

CHAPTER 2.08

OFFICE OF METRO ATTORNEY

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2.08.010 Creation of Office

(a) The office of Metro Attorney is hereby created pursuant to Metro Charter, Section 26 (2). The office of Metro Attorney shall include the Metro Attorney and such subordinate employees as the Council may provide. Subordinate attorneys shall serve at the pleasure of the Metro Attorney.

(b) Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from office, by the Metro Attorney of any of the Metro Attorney's subordinate employees.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.020 Appointment and Removal

(a) The Metro Attorney shall be appointed by the Council President subject to confirmation by the Council by resolution. The Council President shall involve the Council in the hiring process. The Metro Attorney shall be chosen solely on the basis of legal ability and qualifications with special reference to actual experience in or knowledge of the duties of the office of the Metro Attorney. At the time of the Metro Attorney's appointment, and at all times while holding office, the Metro Attorney shall be an active member in good standing of the Oregon State Bar and authorized to practice law in the State of Oregon and the Federal District Court for Oregon. During the

Metro Attorney's tenure of office the Metro Attorney shall reside within Metro's corporate boundaries.

(b) The Metro Attorney serves at the pleasure of the Council and is subject to removal by the Council President with the concurrence of the Council by resolution.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.030 Powers

The Metro Attorney shall have:

(a) General control and supervision of all civil actions and legal proceedings in which the district may be a party or may be interested.

(b) Full charge and control of all the legal business of all departments and commissions of the district, or of any office thereof, which requires the services of an attorney or counsel in order to protect the interests of the district. No district officer, board, council, commission, or department shall employ or be represented by any other counsel or attorney at law except as may be provided for in this chapter.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 02-953A, Sec. 1.)

#### 2.08.040 Duties

The Metro Attorney shall have the following duties:

(a) Give legal advice and opinions orally and in writing and prepare documents and ordinances concerning any matter in which the district is interested in when requested by the Council, the Chief Operating Officer, the Auditor, or any Metro commission.

(b) Review and approve as to form all written contracts, ordinances, resolutions, executive orders, bonds, or other legally binding instruments of the district.

(c) Except as provided by any insurance policy obtained by the district, appear for, represent, and defend the district, and its departments, officers, commissions and employees and other persons entitled to representation under the Oregon Tort

Claims Act in all appropriate legal matters except legal matters involving persons who after investigation by the office of Metro Attorney, are found by the Metro Attorney to have been acting outside the scope of their employment or duties or to have committed malfeasance in office or willful or wanton neglect of duty.

(d) Submit to the Council, Chief Operating Officer and Auditor annually a formal report of all suits or actions in which the district is a party. The report shall state the name of each pending suit or action and a brief description of the suit or action and the status of the suit or action at the date of the report. The report shall also state the name of each suit or action closed during the preceding calendar year and a brief description of the suit or action and the disposition of the suit or action including the amount of any money paid by the district. At any time the Metro Attorney shall at the request of the Council, the Chief Operating Officer, or the Auditor, report on the status of any or all matters being handled by the Metro Attorney.

(e) Appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding in any court or tribunal when requested by the Council, the Chief Operating Officer, or any Metro commission when, in the discretion of the Metro Attorney, the same may be necessary or advisable to protect the interests of the district.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 89-316; Sec. 1; Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.050 Records

(a) The Metro Attorney shall have charge and custody of the office of the Metro Attorney and of all legal papers pertaining thereto, which shall be arranged and indexed in such convenient and orderly manner as to be at all times readily accessible.

(b) The Metro Attorney shall keep in the office a complete docket and set of pleadings of all suits, actions, or proceedings in which the district, the Council, the Chief Operating Officer, the Auditor, or any Metro commission or employee thereof is a party, pending in any court or tribunal, unless the suits, actions, or proceedings are conducted by outside legal counsel retained by the district in which case the

Metro Attorney shall keep those records as the Metro Attorney deems advisable.

(c) The Metro Attorney shall keep and record all significant written opinions furnished to Metro and shall keep an index thereof; and shall keep a file including all opinions and correspondence of the office.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.060 Attorney-Client Relationship

The relationship between the office of the Metro Attorney and Metro shall be an attorney-client relationship, with Metro being entitled to all benefits thereof. For the purpose of this chapter, Metro is recognized as a single entity whose elected officials and appointed officers and commissioners collectively perform and exercise Metro's duties and authority. The Metro Attorney shall maintain a proper attorney-client relationship with the elected officials of the district so long as such officials are acting within the scope of their official powers, duties and responsibilities.

(Ordinance No. 88-237, Sec.1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.070 Employment of Outside Legal Counsel

(a) When in the judgment of the Metro Attorney the Metro Attorney deems it necessary or appropriate to do so the Metro Attorney may employ outside legal counsel on behalf of Metro to handle such matters as the Metro Attorney deems advisable. Employment of outside legal counsel is subject to the general requirements of this chapter and Code Chapter 2.04 Metro Contract Policies.

(b) The Metro Attorney is authorized to waive on behalf of the district potential conflicts of interest of outside legal counsel retained by the district if the Metro Attorney determines the waiver to be in the district's interest.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.080 Opinions

(a) The Metro Attorney shall prepare formal written opinions regarding interpretations of federal and Oregon law, the Metro Charter, and Metro ordinances. These opinions shall be official guidance to the district except as superseded by courts of law, legislative action administrative rules, or actions of other superior tribunals or bodies.

(b) Neither the Chief Operating Officer nor any member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the Metro Attorney in the preparation of any requested opinion. The Metro Attorney shall not be removed because of the rendering of any opinion. Nothing in this section prohibits, however, the Chief Operating Officer or the Council from fully and freely discussing with the Metro Attorney the legal affairs of Metro.

(Ordinance No. 90-347A, Sec. 2. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

#### 2.08.090 Compensation

The Metro Attorney shall receive such compensation as the Council shall fix from time to time by contract.

(Ordinance No. 02-953A, Sec. 1.)

#### 2.08.100 Vacancy

Any vacancy in the office of the Metro Attorney shall be filled with all due speed. During any vacancy or incapacity, the Council President may appoint an acting Metro Attorney subject to confirmation by the Council by resolution.

(Ordinance No. 02-953A, Sec. 1.)