for reimbursement shall be required of all employees.

25.2 Personal Auto Use: Refer to Administrative Regulation 4.2.25.3 Image Policy: Refer to Administrative Regulation 2.2.