

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER 2.02,) ORDINANCE NO. 05-1082
REGARDING PERSONNEL RULES, AND)
DECLARING AN EMERGENCY.) Introduced by Chief Operating Office, Michael J.
Jordan with the concurrence of Council President,
David Bragdon

WHEREAS, pursuant to Metro Code 2.20.030, the Chief Operating Officer is responsible for the proper administration of all affairs of Metro, including the administration of personnel matters; and

WHEREAS, the Metro Council has directed the Chief Operating Officer to develop and implement improvements to Metro's system of personnel administration, including but not limited to reorganization of staffing to reduce costs, a performance evaluation program, and a merit pay system, which will require changes to Metro's personnel rules; and

WHEREAS, the efficient administration of Metro personnel matters regularly requires changes to Metro's personnel rules to meet budgetary goals, improve organizational efficiency, and to accommodate changes in the law; and

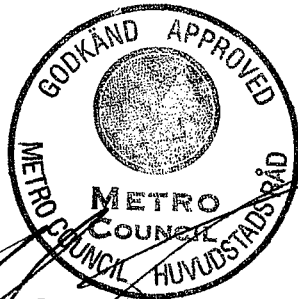
WHEREAS, it is appropriate to delegate to the Chief Operating Officer the full authority to implement Council directives and carry out his duties as Metro's chief administrative officer; and

WHEREAS, the Metro Council desires to delegate to the Chief Operating Office authority to develop, maintain, administer and enforce Metro's Personnel Policies and Procedure; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. Metro Code Section 2.02 is amended to read as shown on Exhibit "A."
- 2. This Ordinance being necessary for the health, safety, and welfare of the Metro area because changes to Metro's personnel administration and pay plans are necessary to implement the Metro budget for fiscal year 2005-06, this ordinance shall take effect July 1, 2005, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 9th day of June, 2005.



[Signature]
David Bragdon, Council President

Attest:
[Signature]
Christina Billington, Recording Secretary

Approved as to form:
[Signature]
Daniel B. Cooper, Metro Attorney

Exhibit A to
Ordinance No. 05-1082

CHAPTER 2.02

PERSONNEL ~~RULES~~ CODE

~~SECTIONS~~ — ~~TITLE~~

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~~2.02.465 — Political Activity~~
~~2.02.470 — Acknowledgment of Receipt of Personnel Policies~~
2.02.001 Personnel Rules For Non Represented Employees [Code](#)
Sections 2.02.001 to ~~2.02.299~~ of this Metro Code shall be known as and may be cited as the “Metro Personnel [Code.](#)”

~~Rules for Non-Represented Employees." As used in Sections 2.02.001 to 2.02.299, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Non-Represented Employees.~~

~~(Ordinance No. 94-523B. Amended by Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.005 Purpose~~

~~The purpose of this chapter is:~~

~~(a) To provide and maintain a system of personnel administration for all non-represented employees, seasonal employees, and temporary employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities.~~

~~(b) To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities.~~

~~(c) To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable.~~

~~(d) To promote efficiency, economy and public responsiveness in the operation of Metro.~~

~~(e) To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work and the availability of funds.~~

~~(f) The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.~~

~~(g) Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.~~

~~2.02.010 Administration of the Rules~~

~~(a) The Chief Operating Officer shall be responsible for:~~

~~(1) Administering or delegating the administration of all the provisions of this chapter, and whenever a question arises as to the meaning or interpretation of provisions of this chapter, the interpretation given by the Chief Operating Officer or his/her designee shall be final and binding.~~

~~(2) Reviewing and recommending to the Council necessary changes to this chapter.~~

~~(3) Publishing a Personnel Procedures Manual to implement the provisions of this chapter.~~

(a) Duties of Chief Operating Officer

Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegee, shall:

(1) Establish and maintain

(A) a record of all employees in Metro service

(B) the Metro employee classification plan

(C) the salary plan and salary administration policies, including employee benefits, including employee benefits

(2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.

(3) Establish a system of personnel administration, based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.

(4) Devise and employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.

(5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

(6) Serve as the final grievance adjustment officer in personnel matters.

(7) Make quarterly reports to the Council regarding the personnel administration of Metro

(b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h) and (m) of the Code notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Chief Operating Officer to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.

~~2.02.015 – Amendment~~

~~This chapter shall be amended solely by the Council, however, administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassifications and title changes may be approved by the Chief Operating Officer. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council.~~

~~(Ordinance No. 81-116, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)~~

2.02.025 ## Exemptions

(a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned to provide services to the Council may be designated as exempt from and not

subject to this chapter provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.

(b) Notwithstanding any provision of this chapter, employees in the Office of Auditor shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Auditor, limited however to budgeted funds allocated to the Office of Auditor.

(Ordinance No. 81-116, Sec. 46. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

2.02.030 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

(a) "Auditor" means the elected Auditor of Metro or his/her designee.

(b) "Chief Financial Officer" means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.

(c) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

(d) "Council" means the elected governing body of Metro.

(e) "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.

(f) "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.

~~(g) "Division" means a major functional unit of a department.~~

~~(h)~~ (g) "Employee" means an individual who is salaried or who receives wages for employment with Metro.

~~(i) "Exempt position" means a position exempt from mandatory overtime compensation.~~

~~(j) "Fiscal year" means a 12-month period beginning July 1 and ending June 30.~~

~~(k) "Flexible work schedule" means an alternative work schedule other than the established normal work schedule, but which includes the same number of total hours per pay period as other full-time positions.~~

~~(l)~~ (h) "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.

~~(m) "Hourly rate" means the rate of compensation for each hour of work performed.~~

~~(n) "Immediate family" means the husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law, grandparents or any relative living in the employee's household.~~

(ei) "Layoff" means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.

~~(p) "Non-exempt" position means a position that is eligible for overtime compensation.~~

~~(q) "Non-represented employee" means an employee who is not in a recognized or certified bargaining unit.~~

(fj) "Part-time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.

~~(s) "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.~~

~~(t) "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.~~

~~(u) "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.~~

(vk) "~~Personnel~~Human Resources Director" means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.

~~(w) "Personnel file" means an employee's official personnel file which is kept in the office of personnel.~~

~~(x) "Personnel Procedures Manual" means a manual developed by the office of personnel and approved by the Chief Operating Officer to implement the policies and provisions of this chapter.~~

~~(y) "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.~~

~~(z) "Probationary employee" means an employee serving any period of probation.~~

~~(aa) "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary rate.~~

~~(bb) "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.~~

~~(cc) "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.~~

~~———— (dd) ——"Reinstatement" means the return of an employee to a position following a separation of employment.~~

(ee) "Represented employee" means an employee who is in a recognized or certified bargaining unit.

~~———— (ff) ——"Resignation" means voluntary separation from employment.~~

~~———— (gg) ——"Seasonal employee" means an employee who is employed during peak seasons of the year and who may be scheduled as needed during the remainder of the year.~~

(hh) "Separation" is the cessation of employment with Metro not reflecting discredit upon the employee.

(ii) "Status" refers to the standing of an employee.

~~———— (jj) ——"Temporary employee" means a nonstatus employee appointed for the purpose of meeting emergency, nonrecurring or short-term workload needs, or to replace an employee during an approved leave period, for a period not to exceed 1,044 hours within a fiscal year, excluding interns, work study students, and CETA employees, or similar federal and state employment programs.~~

(kk) "Termination" means the cessation of employment with Metro.

~~———— (ll) ——"Volunteer" means an individual serving in a non-paid voluntary status.~~

~~———— (mm) ——"Work schedule" means the assignment of hours of work by a supervisor.~~

~~2.02.035 Position Classification Plan~~

~~———— (a) —"The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.~~

~~———— (b) —"Classification titles shall be used in all personnel, budget and financial records.~~

~~———— (c) —"The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.~~

~~———— (d) —"The Chief Operating Officer or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer may make administrative changes to classification specifications, title, and classification numbers. Subject to Metro Council approval, the Chief Operating Officer may annually revise salary ranges to reflect a cost of living adjustment.~~

2.02.040 ~~##~~ New Positions

Any new positions added to the budget require Council approval.

~~2.02.045 New Classifications~~

~~Any new classification added to the classification plan requires Council approval.~~

~~2.02.050 – Reclassification of Existing Positions~~

~~Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer provided the reclassification can be accomplished with the limitations of the current budget.~~

~~2.02.055 – Pay Plans~~

~~(a) — The Chief Operating Officer shall prepare pay plans for permanent positions and seasonal appointments which shall establish a salary range with a minimum and a maximum salary rate of pay appropriate for each class. The pay plans shall be approved by the Council. The pay plans shall establish the eligibility of each classification to receive overtime compensation as indicated by exempt or non-exempt status.~~

~~(b) — The pay plans shall equitably reflect the difference in duties and responsibilities, and shall be related to compensation for comparable positions within the job market.~~

~~(c) — The Chief Operating Officer shall review the pay plans annually and include recommended revisions within his/her proposed budget. Said review may cover such items as changes in the Consumer Price Index and in salaries and benefits received by employees in the labor market.~~

~~(d) — The Chief Operating Officer shall administer the pay plans based on the need and expectations of Metro along with suitable employee performance.~~

~~(e) — The Chief Operating Officer may propose an agency wide classification/compensation study for non-represented employees to assess classifications and evaluate compensation. The implementation of study recommendations require Council approval.~~

~~2.02.060 – Salary Administration~~

~~(a) — Current salary shall be used to calculate merit increases. Any annual revisions to the pay plans shall be added to the salary range of a classification, shall be cumulative, and shall be added to an employee's individual rate of pay. However, no employee's rate of pay shall be lower than the beginning rate of a salary range after a fiscal adjustment is made.~~

~~(b) — Administrative Policies~~

~~(1) — Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the hiring Department Director with concurrent notification to the Chief Operating Officer.~~

~~(2) — Employees hired at or promoted to the beginning salary rate of a salary range shall receive a 5 percent salary increase after successful completion of six continuous months of probationary service. The increase of 5 percent shall be initiated by the office of personnel on the appropriate date. When an employee is appointed over the 5 percent above the beginning salary rate he/she is not eligible for a salary increase for one year, unless the Chief Operating Officer approves an extra meritorious salary increase based on outstanding performance after successful completion of six consecutive months of probationary service.~~

~~(3) After an employee has reached 5 percent above the beginning salary rate, he/she is eligible for annual merit increases in 1 percent increments, not to exceed a total of 8 percent in any evaluation year, up to and including the maximum salary rate shown for the assigned salary range based on satisfactory performance which shall be effective on his/her anniversary date only.~~

~~(4) All merit increases have to be authorized and approved by the Department Director and reviewed as to form by the Personnel Director prior to implementation. A decision by the Department Director to grant or withhold a merit increase will be communicated to the employee in writing.~~

~~(5) Merit increases (except as noted in subsection (b)(2) of this section) must be submitted to the Personnel Director with a performance evaluation. Department Directors shall make every effort to complete the employee's evaluation by the employee's anniversary date. If the evaluation is not completed by that date, any merit increase assigned shall be retroactive to the employee's anniversary date not to exceed one year of retroactivity.~~

~~(6) Criteria to be considered in recommending and granting merit increases should include but not be limited to:~~

~~(A) Planning and organizing work, and meeting deadlines.~~

~~(B) Competency and judgment.~~

~~(C) Growth in and ability to handle job responsibilities.~~

~~(D) Attitude.~~

~~(E) Specific actions toward self improvement, as necessary.~~

~~(F) Recognition of excellence.~~

~~(G) Productivity increases of tangible quantities and/or qualities.~~

~~(H) Creative and innovative contributions.~~

~~(I) Cost and budgetary savings realized, if any.~~

~~(J) Affirmative Action & EEO responsibilities.~~

~~(K) Safety practices.~~

~~(7) The Personnel Director shall review performance evaluations to assure that appropriate criteria are included.~~

~~(8) When an employee is promoted or reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.~~

~~(9) A promoted employee shall receive a 5 percent increase upon successful completion of his/her six month probationary period. The anniversary date shall be changed to reflect the effective date of the completion of this probation.~~

~~(10) A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.~~

~~(11) When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.~~

~~(12) When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.~~

~~(c) A Department Director may assign an employee, in writing, to work "out of class." Whenever an employee is assigned to work temporarily in a higher classification for a period in excess of 10 consecutive work days, he/she shall be considered as working "out of class" in a higher position and shall be paid from the date of assignment at 5 percent above his/her current rate of pay or at the beginning salary rate in the range designated for the higher classification if the employee is at the top of his/her salary range. An employee shall not remain in an acting capacity for a period exceeding six months within a 12 month period. If a Department Director needs to extend the work out of class period beyond six months, extenuating circumstances must be given in writing to the Chief Operating Officer for approval and forwarded to the Personnel Director. A work out of class assignment, for up to six months, shall not be considered as time served for purposes of the effective date for reclassification or promotion.~~

~~(d) When, as part of a classification/compensation study, the salary range for any classification is increased, individual employees shall be placed within the new range at their current rate of pay or on the beginning salary rate of the new salary range if the beginning salary rate is higher than his/her current rate of pay without a change in the employee's established anniversary date.~~

~~(e) When the salary range for an entire classification is decreased as a part of a classification/compensation study, the rates of the incumbents in the positions shall be continued (red-circled) and no change in salary shall occur until the annual adjustments to the pay plan bring the employee's rates in the new class within the new range. At that time, incumbents will become eligible for salary adjustments.~~

2.02.065 Pay Policies

~~(a) Permanent employees shall be paid according to the pay plan adopted by the Council and administered by the Chief Operating Officer.~~

~~(b) Employees shall be paid twice monthly.~~

~~(c) In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.~~

~~(d) Payroll procedures shall be established and implemented by the finance and management information department, accounting division.~~

~~(e) Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer at the request of the employee.~~

2.02. ## Charitable Solicitations

(1) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.

(2) The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section, including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer's action shall be based on the criteria stated in subsection (3) of this section.

(3) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:

(A) Be a fund-raising organization which raised funds for 10 or more charitable agencies.

(B) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.

(C) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).

(D) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.

(E) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.

(F) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.

(4) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

2.02.070 ~~##~~ Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

(c) Recruitment Efforts. Recruitment efforts will be coordinated by the office of human resources in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

~~2.02.075 Nepotism~~

~~Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.~~

2.02.080 ~~##~~ Recruitment and Appointment

~~(a) All promotions and appointments to vacancies shall be based on the requirements of the position and organizational and operational needs.~~

~~(b) Recruitment efforts will be coordinated by the office of personnel in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.~~

~~(c) Internal Recruitments. A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. Temporary employees must have completed a competitive recruitment and selection process through the office of personnel to be considered as an internal applicant. All applications will be considered without prejudice to their present positions. Regular, regular part-time and temporary employees who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.~~

~~(d) General Recruitment. If the vacancy is not filled as a result of internal recruitment, recruitment outside the agency will commence. The period of general recruitment shall be not less than 10 working days to allow for receipt of applications.~~

(ea) Except as otherwise provided for in this Code, all appointments of employees shall be the sole responsibility of the Chief Operating Officer, subject to the provisions of this chapter.

(fb) All appointments of employees to the Office of the Metro Attorney shall be the sole responsibility of the Metro Attorney.

(gc) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.

(hd) Appointments of Department Directors, the Chief Financial Officer, the ~~Personnel~~ Human Resources Director, the Metro Attorney, staff in the Office of the Chief Operating Officer, and staff in the Office of the Auditor, may be made without going through the normal recruitment and selection process. The ~~Personnel~~ Human Resources Director, the Chief Financial Officer, all Department Directors, and all appointed staff in the Office of the Chief Operating Officer shall serve at the pleasure of the Chief Operating Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor.

~~———— (i) ——— Effective January 6, 2003, all positions that were subject to appointment by the General Counsel, the Executive Officer or the Council Presiding Officer are abolished. The Metro Attorney or the Chief Operating Officer may thereafter create new positions and make appointments thereto as provided for in this section.~~

~~2.02.085 Probationary Period~~

~~The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only, and does not confer any form of tenure or other expectation of continued employment.~~

~~———— (a) ——— All initial appointments and all promotions to permanent full time and permanent part-time positions shall be subject to a standard probationary period of six consecutive months of service.~~

~~———— (b) ——— Promotions. Employees who do not successfully complete their promotional six-month probationary period may be demoted at any time during the promotional period and be reinstated into the position held prior to promotion if that position is vacant or if that position is filled by an employee in an initial probationary period. If that position is not filled by a person in his/her initial probationary period, the employee may be reinstated into any vacant position in the classification held prior to the promotion and the employee will serve a probationary period of three months in the new position. If no such positions are available, the employee shall be laid off.~~

~~———— (c) ——— Reclassifications. No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.~~

~~———— (d) ——— Transfers. Transfers to another position in the same classification with the similar duties do not require an additional probationary period. Transfers to a position in the same classification with significantly different duties shall require a three-month probationary period. Employees who do not successfully complete the three-month probationary period may be reinstated into the position held prior to transfer if the position is vacant or if the position is filled by an employee in an initial probationary period. If that position does not exist as described above, the employee may be reinstated into any vacant~~

~~position in the classification held prior to the transfer. If no such positions are available, the employee shall be laid off. In cases where a probationary employee is involuntarily transferred prior to the end of the probationary period, the employee must complete his/her initial probationary period.~~

~~———— (e) ——— Demotions. An employee must have completed his/her initial six month probationary period prior to requesting a voluntary demotion and shall not serve a new probationary period upon demotion.~~

~~———— (f) ——— Vacation leave credits based upon or earned in connection with time worked shall accumulate during an employee's initial probationary period. Upon successful completion of the initial probationary period, employee will be credited with vacation leave accumulated during the probationary period and will be eligible to take accrued vacation leave with pay as authorized. An employee who terminates for any reason during the initial probationary period shall not be entitled to vacation leave payment.~~

~~———— (g) ——— Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.~~

~~———— (h) ——— Employees serving the initial six month probationary period may be disciplined or terminated without cause, with or without prior notice. Nothing in this section shall be construed as implying or requiring that cause must exist for the discipline or termination of a regular status employee.~~

~~2.02.090 Temporary Employees~~

~~———— (a) ——— Temporary employees appointed prior to the effective date of this ordinance and who are still employed as temporary employees without a break in service after the effective date of this ordinance shall continue to receive all employee benefits granted to them since their current appointment as a temporary employee, not to exceed 1,044 hours.~~

~~———— (b) ——— Status of Temporary Employees. Temporary employment shall be used for the purpose of meeting emergency, nonrecurring, or short term workload needs, or to replace an employee during an approved leave of absence. A temporary employee may be given a nonstatus appointment without open competition and consideration only for the purposes enumerated in this section. Temporary appointments shall not be used to defeat the open competitive recruitment and selection process. Temporary employment shall not be used as any portion of a required probationary period.~~

~~———— (c) ——— Term of Appointment. The term of temporary employment may not exceed 1,044 hours within a fiscal year without approval of the Chief Operating Officer who may grant up to a 1,044 hour extension. A temporary employee shall not become a permanent employee upon working more than 1,044 hours.~~

~~———— (d) ——— Benefits. Benefits required by law such as Workers' Compensation and Social Security will be paid for all temporary employees. No additional benefits will be paid or given to temporary employees.~~

~~———— (e) ——— Eligibility for Regular Employment. Temporary employees may compete for regular positions on the same basis as applicants from outside the agency. Temporary employees who have gone through a competitive recruitment and selection process through the office of personnel for the current temporary position will be considered as in-house applicants for vacant positions for which they apply through the internal recruitment process.~~

~~2.02.095 Job Share~~

~~Any full-time position may be designated as a job share position by the Chief Operating Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.~~

~~2.02.100 Orientation~~

~~All new permanent employees shall be provided with a copy of this chapter and insurance plans, and Metro shall periodically provide them with orientation sessions.~~

~~2.02.105 Workers' Compensation Insurance~~

~~—(a)— All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.~~

~~—(b)— Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation Administration in accordance with ORS Chapter 656.~~

~~—(c)— The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.~~

~~—(d)— During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.~~

~~2.02.110 Insurance and Retirement~~

~~—(a)— Permanent full-time employees shall receive insurance benefits, as provided in the budget, on the first day of the month following their first full month of employment. Co-payments by employees may be required. Job share positions are eligible for one set of benefits which are split between the two employees sharing the position.~~

~~—(b)— Permanent part-time employees who are budgeted at .50 FTE or more only shall receive insurance benefits on a prorated basis, as provided in the budget, on the first day of the month following their first full month of employment. The prorated amount an eligible part-time employee will receive shall be commensurate with the budgeted FTE of their part-time position. An eligible part-time employee may pick up the remaining FTE portion and remaining cost up to 100 percent of insurance benefits at his/her request.~~

~~—(c)— Metro will pay the required employer contribution for an eligible employee's PERS (Public Employee Retirement System) account and will also pick up the employee's 6 percent contribution. For only those current employees remaining in the former 11 percent plan, Metro will pay the employer 5 percent portion and pick up the employee 6 percent portion.~~

~~2.02.115 Transfers and Demotions~~

~~—(a)— Transfers. A lateral transfer is the voluntary or involuntary movement of an employee from one position to another position in the same classification, or the voluntary or involuntary movement of an incumbent employee's position. Lateral transfers within the same classification and with the same duties do not require a new probationary period. Lateral transfers within the same classification but with significantly different duties require a three-month probationary period. An employee's salary rate will remain the same for all lateral transfers.~~

~~————— (1) ——— Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.~~

~~————— (2) ——— Voluntary Transfer. Regular employees may apply for a transfer to a vacant position by applying through the established internal recruitment process only.~~

~~————— (b) ——— Voluntary Demotion. A regular employee may apply for a voluntary demotion by applying through the established internal recruitment process only.~~

~~2.02.120 Work Schedules~~

~~————— (a) ——— The normal work schedule shall be 40 hours, Monday through Friday, and the normal work day shall be 8:00 a.m. to 5:00 p.m. Some departments have work schedules and hours which may vary. In order to provide the best service to the public, Department Directors may establish operating schedules for departments which vary from the normal work schedule. Nothing contained in this section or elsewhere in this chapter shall be construed as any guarantee of hours of work per day or per week.~~

~~————— (b) ——— Flexible Work Schedules. Department Directors may establish employee work schedules which vary from the normal work schedule. All flexible work schedules must be approved by the Department Director.~~

~~————— (c) ——— Meals and Breaks. Full time employees shall be allowed at least a 30 minute, not more than an hour, meal break. Such meal breaks shall be scheduled in the middle of a workday as practicable. All employees are entitled to at least a 10 minute break period when working a continuous four hour work period.~~

~~2.02.125 Overtime Compensation~~

~~————— (a) ——— When overtime is authorized, overtime compensation shall be paid only to employees who are not exempt from overtime as established in the pay plan.~~

~~————— (b) ——— No overtime shall be paid to overtime exempt employees. Time worked on a holiday may be taken at a later date. It is understood that an overtime exempt employee may have to work on occasion beyond normal business hours, and that some extra work hours beyond a usual workday or workweek are part of the job expectations for an overtime exempt employee. At the Department Director's discretion, flexible work hours may be utilized to accommodate a reasonable balance of work hours. Recorded time off shall be consistent with administrative leave.~~

~~————— (c) ——— For purposes of computing overtime, hours worked shall include only time actually worked by the employee and shall not include holiday pay, vacation pay, sick pay, or other compensable leaves.~~

~~————— (d) ——— Compensation for authorized overtime shall be at the rate of time and one half for time actually worked in excess of the 40 hours in a workweek or eight hours in a workday and may be paid in cash if budgeted funds are available or, if the employee agrees as compensatory time off, at the discretion of the Department Director. Compensatory time must be taken as leave within six months or paid in cash within the fiscal year that it is earned. Such payment shall be at the employee's rate of pay being earned at the time of payment. When a non-exempt employee is terminated, the employee shall be given cash compensation for the overtime the employee has accrued and not used.~~

~~_____ (e) _____ Overtime hours worked shall not be used to expand employee benefits or to shorten probationary or annual merit increase periods. Compensatory time off in lieu of overtime pay will be counted as regular time worked in computing wages and toward earning employee benefits and to serve out probation and merit increase periods.~~

~~2.02.130 Holidays~~

~~_____ (a) _____ Probationary and regular employees of Metro shall be entitled to the following holidays listed with pay; however, floating holidays cannot be utilized by employees until they have successfully completed their initial probationary period:~~

~~_____ (1) _____ New Years Day~~

~~_____ (2) _____ Martin Luther King Jr. Birthday~~

~~_____ (3) _____ President's Day~~

~~_____ (4) _____ Memorial Day~~

~~_____ (5) _____ Independence Day~~

~~_____ (6) _____ Labor Day~~

~~_____ (7) _____ Veterans Day~~

~~_____ (8) _____ Thanksgiving Day~~

~~_____ (9) _____ Christmas Day~~

~~_____ (10-11) Two floating holidays are allowed each fiscal year on days of each employee's choice, subject to schedule approval of the supervisor. For purposes of this section, a floating holiday is any day chosen by the employee and approved by the supervisor which would otherwise be a regular scheduled workday. The floating holidays are non-cumulative from fiscal year to fiscal year and must be taken by the employee within the fiscal year in which they accrue. No payment for floating holidays accrued and not taken shall be provided for any employee upon termination of employment for any reason.~~

~~_____ (b) _____ If any such holiday falls on a Sunday, the following Monday shall be given as that holiday. If any such holiday falls on a Saturday, the preceding Friday shall be given as a holiday.~~

~~_____ (c) _____ Holidays which occur during vacation or sick leave shall not be charged against such leave.~~

~~_____ (d) _____ Regular part-time employees shall receive holiday pay on a prorated basis, based on their hours of work.~~

~~2.02.135 Vacation~~

~~The following provisions are applicable to permanent employees only:~~

~~_____ (a) _____ All regular and regular part-time employees shall be granted annual vacation leave with pay.~~

~~_____ (b) _____ Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department Director. Department Director vacations shall be approved by the Chief Operating Officer.~~

~~_____ (c) _____ Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250-hour limit may be accrued or may be compensated at the discretion of the Department Director and with~~

~~the written approval of the Chief Operating Officer. Such written authorization shall be filed in the finance and management information department, accounting division, with a copy to the office of personnel.~~

~~(d) Department Directors shall schedule vacation requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.~~

~~(e) An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250-hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment.~~

2.02.140 ~~Vacation Credit and Accrual Rate~~

~~The vacation credit and accrual schedules for permanent employees are as follows:~~

Total Years of	Accrual Rate	Annual Hours	Equivalent
Continuous Service	Per Pay Period	for Full Time Employees	

~~Date of Hire through
completion of 3rd year 5.00 hours 120 hours~~

~~4th year through
completion of 7th year 6.00 hours 144 hours~~

~~8th year through
completion of 11th year 7.00 hours 168 hours~~

~~12th year or more 8.00 hours 192 hours~~

~~Permanent part-time employees shall accrue vacation under the above schedule at a rate proportionate to the time worked per week.~~

2.02.145 ~~Sick Leave~~

~~(a) Permanent employees shall earn sick leave with pay at a rate of 104 hours per year (.05 hours per hour worked); such sick leave shall accrue in an unlimited amount.~~

~~(b) Permanent part-time employees shall earn sick leave with pay proportionate to the amount of FTE for the position in the budget; such sick leave shall accrue in an unlimited amount.~~

~~(c) Employees may use accrued sick leave when temporarily unable to perform work duties by reason of personal illness, injury, disability, medical or dental care, or illness, injury, or disability of a person living in the employee's household. Sick leave is not to be used for personal time off or to extend holidays or vacation leave. No payment for accrued sick leave shall be provided for any employee upon termination of employment for any reason.~~

~~(d) Abuse of the sick leave privilege shall be cause for disciplinary action. An employee who is unable to report to work because of any of the reasons set forth in the above subsection of this~~

~~section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave to be supported by a physician's statement attesting to the illness.~~

~~(e) Permanent full-time employees who use 24 hours or less of sick leave within one fiscal year period, and who are not at the 250-hour vacation accrual limit, shall accrue eight additional hours of vacation leave in exchange for eight hours of sick leave at the end of the fiscal year period. Permanent part-time employees who use 12 hours or less of sick leave within one fiscal year, and who are not at the 250-hour vacation accrual limit, shall accrue four additional hours of vacation leave in exchange for four hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.~~

~~(f) Transfer of Leave Credits. Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:~~

~~(1) Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer.~~

~~(2) Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.~~

~~(3) The requesting employee must have no more than 40 hours combined accrued sick leave hours and accrued vacation leave hours at the time of the request.~~

~~(4) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.~~

~~(5) Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:~~

~~(A) The transferring employee's Department Director must authorize the transfer of hours by signature. Such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.~~

~~(B) The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.~~

~~(C) Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.~~

~~(6) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.~~

~~(7) Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.~~

~~(8) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of personnel.~~

~~2.02.150 Family Medical Leave~~

~~Metro provides family medical leave of up to 12 weeks within a one year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously ill spouse, parent, parent in law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.~~

~~(a) The employee shall be entitled to take family medical leave without being penalized for taking such leave.~~

~~(b) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave.~~

~~(c) All full time and part time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.~~

~~(d) Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit.~~

~~(e) Eligible employees may take a maximum of 12 weeks of family medical leave within a one year period. Each one year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.~~

~~(f) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of personnel within three working days.~~

~~The employee's written request must contain the following:~~

~~(1) The relationship of the employee to the person needing care.~~

~~_____ (2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.~~

~~_____ (3) The anticipated length of absence, not to exceed 12 weeks.~~

~~_____ (4) Other family members who are taking family medical leave and when they are taking it or are otherwise available to care for the family member.~~

~~_____ (g) Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.~~

~~_____ (h) The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.~~

~~_____ (i) The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.~~

~~_____ (j) At the conclusion of a family medical leave the employee shall be reinstated to his/her former position unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.~~

~~_____ (k) Employees who do not return by the date specified may be disciplined up to and including dismissal.~~

~~2.02.155 Pregnancy Leave/Transfer~~

~~Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.~~

~~_____ (a) The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.~~

~~_____ (b) The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.~~

~~_____ (c) An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.~~

~~_____ (d) Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.~~

~~(e) Temporary Transfer~~

~~(1) Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.~~

~~(2) To initiate a transfer, the employee must submit a written request to the Department Director and the office of personnel. The employee's written request must contain the following:~~

~~(A) The specific duties affected by the pregnancy.~~

~~(B) The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.~~

~~(C) A statement that the employee is physically able to perform available work.~~

~~(D) A doctor's opinion/certificate confirming (A), (B) and (C) above to determine whether a transfer is reasonably necessary.~~

~~(3) The Department Director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.~~

~~(f) Pregnancy Leave~~

~~(1) Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonably accommodated.~~

~~(2) The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work:~~

~~(A) If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties;~~

~~(B) If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her; and~~

~~(C) A doctor's opinion/certificate confirming (A) or (B) above.~~

~~(3) The Department Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.~~

~~(4) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as~~

~~long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.~~

~~_____ (5) _____ If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will within three working days offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.~~

~~_____ (g) _____ If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position she shall within three working days of her knowledge of her regained ability notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.~~

~~_____ (h) _____ If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the office of personnel within three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position unless, the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.~~

~~_____ (i) _____ Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.~~

~~(Ordinance No. 94-523B. Amended by Ordinance No. 02-965A, Sec. 1.)~~

~~2.02.160 Parental Leave~~

~~Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.~~

~~_____ (a) _____ The employee shall be entitled to take parental leave without being penalized for taking leave.~~

~~_____ (b) _____ When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.~~

~~(c) All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.~~

~~(d) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.~~

~~(e) Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.~~

~~(f) A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:~~

~~(1) The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.~~

~~(2) The anticipated date of birth of the parent's child; or~~

~~(3) The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.~~

~~(4) The dates when the parent or if both parents request parental leave the dates which each parent will commence and terminate his or her portion of the parental leave.~~

~~(5) Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.~~

~~(g) Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.~~

~~2.02.165 Leave of Absence Without Pay~~

~~All regular employees may be granted leave of absence without pay and without employee benefits for a period not to exceed six months provided such leave can be scheduled without adversely affecting the operations of Metro. Such leave may be extended in writing by the Chief Operating Officer once up to an additional six months. Requests for leave of absence without pay shall be in writing, shall be directed to the Department Director and shall contain reasonable justification for approval. Requests of 10 days or~~

~~more shall require the approval of the Chief Operating Officer or his/her designee. The approved request shall be filed in the office of personnel. The employee may elect to continue employee benefits, and upon such election, premiums for such extended coverage shall be paid by the employee. Such coverage shall be subject to any restriction which may exist in each applicable benefit policy or plan.~~

~~2.02.170 Other Leaves of Absence With Pay~~

~~(a) Funeral Leave. A maximum of three days leave with pay shall be allowed a permanent, regular status employee to attend the funeral of the employee's immediate family member.~~

~~(1) If travel is required, up to four additional days (chargeable to sick leave) may be allowed upon request to the employee's Department Director.~~

~~(2) Under special circumstances and upon the death of a person other than the employee's immediate family member, paid leave as described in (a) above to attend a funeral may be granted at the sole discretion of a Department Director at the request of the employee.~~

~~(3) When an employee participates in a funeral service he/she will be granted four hours time off with pay and chargeable to any accrued leave balance, or without pay if the employee has no accrued leave balances, to attend such funeral service subject to the approval of the Department Director.~~

~~(b) Witness or Jury Duty. Any permanent, regular status employee shall be granted leave with pay and without loss of any benefits when called for jury duty or subpoenaed as a witness, subject to the following provisions:~~

~~(1) The employee granted such leave shall pay all money, except travel allowance, received for his/her service as a juror or witness to Metro.~~

~~(2) An employee serving as a juror or witness who does not serve for an entire day must return to work as otherwise scheduled.~~

~~(3) Where an employee is required to serve as juror or witness on a scheduled day off or vacation day, and such day cannot reasonably be rescheduled, he/she may retain the fee paid for service as a juror or witness on his/her day off or vacation day.~~

~~(4) Attendance in court as assigned including the time required going to the court and returning to the work site.~~

~~(c) Military Leave. Employees shall be granted military leave and right to reinstatement as required by applicable federal or state law.~~

~~(1) Employees who fail to return to duty and/or request reinstatement with Metro within the time period allowed by applicable law shall be deemed to have resigned.~~

~~(2) Employees who take military leave during a probationary period must serve out the remainder of their probationary period upon reinstatement in order to become regular employees.~~

~~(d) Alternative Duty. Any permanent, regular status employee who serves as a volunteer in the Peace Corps or U.S. Public Health Service, or other recognized federal volunteer programs as~~

~~approved by the Department Director and the Chief Operating Officer, shall be granted approved unpaid leave during the service period.~~

~~(1) Upon returning the employee shall have the right to be reinstated to the position held before the leave was granted.~~

~~(2) Failure of the employee to return to work within 90 days of the termination of the service shall be cause for dismissal.~~

~~(e) Administrative Leave. Administrative leave is authorized paid leave for non-represented employees who work in classifications which are exempt from overtime pay. A Department Director may be granted administrative leave in recognition of his/her overtime exempt status upon approval by the Chief Operating Officer. Other non-represented regular status employees who work in classifications which are exempt from overtime pay may also be granted such leave at the discretion of their Department Director. Such leave shall not be cumulative from year to year, shall be compensable only in the form of leave time, and shall not exceed 40 hours in a fiscal year. Time not worked because of such leave shall not affect accrual of vacation or sick leave.~~

~~2.02.175 Preamble Conduct, Discipline, Termination and Appeal~~

~~Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction or any other job-related communication. Any disciplinary action may be grieved by non-represented employees under the grievance procedure established in this chapter.~~

~~2.02.180 Disciplinary Actions~~

~~(a) Disciplinary actions shall include only the following:~~

~~(1) Oral or written reprimand;~~

~~(2) Suspension;~~

~~(3) Reduction in pay;~~

~~(4) Transfer;~~

~~(5) Demotion; and~~

~~(6) Termination from employment.~~

~~Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively. Disciplinary actions shall occur in a manner that is least likely to embarrass employees before other employees or the public, although it is recognized that this may not always be possible depending on the circumstances.~~

~~(b) Metro reserves the right to discipline or terminate an employee whenever:~~

~~(1) The employee's performance is unsatisfactory; or~~

~~(2) Metro feels discipline or termination is appropriate for other reasons; or~~

~~_____ (3) _____ Whenever it is determined that such action is in the best interests of Metro.~~

~~_____ (e) _____ The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (a) of this section:~~

~~_____ (1) _____ Abandonment of position.~~

~~_____ (2) _____ Absence from duty without leave.~~

~~_____ (3) _____ Abuse of leave privileges.~~

~~_____ (4) _____ Below standard work performance.~~

~~_____ (5) _____ Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.~~

~~_____ (6) _____ Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.~~

~~_____ (7) _____ Fraud in securing appointment or promotion.~~

~~_____ (8) _____ Insubordination, including but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior toward members of management.~~

~~_____ (9) _____ Misuse of Metro property, funds or records.~~

~~_____ (10) _____ Neglect of duty.~~

~~_____ (11) _____ Willful deceit.~~

~~_____ (12) _____ Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro, or which would cause embarrassment or inconvenience for Metro.~~

~~_____ (13) _____ Violation of Metro ordinances, regulations and directives.~~

~~_____ (14) _____ Willful violation of established safety policies.~~

~~_____ (15) _____ Inability to get along with fellow employees.~~

~~_____ (16) _____ Any falsification of information during the employment application or employment appointment process, regardless of when discovered.~~

~~_____ (17) _____ Unlawful harassment or discrimination.~~

~~_____ (18) _____ Theft, including personal or public property.~~

~~_____ (19) _____ Sleeping on the job.~~

~~_____ (20) _____ Gambling on Metro premises, including but not limited to card games, dice games.~~

~~_____ (21) _____ Violation of this chapter, established work rules, or other management directives.~~

~~_____ (d) _____ Procedure for Suspension, Reduction in Pay, Transfer, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, transfer, demotion or termination action. If a basis for discipline exists:~~

~~_____ (1) _____ An employee may be suspended with pay, by the Department Director, pending disciplinary action.~~

~~_____ (2) _____ A written notice of contemplated disciplinary action (suspension, reduction in pay, transfer, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:~~

~~_____ (A) _____ The alleged conduct by the affected employee.~~

~~_____ (B) _____ The violation(s).~~

~~_____ (C) _____ A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may, at their expense, be represented by an attorney or other person of their choice in a pre-disciplinary meeting.~~

~~_____ (3) _____ Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be a permanent part of the affected employee's personnel record.~~

~~_____ (4) _____ No failure by Metro to follow any of the procedures described herein shall be grounds for invalidating disciplinary action, including termination, which is otherwise deserved on the merits. Additionally, the Personnel Director may, in his/her discretion, dispense with all or part of these procedures, with or without notice to the employee.~~

~~_____ (e) _____ The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in this policy. In the case of a termination action the grievance shall be filed at Step 2 of the Grievance Procedure in this chapter with the Department Director, with a copy to the Personnel Director.~~

~~2.02.185 Layoff~~

~~_____ (a) _____ If there is a reorganization, changes in the organization, lack of work or lack of funds, or other reasons not reflecting discredit on employees, the Chief Operating Officer may lay off employees. When layoffs occur, temporary employees in affected classes shall be terminated first, with or without prior notice; then employees in their initial probationary period in affected classes shall be terminated, with or without prior notice; and finally regular employees in affected classes not in their initial probation shall be given a minimum of two weeks written notice of their layoff from Metro employment.~~

~~———— (b) ——— Laid off employees shall be placed on a layoff list and may be recalled from the layoff list to a vacant position within the classification from which they were laid off for one year following layoff and prior to internal recruitment for the vacant position. It is the employee's obligation to keep the office of personnel informed of any change of address. If the office of personnel attempts to contact the employee by mail and the letter is returned, the employee's name will be removed from the layoff list.~~

~~———— (c) ——— When an employee on the layoff list rejects an offered appointment to a vacant position in the same classification from which they were laid off, the employee's name will be removed from the layoff list.~~

~~2.02.190 Resignation~~

~~Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.~~

~~2.02.195 Personnel Records~~

~~———— (a) ——— An official personnel file will be maintained by the office of personnel for each employee of Metro. The personnel file will constitute the official record of an individual's employment with Metro.~~

~~———— (b) ——— No information that reflects critically upon an employee shall be placed in an employee's personnel record without giving a copy to the employee.~~

~~———— (c) ——— Access to the personnel file shall be limited to the employee, management staff, and the staff of the office of personnel. Management staff must have job-related reasons to have access to job-related information in an employee's file upon request to the Personnel Director. Employees may review their personnel files in the office of personnel during regular business hours. Employees may authorize in writing a person(s) to review their personnel files. Employees have the right to copies of material in their personnel files upon request. Personnel records will leave the office of personnel only under the procedures established by the office of personnel.~~

~~———— (d) ——— Information in personnel files will be treated as exempt from public disclosure to the extent provided by the Oregon Public Records Law.~~

~~2.02.200 Grievance Procedure~~

~~It is the policy of Metro to provide for an orderly process whereby non-represented permanent employees may have their dissatisfactions considered fairly and rapidly without fear of reprisal. Every effort should be made to first find an acceptable solution by informal means with the first-line supervisor.~~

~~———— (a) ——— Definition. A grievance is defined as a written expression of an alleged violation of this chapter of the Code, submitted by an employee(s) for the purpose of obtaining adjustment.~~

~~———— (b) ——— Procedure~~

~~(1) An employee who believes a grievance exists which has not been resolved by informal means must reduce the grievance to writing. The written grievance must contain:~~

~~(A) A clear and complete account of the action or inaction which adversely affected or affects the employee.~~

~~(B) The specific provision(s) of this chapter believed to have been violated or misapplied to the employee.~~

~~(C) The date of the circumstances giving rise to the grievance and the date of the employee's first knowledge of those circumstances, if later.~~

~~(D) The remedy sought by the employee to resolve the grievance.~~

~~(2) The employee must present the written grievance to his/her supervisor within 15 calendar days of the occurrence of the circumstances giving rise to the grievance or the employee's first knowledge of those circumstances. The supervisor shall discuss the grievance with the employee and attempt to resolve it. If the written grievance is not resolved within five calendar days from the date of submission of the written grievance to the supervisor, it may be submitted within another five calendar days to the employee's Department Director.~~

~~(3) The Department Director and the employee will attempt to resolve the grievance within five calendar days from the date of submission of the written grievance to the Department Director. If the grievance remains unresolved after the five calendar day period, the employee may submit it within another five calendar days to the Chief Operating Officer.~~

~~(4) The Chief Operating Officer will review and investigate the grievance, as necessary. The Chief Operating Officer will respond to the grievant within 15 calendar days from the date the grievance was submitted to the Chief Operating Officer. The decision of the Chief Operating Officer shall be final and binding.~~

~~(c) Any or all time limits specified in these rules may be waived by mutual consent of all parties. Likewise, any step in the procedure may be waived by mutual consent of all parties. Mutual consent shall be confirmed in writing.~~

~~(d) Any grievance not taken to the next step by the grievant within the prescribed number of days after receipt of a response shall be deemed resolved.~~

~~2.02.205 Service Awards~~

~~The Chief Operating Officer shall provide a service award program for permanent Metro employees.~~

~~2.02.210 Education, Training and Development Policy~~

~~(a) Education and Development. All regular full-time employees, upon successful completion of the six-month probationary period, are encouraged to pursue educational opportunities or development programs which are directly related to the employee's work and which will enhance the employee's job-related skill level.~~

~~(1) A full-time employee who registers for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses provided that:~~

~~_____ (A) The course is submitted to the employee's Department Director for approval at least 30 days prior to proposed enrollment, and the course is approved by the Department Director.~~

~~_____ (B) The course is taken on the employee's own time.~~

~~_____ (C) The amount of reimbursement is at the Department Director's discretion and is subject to departmental budgetary limitations and priorities.~~

~~_____ (D) The employee receives a grade of "C" or better or a "pass" grade if the class is graded on a "Pass/Fail" basis. Metro will make reimbursement within 30 days after proof of satisfactory completion of the course.~~

~~_____ (E) The employee is not receiving reimbursement for tuition from other sources.~~

~~_____ (F) The tuition reimbursement per course shall not exceed the tuition rate for a similar course at Portland State University.~~

~~_____ (G) The tuition reimbursement for any single course shall not exceed the tuition rate for a three-hour graduate level course at Portland State University.~~

~~_____ (H) The total tuition reimbursement to an employee shall not exceed \$1,000 in any fiscal year.~~

~~_____ (2) In lieu of tuition reimbursement, the Department Director may approve time off with pay so an employee may attend courses or development programs which are directly related to the employee's current position and will result in improved job performance or skills.~~

~~_____ (3) Normally, the cost of textbooks and technical publications required for such courses or development programs shall be the responsibility of the employee. However, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, the textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the educational courses or development programs.~~

~~_____ (b) Training. Metro may develop and implement its own training and development programs or may obtain and implement training and development programs to be conducted by person(s) other than Metro employees.~~

~~_____ (1) The Department Director may temporarily change an employee's work assignment for a period not to exceed 90 work days, without posting, so that such employee can participate in training and development provided.~~

~~_____ (2) If an employee is required to participate in any training and development program, it shall be considered time worked for pay purposes. All tuition, texts, training materials, and other expenses incident to such required participation shall be assumed by the department.~~

~~(3) If an employee desires to participate in any training and development program in which their participation is not required, time off to attend must be approved by the Department Director. All tuition, texts, training materials, and other expenses incident to such non required participation shall be assumed by the employee, however, the Department Director may elect to reimburse the employee for textbooks and publications for such courses. If the employee is reimbursed, textbooks and publications shall be the property of Metro and shall be returned to the Department Director upon completion of the training or development program.~~

~~(4) Metro shall notify employees of available training and development programs provided by Metro.~~

2.02.215 ## Drug and Alcohol Policy

(a) Purpose

The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the ~~Personnel~~ [Human Resources](#) Director.

(b) Employee Conduct

(1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).

(2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.

(3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.

(4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the ~~Personnel~~ [Human Resources](#) Director.

(5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) Drug and Alcohol Testing

Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable

suspicion” means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the ~~Personnel~~ Human Resources Director.

(d) Definitions

For the purposes of this policy:

(1) An employee has a controlled substance “in his or her system” when the employee tests “positive” in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.

(2) An employee is “under the influence” of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.

(3) The term “controlled substance” means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) Drug Related Convictions

As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(f) Refusal to Consent; Employees

An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration

The Drug and Alcohol Policy and program are administered by the ~~Personnel~~ Human Resources Director.

2.02.~~220~~ ## Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

~~2.02.225 Conferences, Memberships and Conventions~~

~~Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating Officer. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interest of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer or his/her designee limited, however, to the availability of budgeted funds.~~

2.02.~~230~~ ## Employee Organizations and Representation

(a) Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

(b) Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council.

2.02.235 ## Political Activity

(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, or his/her supervisor.

(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office-holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

2.02.240 Ethical Requirements for Employees, Officers, Elected and Appointed Officials

(a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.

(b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.

(c) All public officials of Metro shall strictly comply with the following requirements:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on

any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the Council Clerk at the time of filing with the appropriate state agency.

(e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

(f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:

(1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

(2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

(5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1.)

~~2.02.245 Zoo Visitor Services Employees~~

~~(a) Purpose. The purpose of this section is to establish personnel policies pertaining to the conditions of employment of Zoo visitor services worker employees; to promote efficiency, economy, and public responsiveness in the operation of the Zoo visitor services division; and to provide that the employees covered by this section shall be subject to proper conduct, the satisfactory performance of work, and the availability of funds. Other sections of this chapter apply to visitor services employees; however, in the event of a conflict between this section and other sections of this chapter, this section shall govern.~~

~~(b) Definitions~~

~~(1) The visitor services worker classification is divided into two definitions and nothing contained in this section shall be construed as any guarantee of hours worked per day or per week:~~

~~(A) Seasonal Visitor Services Worker employee: Employees who are employed on a seasonal basis. They will be scheduled regularly during the peak seasons and scheduled as needed and as available during the remainder of the year.~~

~~The probationary period for seasonal visitor services employees is the initial 30 workdays of employment, and an additional probationary period shall not be required at a subsequent reinstatement, if the reinstatement is within one year of termination in good standing. Visitor services employees serving their initial probationary period may be disciplined or terminated without cause, with or without prior notice. However, nothing in this paragraph shall be construed as implying or requiring that cause must exist for the discipline or termination of a seasonal status employee who has completed the initial probationary period.~~

~~(B) Regular Visitor Services Worker employee: Employees who are employed on a year round basis in the visitor services division of the Oregon Zoo and regularly scheduled to work 20 or more hours each week, as provided by the current adopted budget.~~

~~(2) "Director" means director of the Oregon Zoo.~~

~~(3) Seasons are defined as April through the first week in September (Labor Day) and the second week in September through March.~~

~~(c) Application of Personnel Policies. All visitor services worker employees shall be subject to this section and to all other Zoo personnel policies and regulations not inconsistent with this section.~~

~~(d) Recruitment and Appointment for Seasonal Visitor Services Worker Employees~~

~~(1) In house recruitment to fill seasonal visitor services vacancies is not required and is at the discretion of the visitor services manager.~~

~~(2) Recruitment to fill vacancies shall include appropriate forms of announcements to attract qualified applicants and to comply with Affirmative Action goals.~~

~~(3) At the beginning of each season a general recruitment will be initiated. The recruitment will remain open until the beginning of the following season. A list of qualified applicants will be developed by the visitor services manager pursuant to these visitor services worker rules, from which visitor services workers will be appointed. Applicants will be appointed from this list on an~~

~~as-needed basis only. If the seasonal list is not exhausted, those not hired but remaining on the list must go through the next season's selection process to be considered for hiring. The visitor services manager will maintain the list and will determine who will be appointed.~~

~~(4) Employees who leave in good standing may, within one year of termination, be reinstated without going through a recruitment process.~~

~~(e) Recruitment and Appointment for Regular Visitor Services Worker Employees~~

~~(1) In-house recruitments to fill regular visitor services worker vacancies are open only to current seasonal visitor services worker employees which will be the first means used. If no one applies, then the position may be filled with a current seasonal employee who shall be appointed by the visitor services manager.~~

~~(2) In-house recruitments to fill vacancies as described in (1) above, shall include posting of such vacancies for at least five calendar days within the visitor services division.~~

~~(3) Regular visitor services worker employees will be eligible to apply in-house for all vacant regular (non-visitor services worker) positions within Metro.~~

~~(f) Status of Seasonal Visitor Services Worker Employee Seasonal visitor services worker employees will be eligible to compete for in-house recruitments of a regular, non-visitor services worker position, if they have worked 40 hours per week for three consecutive months and were hired through a competitive process for or had been reinstated to the position they currently hold.~~

~~(g) Benefits~~

~~(1) Benefits required by law such as Workers' Compensation and Social Security will be paid for all visitor services employees. Seasonal visitor services worker employees will not receive any other benefits.~~

~~(2) Seasonal visitor services worker employees will not be paid for holidays not worked. Designated holidays shall be considered as normal workdays.~~

~~(3) Regular visitor services worker employees appointed to one of the regular visitor services worker positions will receive a full benefit package when working a minimum of 20 hours per week.~~

~~(h) Performance Evaluation. Performance evaluations will be performed at least once during the initial 30-workday probationary period.~~

~~(i) Disciplinary Action~~

~~(1) Nothing contained in this section precludes the visitor services manager or Zoo Director from establishing work rules not inconsistent with this section for efficient operations and administration of the job site, or precludes the manager from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication.~~

~~(2) It is appropriate, though not always necessary in every circumstance, that disciplinary actions be taken progressively. Disciplinary actions will take into consideration the degree,~~

severity, and frequency of the offense and/or circumstances surrounding the incident. Any disciplinary action shall be done in a manner that is least likely to embarrass the employee before other employees or the public. Copies of disciplinary actions shall be placed in the employee's personnel file. Any disciplinary action may be grieved under the grievance procedure established in Chapter 2.02 of the Code.

~~(3) The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes:~~

~~(A) Abandonment of position.~~

~~(B) Absence from duty without leave.~~

~~(C) Abuse of leave privileges.~~

~~(D) Below standard work performance.~~

~~(E) Discourteous treatment of the public or other employees.~~

~~(F) Intoxication during working hours.~~

~~(G) Fraud in securing appointment or promotion.~~

~~(H) Insubordination.~~

~~(I) Misuse of Metro property, funds or records.~~

~~(J) Neglect of duty.~~

~~(K) Willful deceit.~~

~~(L) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for the division.~~

~~(M) Violation of Metro Code, ordinances and regulations, established work rules and directives, including those directives defined in the Visitor Services Worker Handbook.~~

~~(4) Dismissal. Should the actions of an employee indicate the dismissal of the employee may be necessary, the visitor services manager will review the proposed termination with the Personnel Director, including a review of any response or explanation by the employee. If the dismissal action is appropriate, the visitor services manager will seek authorization from the Zoo Director to proceed with the dismissal. The employee shall be notified in writing of the dismissal action. The notice will become a permanent part of the employee's personnel file. Payroll shall be notified to prepare the final check.~~

~~(j) Promotion. Eligibility for assignment to visitor services worker 2 and 3 classifications shall be established by the visitor services manager and shall be subject to in-house recruitment established in (f)(1-3) above upon determination that an employee has acquired or possesses the knowledge, skill and ability required for the position.~~

~~(k) Wage Rates~~

~~(1) Visitor services worker employees will be paid at a rate in the pay plan recommended by the visitor services manager and the Personnel Director, and approved by the Chief Operating Officer and the Council.~~

~~(2) The step range for each employee shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new visitor services worker employees at the beginning step of the visitor services worker 1 salary range. Exceptions approved by the Chief Operating Officer may be made to allow hiring above the beginning step. Total hours of previous work experience with the Zoo and the quality of that work will be considered in determining the step for previous employees reemployed at the Zoo in subsequent seasons.~~

~~(3) Eligibility for a wage increase shall be at the discretion of the visitor services manager and after successful completion of the initial probationary period.~~

~~(4) Section 2.02.160 of the Metro Code (Salary Administration Guidelines) shall not apply to any visitor services worker employees.~~

~~(1) Reporting and Hours of Work~~

~~(1) Because the number of seasonal visitor services worker employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Director or his/her designee shall establish appropriate procedures for regulating reporting during inclement weather.~~

~~(2) Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three hours in one day.~~

~~(m) Rest and Meal Period~~

~~(1) A rest period of 10 minutes with pay will be provided during each work period of four hours.~~

~~(2) A non-paid lunch period of 30 minutes shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.~~

~~2.02.250 Volunteers~~

~~A volunteer is an individual serving in a non-paid voluntary status. Volunteers are not considered employees of Metro and are not subject to the provisions of this chapter, except as otherwise provided by law.~~

~~2.02.255 Acknowledgment of Receipt of Personnel Policies~~

~~All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:~~

~~"I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor~~

can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."

Print Employee Name _____ Employee Signature

Date _____ Social Security Number

2.02.300 Personnel Rules for Represented Employees

Sections 2.02.300 to 2.02.499 of this Metro Code shall be known as and may be cited as the "Metro Personnel Rules for Represented Employees". As used in Sections 2.02.300 to 2.02.499, references to "rules" or "chapter" shall be deemed to be references to these Metro Personnel Rules for Represented Employees.

2.02.305 Purpose

The purpose of this chapter is:

_____ (a) _____ To provide and maintain a system of personnel administration for all represented employees in which the appointment and retention of persons in Metro employment shall be achieved on the basis of promoting the public welfare and implementing Metro's responsibilities;

_____ (b) _____ To establish and maintain a position classification plan which shall group all positions into classifications based upon their duties and responsibilities;

_____ (c) _____ To provide for a compensation plan which shall include for each classification a minimum and/or maximum salary rate and such intermediate salary rates as the Council considers necessary and equitable;

_____ (d) _____ To promote efficiency, economy, and public responsiveness in the operation of Metro; and

_____ (e) _____ To provide that the employees covered by these rules shall be subject to proper employee conduct, the satisfactory performance of work, and the availability of funds.

_____ (f) _____ The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Chief Operating Officer and the employee, and subject to the approval by the Metro Council.

_____ (g) _____ Nothing contained in this section or elsewhere in the chapter shall be construed as any guarantee of hours worked per day or per week.

~~———— (h) ——— This chapter shall apply to all represented employees. Employees who are in certified or recognized bargaining units shall have all aspects of their wages, hours, and working conditions determined by collective bargaining agreements, except with regard to the recruitment and selection of applicants for initial appointment to a position, and except as addressed in this chapter. If a conflict exists between this chapter and the terms of a valid collective bargaining agreement, the collective bargaining agreement shall govern.~~

~~———— (i) ——— Where a collective bargaining agreement contains any type of grievance resolution procedure, that procedure, including any procedural and/or substantive limitations placed upon it by the collective bargaining agreement, shall be the sole and exclusive remedy for employees in that bargaining unit.~~

~~2.02.310 Administration of the Rules~~

~~The Chief Operating Officer shall be responsible for:~~

~~———— (a) ——— Administering or delegating the administration of all the provisions of this chapter.~~

~~———— (b) ——— Reviewing and recommending to the Council necessary changes to this chapter.~~

~~———— (c) ——— Publishing a Personnel Procedures Manual to implement the provisions of this chapter.~~

~~2.02.315 Amendment~~

~~Administrative amendments which deal solely with correcting grammatical or typographical errors, or correcting position titles to reflect properly processed reclassification and title changes, or correcting departmental name changes to accurately reflect current organizational structure may be approved by the Chief Operating Officer. All proposed amendments to this chapter and/or benefit changes will be required to be adopted by the Council. Copies of proposed amendments shall be given to union(s) representative at least 30 days prior to the Council meeting in which they are to be considered.~~

~~2.02.320 Separability~~

~~If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.~~

~~2.02.325 Definitions of Personnel Terms~~

~~For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:~~

~~———— (a) ——— "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.~~

~~———— (b) ——— "Council" means the elected governing body of Metro.~~

~~———— (c) ——— "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.~~

~~———— (d) ——— "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.~~

- ~~(e) "Dismissal" means the termination of employment for cause (see Termination).~~
- ~~(f) "Division" means a major functional unit of a department.~~
- ~~(g) "Employee" means an individual who is salaried or who receives wages for employment with Metro.~~
- ~~(h) "Exempt position" means a position exempt from mandatory overtime compensation.~~
- ~~(i) "Fiscal year" means a 12-month period beginning July 1, and ending June 30.~~
- ~~(j) "Full time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.~~
- ~~(k) "Non-exempt" position means a position that is eligible for overtime compensation.~~
- ~~(l) "Part time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.~~
- ~~(m) "Permanent employee" means an employee who is appointed to fill a budgeted position and who is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.~~
- ~~(n) "Permanent position" means a budgeted position which is not temporary or seasonal. However, the term permanent does not confer any form of tenure or other expectation of continued employment.~~
- ~~(o) "Personnel action" means the written record of any action taken affecting the employee or the status of his/her employment.~~
- ~~(p) "Personnel Director" means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.~~
- ~~(q) "Personnel file" means an employee's official personnel file which is kept in the office of personnel.~~
- ~~(r) "Probationary period" means a continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.~~
- ~~(s) "Reclassification" means a change in classification of a position by raising it to a class with a higher rate of pay, reducing it to a class with a lower rate of pay, or changing it to another class at the same rate of pay, based upon the duties currently assigned to an existing position or to be assigned for a vacant position. If the position is filled, the incumbent employee is reclassified along with the position.~~
- ~~(t) "Regular employee" means an employee who has successfully completed the required initial probationary period occupying a permanent position.~~

~~———— (u) ——— "Represented employee" means an employee who is in a recognized or certified bargaining unit.~~

~~———— (v) ——— "Resignation" means voluntary separation from employment.~~

~~———— (w) ——— "Status" refers to the standing of an employee.~~

~~———— (x) ——— "Termination" means the cessation of employment with Metro, whether or not for cause.~~

~~2.02.330 Position Classification Plan~~

~~———— (a) ——— The purpose of the classification plan is to provide an inventory of specifications for each classification. The plan shall be developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority and qualifications are included within the same class, and so that the same range of compensation will apply. Each permanent position shall be allocated to an appropriate classification on the basis of the duties and responsibilities of the position.~~

~~———— (b) ——— Classification titles shall be used in all personnel, budget and financial records.~~

~~———— (c) ——— The classification plan shall cover permanent full-time and permanent part-time positions, as adopted and amended by the Council.~~

~~———— (d) ——— The Chief Operating Officer or his/her designee shall establish administrative procedures to implement the classification and pay plans. The Chief Operating Officer may make administrative changes to classification specifications, title, and classification numbers.~~

~~2.02.335 New Positions~~

~~Any new positions added to the budget require Council approval.~~

~~2.02.340 New Classifications~~

~~Any new classification added to the classification plan requires Council approval.~~

~~2.02.345 Reclassification of Existing Positions~~

~~Reclassification of an existing position from one existing classification to another existing classification may be approved by the Chief Operating Officer provided the reclassification can be accomplished with the limitations of the current budget.~~

~~2.02.350 Pay Plans~~

~~Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council. The Chief Operating Officer, Personnel Director, and labor relations officer will meet with designated Councilors prior to the expiration date of collective bargaining contracts to discuss fiscal direction regarding pay and benefits for negotiations with the unions.~~

~~2.02.355 Salary Administration~~

~~———— (a) ——— Upon initial appointment to a position, each employee should receive a salary at or 5 percent above the beginning salary rate of the salary range for the class to which the position is allocated. Appointment at or 5 percent above the beginning salary rate should be the general practice, with appointments above that level being the exception for outstanding qualifications and experience, and subject to departmental personal services budget resources and approval of the Hiring Department Director with concurrent notification to the Chief Operating Officer.~~

~~_____ (b) _____ When an employee is reclassified to a position in a classification with a higher maximum salary rate, the employee shall be placed on the beginning salary rate of the salary range or receive an increase of 5 percent, whichever is greater.~~

~~_____ (c) _____ A reclassified employee shall not serve a probationary period. An employee reclassified to a position in a classification with a higher maximum salary rate shall not receive a salary increase after completion of six months in the new classification. The employee's anniversary date shall reflect the effective date of the reclassification.~~

~~_____ (d) _____ When an employee is reclassified to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's rate of pay shall remain the same (red-circled) until annual adjustments to the pay plan bring the employee's rate within the new classification range. At that time, the employee will become eligible for merit increases.~~

~~_____ (e) _____ When an employee is voluntarily demoted to a position in a classification with a lower maximum salary rate, the employee's salary rate shall not be reduced as long as the employee's current salary rate is within the lower salary range. If the employee's salary rate is above the new salary range, the employee's salary will be reduced to the highest rate of the new range. In no case, shall an employee's current salary rate be increased upon voluntary demotion.~~

2.02.360 Pay Policies

~~_____ (a) _____ Permanent employees shall be paid according to the pay plan adopted by the Council and administered by the Chief Operating Officer.~~

~~_____ (b) _____ Employees shall be paid twice monthly.~~

~~_____ (c) _____ In the event the normal payday falls on a holiday, payday shall occur the workday before the holiday. If the normal payday falls on a Saturday or a Sunday, payday shall be the prior Friday.~~

~~_____ (d) _____ Payroll procedures shall be established and implemented by the finance and management information department, accounting division.~~

~~_____ (e) _____ Payroll deductions will be made for income tax withholding, Workers' Compensation insurance and employee contributions to employee benefits, and may be made for the United Way Fund, payments to the employee's credit union and other agencies as approved by the Chief Operating Officer at the request of the employee;~~

~~_____ (1) _____ Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.~~

~~_____ (2) _____ The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive~~

~~among the employees of Metro. The Chief Operating Officer's action shall be based on the criteria stated in subsection (3) of this section.~~

~~(3) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:~~

~~(A) Be a fund-raising organization which raised funds for 10 or more charitable agencies.~~

~~(B) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.~~

~~(C) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).~~

~~(D) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.~~

~~(E) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.~~

~~(F) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.~~

~~(4) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.~~

~~2.02.365 Affirmative Action Policy~~

~~(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.~~

~~(b) Affirmative Action Program. The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.~~

~~2.02.370 Nepotism~~

~~Notwithstanding Metro's affirmative action policy and program, no member of an employee's family (husband, wife, son, daughter, mother, father, brother, sister, in-laws of any kind, aunt, uncle, niece, nephew, stepparent, or stepchild) shall be employed in a position of exercising supervisory, appointment, or grievance adjustment authority over the other family member.~~

~~2.02.375 Internal Recruitment~~

~~A regular employee who has successfully completed his/her initial probationary period may apply for vacant positions and will be considered as an internal applicant. All applications will be considered~~

~~without prejudice to their present positions. Regular, regular part-time (and temporary employees) who apply will be given first consideration in filling a vacant position. Notice of internal recruitment shall be posted not less than five working days to allow for receipt of applications.~~

~~2.02.380 Probationary Period~~

~~The probationary period shall be a continuation of the screening process and shall provide the supervisor an opportunity to observe the employee's work, to instruct and aid the employee in adjustment to the position, and to reject any employee who does not demonstrate fitness for the position. The successful completion of probation is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.~~

~~———— (a) ——— Reclassification. No employee's position shall be reclassified until such time as he/she has successfully completed his/her initial six-month probationary period in the classification into which he/she was hired. Employees whose positions are reclassified, upon successful completion of the initial probationary period, shall not serve an additional probationary period.~~

~~———— (b) ——— Demotions. An employee must have completed his/her initial six-month probationary period prior to requesting a voluntary demotion and shall not serve a new probationary period upon demotion.~~

~~———— (c) ——— Any authorized leave without pay during any probationary period will extend the probationary period by the amount of time the employee is on such leave.~~

~~2.02.385 Job Share~~

~~Any full-time position may be designated as a job share position by the Chief Operating Officer at the request of a Department Director. A job share position is a full-time position which is shared by two employees. Benefits for such position shall be apportioned between the position occupants in proportion to time worked by each; however, such apportioning may be altered upon written agreement of position occupants and approval by the Personnel Director. In no event, however, shall the benefits of a job share position exceed the benefits of any other full-time position.~~

~~2.02.390 Orientation~~

~~All new permanent employees shall be provided with a copy of this chapter and insurance plans and Metro shall periodically provide them with orientation sessions.~~

~~2.02.395 Workers' Compensation Insurance~~

~~———— (a) ——— All employees shall be covered for medical expenses and disability benefits for compensable injuries or illness resulting from employment.~~

~~———— (b) ——— Payment of medical expenses and lost time disability benefits is determined by the Workers' Compensation administration in accordance with ORS Chapter 656.~~

~~———— (c) ——— The cost of Workers' Compensation insurance shall be paid by Metro with the exception of the employee contribution mandated by the Workers' Compensation Law of the State of Oregon.~~

~~———— (d) ——— During an employee's absence due to an on-the-job injury or occupational illness, the employee may utilize sick leave or vacation credits to augment any benefits paid by the Workers' Compensation fund.~~

~~2.02.400 Transfers~~

All vacant positions are subject to normal recruitment procedures.

~~(a) Involuntary Transfer. A lateral transfer of an incumbent employee without the consent of the incumbent employee may be made due to operational needs or as a result of disciplinary action, but the incumbent employee must be given 10 calendar days prior notice. The incumbent shall be transferred with the position.~~

~~2.02.405 Sick Leave Transfer~~

~~Under normal circumstances leave accruals are not transferable. However, upon written request of a regular employee to the Chief Operating Officer, the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:~~

~~(a) Each request will be reviewed and approval granted or denied on a case by case basis by the Chief Operating Officer.~~

~~(b) Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.~~

~~(c) The requesting employee must have no more than forty (40) hours, combined accrued sick leave hours and accrued vacation leave hours, at the time of the request.~~

~~(d) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.~~

~~(e) Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:~~

~~(1) The transferring employee's Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.~~

~~(2) The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.~~

~~(3) Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.~~

~~(f) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.~~

~~(g) Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.~~

~~(h) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division for implementation and to the office of personnel.~~

2.02.410 Family Medical Leave

~~Metro provides family medical leave of up to twelve (12) weeks within a one year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or because of the birth of a child, or the placement of a child for adoption or foster care in the employee's home, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously ill spouse, parent, parent in law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid. Except for limited circumstances, family medical leave runs concurrent with other leaves.~~

~~(a) The employee shall be entitled to take family medical leave without being penalized for taking such leave.~~

~~(b) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave.~~

~~(c) All full time and part time employees who have completed at least 180 calendar days of employment while averaging at least 25 hours of work per week are eligible to request the leave.~~

~~(d) Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on family medical leave as for other benefit eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit.~~

~~(e) Eligible employees may take a maximum of 12 weeks of family medical leave within a one year period. Each one year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced workweek schedule, or intermittently.~~

~~(f) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Director and the office of personnel at least 15 days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Director to be confirmed in writing to the Department Director and the office of personnel within three working days.~~

~~The employee's written request must contain the following:~~

~~(1) The relationship of the employee to the person needing care.~~

~~(2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition.~~

~~(3) The anticipated length of absence, not to exceed 12 weeks.~~

~~(4) Other family members who are taking family medical leave and when they are taking it, or are otherwise available to care for the family member.~~

~~———— (g) ——— Metro is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for Metro, they can have only 12 weeks of combined leave for birth, placement for adoption or foster care in the employee's home, or caring for a sick parent or parent in law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.~~

~~———— (h) ——— The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of Metro's operations, subject to the approval of the treating physician.~~

~~———— (i) ——— The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.~~

~~———— (j) ——— At the conclusion of a family medical leave, the employee shall be reinstated to his/her former position, unless it has been eliminated due to material changes in Metro's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.~~

~~———— (k) ——— Employees who do not return by the date specified may be disciplined up to and including dismissal.~~

~~2.02.415 Pregnancy Leave/Transfer~~

~~Metro provides temporary transfer or pregnancy leave without pay to eligible employees who are physically unable to perform the duties of their regular position due to pregnancy, child birth, or related medical reasons, without significant risk to the health or safety of the employee or her pregnancy.~~

~~———— (a) ——— The employee shall be entitled to take pregnancy leave or temporary transfer due to pregnancy without being penalized.~~

~~———— (b) ——— The position of an employee on temporary transfer or pregnancy leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement.~~

~~———— (c) ——— An employee returning from pregnancy leave or temporary transfer shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.~~

~~———— (d) ——— Subject to these policies, and upon written request, all pregnant employees of Metro are eligible.~~

~~———— (e) ——— Temporary Transfer~~

~~———— (1) ——— Metro shall provide a temporary transfer for the employee if there is an available job which is suitable for the employee and to which the transfer can be reasonably accommodated.~~

~~———— (2) ——— To initiate a transfer, the employee must submit a written request to the Department Director and the office of personnel. The employee's written request must contain the following:~~

~~_____ (A) The specific duties affected by the pregnancy.~~

~~_____ (B) The reasons why the employee is unable to perform her duties without significant risk to the health or safety of the employee or her pregnancy.~~

~~_____ (C) A statement that the employee is physically able to perform available work.~~

~~_____ (D) A doctor's opinion/certificate confirming (a), (b), and (c) above to determine whether a transfer is reasonably necessary.~~

~~_____ (3) The Department Director or the office of personnel may request an additional independent medical opinion, at Metro expense, within three working days after receipt of the initial medical opinion.~~

~~_____ (f) Pregnancy Leave~~

~~_____ (1) Metro shall provide a pregnancy leave of absence if no suitable work is available for temporary transfer, and if the leave can be reasonable accommodated.~~

~~_____ (2) The period of leave shall be the reasonable period of time during which the employee is disabled from performing any available positions. To initiate a leave of absence, the employee must make the request in writing to her Department Director and the office of personnel. The leave request must include the period of time for which the leave is requested. The leave request must also address the employee's disability from performing other available work.~~

~~_____ (A) If the employee previously requested a temporary pregnancy transfer, she must state whether a transfer was offered to her, and if a transfer was offered, the employee must explain why she is disabled from performing those job duties.~~

~~_____ (B) If the employee did not request temporary pregnancy transfer, she must explain why she is disabled from performing any available job duties known to her.~~

~~_____ (C) A doctor's opinion/certificate confirming (a) or (b) above.~~

~~_____ (3) The Department Director or the office of personnel may request an additional independent opinion, at Metro expense, within three working days after receipt of the initial medical opinion.~~

~~_____ (4) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay,~~

~~benefits will be paid through the last day of the month following the month in which the leave without pay commences.~~

~~(5) If, during the course of the leave, another position which the employee is qualified to perform becomes available, Metro will, within three working days, offer the available position to the employee, unless a physician has determined that the employee must remain on leave for a fixed or minimum period of time and the job becomes available during that period of time, or unless a physician has determined that the employee is disabled from performing any job duties for an indefinite period of time.~~

~~(g) If, during the course of pregnancy leave or transfer, the employee regains the ability to perform the duties of her former position, she shall, within three working days of her knowledge of her regained ability, notify Metro. Metro shall restore the employee to her former position within 10 working days of notification by the employee, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.~~

~~(h) If, at any time during the course of pregnancy leave or transfer, the employee is released by her treating physician to perform the duties of her regular position, she must provide the written release to her Department Director and the Personnel Director with three working days of the release. Metro will, within 10 working days of receipt of notice of release, restore the employee to her former position, unless the position has been eliminated due to changed circumstances, in which case the employee will be reinstated to an available equivalent position. If no equivalent positions are available, the employee shall be reinstated to an available and suitable position.~~

~~(i) Employees who do not follow timelines established in this policy or do not return by the date specified may be disciplined up to and including dismissal.~~

2.02.420 Parental Leave

~~Metro provides parental leave of up to 12 weeks for eligible employees who have become parents. At the employee's discretion, the leave shall be paid from accrued vacation time or accrued sick leave, or be unpaid.~~

~~(a) The employee shall be entitled to take parental leave without being penalized for taking leave.~~

~~(b) When the employee returns from the leave, he or she must be restored to the former or an equivalent job, without loss of seniority, service credits, etc. If the employee cannot be reinstated to the former or equivalent job because the employer's circumstances have changed, the employee must be reinstated to any other position that is available and suitable.~~

~~(c) All employees who have completed 90 days of service are eligible to request the leave. If the period of leave occurs during any probationary period, the probationary period shall be extended for the period of the leave.~~

~~(d) Employees have the option of using their accumulated leave balances during pregnancy leave. If the employee chooses to utilize accumulated balances, benefits will be continued as long as the leave is continued on paid status. If the employee chooses to take leave without pay, health and welfare coverage will continue at the same level of benefits and contributions as for other benefit-eligible employees to the extent the employee qualifies for family medical leave, otherwise, benefits only~~

~~continue as long as the leave is continued on paid status. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, Metro can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or by a lawsuit. If the employee chooses to take leave without pay, benefits will be paid through the last day of the month following the month in which the leave without pay commences.~~

~~———— (e) ——— Employees are entitled to a maximum of 12 weeks unpaid parental leave. Such entitlement begins on the date of birth of the child, or on the date of the taking of physical custody of a newly adopted child.~~

~~———— (f) ——— A request shall be submitted simultaneously to the Department Director and the office of personnel 30 calendar days before the occurrence of the event. The request must be in writing and contain the following information:~~

~~———— (1) ——— The employee's intent to take parental leave beginning on a date certain more than 30 days from the date of the request.~~

~~———— (2) ——— The anticipated date of birth of the parent's child, or~~

~~———— (3) ——— The anticipated date that the parent will obtain physical custody of a newly adopted child under six years of age.~~

~~———— (4) ——— The dates when the parent, or if both parents request parental leave, the dates which each parent will commence and terminate his or her portion of the parental leave.~~

~~———— (5) ——— Failure to submit a written request in accordance with (1) above may result in a reduction of leave time by three weeks as a penalty for untimely notice of leave.~~

~~———— (g) ——— Employees who return from parental leave by the date listed in the written request on file will be restored to their former position without loss of seniority or vacation credits. If circumstances change so that the employee's former job is no longer available, that worker will be reinstated to an equivalent position or any other position that is available and suitable. Employees who do not return may be disciplined.~~

~~2.02.425 Preamble Conduct, Discipline, Termination and Appeal~~

~~Nothing contained in this chapter precludes a supervisor from establishing work rules not inconsistent with this chapter for efficient operation and administration of the job site, or precludes a supervisor from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication. Any disciplinary action may be grieved by represented employees under the grievance procedure established in the collective bargaining agreement.~~

~~2.02.430 Disciplinary Actions~~

~~Disciplinary actions shall include only the following: oral or written reprimand, suspension, reduction in pay, demotion and termination from employment. Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively.~~

~~———— (a) ——— The following are some examples (but not all) of the types of conduct which will result in disciplinary action. The listing of these examples is for illustrative purposes, and in no way limits Metro's authority and discretion to discipline or terminate employees pursuant to paragraph (A) of this section:~~

- ~~(1) Abandonment of position.~~
 - ~~(2) Absence from duty without leave.~~
 - ~~(3) Abuse of leave privileges.~~
 - ~~(4) Below standard work performance.~~
 - ~~(5) Discourteous treatment of the public or other employees, including but not limited to intentional tortious conduct.~~
 - ~~(6) Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during working hours.~~
 - ~~(7) Fraud in securing appointment or promotion.~~
 - ~~(8) Insubordination.~~
 - ~~(9) Misuse of Metro property, funds or records.~~
 - ~~(10) Neglect of duty.~~
 - ~~(11) Willful deceit.~~
 - ~~(12) Any conviction by a court of law which demonstrates an impaired ability to properly perform work for Metro.~~
 - ~~(13) Violation of Metro ordinances, regulations and directives.~~
 - ~~(14) Willful violation of established safety policies.~~
 - ~~(15) Any falsification of information during the employment application or employment appointment process, regardless of when discovered.~~
 - ~~(16) Unlawful harassment or discrimination.~~
 - ~~(17) Theft, including personal or public property.~~
 - ~~(18) Sleeping on the job.~~
 - ~~(19) Gambling on Metro premises, including but not limited to card games, dice games, but not including employee pools.~~
 - ~~(20) Violation of this chapter, established work rules, or other management directives.~~
- ~~(b) Procedure for Suspension, Reduction in Pay, Demotion or Termination. The supervisor will review information gathered with the office of personnel prior to the supervisor taking any suspension without pay, reduction in pay, demotion or termination action. If a basis for discipline exists:~~

~~(1) An employee may be suspended with pay, by the Department Director, pending disciplinary action.~~

~~(2) A written notice of contemplated disciplinary action (suspension, reduction in pay, demotion, or dismissal) shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:~~

~~(A) The alleged conduct by the affected employee.~~

~~(B) The violation(s).~~

~~(C) A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting. Employees may be represented by the union in a pre-disciplinary meeting.~~

~~(3) Upon completion of the pre-disciplinary meeting, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be filed in the affected employee's personnel file.~~

~~(c) The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in the collective bargaining agreement.~~

~~2.02.435 Resignation~~

~~Any employee may resign from Metro by presenting an oral or written resignation to the supervisor, manager, or Department Director. An oral resignation shall be confirmed in writing by the supervisor to the resigning employee. To resign in good standing, an employee must give a minimum of two weeks notice of resignation, unless because of extenuating circumstances the supervisor, manager, or Department Director agrees to permit a shorter period of notice. The resignation shall provide an effective date which shall be the last day actually worked, and shall be forwarded to the office of personnel by the supervisor. If an employee who has resigned seeks to rescind the resignation, such rescission only may be granted by the affected Department Director at his/her sole discretion. All compensatory time for non-exempt employees only, and vacation leave credits earned and not used, up to the 250-hour limit, shall be paid.~~

~~2.02.440 Service Awards~~

~~The Chief Operating Officer shall provide a service award program for Metro employees.~~

~~2.02.445 Education Opportunities~~

~~(a) All regular and regular part-time employees are encouraged to pursue educational opportunities which are directly related to the employee's work and which will enhance the employee's job-related skill level.~~

~~(b) Employees who register for courses which are judged to be of direct and significant benefit to Metro may receive some reimbursement for expenses incurred by the employee while taking approved courses. Procedures for application and amount awarded are contained in the Personnel Procedures Manual.~~

~~_____ (c) _____ Normally the cost of textbooks and technical publications required for such courses shall be the responsibility of the employee. If Metro purchases any of the textbooks and publications for such courses, said textbooks and publications shall become the property of Metro.~~

~~2.02.447 Drug and Alcohol Policy~~

~~_____ (a) _____ Purpose~~

~~_____ The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return to duty and follow up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Personnel Director.~~

~~_____ (b) _____ Employee Conduct~~

~~_____ (1) _____ All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).~~

~~_____ (2) _____ It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.~~

~~_____ (3) _____ All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.~~

~~_____ (4) _____ Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the Personnel Director.~~

~~_____ (5) _____ This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.~~

~~_____ (c) _____ Drug and Alcohol Testing~~

~~_____ Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Personnel Director.~~

~~_____ (d) _____ Definitions~~

~~_____ For the purposes of this policy:~~

~~(1) An employee has a controlled substance “in his or her system” when the employee tests “positive” in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.~~

~~(2) An employee is “under the influence” of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.~~

~~(3) The term “controlled substance” means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).~~

~~(e) Drug Related Convictions~~

~~As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.~~

~~(f) Refusal to Consent; Employees~~

~~An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.~~

~~(g) Program Administration~~

~~The Drug and Alcohol Policy and program are administered by the Personnel Director.~~

~~2.02.450 Smoking Policy~~

~~Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.~~

~~2.02.455 Conferences, Memberships and Conventions~~

~~Attendance at conferences, conventions or other meetings at Metro's expense shall be authorized by the Chief Operating officer. Authorization shall be granted on the basis of an employee's participation in or the direct relation of his/her work to the subject matter of the meeting. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interests of Metro. Metro shall pay for professional or trade memberships for employees when deemed appropriate by the Chief Operating Officer or his/her designee limited, however, to the availability of budgeted funds.~~

~~2.02.460 Employee Organizations and Representation~~

~~Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.~~

~~2.02.465 Political Activity~~

~~(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings.~~

~~An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, Chief Operating Officer or his/her supervisor.~~

~~(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.~~

~~(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)~~

~~2.02.470 Acknowledgment of Receipt of Personnel Policies~~

~~All permanent employees shall be given a copy of this chapter of the Code and shall acknowledge receipt by signing the following statement:~~

~~"I acknowledge that I have received a copy of the Metro Code, Chapter 2.02, which outlines my working conditions, privileges and obligations as an employee. This chapter constitutes the general policies of Metro and may be supplemented by more specific policies. Further, I understand that this chapter is necessarily subject to change. I understand that no contract of employment can be created, nor can an employee's status be modified by any oral or written agreement (except a valid collective bargaining agreement), representation, or course of conduct. Lastly, I understand that these policies do not in any way constitute a contract of employment, either express or implied."~~

Print Employee Name _____ Employee Signature

Date _____ Social Security Number

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1082 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.02 REGARDING PERSONNEL RULES AND DECLARING AN EMERGENCY

Date: May 26, 2005

Prepared by: Kevin B. Dull

BACKGROUND

After passage of the Metro charter amendment in 2001, Metro's form of government changed from a *strong* Council Executive to a *strong* Council Administrator form of managing the organization's day-to-day activities. One of the primary effects of the amended Charter was to align the strategic direction of the Metro Council to the goals and objectives of the Chief Operating Officer.

The Charter's change in the form of administering the day-to-day activities necessitates the need for the COO to have the tools necessary to effectively and efficiently manage the organization. Moving personnel policies from Code to an Executive Order effects the purposes of the charter amendment and allows the COO to effectively complete Council's policy directives regarding the management of Metro's human resources.

The efficient administration of Metro personnel matters regularly requires changes to Metro's personnel rules to meet budgetary goals, improve organizational efficiency, and to accommodate changes in laws and results of case law. The current Metro Personnel Rules contain policy statements as well as procedures for implementing personnel management.

The personnel code in its current state is a static document that prevents management from adopting best human resources management practices and changing the rules when laws affecting the code change. Removing the personnel rules from the code will allow management the ability to make necessary changes as required by law or to adjust to best human resource practices.

Examples:

Non-Represented Compensation:

Current compensation policy for non-represented employees is not flexible enough to adjust to council's goal of creating a merit pay-for-performance.

FMLA/OFLA (Family Medical Leave)

The current FMLA/OFLA policies do not allow management the maximum flexibility in managing an employee's use of FMLA/OFLA leaves and they do not allow management the flexibility to revise procedures in response to changes in legislation and/or results of case law.

The changes as proposed direct the Chief Operating Officer to create a body of personnel policies that comply with the laws related to human resource management and incorporate best human resource practices.

Removal of the personnel rules from code will not diminish a labor union's ability to demand to bargain over changes to the rules that affect mandatory subjects of bargaining (e.g. wages, hours and working conditions).

Additionally, removal of the personnel rules from code will not eviscerate the present language from existence. Rather, the present personnel rules will be transferred to an Executive Order. Human Resources will abide by and administer the Executive Order in this form until such time as revisions are made. All changes will be presented to the Council.

The COO will make quarterly reports to the Council regarding personnel administration of Metro. The council will retain oversight of the broad policy direction that the Council wishes Metro to pursue.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition.

2. **Legal Antecedents :** The Charter gives the Council the purview over personnel policies. The Council can address personnel policies through Code or it may delegate those responsibilities to the Chief Operating Officer. The Charter amendment of 2001 directed Metro to change from a strong Council Executive form of management to a strong Council Administration form of management.

The current version of the Personnel Code was created through a number of ordinances. In order to delegate the responsibility of creating and administering personnel policies to the Chief Operating Officer, the council must also pass an ordinance to move the current Personnel Code into an Executive Order.

3. **Anticipated Effects:** The Chief Operating Officer will have the authority to develop, maintain, administer and enforce Metro's Personnel Policies and Procedures.

1. 4. **Budget Impacts:** None

RECOMMENDED ACTION

Recommend that Metro Council amend Metro Code, Section 2.02 to read as shown in Exhibit "A" and declare an emergency.

**Attachment 1 to
Staff Report for
Ordinance No. 05-1082**

CHAPTER 2.02
PERSONNEL CODE

2.02.010 PERSONNEL CODE

Sections 2.02.001 to of this Metro Code shall be known as and may be cited as the “Metro Personnel Code.”

The provisions in this chapter and Metro’s Personnel Policies do not constitute a contract of employment. Moreover, in order to meet future challenges, Metro retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee’s status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.

(a) Duties of Chief Operating Officer

Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegee, shall:

- (1) Establish and maintain
 - (A) a record of all employees in Metro service
 - (B) the Metro employee classification plan
 - (C) the salary plan and salary administration policies, including employee benefits, including employee benefits
- (2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.
- (3) Establish a system of personnel administration, based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.
- (4) Devise and implement employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.
- (5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

- (6) Serve as the final grievance adjustment officer in personnel matters.
- (7) Make quarterly reports to the Council regarding the personnel administration of Metro
- (b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Sections 6.01.040(h) and (m) of the Code notwithstanding any provision of this chapter to the contrary. For this purpose, the authority and duties of the Chief Operating Officer to employ, manage and terminate employees referred to in this chapter shall reside with the commission for employees of the commission.

2.02.020 EXEMPTIONS

- (a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned to provide services to the Council may be designated as exempt from and not subject to this chapter provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.
- (b) Notwithstanding any provision of this chapter, employees in the Office of Auditor shall be exempt from and shall not be subject to this chapter except as expressly determined in writing by the Auditor, limited however to budgeted funds allocated to the Office of Auditor.

2.02.030 DEFINITIONS OF PERSONNEL TERMS

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a) **“Auditor”** means the elected Auditor of Metro or his/her designee.
- (b) **“Chief Financial Officer”** means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.
- (c) **“Chief Operating Officer”** means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.
- (d) **“Council”** means the elected governing body of Metro.
- (e) **“Department”** means a major functional unit of Metro as designated by the Chief Operating Officer.
- (f) **“Department Director”** means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.
- (g) **“Employee”** means an individual who is salaried or who receives wages for employment with Metro.
- (h) **“Full-time”** means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.

- (i) **“Layoff”** means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.
- (j) **“Part-time”** means a position in which the scheduled hours of work are less than 40 hours per week but at least 20 hours or more per week and which is provided for in the adopted budget.
- (k) **“Human Resources Director”** means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter regardless of whether the person is also a Department Director.
- (l) **“Represented employee”** means an employee who is in a recognized or certified bargaining unit.
- (m) **“Separation”** is the cessation of employment with Metro not reflecting discredit upon the employee.
- (n) **“Status”** refers to the standing of an employee.
- (o) **“Termination”** means the cessation of employment with Metro.

2.02.040 NEW POSITIONS

Any new positions added to the budget require Council approval.

2.02.050 CHARITABLE SOLICITATIONS

- (a) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.
- (b) The Chief Operating Officer with consultation of Metro employees shall by executive order establish rules and procedures to implement this section, including procedures for applications, time and length of solicitation campaigns and payroll deductions. The procedures shall specify that all solicitations shall be made during a single campaign period lasting no longer than 30 days and that employees may sign payroll deduction cards for charitable donations only during a two-week period following the end of the solicitation campaign period. The Chief Operating Officer once each year shall certify all charitable organizations recognized by Metro for the purpose of conducting a fund drive among the employees of Metro. The Chief Operating Officer’s action shall be based on the criteria stated in subsection (3) of this section.
- (c) Charitable organizations recognized to conduct a fund drive among Metro employees while on the job during working hours shall:
 - (1) Be a fund-raising organization which raised funds for 10 or more charitable agencies.

- (2) Disburse funds only to agencies whose charitable activities are primarily in the geographical areas of Metro and which have an office located within Metro.
 - (3) Be exempt from taxation under Internal Revenue Service Code Section 501(c)(3).
 - (4) Be in compliance with the Charitable Trust and Corporation Act and the Oregon Solicitation Act (ORS 128.618 through 128.898). All charitable organizations who have made the required filings under such laws and have no enforcement action pending against them shall be presumed to be in compliance with such laws.
 - (5) Have a policy prohibiting discrimination in employment and fund distribution with regards to race, color, religion, national origin, handicap, age, sex and sexual preference in the charitable organization and all its grantee agencies.
 - (6) Provide an audited annual financial report to Metro for distribution to its employees 60 days prior to the charitable campaign.
- (d) Payroll deductions for employee charitable contributions shall be allowed only for charitable organizations in compliance with this section.

2.02.060 AFFIRMATIVE ACTION POLICY

- (a) **Policy Statement.** Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.
- (b) **Affirmative Action Program.** The Chief Operating Officer or his/her designee will adopt an affirmative action policy and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.
- (c) **Recruitment Efforts.** Recruitment efforts will be coordinated by the office of personnel in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

2.02.070 RECRUITMENT AND APPOINTMENT

- (a) Except as otherwise provided for in this Code, all appointments of employees shall be the sole responsibility of the Chief Operating Officer, subject to the provisions of this chapter.
- (b) All appointments of employees to the Office of the Metro Attorney shall be the sole responsibility of the Metro Attorney.
- (c) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.
- (d) Appointments of Department Directors, the Chief Financial Officer, the Personnel Director, the Metro Attorney, staff in the Office of the Chief Operating Officer, and staff in the Office of the Auditor, may be made without going through the normal recruitment and selection process. The Personnel Director, the Chief Financial Officer, all Department Directors, and all appointed staff in the Office of the Chief Operating Officer shall serve at the pleasure of the Chief Operating Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor.

2.02.080 DRUG AND ALCOHOL POLICY

(a) **Purpose**

The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Personnel Director.

(b) **Employee Conduct**

- (1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).
- (2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.
- (3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.
- (4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or

welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the Personnel Director.

- (5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) **Drug and Alcohol Testing**

Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Personnel Director.

(d) **Definitions**

For the purposes of this policy:

- (1) An employee has a controlled substance "in his or her system" when the employee tests "positive" in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.
- (2) An employee is "under the influence" of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.
- (3) The term "controlled substance" means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule 1 or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) **Drug Related Convictions**

As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(f) **Refusal to Consent; Employees**

An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) **Program Administration**

The Drug and Alcohol Policy and program are administered by the Personnel Director.

2.02.090 SMOKING POLICY

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

2.02.100 EMPLOYEE ORGANIZATIONS AND REPRESENTATION

- (a) Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.
- (b) Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council.

2.02.110 POLITICAL ACTIVITY

- (a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, or his/her supervisor.
- (b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.
- (c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public officeholder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

2.02.120 ETHICAL REQUIREMENTS FOR EMPLOYEES, OFFICERS, ELECTED AND APPOINTED OFFICIALS

- (a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.
- (b) “Public official” means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.
- (c) All public officials of Metro shall strictly comply with the following requirements:

- (1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.
 - (2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
 - (3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.
 - (4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.
 - (5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefore or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.
- (d)** The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the Council Clerk at the time of filing with the appropriate state agency.
- (e)** The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the Council Clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.
- (f)** Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:
- (1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.
 - (2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of

the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

- (3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.
- (4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.
- (5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.