

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 22-1487
CODE SECTION 2.02.010)	
)	Introduced by Chief Operating Officer
)	Marissa Madrigal in concurrence with
)	Council President Lynn Peterson

WHEREAS, Metro Code Section 2.02.010 generally requires that the Metro Council approve written employment agreements with Metro staff; and

WHEREAS, Ordinance No. 14-1350 amended Metro Code Section 2.02.010 to allow the Metro Council to delegate the authority to the Chief Operating Officer to execute employment agreements in certain situations; and

WHEREAS, the Metro Council desires to continue to have the power to delegate authority to the COO to negotiate and execute employment agreements by resolution in certain situations; and

WHEREAS, the Metro Council also desires to clarify language in Metro Code Section 2.02.010 regarding the scope of delegation and execution of employment agreements; now therefore

BE IT RESOLVED that the Metro Council hereby ordains as follows:

The Metro Code Section 2.02.010 is amended as in Exhibit "A" attached to this Ordinance.

ADOPTED by the Metro Council this 9th day of February 2023.



Lynn Peterson, Council President

Attest:

Approved as to Form:



Connor Ayers, Recording Secretary



Carrie MacLaren, Metro Attorney

Chapter 2.02 Personnel Code

New language for Chapter 2.02 is indicated by underlined text, and deleted language is indicated by ~~strike through~~ text.

1. Amend Section 2.02.010 "Personnel Code" as follows:

Sections ~~2.02.001~~ 2.02.010 to 2.02.110 of this Metro Code ~~shall~~ will be known as and ~~may be~~ cited as the "Metro Personnel Code."

The provisions in this chapter do not ~~constitute~~ create a contract of employment. ~~Moreover, in order to meet future challenges, the~~ The Council retains the flexibility to change, substitute, and discontinue the policies and benefits described ~~herein in this chapter~~, at any time, with or without notice to employees. No person ~~shall~~ has, or will be ~~deemed considered~~ to have, a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described ~~herein in this chapter~~ or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's at-will 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.

Notwithstanding the ~~foregoing, however~~ above paragraph, the Metro Council may delegate by resolution to the Chief Operating Officer the authority to execute a written employment agreements on a case by case basis agreement for: (1) an individual Executive-level position, or as (2) for a group for Director of Executive-level employment agreements where positions in which all terms in those employment agreements are identical except salary for compensation. Any resolution delegating authority to the Chief Operating Officer to execute written employment agreements for a group of Executive-level positions must state the specific positions and the specific compensation-related provisions for which the delegation has been granted. An employment agreement may not be amended unless approved by the Metro Council.

(a) ~~Duties of Chief Operating Officer. Administration~~ The Chief Operating Officer administers and enforcement of enforces the personnel code ~~shall be the responsibility of~~. The Chief Operating Officer or ~~his or her delegate~~ the Chief Operating Officer's designee, shall must:

- (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.
- (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, and discipline of employees.

- (4) ~~Devise~~ Develop and implement employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.
 - (5) ~~Conduct labor negotiations~~ Negotiate with the authorized ~~collective bargaining labor~~ representatives of Metro employees.
 - (6) Serve as the final grievance adjustment officer in personnel matters.
 - (7) ~~Make Report~~ quarterly reports to the Council regarding the personnel administration ~~of Metro~~.
- (b) The Metropolitan Exposition-Recreation Commission ~~shall~~ must adopt personnel rules consistent with and subject to Metro Code Section 6.01.040 ~~of the Metro Code~~ notwithstanding any provision of this chapter to the contrary. The Chief Operating Officer ~~shall through the General Manager will~~ administer the policies adopted by the Commission through the General Manager. [Ordinance 05-1082, Sec. 1; Ordinance 09-1229, Sec. 2.]

2. *Amend Section 2.02.030 "Definitions of Personnel Terms" as follows:*

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

Auditor means the elected Auditor of Metro or ~~his/her~~ Auditor's designee.

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.

Chief Operating Officer means the person holding the position of Chief Operating Officer established by Metro Code Section 2.20.010. ~~of the Metro Code~~.

Council means the elected governing body of Metro.

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

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

Employee means an individual who is salaried or who receives wages for employment with Metro.

Executive-level means any Department Director, Venue Director, Deputy Chief Operating Officer, and General Manager.

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.

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.

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.

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.

Represented employee means an employee who is in a recognized or certified bargaining unit.

Separation is the cessation of employment with Metro not reflecting discredit upon the employee.

Status refers to the standing of an employee.

Termination means the cessation of employment with Metro. [Ord. 81-116, Sec. 6; Ord. 94-523B; Ord. 95-602A, Sec. 1; Ord. 02-965A, Sec. 1; Ord. 05-1082, Sec. 1.]

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 22-1487, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 2.02.010

Date: December 15, 2022
Meeting Date: January 26, 2023

Prepared by: Carrie MacLaren, Metro
Attorney and Joyce Wan, Senior Attorney

ISSUE STATEMENT

Code Section 2.02.010 requires that the Metro Council approve all written employment agreements. In 2014, the Metro Code was amended to delegate authority to perform this function to the Chief Operating Officer (COO) in certain situations. While this approach has worked well, certain ambiguous terms in the Code now require clarification to ensure employment agreements at Metro remain consistent with the Code.

The amended language clarifies the following:

1. Employment agreements may be entered into for “Executive-level” positions (such as the Deputy Chief Operating Officer and General Manager of Visitor Venues, as well as directors). There was some question whether the existing description of “director level” was adequate to include venue directors or positions in classifications above a department director (e.g., Deputy Chief Operating Officer).
2. Any resolution delegating authority to the COO to execute employment agreements for a group of Executive-level positions must clearly identify the specific positions for which the delegation has been granted, as well as what specific compensation-related provisions the COO has authority to negotiate. For example, the resolution must state if the COO may only negotiate salary, or if the COO may negotiate other compensation-related items such as vacation as well as salary. This must be clearly stated in the resolution delegating authority to the COO.
3. Employment agreements may only be amended if approved and authorized by resolution by the Metro Council.
4. The terms of Executive-level employment agreements must be identical except for compensation (rather than salary).

As described, the purpose of the proposed amendments is to clarify ambiguities in the Code, not to change the meaning. Therefore, the COO may continue to seek the authority to execute employment agreements for either an individual Executive-level position, or a group of Executive-level positions. Such authority must be delegated by the Metro Council by resolution specifying the positions to which it applies.

In addition, the Office of Metro Attorney has reviewed the particular Code sections amended by Ordinance No. 22-1487 for plain and inclusive language best practices. The

intent and purpose of these amendments is to make the Code easier to read and understand, not to change the meaning. For example, passive voice has been removed, and legalese has been replaced with plain language words (e.g., “must” used in place of “shall”).

ACTION REQUESTED

Approve Ordinance No. 22- 1487 which amends code language as reflected in attached Exhibit “A.”