

## CHAPTER 473

### METROPOLITAN GOVERNMENT

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## DEFINITIONS

### 473.121 DEFINITIONS.

Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them in this section, except as otherwise expressly provided or indicated by the context.

Subd. 2. "Metropolitan area" or "area" means the area over which the metropolitan council has jurisdiction, including only the counties of Anoka, Carver, Dakota excluding the city of Northfield, Hennepin excluding the city of Hanover, Ramsey, Scott excluding the city of New Prague, and Washington.

Subd. 3. "Metropolitan council" or "council" means the metropolitan council established by section 473.123.

Subd. 4. "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington.

Subd. 5. "State agency" means the state of Minnesota or any agency, board, commission, department or educational institution thereof.

Subd. 5a. "Metropolitan agency" means the metropolitan parks and open space commission, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan airports commission, and metropolitan sports facilities commission.

Subd. 6. "Local governmental unit" means any county, city, town, school district, special district or other political subdivisions or public corporation, other than the council or a metropolitan agency, lying in whole or part within the metropolitan area.

Subd. 7. [Repealed, 1986 c 460 s 59]

Subd. 8. "Metropolitan significance" means a status determined by the metropolitan council pursuant to the rules and procedures established by section 473.173.

Subd. 9. [Repealed, 1986 c 460 s 59]

Subd. 10. "Policy plan" means a long-range comprehensive plan of the metropolitan council.

Subd. 11. "Independent commission, board or agency" means governmental entities with jurisdictions lying in whole or in part within the metropolitan area but not including agencies that are subject to the requirements of section 473.161.

Subd. 12. "Metropolitan parks and open space commission" means the commission established in sections 473.302 to 473.341.

Subd. 13. "Park district" means a park district created under chapter 398.

Subd. 14. "Regional recreation open space" means land and water areas, or interests therein, and facilities determined by the metropolitan council to be of regional importance in providing for a balanced system of public outdoor recreation for the metropolitan area, including but not limited to park reserves, major linear parks and trails, large recreation parks, and conservatories, zoos, and other special use facilities.

Subd. 14a. "Regional transit board" or "transit board" means the regional transit board created by section 473.373.

Subd. 15. "Metropolitan transit commission" or "transit commission" means the metropolitan transit commission created in section 473.404.

Subd. 16. "Metropolitan transit area" means the metropolitan area.

Subd. 17. [Repealed, 1977 c 454 s 49]

Subd. 18. "Operator" means any person engaged or seeking to engage in the business of providing regular route public transit.

Subd. 18a. "Paratransit" has the meaning given in section 174.22, subdivision 6.

Subd. 19. "Public transit" or "transit" has the meaning given in section 174.22, subdivision 7.

Subd. 20. "Public transit system" or "transit system" means, without limitation, a combination of property, structures, improvements, equipment, plants, parking or other facilities, and rights, or any thereof, used or useful for the purposes of public transit.

Subd. 20a. "Regular route transit" has the meaning given in section 174.22, subdivision 8.

Subd. 21. "Metropolitan waste control commission" means the commission established in sections 473.501 to 473.549.

Subd. 22. "Acquisition" and "betterment" shall have the meanings given to them in chapter 475.

Subd. 23. "Interceptor" means any sewer and necessary appurtenances thereto, including but not limited to mains, pumping stations, and sewage flow regulating and measuring stations, which is designed or used to conduct sewage originating in more than one local government unit, or which is designed or used to conduct all or substantially all of the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit.

Subd. 24. "Metropolitan disposal system" means any or all of the interceptors or treatment works owned or operated by the metropolitan waste control commission.

Subd. 25. "Pollution", "sewer system", "treatment works", "disposal system", and "waters of the state" shall have the meanings given them in section 115.01.

Subd. 26. "Sewage" means all liquid or water-carried waste products from whatever source derived, together with such ground water infiltration and surface water as may be present.

Subd. 27. [Repealed, 1980 c 564 art 13 s 2]

Subd. 28. [Repealed, 1980 c 564 art 13 s 2]

Subd. 29. [Repealed, 1980 c 564 art 13 s 2]

Subd. 30. MS 75 Supp [Repealed, 1976 c 179 s 20]

Subd. 31. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31a. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31b. [Repealed, 1980 c 564 art 13 s 2]

Subd. 31c. [Repealed, 1980 c 564 art 13 s 2]

Subd. 32. "Metropolitan airports commission" means the commission established in sections 473.601 to 473.679.

Subd. 33. "Major airport" means any airport now or which may hereafter be operated by the metropolitan airports commission as a terminal for regular, scheduled air passenger service.

Subd. 34. "Aeronautics" means the transportation by aircraft, the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities and air instruction, and powers incidental thereto.

Subd. 35. "Airport" means any locality, either of land or water, including intermediate landing fields, which is used or intended to be used for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and also includes any facility used in, available for use in, or designed for use in, aid of air navigation, including, but without limitation, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take off of aircraft, and also includes, but without limitation, access roads, parking areas, railroad siding facilities, such land contiguous or not as may be required for installations necessary for safe and efficient operation, buildings, structures, hangars, shops and any personal property usually used in connection with the operations of such airports, including specifically, but not exclusively, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles and equipment for buildings, structures, hangars, and shops. It includes any area heretofore in the statutes of this state termed an "airport" or a "flying field."

Subd. 36. The definitions of terms relating to waste in chapter 116 and section 115A.03, also apply to the same terms relating to waste used in this chapter.

**History:** 1975 c 13 s 1; 1976 c 127 s 24; 1976 c 179 s 1-6; 1977 c 347 s 68; 1977 c 421 s 6; 1977 c 454 s 29-32; 1978 c 543 s 1; 1980 c 378 s 1; 1980 c 564 art 10 s 1; 1983 c 330 s 1; 1984 c 654 art 3 s 101-107; 1985 c 248 s 70; 1986 c 460 s 1-3; 1987 c 384 art 2 s 1

## METROPOLITAN COUNCIL

### 473.122 PURPOSE.

In order to coordinate the planning and development of the metropolitan area comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington, it is in the public interest to create an administrative agency for that purpose.

History: 1975 c 13 s 2

### 473.123 METROPOLITAN COUNCIL.

Subdivision 1. Creation. A metropolitan council with jurisdiction in the metropolitan area is created. It shall be under the supervision and control of 17 members, all of whom shall be residents of the metropolitan area.

Subd. 2. [Repealed, 1983 c 16 s 15]

Subd. 2a. Terms. Following each apportionment of council districts, as provided under subdivision 3a, council members must be appointed from newly drawn districts as provided in subdivision 3a. The terms of members are as follows: members representing even-numbered districts for terms ending the first Monday in January of the year ending in the numeral "7"; members representing odd-numbered districts for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment. A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. The appointment to the council must be made by the first Monday in March of the year in which the term ends.

Subd. 3. Membership; appointment; qualifications. (a) Sixteen members must be appointed by the governor from districts defined by this section. Each council member must reside in the council district represented. Each council district must be represented by one member of the council.

(b) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which a member is to be appointed must be notified in writing. The notices must describe the appointments process and invite participation and recommendations on the appointment.

(c) The governor shall create a nominating committee, composed of seven metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Three of the committee members must be local elected officials. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the governor a list of nominees for each appointment. The governor is not required to appoint from the list.

(d) Before making an appointment, the governor shall consult with all members of the legislature from the council district for which the member is to be appointed.

(e) Appointments to the council are subject to the advice and consent of the senate as provided in section 15.066.

(f) Members of the council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.

(g) Members of the council must be persons knowledgeable about urban and metropolitan affairs.

Subd. 3a. **Apportionment.** The legislature shall redraw the boundaries of the council districts after each decennial federal census so that each district has substantially equal population. Redistricting is effective on the first Monday in January in the year ending in the numeral "3." By the first Monday in March of that year, the governor shall appoint members from the newly drawn districts to serve terms as provided under subdivision 2a.

Subd. 3b. **District boundaries.** The council district boundaries are as follows:

(1) The first council district consists of that part of the city of St. Paul lying north of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and Marshall Avenue, easterly on Marshall Avenue to Cretin Avenue North, northerly on Cretin Avenue North to Iglehart Avenue, easterly on Iglehart Avenue to Cleveland Avenue North, southerly on Cleveland Avenue North to Marshall Avenue, easterly on Marshall Avenue to Hamline Avenue, northerly on Hamline Avenue to University Avenue, easterly on University Avenue to Lexington Parkway, northerly on Lexington Parkway to Lafond Avenue, easterly on Lafond Avenue to North Victoria Street, northerly on North Victoria Street to Blair Avenue, easterly on Blair Avenue to Como Avenue, southeasterly on Como Avenue to Lafond Avenue, easterly on Lafond Avenue to Rice Street, southerly on Rice Street to Como Avenue, easterly on Como Avenue to Capitol Heights Boulevard, southerly on Capitol Heights Boulevard to Valley Street, easterly on Valley Street to Jackson Street, northeasterly on Jackson Street to Pennsylvania Avenue, easterly and southeasterly on Pennsylvania Avenue to Interstate Highway 35E, southerly on Interstate Highway 35E to Grove Street, easterly on Grove Street to Willius Street, southeasterly on Willius Street to East 7th Street, northeasterly on East 7th Street to Mounds Boulevard, southeasterly on Mounds Boulevard to East 6th Street, northeasterly and easterly on East 6th Street to Johnson Parkway, northerly on Johnson Parkway to East Minnehaha Avenue, and easterly on East Minnehaha Avenue to the eastern boundary of the city of St. Paul.

(2) The second council district consists of that part of the city of St. Paul not included in council districts 1 and 15.

(3) The third council district consists of that part of the county of Ramsey consisting of the cities of Maplewood, North St. Paul, Little Canada, Roseville, Falcon Heights, Lauderdale, St. Anthony, and New Brighton; and that part of the city of St. Anthony lying in Hennepin county.

(4) The fourth council district consists of that part of the city of Minneapolis located within an area described as follows: commencing at the intersection of West 50th Street and Nicollet Avenue South, northerly on Nicollet Avenue South to Lake Street, easterly on Lake Street to 1st Avenue South, northerly on 1st Avenue South to East 19th Street, easterly on East 19th Street to Stevens Avenue South, northerly on Stevens Avenue South to East 18th Street, easterly on East 18th Street to 3rd Avenue South, northerly on 3rd Avenue South to East 16th Street, easterly on East 16th Street to 4th Avenue South, northerly on 4th Avenue South to South 11th Street, southeasterly on South 11th Street to Grant Street, easterly on Grant Street to Portland Avenue, northeasterly on Portland Avenue and an extension of Portland Avenue to the main channel of the Mississippi River, southeasterly along the main channel of the Mississippi River to an extension of Cedar Avenue South, northerly on Cedar Avenue South and its extension to the Burlington Northern, Inc. railroad tracks, northeasterly along the southern branch of the Burlington Northern, Inc. railroad tracks to University Avenue Southeast, southeasterly on University Avenue Southeast to 26th Avenue Southeast, southwesterly on 26th Avenue Southeast to Essex Street, northwesterly on Essex Street to Huron Street, southerly on Huron Street to Interstate Highway 94, southeasterly on Interstate Highway 94 to East Franklin Avenue, easterly on East Franklin Avenue to the eastern boundary of the city of Minneapolis, southerly along the eastern boundary of the city of Minneapolis to an extension of East 54th Street, westerly on East 54th Street and its extension to 27th Avenue South, northerly on 27th Avenue South to East 50th Street, easterly on East 50th Street to 28th Avenue South, northerly on 28th Avenue South to East Minnehaha Parkway, westerly on East Minnehaha Parkway to 16th Avenue South, northerly on 16th Avenue South to East 48th Street, westerly on East 48th Street to Chicago Avenue, southerly on Chicago Avenue to East 50th Street, westerly on East 50th Street to the point of origin.

(5) The fifth council district consists of that part of the city of Minneapolis not included in council districts 4 and 6.

(6) The sixth council district consists of that part of the city of Minneapolis lying

north of a line described as follows: commencing at the intersection of the western boundary of the city of Minneapolis and Chestnut Avenue, easterly on Chestnut Avenue to Penn Avenue South, southerly on Penn Avenue South to Hawthorne Avenue, easterly on Hawthorne Avenue to Cedar Lake Road, northeasterly on Cedar Lake Road to the Burlington Northern, Inc. railroad tracks, southeasterly and northeasterly along the Burlington Northern, Inc. railroad tracks to Interstate Highway 94, southerly on Interstate Highway 94 to Hennepin Avenue, northeasterly on Hennepin Avenue to South 13th Street, southeasterly on South 13th Street and an extension of South 13th Street to LaSalle Avenue, southerly on LaSalle Avenue to Grant Street, easterly on Grant Street to 4th Avenue South, northerly on 4th Avenue South to South 11th Street, southeasterly on South 11th Street to Grant Street, easterly on Grant Street to Portland Avenue, northeasterly on Portland Avenue and an extension of Portland Avenue to the main channel of the Mississippi River, southeasterly along the main channel of the Mississippi River to an extension of Cedar Avenue South, northerly on Cedar Avenue South and its extension to the Burlington Northern, Inc. railroad tracks, northeasterly along the southern branch of the Burlington Northern, Inc. railroad tracks to University Avenue Southeast, southeasterly on University Avenue Southeast to 26th Avenue Southeast, southwesterly on 26th Avenue Southeast to Essex Street, northwesterly on Essex Street to Huron Street, southerly on Huron Street to Interstate Highway 94, southeasterly on Interstate Highway 94 to East Franklin Avenue, easterly on East Franklin Avenue to the eastern boundary of the city of Minneapolis.

(7) The seventh council district consists of that part of the county of Ramsey consisting of the cities of Mounds View, Shoreview, North Oaks, Arden Hills, Vadnais Heights, Gem Lake, and White Bear Lake, and the township of White Bear; that part of the county of Anoka consisting of the cities of Centerville and Lino Lakes; that part of the county of Washington consisting of the cities of Forest Lake, Marine-on-St. Croix, Hugo, Dellwood, Mahtomedi, Birchwood, Willernie, Pine Springs, and Stillwater, and the townships of Forest Lake, New Scandia, May, Grant, and Stillwater; and that part of the city of White Bear Lake lying in Washington county.

(8) The eighth council district consists of that part of the county of Anoka consisting of the cities of Columbia Heights, Hilltop, Fridley, Spring Lake Park, Coon Rapids, Blaine, Lexington, and Circle Pines; and those parts of the cities of Blaine and Spring Lake Park lying in Ramsey county.

(9) The ninth council district consists of that part of the county of Anoka consisting of the cities of St. Francis, Bethel, East Bethel, Ramsey, Andover, Ham Lake, and Anoka, and the townships of Burns, Oak Grove, Linwood, and Columbus; and that part of the county of Hennepin consisting of the cities of Dayton, Champlin, Maple Grove, Plymouth, and Medicine Lake.

(10) The 10th council district consists of that part of the county of Hennepin consisting of the cities of Brooklyn Park, Brooklyn Center, Osseo, New Hope, and Crystal.

(11) The 11th council district consists of that part of the county of Hennepin consisting of the cities of Robbinsdale, Golden Valley, St. Louis Park, and Edina.

(12) The 12th council district consists of that part of the county of Hennepin consisting of the cities of Bloomington and Richfield; and the Fort Snelling Military Reservation.

(13) The 13th council district consists of that part of the county of Hennepin consisting of the cities of Eden Prairie, Hopkins, Minnetonka, Wayzata, Woodland, Deephaven, Greenwood, Excelsior, Shorewood, Tonka Bay, Minnetonka Beach, Spring Park, Orono, Long Lake, Mound, Minnetrista, St. Bonifacius, Maple Plain, Independence, Loretto, Medina, Corcoran, Greenfield, and Rogers, and the township of Hassan; and those parts of the cities of Hanover and Rockford lying in Hennepin county.

(14) The 14th council district consists of the counties of Carver and Scott, excluding the city of New Prague; that part of the county of Dakota consisting of the cities of Burnsville and Lakeville; and that part of the city of Chanhassen lying in Hennepin county.

(15) The 15th council district consists of that part of the county of Dakota consisting of the cities of Lilydale, Mendota, Mendota Heights, Eagan, Sunfish Lake, West St. Paul, South St. Paul, and Inver Grove Heights; that part of the county of Washington consisting of the city of Newport; and that part of the city of St. Paul lying south and west of a line described as follows: commencing at the intersection of the western boundary of the city of St. Paul and an extension of St. Clair Avenue, easterly on St. Clair Avenue and its extension to Wheeler Street South, southerly on Wheeler Street South to James Avenue, easterly on James Avenue to Snelling Avenue South, northerly on Snelling Avenue South to Palace Avenue, easterly on Palace Avenue to South Pascal Street, southerly on South Pascal Street to James Avenue, easterly on James Avenue to Lexington Parkway, southerly on Lexington Parkway to Randolph Avenue, easterly on Randolph Avenue to proposed Interstate Highway 35E, southerly and southeasterly on proposed Interstate Highway 35E to the southern boundary of the city of St. Paul.

(16) The 16th council district consists of that part of the county of Dakota consisting of the cities of Apple Valley, Rosemount, Hastings, Farmington, Coates, Vermillion, Hampton, New Trier, Randolph, and Miesville, and the townships of Nininger, Ravenna, Marshan, Vermillion, Empire, Eureka, Castle Rock, Hampton, Douglas, Greenvale, Waterford, Sciota, and Randolph; that part of the county of Washington consisting of the cities of Oakdale, Lake Elmo, Landfall, Woodbury, St. Paul Park, Cottage Grove, Oak Park Heights, Bayport, Lakeland, Lakeland Shores, Lake St. Croix Beach, St. Mary's Point, and Afton, and the townships of Grey Cloud Island, Baytown, West Lakeland, and Denmark; and that part of the city of Hastings lying in Washington County.

**Subd. 4. Chair; appointment, duties.** (a) The chair of the metropolitan council shall be appointed by the governor as the 17th voting member thereof by and with the advice and consent of the senate to serve at the pleasure of the governor. Senate confirmation shall be as provided by section 15.066. The chair shall be a person experienced in the field of municipal and urban affairs with administrative training and executive ability.

(b) The chair of the metropolitan council shall preside at the meetings of the metropolitan council and shall act as principal executive officer. The chair shall organize the work of the metropolitan council, appoint all officers and employees thereof, subject to the approval of the metropolitan council, and be responsible for carrying out all policy decisions of the metropolitan council. The chair's salary shall be as provided in section 15A.081. The chair shall be eligible for expenses in the same manner and amount as state employees.

**Subd. 5. Metropolitan council; duties and compensation.** The metropolitan council shall elect such officers as it deems necessary for the conduct of its affairs other than the chair. A secretary and treasurer need not be members of the metropolitan council. Meeting times and places shall be fixed by the metropolitan council and special meetings may be called by a majority of the members of the metropolitan council or by the chair thereof. Each metropolitan council member other than the chair shall be paid \$50 for each day when the member attends one or more meetings or provides other services, as authorized by the metropolitan council, and shall be reimbursed for reasonable expenses. The annual budget of the council shall provide as a separate account anticipated expenditures for per diem, travel and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted.

In the performance of its duties the metropolitan council may promulgate rules governing its operation, establish committees, divisions, departments and bureaus and staff the same as necessary to carry out its duties and when specifically authorized by law make appointments to other governmental agencies and districts. All officers and employees of the metropolitan council shall serve at the pleasure of the appointing authority in the unclassified service of the state civil service. Rules promulgated by the metropolitan council shall be in accordance with the administrative procedure provisions contained in chapter 14.

Subd. 6. **Executive director.** Upon the recommendation of the chair the metropolitan council may appoint an executive director to serve at the chair's pleasure as the principal operating administrator for the metropolitan council. The director may be chosen from among the citizens of the nation at large, and shall be selected on the basis of training and experience in the field of municipal and urban affairs.

**History:** 1975 c 13 s 3; 1977 c 35 s 6; 1978 c 543 s 2,3; 1980 c 378 s 2; 1982 c 424 s 130; 1983 c 16 s 1-4; 1983 c 305 s 25; 1Sp1985 c 13 s 353; 1986 c 444; 1986 c 460 s 4-6; 1990 c 460 s 1

#### **473.127 ADVISORY COMMITTEES.**

The metropolitan council may establish and appoint persons to advisory committees to assist the metropolitan council in the performance of its duties. Members of the advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the metropolitan council.

**History:** 1975 c 13 s 4

#### **473.128 [Repealed, 1986 c 460 s 59]**

#### **473.129 ADMINISTRATION OF METROPOLITAN COUNCIL.**

**Subdivision 1. General powers.** The metropolitan council shall have and exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities now existing or which may hereafter be imposed upon it by law. Such powers include the specific powers enumerated in this section.

**Subd. 2. Officers and employees.** The metropolitan council may prescribe all terms and conditions for the employment of its officers, employees, and agents including but not limited to the fixing of compensation, their classification, benefits, and the filing of performance and fidelity bonds and such policies of insurance as it may deem advisable, the premium for which, however, shall be paid for by the district. Officers and employees of the metropolitan council, however, are public employees. The compensation and other conditions of employment of such officers and employees shall not be governed by any rule applicable to state employees in the classified service nor to any of the provisions of chapter 15A, unless the council so provides. Those employed by the metropolitan council are members of the Minnesota state retirement system. Those employed by a predecessor of the metropolitan council and transferred to it may at their option become members of the Minnesota state retirement system or may continue as members of the public retirement association to which they belonged as employees of the predecessor of the metropolitan council. The metropolitan council shall make the employer's contributions to pension funds of its employees.

**Subd. 3. Consulting contracts.** The metropolitan council may contract for the services of consultants who perform engineering, legal, or services of a professional nature. Such contracts shall not be subject to the requirements of any law relating to public bidding.

**Subd. 4. Gifts and appropriations.** The metropolitan council may accept gifts, apply for and use grants or loans of money or other property from the United States, the state, or any person for any metropolitan council purpose and may enter into agreements required in connection therewith and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto. All moneys of the metropolitan council received pursuant to this subdivision or any other provision of law shall be deposited in the state treasury and the amount thereof is appropriated annually to the metropolitan council for the purposes of carrying out its duties and responsibilities.

**Subd. 5. Local governmental participation.** The metropolitan council may (1) participate as a party in any proceedings originating before the Minnesota municipal board under chapter 414, if the proceedings involve the change in a boundary of a governmental unit in the metropolitan area, (2) conduct studies of the feasibility of annexing, enlarging, or consolidating units in the metropolitan area, (3) furnish space and other necessary assistance to a metropolitan expediter assigned to the metropolitan area or any part thereof under the Federal Demonstration City Act of 1966, on condition that such expediter files monthly reports with the metropolitan council concerning the expediter's activities.



Subd. 6. **Participation in metropolitan area commissions and boards.** (a) The metropolitan council shall appoint from its membership a member to serve with the metropolitan airports commission, a member to serve with the mosquito control commission, a member to serve on the Minneapolis-St. Paul sanitary district or any successor thereof, and may appoint a member to serve on any metropolitan area commission or board authorized by law. Each member of the metropolitan council so appointed on each of such commissions shall serve without a vote.

(b) The metropolitan council shall also appoint individuals to the governing body of the cable communications metropolitan interconnected regional channel entity under section 238.43, subdivision 5.

*History: 1975 c 13 s 6; 1975 c 271 s 6; 1985 c 285 s 48; 1986 c 444*

#### **473.13 BUDGET, FINANCIAL AID.**

Subdivision 1. **Budget.** On or before October 1 of each year the council, after a public hearing, shall adopt a budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. The budget shall state in detail the expenditures for each program to be undertaken, including the expenses for salaries, consultant services, overhead, travel, printing, and other items. The budget shall state in detail the capital expenditures of the council for the budget year, based on a five-year capital program adopted by the council and transmitted to the legislature. After adoption of the budget, an increase of over \$10,000 in the council's budget, a program or department budget, or a budget item, must be approved by the council before the increase is allowed or the funds obligated. After adoption of the budget and no later than October 1, the council shall certify to the auditor of each metropolitan county the share of the tax to be levied within that county, which must be an amount bearing the same proportion to the total levy agreed on by the council as the net tax capacity of the county bears to the net tax capacity of the metropolitan area. The maximum amount of any levy made for the purpose of this chapter may not exceed the limits set by sections 473.167 and 473.249.

Subd. 1a. **Program evaluation.** The budget procedure of the council must include a substantive assessment and evaluation of the effectiveness of each significant program of the council, with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program. The council shall transmit the evaluation to the legislature annually.

Subd. 2. **Levies.** The auditor of each metropolitan county shall add the amount of any levy made by the council within the limits imposed by subdivision 1 to other tax levies imposed within the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of the taxes with the council in the same manner as other taxes are distributed to political subdivisions. The levy authorized by this section is in addition to any other taxes levied within the county authorized by law.

Subd. 3. **Financial aid.** The council may accept financial aid from governmental units within the metropolitan area, from the state or federal government, and from private donors, if the conditions under which it is offered are not incompatible with the provisions of this chapter.

Subd. 4. **Accounts; audits.** The council shall keep an accurate account of its receipts and disbursements. Disbursements of council money must be made by check, signed by the chair or vice-chair of the council, and countersigned by its director or assistant director after whatever auditing and approval of the expenditure may be provided by rules of the council. The state auditor shall audit the books and accounts of the council once each year, or as often as funds and personnel of the state auditor permit. The council shall pay to the state the total cost and expenses of the examination, including the salaries paid to the auditors while actually engaged in making the examination. The general fund must be credited with all collections made for any examination.

*History: 1986 c 460 s 7; 1Sp1986 c 3 art 2 s 29,30; 1988 c 675 s 1,2; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1989 c 335 art 4 s 90*

#### **473.132 SHORT-TERM INDEBTEDNESS.**

The council may issue certificates of indebtedness or capital notes to purchase equipment to be owned and used by the council and having an expected useful life of at least as long as the terms of the certificates or notes. The certificates or notes shall be payable in not more than five years and shall be issued on such terms and in such manner as the council may determine, and for this purpose the council may secure payment of the certificates or notes by resolution or by trust indenture entered into by the council with a corporate trustee within or outside the state, and by a mortgage in the equipment financed. The total principal amount of the notes or certificates issued in a fiscal year should not exceed one-half of one percent of the tax capacity of the metropolitan area for that year. The full faith and credit of the council shall be pledged to the payment of the certificates or notes, and a tax levy shall be made for the payment of the principal and interest on the certificates or notes, in accordance with section 475.61, as in the case of bonds issued by a municipality. The tax levy authorized by this section must be deducted from the amount of taxes the council is otherwise authorized to levy under section 473.249.

*History: 1989 c 355 s 12*

#### **473.141 MEMBERSHIP, PROCEDURES, OFFICERS AND EMPLOYEES OF METROPOLITAN AGENCIES.**

**Subdivision 1. Application.** This section applies to metropolitan agencies as provided in the enabling law of each agency.

**Subd. 2. Membership; appointments.** (a) Each agency consists of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members on a nonpartisan basis after consultation with the members of the legislature from the district for which the member is to be appointed. The consultation with legislators in the affected district must include informing each legislator of the name, address, and background of each candidate for appointment and soliciting and reporting to the appointments committee the recommendation of each legislator on the appointment.

(b) In addition to the notice required in section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The council shall notify in writing the governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which the member is to be appointed. The notices must describe the appointment process and invite participation and recommendations on the appointment.

(c) The council shall establish an appointments committee, composed of members of the council, to screen and review candidates. Following the submission of member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the appointments committee shall conduct public meetings, following appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the council a written report that lists the persons who have applied or been nominated or recommended for the position, along with a description of the background and qualifications of each. In making its recommendation, the committee specifically shall consider evidence of the candidate's commitment to regularly communicate on issues before the agency with metropolitan council members, legislators and local elected officials in the district, and the committee shall report its findings on this subject in its written report to the council.

(d) One member shall be appointed from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;
- (4) district D, consisting of council districts 6 and 10;
- (5) district E, consisting of council districts 8 and 9;
- (6) district F, consisting of council districts 11 and 12;
- (7) district G, consisting of council districts 13 and 14; and
- (8) district H, consisting of council districts 15 and 16.

**Subd. 3. Chair.** The chair of each agency shall be appointed by the governor with the advice and consent of the senate, shall be the ninth voting member and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The council, by resolution after a public meeting on the subject, shall provide the governor with a list of nominees for the position. Senate confirmation is as provided by section 15.066. The chair shall preside at all meetings of the agency, if present, and shall perform all other duties and functions assigned by the agency or by law. The chair is responsible for providing leadership in development policy, coordinating the activities of the agency board, establishing and appointing committees of the board, chairing the internal audit committee, ensuring effective communication between the agency and other governmental entities and the general public, ensuring that the board is fully informed of the activities of the chief administrator and the agency, ensuring that the chief administrator implements the policies of the board and is held accountable to the board, and evaluating the chief administrator's performance. Each agency may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

**Subd. 3a. Members; duties.** Each member shall communicate regularly with metropolitan council members, legislators, and local government officials in the district the member represents.

**Subd. 4. Qualifications.** Each member shall be a resident of the commission district for which appointed and shall not during a term of office hold the office of metropolitan council member, or be a member of another metropolitan agency subject to this section, the metropolitan airports commission or the metropolitan sports facilities commission or hold any judicial office. Each member shall qualify by taking and subscribing the oath of office prescribed by the Minnesota Constitution, article V, section 5. Such oath, duly certified by the official administering the same, shall be filed with the executive director of the metropolitan council.

**Subd. 4a. Terms.** Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, the metropolitan council, newly appointed as provided in section 473.123, subdivision 3a, shall appoint eight agency board members from newly drawn districts. The terms of members and chairs are as follows: members representing districts A, B, C, and D, and the chair, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chair is four years, with terms ending the first Monday in January, except that all terms expire on the effective date of the next apportionment. A chair shall continue to serve until a successor is appointed and qualified. A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appointed pursuant to section 473.123, subdivision 3a appoints eight members as provided under subdivision 2, to serve terms as provided under this subdivision. The appointments to the agency must be made by the first Monday in May of the year in which the term ends.

**Subd. 5. Removal.** Members, other than the chair, may be removed by the council only for cause in the manner specified in chapter 351. The chair may be removed at the pleasure of the governor.

**Subd. 6. Vacancies.** If the office of any commission member becomes vacant, the vacancy shall be filled in the same manner in which the last regular appointment for that precinct was made. An office shall be deemed vacant under the conditions specified in chapter 351.

**Subd. 7. Compensation.** Each commission member shall be paid \$50 for each day when the member attends one or more meetings or provides other services, as authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties in the same manner and amount as state employees. The chair shall receive a salary in an amount fixed by section 15A.081 and shall be reimbursed for reasonable expenses to the same extent as a member; provided that the chair of the metropolitan sports facilities commission shall receive, unless otherwise provided by other law, a salary in an amount fixed by the members of the commission and shall be reimbursed for reasonable expenses to the same extent as a member. The annual budget of each commission shall provide as a separate account anticipated expenditures for per diem, travel and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted.

Subd. 8. **Regular and special meetings.** Each commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chair or any two other members, upon written notice sent by certified mail to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Unless otherwise provided, any action within the authority of the commission may be taken by the affirmative vote of a majority of the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 9. **Personnel code; merit system.** (a) The council shall by resolution adopt guidelines for a personnel code relating to the employees of the commissions, except that nothing in Laws 1974, chapter 422, shall impair the rights of any commission or employee under sections 473.405 and 473.415. After adoption of the guidelines, each commission shall by resolution adopt a personnel code in general conformance therewith. The code shall include a job classification plan, procedures for employment and promotion of personnel based on merit, procedures for the demotion, suspension, or discharge of employees, procedures for hearing grievances, procedures for salary administration, and such other provisions as the council deems appropriate. In addition, the code shall provide for the development by each commission of affirmative action plans, as provided in section 473.143. The chief administrator of each commission shall administer the code, and no commission shall take any action inconsistent with the personnel code.

(b) All employees of the commission except those expressly designated for the unclassified service, shall serve in the classified service. The unclassified service shall include: members of the commission, the chief administrator of the commission, all officers of the commission, any employee of the commission who is determined by the commission to have a confidential relationship to the commission or the council; and any employee of the commission expressly exempted from the classified service by law. Each code shall also include procedures for open competitive examinations to test the relative skill or ability of all applicants for positions in the classified service. Such examinations may consist of written or oral tests of the subjective or objective type, physical tests, and practical or demonstration tests for the evaluation of past training and experience. Oral tests may be used to test the applicant's knowledge of the position applied for or personal fitness for the position. Where there is more than one applicant for a position, each code shall provide for the employment of one of the three applicants best qualified for it.

(c) When a commission employee has been demoted, suspended, or dismissed by the chief administrator, the employee may, within 30 days after such action becomes effective, file with the commission a written request for a hearing showing the position from which the employee was dismissed, the date of dismissal, and the reason for requesting the hearing, full name and present mailing address. Upon receipt of a request for a hearing the commission shall appoint three of its members to act as an appeal committee and preside at a hearing on the action of the administrator. The hearing shall be held within 30 days after the request is received by the commission, upon written notice mailed or delivered to the employee at the employee's present mailing address, not less than seven days before the hearing. The appeal committee shall approve or disapprove the action of the administrator, and in the case of approval the action of the administrator shall be final. In the case of disapproval the appeal committee may reinstate the employee under such conditions as it deems proper, and may order the payment to the employee of compensation lost as a result of the demotion, suspension or dismissal.

Subd. 10. **Secretary and treasurer.** At its first regular meeting each year each commission shall appoint a secretary and a treasurer or, in the alternative, a secretary-treasurer. The secretary and treasurer, or secretary-treasurer, may, but need not be, members of the commission, and shall hold office at the pleasure of the commission, subject to the terms of any contract of employment which the commission may enter into with the secretary or treasurer. The secretary shall record the minutes of all meetings of the commission and shall be the custodian of all books and records of the commission except such as the commission shall entrust to the custody of a designated employee. The treasurer shall be the custodian of all moneys received by the commission except such as the commission shall entrust to the custody of a designated employee. The commission may appoint a deputy to perform any and all functions of either the secretary or the treasurer.

Subd. 11. **Chief administrator.** The chair of each commission shall, subject to the approval of the commission, appoint a chief administrator who shall be chosen solely on the basis of training, experience, and other qualifications, and who shall serve at the pleasure of the commission. The administrator shall attend all meetings of the commission, but shall not vote, and shall have the following powers and duties:

- (a) See that all resolutions, rules, or orders of the commission are enforced.
- (b) Appoint and remove, subject to the provisions of the personnel code adopted pursuant to subdivision 9, upon the basis of merit and fitness, all subordinate officers and regular employees of the commission.
- (c) Present to the commission plans, studies, and reports prepared for commission purposes and recommend to the commission for adoption such measures as the administrator deems necessary to enforce or carry out the powers and duties of the commission, or to the efficient administration of the affairs of the commission.
- (d) Keep the commission fully advised as to its financial condition, and prepare and submit to the commission its annual budget and such other financial information as it may request.
- (e) Recommend to the commission for adoption such rules as the administrator deems necessary for the efficient operation of the commission's functions.
- (f) Perform such other duties as may be prescribed by the commission.

Subd. 12. **Public employees.** All persons employed by the chief administrator shall be public employees, and shall have all rights and duties conferred on public employees under sections 179A.01 to 179A.25. The compensation and other conditions of employment of such employees shall not be governed by any rule applicable to state employees in the classified service nor to any of the provisions of chapter 15A, unless the council so provides. All employees of the commission shall be members of the Minnesota state retirement system, except that employees, who by reason of their prior employment belonged to another public retirement association in the state of Minnesota, may at their option continue membership in that public retirement association, and all other rights to which they are entitled by contract or law. Members of trades who are employed by the metropolitan waste control commission with trade union pension coverage pursuant to a collective bargaining agreement who elected exclusion from coverage pursuant to section 473.512 or who are first employed after July 1, 1977 shall not be covered by the Minnesota state retirement system. The commission shall make the employer's contributions to pension funds of its employees. Employees shall perform such duties as may be prescribed by the commission. Nothing in Laws 1974, Chapter 422 shall impair the rights of any commission or employee under sections 473.405 and 473.415.

Subd. 13. **Commission operating procedures.** (a) The commission shall adopt resolutions and bylaws, an administrative code establishing procedures for commission action, keeping records, approving claims, authorizing and making disbursements, authorizing contracts, safekeeping funds and audit of all financial operations of the commission.

(b) The commission and the council may enter into contracts with each other and with other commissions and governmental units for the joint exercise of powers in the manner provided by section 471.59; provided that no commission shall enter into any contract with the council which would assign any operations authority, responsibility or function, other than planning or making studies, from the commission to the council.

Subd. 14. **Relocation payment standards.** In all acquisitions the commissions shall provide as a cost of acquisition the relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1971), 42 United States Code, Section 4601, et seq.

**History:** 1975 c 13 s 7; 1976 c 2 s 172; 1977 c 35 s 7; 1977 c 98 s 2; 1977 c 305 s 43; 1977 c 454 s 47; 1983 c 16 s 5-8; 1983 c 305 s 26; 1984 c 462 s 27; 1985 c 248 s 70; 1Sp1985 c 13 s 354; 1986 c 444; 1986 c 460 s 8-12; 1987 c 278 s 1,2; 1988 c 680 s 1; 1990 c 460 s 2; 1990 c 506 art 2 s 21

#### **473.142 SMALL BUSINESSES.**

(a) The metropolitan council and agencies specified in section 473.143, subdivision 1, may award up to a six percent preference in the amount bid for specified goods or services to small targeted group businesses designated under section 16B.19.

(b) The council and each agency specified in section 473.143, subdivision 1, may designate a purchase of goods or services for award only to small targeted group businesses designated under section 16B.19 if the council or agency determines that at least three small targeted group businesses are likely to bid.

(c) The council and each agency specified in section 473.143, subdivision 1, as a condition of awarding a construction contract or approving a contract for consultant, professional, or technical services, may set goals that require the prime contractor to subcontract a portion of the contract to small targeted group businesses designated under section 16B.19. The council or agency must establish a procedure for granting waivers from the subcontracting requirement when qualified small targeted group businesses are not reasonably available. The council or agency may establish financial incentives for prime contractors who exceed the goals for use of subcontractors and financial penalties for prime contractors who fail to meet goals under this paragraph. The subcontracting requirements of this paragraph do not apply to prime contractors who are small targeted group businesses. At least 75 percent of the value of the subcontracts awarded to small targeted group businesses under this paragraph must be performed by the business to which the subcontract is awarded or by another small targeted group business.

(d) The council and each agency listed in section 473.143, subdivision 1, are encouraged to purchase from small targeted group businesses designated under section 16B.19 when making purchases that are not subject to competitive bidding procedures.

(e) The council and each agency may adopt rules to implement this section.

(f) Each council or agency contract must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the council or agency for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney fees, incurred in bringing the action.

(g) This section does not apply to procurement financed in whole or in part with federal funds if the procurement is subject to federal disadvantaged, minority, or women business enterprise regulations. The council and each agency shall report to the commissioner of administration on compliance with this section. The information must be reported at the time and in the manner requested by the commissioner.

**History:** 1988 c 680 s 2; 1988 c 689 art 2 s 268; 1989 c 352 s 20,25; 1990 c 541 s 27,29

#### **473.1425 WORKING CAPITAL FUND.**

The metropolitan council or a metropolitan agency defined in section 473.121, subdivision 5a, to the extent allowed by other law or contract, may grant available money that has been appropriated for socially or economically disadvantaged business programs to a guaranty fund administered by a nonprofit organization that makes or guarantees working capital loans to businesses owned and operated by socially or economically disadvantaged persons as defined in Code of Federal Regulations, title 49, section 23.5. The purpose of loans made or guaranteed by the organization must be to provide short-term working capital to enable eligible businesses to be awarded contracts for goods and services or for construction related services from government agencies.

**History:** 1989 c 320 s 2

#### 473.143 AFFIRMATIVE ACTION PLANS.

Subdivision 1. **Application.** For purposes of this section, "agency" means a metropolitan agency as defined in section 473.121, except the metropolitan parks and open space commission. Agency also means the metropolitan mosquito control commission. For purposes of this section, "commissioner" means the commissioner of the state department of employee relations.

Subd. 2. **Development and contents.** The council and each agency shall develop an affirmative action plan and submit its plan to the commissioner for approval. The commissioner may not approve a plan unless the commissioner determines that it will be effective in assuring that employment positions are equally accessible to all qualified persons, in eliminating the underutilization of qualified members of protected groups, in providing a supportive work environment to all employees, regardless of race, religion, sex, national origin, or disability, and in dealing with discrimination complaints. For purposes of this section, "protected group" has the meaning given it in section 43A.02, subdivision 33. A plan must contain at least the elements required in this subdivision.

(a) It must identify protected groups that are underrepresented in the council's or agency's work force.

(b) It must designate a person responsible for directing and implementing the affirmative action program and assign the specific responsibilities and duties of that person. The person responsible for implementing the program shall report directly to the council's or agency's chief operating officer regarding the person's affirmative action duties. The person responsible for the affirmative action program shall review examination and other selection criteria to assure compliance with law. This person shall be involved in the filling of all vacancies in the council or agency work force, to the extent necessary to facilitate attainment of affirmative action goals.

(c) It must describe the methods by which the plan will be communicated to employees and to other persons.

(d) It must describe methods for recruiting members of protected groups. These methods may include internship programs, cooperation with union apprenticeship programs, and other steps necessary to expand the number of protected group members in applicant pools.

(e) It must describe internal procedures in accordance with this paragraph for processing complaints of alleged discrimination from job applicants and employees. The procedures must provide for an initial determination of whether the complaint is properly a discrimination complaint subject to the procedure under the affirmative action plan. Complaints filed under the discrimination procedures that allege reprisals against an employee for opposing a forbidden practice or for filing a charge, testifying, or participating in an investigation, proceeding, or hearing relating to a forbidden practice are appealable to the chief operating officer of the council or agency. Procedures under this paragraph must be distinct from any procedures available under a union contract or personnel policy for nondiscrimination complaints. Use of procedures developed under this paragraph is not a prerequisite to filing charges with a governmental enforcement agency, nor does it limit a person's right to file these charges.

(f) It must set goals and timetables to eliminate underutilization of members of each protected group in the council or agency work force.

(g) It must provide a plan for retaining and promoting protected group members in the council or agency work force. This plan should encourage training opportunities for protected group members, to the extent necessary to eliminate underutilization in specific parts of the work force.

(h) It must describe methods of auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for occupational groups with unmet affirmative action goals.

(i) It must provide for training of management and supervisory personnel in implementation of the plan and in dealing with alleged acts of discrimination in the workplace.

(j) It must provide for periodic surveying of the council or agency work force to determine employee attitudes toward implementation of the plan.

(k) It must provide for creation of an employee committee to advise on implementation of the plan and on any changes needed in the plan.

**Subd. 3. Harassment.** The council and each agency shall adopt written policies forbidding harassment based on sex, disability, or race in their workplaces and establishing implementation plans and grievance procedures to deal with complaints of harassment based on sex, disability, or race.

**Subd. 4. Performance evaluation.** The evaluation of the performance of each supervisory and managerial employee of the council and the agencies must include evaluation of the person's performance in implementing the council's or agency's affirmative action plan and in preventing forbidden discrimination in the workplace.

**Subd. 5. Report.** By March 1 each year, the commissioner shall report to the legislature on affirmative action progress of the council and of each agency. The report must include:

(1) an audit of the record of the council and each agency to determine compliance with affirmative action goals and to evaluate overall progress in attainment of overall affirmative action objectives;

(2) if the council or any agency has failed to make satisfactory progress toward its affirmative action goals, a list of unmet goals and an analysis of why the failure occurred;

(3) a summary of all personnel actions taken by the council and each agency during the past calendar year, categorized by occupational group, protected group status, and full-time, part-time, temporary, and seasonal status; and

(4) a summary of discrimination complaints and lawsuits against the council and each agency filed or resolved during the past calendar year, including the basis for the complaints and lawsuits.

For purposes of this subdivision, "personnel action" means a new hire, promotion, transfer, demotion, layoff, recall from layoff, suspension with or without pay, letter of reprimand, involuntary termination, other disciplinary action, and voluntary termination.

The council and each agency shall report to the commissioner all information that the commissioner requests to make the report required by this subdivision. In providing this information, the council and agencies are not required to reveal information that is not public data under chapter 13.

The council and each agency shall submit these reports at the time and in the manner requested by the commissioner. The commissioner shall report to the legislature on the failure of the council or an agency to file the required report in a timely manner.

**Subd. 6. Coordination.** The commissioner or a designee shall meet with affirmative action officers of the council and all of the agencies to share successful techniques and foster innovative means to implement affirmative action plans and eliminate discrimination in the workplace.

**Subd. 7. Coordination with legislature.** The council and each agency shall facilitate legislative oversight of equal opportunity practices by providing the legislature access, including access to computerized records if compatible systems exist, to public data maintained by the agency. The council and agencies must not provide access to information that is not public data as defined in section 13.02, subdivision 8a.

**History:** 1988 c 680 s 3

#### **473.144 CERTIFICATES OF COMPLIANCE FOR CONTRACTS.**

Neither the council nor an agency listed in section 473.143, subdivision 1, may accept any bid or proposal for a contract or execute a contract for goods or services in excess of \$50,000 with any business having more than 20 full-time employees in Minnesota at any time during the previous 12 months, unless the business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance from the commissioner of human rights signifies that a business has an approved affirmative action plan. A certificate is valid for two years. Section 363.073 governs revocation of certificates. The rules adopted by the commissioner of human rights under section 363.074 apply to this section.

**History:** 1988 c 680 s 4



#### **473.145 DEVELOPMENT GUIDE.**

The metropolitan council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for the orderly and economical development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

*History: 1975 c 13 s 8; 1989 c 306 s 1*

#### **473.146 POLICY PLANS FOR METROPOLITAN AGENCIES.**

**Subdivision 1. Requirement.** The council shall adopt a long-range comprehensive policy plan for each metropolitan agency required to prepare an implementation plan under section 473.161. The plans must substantially conform to all policy statements, purposes, goals, standards, and maps in the development guide developed and adopted by the council under this chapter. Each policy plan must include, to the extent appropriate to the functions, services, and systems covered, the following:

- (1) forecasts of changes in the general levels and distribution of population, households, employment, land uses, and other relevant matters, for the metropolitan area and appropriate subareas, to be used in preparing the implementation plan of the affected metropolitan agency;
- (2) a statement of issues, problems, needs, and opportunities with respect to the functions, services, and systems covered;
- (3) a statement of the council's goals, objectives, and priorities with respect to the functions, services, and systems covered, addressing areas and populations to be served, the levels, distribution, and staging of services; a general description of the facility systems required to support the services, and other similar matters;
- (4) a statement of policies to effectuate the council's goals, objectives, and priorities;
- (5) a statement of the fiscal implications of the council's plan, including a statement of: (i) the resources available under existing fiscal policy; (ii) the adequacy of resources under existing fiscal policy and any shortfalls and unattended needs; (iii) additional resources, if any, that are or may be required to effectuate the council's goals, objectives, and priorities; and (iv) any changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the council has recommended or may recommend;
- (6) a statement of the standards, criteria, and procedures that the council will use in monitoring and evaluating the implementation of the plan;
- (7) a statement of the matters that must be addressed in the implementation plan of the affected metropolitan agency;
- (8) a statement of the relationship of the policy plan to other policy plans and chapters of the metropolitan development guide;
- (9) a statement of the relationships to local comprehensive plans prepared under sections 473.851 to 473.872; and
- (10) additional general information as may be necessary to develop the policy plan or as may be required by the laws relating to the metropolitan agency and function covered by the policy plan.

**Subd. 2. Consultation with agency; predrafting notice.** In preparing or amending the policy plan, the council shall consult with and make maximum use of the expertise of the affected metropolitan agency. The agency shall cooperate with the council and make its records, studies, plans, and other information available to the council.

Before beginning to prepare a substantial revision of a policy plan, the council shall publish notice and request comments from the public. At least 90 days before publication of the predrafting notice, the council shall submit a draft of the notice to the affected metropolitan agency for review and comment. The predrafting notice must include a statement of the subjects expected to be covered by the policy and implementation plans; a summary of important problems, issues, and matters that are expected to be addressed in the plans; and a summary of the studies and other information required as the basis of the plans. All interested persons must be afforded an opportunity to submit data or views on the predrafting notice, either orally or in writing.

Before adopting a policy plan or substantial revision thereof, the council shall submit the proposed plan to the affected metropolitan agency for its review, and the agency shall report its comments to the council within 90 days.

**Subd. 2a. Hearing; adoption.** The council shall hold a public hearing on the proposed policy plan at a time and place in the metropolitan area determined by the council. Not less than 15 days before the hearing, the council shall publish notice in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and agency comments may be examined by any interested person. At any hearing interested persons must be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the agency's report and the hearing, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution.

**Subd. 2b. Effect.** Adopted policy plans must be followed by the council and the affected metropolitan agency.

**Subd. 2c. Amendment.** An amendment to a policy plan may be initiated by the council or by an affected metropolitan agency. At least every five years the council shall engage in a comprehensive review of the policy plan and revise the plan as necessary. The council shall amend a policy plan in accordance with the procedures established in this section.

**Subd. 3. Transportation chapter of the development guide.** The transportation chapter must include policies relating to all transportation forms and be designed to promote the legislative determinations, policies, and goals set forth in section 473.371. In addition to the requirements of subdivision 1 regarding the contents of the policy plan, the nontransit element of the transportation chapter must include the following:

- (1) a statement of the needs and problems of the metropolitan area with respect to the functions covered, including the present and prospective demand for and constraints on access to regional business concentrations and other major activity centers and the constraints on and acceptable levels of development and vehicular trip generation at such centers;
- (2) the objectives of and the policies to be forwarded by the policy plan;
- (3) a general description of the physical facilities and services to be developed;
- (4) a statement as to the general location of physical facilities and service areas;
- (5) a general statement of timing and priorities in the development of those physical facilities and service areas;
- (6) a detailed statement, updated every two years, of timing and priorities for improvements and expenditures needed on the metropolitan highway system; and
- (7) a general statement on the level of public expenditure appropriate to the facilities.

The council shall develop the nontransit element in consultation with the transportation advisory board and shall transmit the results to the state department of transportation.

**Subd. 4. Transportation planning.** The metropolitan council is the designated planning agency for any long-range comprehensive transportation planning required by section 134 of the Federal Highway Act of 1962, Section 4 of Urban Mass Transportation Act of 1964 and Section 112 of Federal Aid Highway Act of 1973 and other federal transportation laws. The council shall assure administration and coordination of transportation planning with appropriate state, regional and other agencies, counties, and municipalities, and shall establish an advisory body consisting of representatives of the regional transit board, citizens, municipalities, counties, and state agencies in fulfillment of the planning responsibilities of the council and the transit board.

**History:** 1975 c 13 s 9; 1976 c 166 s 7; 1984 c 654 art 3 s 108, 109; 1986 c 460 s 13-15; 1988 c 675 s 3

#### **473.147 REGIONAL RECREATION OPEN SPACE SYSTEM POLICY PLAN.**

Subdivision 1. The metropolitan council after consultation with the parks and open space commission, municipalities, park districts and counties in the metropolitan area, and after appropriate public hearings, shall prepare and adopt a long-range system policy plan for regional recreation open space as part of the council's metropolitan development guide. The plan shall substantially conform to all policy statements, purposes, goals, standards, and maps in development guide sections and comprehensive plans as developed and adopted by the council pursuant to the chapters of the Minnesota Statutes directly relating to the council. The policy plan shall identify generally the areas which should be acquired by a public agency to provide a system of regional recreation open space comprising park district, county and municipal facilities which, together with state facilities, reasonably will meet the outdoor recreation needs of the people of the metropolitan area and shall establish priorities for acquisition and development. In preparing or amending the policy plan the council shall consult with and make maximum use of the expertise of the commission. The policy plan shall include a five year capital improvement program, which shall be revised periodically, and shall establish criteria and priorities for the allocation of funds for such acquisition and development. The legislature in each bonding measure shall designate an anticipated level of funding for this acquisition and development for each of the two succeeding bienniums.

Subd. 2. Before adopting the policy plan, the council shall submit the proposed plan to the parks and open space commission for its review, and the commission shall report its comments to the council within 60 days. The council shall hold a public hearing on the proposed policy plan at such time and place in the metropolitan area as it shall determine. Not less than 15 days before the hearing, the council shall publish notice thereof in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and commission comments may be examined by any interested person. At any hearing interested persons shall be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the commission's report and hearing, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution. An amendment to the policy plan may be proposed by the council or by the parks and open space commission. At least every four years the council shall engage in a comprehensive review of the policy plan, development guide sections, comprehensive plans, capital improvement programs and other plans in substantial conformance with the requirements of subdivision 1 which have been adopted by the council.

*History: 1975 c 13 s 10; 1983 c 344 s 24*

#### **473.149 SOLID WASTE COMPREHENSIVE PLANNING.**

Subdivision 1. **Policy plan; general requirements.** The metropolitan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste management consistent with section 115A.96, subdivision 6, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or

obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Subd. 2. MS 1975 Supp [Repealed, 1976 c 179 s 20]

Subd. 2. **Disposal capacity estimate.** By July 1, 1980, the council shall adopt by resolution an estimate of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area in annual increments through the year 1990 and thereafter in five year increments through the year 2000. The council's estimate shall be based upon existing and projected solid waste generation rates without regard to potential waste reduction, separation, and recovery activity except that provided by services and facilities in operation or under construction.

Subd. 2a. **Disposal abatement report.** By January 1, 1981, the council shall prepare and submit a report to metropolitan counties on potentials for abating the need for and practice of land disposal of mixed municipal solid waste in the metropolitan area, for use by the counties in developing land disposal abatement plans pursuant to section 473.803, subdivision 1b. The report shall contain an analysis of abatement achievable through waste reduction, waste separation, waste processing, and resource recovery. The report shall contain specific and quantifiable alternative abatement objectives and degrees of abatement, along with solid waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those alternative objectives and degrees of abatement. The report shall recommend priorities and objectives for abating, immediately and over specified time periods, the disposal of mixed municipal solid waste in the metropolitan area. During the preparation of the report, the council shall encourage public debate and discussion of the issues relating to land disposal abatement and shall hold a public meeting on the issues in each metropolitan county.

Subd. 2b. **Inventory of solid waste disposal sites.** By September 1, 1983, the council shall adopt by resolution an inventory of eligible solid waste disposal sites and buffer areas within the metropolitan area. The council's inventory shall be composed of the sites and buffer areas proposed by the counties and reviewed and approved by the council pursuant to section 473.803, subdivision 1a. If a county does not have an approved inventory of the required number of sites by June 1, 1983, the council shall begin investigations and public hearings in order to adopt the required inventory for the county by September 1, 1983. The council's inventory shall satisfy all requirements and standards described in section 473.803, subdivision 1a, for sites and buffer areas proposed by counties. For sites and buffer areas included in the council's inventory, the development limitation imposed under section 473.806, subdivision 1, shall extend until 90 days following the selection of sites pursuant to section 473.833, subdivision 3. Upon the request of a county, the council may remove from the inventory property that is within the boundaries of the fill portion of a currently or previously permitted solid waste disposal facility, if the removal of the property does not reduce the size of the affected site below the 80 acre minimum area required in section 473.803, subdivision 1a.

**Subd. 2c. Report on local effects of solid waste disposal facilities; report to legislature.** By November 1, 1983, the council shall report to the legislative commission on methods of mitigating and compensating for the local risks, costs, and other adverse effects of solid waste disposal facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered shall include but not be limited to the following: compensation to landowners for damages resulting from the selection of a site for the inventory of sites or for development as a facility, payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference for the city or town containing a facility in federal A-95 reviews conducted by the council; payment of all costs to service the facilities including the costs of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvements; city or town control over buffer zone design; elimination of the tipping charge for solid waste collected in the city or town; a guarantee against any and all liability that may occur; payment for reclamation of closed sites to local design specifications.

**Subd. 2d. Land disposal abatement plan.** (a) After considering any county land disposal abatement proposals and waste stream analysis that have been submitted under section 473.803, subdivision 1b, the council shall amend its policy plan to include specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, including residuals and ash, either by type of waste or class of generator.

(b) The objectives must be stated in annual increments through the year 1990 and thereafter in five-year increments for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of the capacity, based on the council's abatement objectives, needed for the disposal of various types of waste in each five-year increment and the general area of the region where the capacity should be developed.

(c) The plan must include objectives for waste reduction and measurable objectives for local abatement of solid waste through resource recovery, recycling, and source separation programs for each metropolitan county stated in annual increments through the year 1990 and in five-year increments for a period of at least 20 years.

(d) The standards must be based upon and implement the council's metropolitan abatement objectives. The council's plan must include standards and procedures to be used by the council in determining whether a metropolitan county has implemented the council's metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

**Subd. 2e. Solid waste disposal facilities development schedule.** (a) After requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites to be acquired within the metropolitan area for solid waste disposal facilities in accordance with section 473.833.

(b) The council shall adopt a schedule of disposal capacity to be developed in each county within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan, except as the council deems necessary to allow reallocation of capacity as required by this subdivision.

(c) The council shall make the implementation of elements of the schedule, including the disposal capacity allocated to each county, contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule and the allocation of disposal capacity required for each county based on the progress made in that county in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule and the allocation of disposal capacity required based on significant

changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions. A site for which an environmental impact statement was being prepared as of January 1, 1989, under section 473.833, subdivision 2a, and that is not selected under section 473.833, subdivision 3, must be eliminated from the inventory of solid waste disposal sites established under section 473.149, subdivision 2b, and may not be considered as a waste disposal site in the future.

(d) The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833. The schedule must include standards and procedures for council certification of need pursuant to section 473.823. The schedule must include a facility closure schedule and plans for postclosure management and disposition, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule must also include a closure schedule and plans for postclosure management for facilities in existence before the adoption of the development schedule.

Subd. 2f. **Future solid waste disposal capacity.** The council, as part of its policy plan, shall determine the number and capacity of solid waste disposal sites needed in the metropolitan area, including sites for disposal of solid waste residuals and ash, for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of capacity, based on the council's waste abatement objectives, needed for the disposal of various types of waste in five-year increments and the general area of the metropolitan area where the capacity should be developed.

Subd. 3. **Preparation and adoption.** The solid waste policy plan shall be prepared, adopted, and amended in accordance with section 473.146, subdivision 2, provided that the procedural duties and responsibilities established therein for the affected metropolitan agency shall extend to the metropolitan counties and the pollution control agency. In addition to the requirements of section 473.146, subdivision 2, the council shall send notice of any hearing to the pollution control agency and the governing body of each metropolitan county and each local governmental unit, as defined in section 473.801, wherein a solid waste facility is or may be located in accordance with the plan. Any comprehensive plan adopted by the council shall remain in force and effect while new or amended plans are being prepared and adopted by the council. By October 1, 1976, the council shall adopt either interim policies or amendments to the existing comprehensive plan establishing standards and criteria for the review under section 473.823 of permit applications for solid waste facilities used primarily for resource recovery. For permit applications received by the council prior to October 1, 1976, the council may extend the time period provided for review under section 473.823 until 60 days after the adoption of the interim policies or amendments. No metropolitan county, local government unit, commission, or person shall acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the council's plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Subd. 4. **Advisory committee.** The council shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151, 473.801 to 473.823, 473.831, and 473.833, and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. From at least the date that the council adopts the inventory under subdivision 2b to the date that the council adopts a development schedule under subdivision 2e, for the purpose only of participating in the preparation of the legislative report required by subdivision 2c, the land disposal abatement plan required by subdivision 2d, and the development schedule required by subdivision 2e, additional members shall be included on the advisory committee sufficient to assure that at least one-

third of the members of the committee are residents of cities or towns containing eligible solid waste disposal sites included in the council's disposal site inventory, and that counties containing three sites have at least two additional members and counties containing one or two sites have at least one additional member. A representative from the pollution control agency, one from the office of waste management established under section 115A.04, and one from the Minnesota health department shall serve as ex officio members of the committee.

**Subd. 5. Right of access.** Whenever the council deems it necessary to the evaluation of a disposal site or buffer area under chapter 473, the council or any member, employee, or agent thereof, when authorized by it, may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations if the entrance and activity are undertaken after reasonable notice and during normal business hours. The council shall compensate for any damage to the property caused by the entrance and activity.

**Subd. 6. Report to legislature.** The council shall report on abatement to the legislative commission on waste management by November 1 of each year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the council's plan. The report must recommend any legislation that may be required to implement the plan. If in any year the council reports that the objectives of the council's abatement plan have not been met, the council shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report in each even-numbered year must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

**History:** 1975 c 13 s 11; 1976 c 179 s 7-9; 1980 c 564 art 10 s 2; 1981 c 352 s 31-34; 1982 c 569 s 22; 1983 c 373 s 46-50; 1984 c 644 s 58,59; 1985 c 248 s 70; 1985 c 274 s 16; 1986 c 460 s 16; 1987 c 348 s 39,40; 1987 c 384 art 2 s 101; 1988 c 685 s 29; 1989 c 325 s 51-53; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 27

#### **473.151 DISCLOSURE.**

For the purpose of the rules, plans, and reports required or authorized by sections 473.149, 473.516, 473.801 to 473.823 and this section, each generator of hazardous waste and each owner or operator of a collection service or waste facility annually shall make the following information available to the agency, council, and metropolitan counties: a schedule of rates and charges in effect or proposed for a collection service or the processing of waste delivered to a waste facility and a description, in aggregate amounts indicating the general character of the solid and hazardous waste collection and processing system, of the types and the quantity, by types, of waste generated, collected, or processed. The county, council, and agency shall act in accordance with the provisions of section 116.075, subdivision 2, with respect to information for which confidentiality is claimed.

**History:** 1976 c 179 s 18; 1985 c 248 s 70

#### **473.153 COMPREHENSIVE DISPOSAL FACILITIES PLAN FOR SEWAGE SLUDGE AND SOLID WASTE FROM SEWAGE TREATMENT.**

**Subdivision 1. Facilities required.** Except as provided in subdivision 7 and section 115A.33, all facilities for the disposal of solid waste generated by the metropolitan waste control commission shall be established and operated in accordance with this section and section 473.516. The commission shall acquire and own all of the facilities needed for the disposal of the sludge ash generated by the commission. The commission shall acquire and establish at least one facility for sludge ash disposal at a site selected by the council under this section, unless the council and the agency determine under subdivision 4a that the facility is not needed.

**Subd. 2. Candidate site selection.** The council shall select candidate sites for the disposal of the commission's solid waste, together with appropriate surrounding buffer areas. The council shall select at least three candidate sites by September 1, 1983. The council shall evaluate sites for candidacy on the basis of at least the following factors: local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation facilities, distance from the points of generation, and the intrinsic suitability of sites compared with other potential sites. Notwithstanding any plan, charter provision, law, ordinance, rule, or other requirement of the council, counties, or local units of government, no land shall be excluded from consideration for candidacy except land determined by the agency to be intrinsically unsuitable. No site shall be selected for candidacy unless the agency certifies its intrinsic suitability for the use intended, based on preliminary environmental analysis and on-site surveys and investigations conducted by the council. The council shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed as candidate sites as soon as available. The council shall propose at least six locations as candidate sites and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. The director shall publish notice of a consolidated hearing on the recommendation. Notice shall be published in the State Register and newspapers of general circulation in the metropolitan area and shall be sent by mail to local government units containing a proposed candidate site. The hearing shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the council and additional information on the proposed sites which is relevant to the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify them accordingly within 90 days of the council's proposal of a site. The agency shall not be required to promulgate rules pursuant to chapter 14 on criteria and standards to govern its certification of intrinsic suitability under this section. No action of the agency shall be held invalid by reason of the agency's failure to notify any of the entities listed in this subdivision. In selecting candidate sites, the council shall prefer land which is capable of being returned to its existing use or the use anticipated in a plan of a metropolitan agency, county, or local unit of government use after closure of a disposal facility.

**Subd. 3. Moratorium.** In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a moratorium is hereby imposed as provided in this subdivision on development within the area of each candidate site and buffer area selected by the council. The moratorium shall extend until six months following the council's decision under subdivision 6 or until the sites are dismissed from consideration pursuant to subdivision 4a. No development shall be allowed to occur within the area of a site or buffer area during the period of the moratorium without the approval of the council. No county, city, or town land use control shall permit development which has not been approved by the council, nor shall any county, city, or town sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the council. The council shall not approve actions which would jeopardize the availability of a candidate site for use as a solid waste facility. The council may establish guidelines for reviewing requests for approval under this subdivision. Requests for approval shall be submitted in writing to the chair of the council and shall be deemed to be approved by the council unless the chair otherwise notifies the submitter in writing within 15 days.



**Subd. 4. Advisory committee.** For the purposes only of advising the council on decisions under this section, additional members shall be added to the advisory committee established by section 473.149, subdivision 4, sufficient to assure that each city and town containing a candidate site has at least one representative on the committee.

**Subd. 4a. Need for facility; option to terminate siting.** The council may determine, by resolution following a public hearing, that the new sludge ash disposal facility to be acquired and established under this section, as required by subdivision 1, is not needed, because the council finds that permitted management methods other than land disposal, together with land disposal of ash on property owned by the commission prior to March 1, 1986, will be sufficient to accommodate all of the commission's ash without the acquisition and establishment of a new facility. A determination of the council that the facility is not needed is subject to review and approval by the pollution control agency. If the agency disapproves, the council and the commission shall proceed to site, acquire, and establish the facility as required by this section. If the agency approves, the council shall terminate the siting process established by this section and permanently dismiss the candidate sites from further consideration as sites for the facility.

**Subd. 5. Environmental review.** Unless the council and the agency determine under subdivision 4a that the sludge ash disposal facility required by subdivision 1 is not needed, an environmental impact statement must be completed on the environmental effects of the council's decisions required by subdivision 6. The statement must be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto, except as otherwise required by this section. The statement must not address or reconsider alternatives eliminated from consideration pursuant to subdivisions 1 and 2 and must not address the matters subject to decision by the council pursuant to subdivision 6b.

**Subd. 5a. Agencies; report on permit conditions and application requirements.** Within 30 days following the council's determination of adequacy pursuant to subdivision 5, the chief executive officer of each permitting state agency shall issue to the council reports on permit conditions and permit application requirements at each candidate site. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits and the probable supplementary documentation that will be required for permit applications. The reports must be consistent with the establishment of facilities in accordance with the requirements of this section, must not address or reconsider alternatives eliminated from consideration under subdivisions 1 and 2, and must not address the matters to be decided by the council pursuant to subdivision 6b.

**Subd. 6. Council site selection.** Within 90 days following the determination of adequacy, the council shall select at least one of the candidate sites for acquisition and development by the commission. Before its selection the council shall consult with the advisory committee and affected counties, cities, and towns.

**Subd. 6a. Suspension of siting during study.** After the certifications required by subdivision 2, there is imposed a suspension until December 31, 1982 on the site evaluation and selection procedure required by subdivisions 1 to 4 and 6. During the period of suspension the council shall evaluate:

(a) methods of reducing to the greatest feasible and prudent extent the introduction of hazardous materials in sewage flows; and

(b) uses for the commission's waste which will reduce to the greatest feasible and prudent extent the need for commission disposal facilities.

**Subd. 6b. Certification of need.** The disposal of sludge ash generated by the commission is not permitted in the metropolitan area without a certification of need issued by the council indicating the council's determination:

(a) that the disposal of waste with concentrations of hazardous materials is necessary; and

(b) that ash disposal is necessary.

The council shall certify need only to the extent that there are no feasible and prudent methods of reducing the concentrations of hazardous materials in the waste and no feasible and prudent alternatives to ash disposal, including large-scale composting and cocomposting of sludge, which would minimize adverse impact upon natural resources. Methods and alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of methods or alternatives, including large-scale composting and cocomposting of sludge as an alternative to incineration. In its certification the council shall not consider alternatives which have been eliminated from consideration by the selection of sites pursuant to subdivision 2.

Subd. 6c. **Certification of need; restriction.** No certification of need may be issued by the council pursuant to subdivision 6b until the report required by this subdivision is submitted to the legislative commission on waste management. The council shall submit the report by January 1, 1984. The report shall evaluate the potential of large-scale sewage sludge composting and cocomposting to reduce the need for sewage sludge incineration, sewage sludge ash disposal, and mixed municipal solid waste land disposal; recommend institutional arrangements necessary for the implementation of large-scale sewage sludge composting and cocomposting; and compare the costs and benefits of composting and cocomposting with the costs, including costs already incurred, and the benefits of incineration.

Subd. 7. **Exemptions.** Nothing in this section shall be construed to preclude the commission from continuing to use existing sewage sludge disposal facilities. In addition, to the same extent and upon the same conditions as sewage sludge may be applied on private property pursuant to section 473.516, subdivisions 3 and 4, the commission may use any site of less than 500 acres owned by the commission for the purpose of landspreading sewage sludge. Any property currently used by the commission and permitted by the agency for disposing of the commission's solid waste may continue to be used for that purpose by the commission, as permitted by the agency.

**History:** 1980 c 564 art 10 s 3; 1981 c 352 s 35-38; 1982 c 424 s 130; 1982 c 569 s 23,24; 1983 c 373 s 51-56; 1984 c 640 s 32; 1985 c 248 s 70; 1985 c 274 s 17-21; 1986 c 425 s 33-37; 1986 c 444

#### **473.155 AVIATION PLANNING.**

**Subdivision 1. Aviation planning assessment.** By February 15 of each year, the council shall prepare a long-range assessment of air transportation trends and factors that may affect major airport development in the metropolitan area for a prospective 30-year period. The council shall involve the airports commission in preparing the assessment and shall take into consideration the airport development and operations plans and activities of the commission.

**Subd. 2. Aviation plan.** By February 1, 1990, the council shall amend the aviation chapter of the metropolitan development guide to incorporate policies and strategies that will ensure a comprehensive, coordinated, continuing, thorough, and timely investigation and evaluation of alternatives for major airport development in the metropolitan area for a prospective 30-year period. The alternatives to be examined must include both the airport improvements and enhancements of capacity that may be necessary at the existing airport and the location and development of a new airport.

**Subd. 3. Search area.** By January 1, 1992, the council, in consultation with the airports commission, shall designate a search area for a major new airport.

**Subd. 4. Legislative reports.** (a) Until the activities required by sections 473.616, subdivision 3, and 473.618 are completed, the council shall report to the legislature by February 15 of each year on the results of the aviation planning activities of the council under this section. The report must include a summary of expenditures and sources of funding for the activities.

(b) By February 1, 1990, the council shall report to the legislature recommending methods and legislative actions that would be necessary to protect a new airport search area from conflicting development, to protect and control development on land at and around a site for a major new airport, and to inhibit land speculation and reduce incentives for land speculation in the airport and all surrounding areas.

(c) By March 1, 1990, after consulting with the airports commission, the federal aviation administration, industry representatives, and other persons, the council shall report to the legislature on assumptions and methods that will be used by the council to forecast demand related to the need for major airport facilities in the metropolitan area for a prospective 30-year period.

(d) By March 1, 1990, the council shall report to the legislature analyzing and making recommendations on long-range aviation goals for the major airport facility in the metropolitan area for a prospective 30-year period. The report must address goals for safety, environmental impact, and service, including ground access and service levels to other states and countries and to nonmetropolitan areas of the state. In preparing the report, the council shall consider regional growth patterns, economic development, economic impact, regional and statewide investment, and ground transportation.

(e) By December 1, 1990, the council shall report to the legislature on the general availability of suitable land for a new airport in and in the area surrounding the metropolitan area.

(f) By January 1, 1993, the council shall report to the legislature on policies for the reuse of the existing major airport site should a new major airport be developed.

**History:** 1989 c 279 s 1

#### 473.1551 NEW AIRPORT SEARCH AREAS.

Subdivision 1. **Candidate search areas protection.** (a) The provisions of this subdivision apply within areas designated by the metropolitan council as candidates for selection as a search area for a new major airport under section 473.155, subdivision 3. The provisions apply until the council has selected a search area under section 473.155, subdivision 3.

(b) All land within the candidate search areas not zoned for other use is zoned for use exclusively for agricultural purposes, except that a prior nonconforming use established with reference to any lot or parcel of land may be continued.

(c) A local government unit in the metropolitan area may not permit a change in zoning, a zoning variance, or a conditional use, including planned unit developments, that the local unit or the metropolitan council determines is inconsistent with the comprehensive plan for the local government unit adopted in accordance with sections 473.175 and 473.851 to 473.871, or any other authority. Before approving an application or proposal for a change in zoning, zoning variance, or conditional use, the local government unit shall submit the application or proposal to the metropolitan council for review and approval or disapproval. The council may disapprove the application or proposal only if the council determines that it is inconsistent with the comprehensive plan of the local unit.

(d) The council shall give notice to the metropolitan airports commission of all submittals under paragraph (c). The commission may comment to the council on any submittal.

(e) The council shall approve or disapprove a submittal within 90 days following receipt by the council, unless a time extension is mutually agreed to by the council and the submitting unit. The commission has 45 days after notification to comment. The council and the commission shall establish administrative procedures for expedited disposition of proposals or applications that do not warrant metropolitan review.

(f) If a candidate search area includes land within a local unit of government outside of the metropolitan area, the metropolitan council and the local unit may enter into an agreement for the joint exercise of powers necessary to determine whether a proposed change in zoning, zoning variance, or conditional use will be compatible with the development and operation of a major airport.

Subd. 2. **Search area protection.** (a) The provisions of this subdivision apply within the search area for a new major airport selected by the council under section 473.155, subdivision 3. The provisions apply until one year after the report to the legislature on long-range airport development required by section 473.618.

(b) Land zoned by subdivision 1, paragraph (b), continues to be zoned exclusively for agricultural purposes, unless a change is authorized under paragraphs (c) and (d).

(c) A local government unit in the metropolitan area may not permit a change in zoning, a zoning variance, or a conditional use, including planned unit developments, that the local unit determines is inconsistent either with the local unit's criteria for approving changes in land use or with the comprehensive plan of the local unit adopted in accordance with sections 473.175 and 473.851 to 473.871. The local unit may deny an application or proposal for a change in zoning, zoning variance, or conditional use under this paragraph without review by the metropolitan council. Before making a final decision to approve an application or proposal, the local unit shall submit it to the metropolitan council for review and approval or disapproval as provided in paragraph (d).

(d) The metropolitan council may disapprove an application or proposal submitted under paragraph (c) only if the council determines that it is inconsistent with the comprehensive plan of the local government unit adopted under sections 473.175 and 473.851 to 473.871, a metropolitan system plan as defined by section 473.852, subdivision 8, or the development and operation of a new major airport in the search area. A local government unit in the metropolitan area may not permit a change in zoning, a zoning variance, or a conditional use, including planned unit developments, that the metropolitan council has disapproved.

(e) A governmental agency or unit may not construct a public building or facility, including transportation, sewer, and park facilities, within the search area until it has submitted the plan for the building or facility to the metropolitan council for review and comment.

(f) The council shall give notice to the metropolitan airports commission of all submittals under this subdivision. The commission may comment to the council on any submittal.

(g) The council shall approve or disapprove a submittal within 90 days following receipt by the council, unless a time extension is mutually agreed to by the council and the submitting government agency or unit. The commission has 45 days after notification to comment. The council and the commission shall establish administrative procedures for expedited disposition of proposals or applications that do not warrant metropolitan review.

#### **473.156 METROPOLITAN WATER USE AND SUPPLY PLAN.**

Subdivision 1. **Plan components.** The metropolitan council shall develop a short-term and long-term plan for existing and expected water use and supply in the metropolitan area. The plan shall be submitted to and reviewed by the state planning agency and the commissioner of natural resources for consistency with the statewide drought plan under section 103G.293. At a minimum, the plans must:

- (1) update the data and information on water supply and use within the metropolitan area;
- (2) identify alternative courses of action, including water conservation initiatives and economic alternatives, in case of drought conditions;
- (3) recommend approaches to resolving problems that may develop because of water use and supply with consideration given to problems that occur outside of the metropolitan area, but which have an effect within the area; and
- (4) be consistent with the statewide drought plan under section 103G.293.

Subd. 2. **Completion and report.** The short-term plan must be completed by February 1, 1990. The long-term plan must be completed by February 1, 1992, and continually updated as the need arises. The plans must be prepared in consultation with the Army Corps of Engineers, the Leech Lake Reservation business committee, the Mississippi headwaters board, department of natural resources, and the environmental quality board. Both plans must be given to the metropolitan affairs and natural resources committees of the house of representatives and senate, and be available to the public.

**History:** 1989 c 335 art 1 s 248; 1990 c 391 art 10 s 3; 1990 c 434 s 2,3

**NOTE:** This section, as amended by Laws 1990, chapter 434, sections 2 and 3, applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. See Laws 1990, chapter 434, section 4.

#### **473.157 WATER RESOURCES PLAN.**

To help achieve federal and state water quality standards, provide effective water pollution control, and help reduce unnecessary investments in advanced wastewater treatment, the council shall adopt a water resources plan that includes management objectives and target pollution loads for watersheds in the metropolitan area. The council shall recommend to the board of water and soil resources performance standards for watershed plans in the metropolitan area, including standards relating to the timing of plan revisions and proper water quality management.

**History:** 1990 c 601 s 5

#### **473.161 IMPLEMENTATION PLANS OF METROPOLITAN AGENCIES.**

Subdivision 1. [Deleted by amendment, 1986 c 460 s 17]

Subd. 1a. **Requirement; purpose.** Each metropolitan agency that is subject to this section by its enabling law shall adopt an implementation plan meeting the requirements of this section. The implementation plan must implement and effectuate the policy plan adopted by the council under section 473.146. Elements of the implementation plan must cover the period or periods prescribed in the council's policy plan.

Subd. 1b. **Content.** The implementation plan must include the following:

- (1) a statement of objectives and priorities for capital development, services, and system management;
- (2) a statement of agency plans to achieve the objectives, describing the functions, services, and systems that will be provided by or under the direction or auspices of the agency;
- (3) a statement of how the agency's objectives, priorities, and plans will implement and effectuate the council's policy plan;
- (4) a statement of the fiscal implications of the agency's plan, including a statement of: (i) the anticipated expenditure of public and private funds, for capital developments, services, and system administration and management, and the changes in expenditure levels that the plan represents; (ii) the resources available under existing fiscal policy and additional resources, if any, that are or may be required to effectuate the agency's plan; (iii) any changes in agency policy on regional sources of revenue and changes in levels of debt, user charges, and taxes; (iv) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the agency has recommended or may recommend; and (v) the effect on functions and levels and types of services, and the agency's contingency and cost-containment strategies, if the additional resources required to effectuate the agency's plan do not become available;

(5) a statement of the standards, criteria, and procedures that the agency will use in monitoring and evaluating the results of the implementation plan;

(6) a statement of the effect of the plan on the responsibilities of other governmental units;

(7) the services and systems management component required by subdivision 1c and the capital investment component required by subdivision 1d; and

(8) other information that the council or agency deems appropriate.

**Subd. 1c. Services and systems management.** The plan must include a services and systems management component that describes the levels and costs of services that will be provided to service areas and populations within the metropolitan area. The component must describe: (1) service needs, objectives, and priorities; (2) changes in existing services; (3) deployment of new services; (4) distribution and coordination of services; (5) timing, priority, and location, with maps, of service areas, routes, levels of service, and similar matters, as appropriate to the type of service; (6) delivery methods and providers; (7) system management and administration; (8) costs; (9) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (10) fiscal effects.

**Subd. 1d. Capital investment.** The plan must include a capital investment component that sets forth a capital investment strategy and estimates the fiscal and other effects of the strategy. The component must specify, to the extent practicable, the capital improvements to be undertaken. For each improvement specified, the plan must describe: (1) need, function, objective, and relative priority; (2) alternatives, including alternatives not involving capital expenditures; (3) ownership and operating entity; (4) location and schedule of development; (5) environmental, social, and economic effects; (6) cost; (7) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (8) fiscal effects, including an estimate of annual operating costs and sources of revenue to pay the costs.

**Subd. 2. Procedure; review and approval by council.** The implementation plan prepared by the metropolitan agency must be submitted to the council for review at the time or times stated in the policy plan. The agency shall hold a public hearing on the plan before submitting it to the council and shall transmit a report of the hearing to the council along with the plan. The council shall complete its review within 90 days after receipt of the proposed implementation plan. In the course of its review of the implementation plan the council shall publish an analysis and evaluation of the success of the agency in effectuating the council's policy plan. If the council determines that the implementation plan is consistent with the policy plan it shall approve the plan as submitted. If it determines that the implementation plan or part thereof is inconsistent with the policy plan, it shall disapprove it and require the submitting agency to make revisions in the implementation plan necessary to bring it into conformance with the policy plan. The agency shall make the revisions required by the council within 60 days, or a longer period agreed to by the council, and resubmit the plan to the council for review. If the agency does not make the revisions required by the council in the time allowed, the council shall hold a public hearing on the matter in dispute. At the hearing the council shall make an affirmative presentation of its position on the required revisions, shall allow the agency to present its objections to the revisions, and shall allow all persons to present their views on the matter. Following the hearing the council shall prepare a report on the hearing, including a summary of the disagreeing positions of the council and the agency, and shall make a final decision on the revision. If the council decides to require revision, the council's decision shall contain specific changes in the implementation plan. The changes contained in the council's decision are binding on the agency and are part of the implementation plan required to be adopted and implemented by the agency under subdivision 3.

**Subd. 2a. Amendment.** At least biennially each metropolitan agency shall review the implementation plan, make the revisions necessary and submit the plan to the council for its review as provided in this section.

**Subd. 3. Adoption; effect.** The metropolitan agency shall adopt and implement the implementation plan, with the revisions required by the council, within 60 days following council approval. The activities of the agency, including its priorities and timing, must be consistent with its approved and adopted implementation plan or be specifically approved by the council. The council may not approve any activity not in substantial conformance with the appropriate policy plan.

**History:** 1975 c 13 s 12; 1986 c 460 s 17; 1987 c 278 s 3

**473.1623 METROPOLITAN COUNCIL; METROPOLITAN AGENCIES; FINANCIAL REPORTING AND MANAGEMENT.**

**Subdivision 1. Purpose.** The purpose of this section is to enhance the efficiency, effectiveness, and responsiveness of metropolitan agencies and services, by improving coordination among metropolitan agencies in financial reporting and management for metropolitan systems and services.

**Subd. 2. Financial reporting and management advisory committee.** A financial reporting and management advisory committee is created, consisting of the chairs of the council and the following metropolitan agencies: the waste control commission, transit board, transit commission, metropolitan airports commission, and sports facilities commission. The committee is established to assist and advise the council and other governing boards in meeting the requirements of this section. Staff and administrative services for the committee must be provided by the council and the member agencies. Other agencies shall make financial information available upon request.

**Subd. 3. Financial report.** By December 15 of even-numbered years, the council, in consultation with the advisory committee, shall publish a consolidated financial report for the council and all metropolitan agencies and their functions, services, and systems. The financial report must cover the calendar year in which the report is published and the two years preceding and three years succeeding that year. The financial report must contain the following information, for each agency, function, or system, respectively, and in the aggregate, in a consistent format that allows comparison over time and among agencies in expenditure and revenue categories:

- (1) financial policies, goals, and priorities;
- (2) levels and allocation of public expenditure, including capital, debt, operating, and pass-through funds, stated in the aggregate and by appropriate functional, programmatic, administrative, and geographic categories, and the changes in expenditure levels and allocations that the report represents;
- (3) the resources available under existing fiscal policy;
- (4) additional resources, if any, that are or may be required;
- (5) changes in council or agency policies on regional sources of revenue and in levels of debt, user charges, and taxes;
- (6) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that have been or may be recommended by the council or the respective agencies;
- (7) an analysis that links, as far as practicable, the uses of funds and the sources of funds, by appropriate categories and in the aggregate;
- (8) a description of how the fiscal policies effectuate current policy and implementation plans of the council and agencies concerned; and
- (9) a summary of significant changes in council and agency finance and an analysis of fiscal trends.

The council shall present the report for discussion and comment at a public meeting in the metropolitan area and request, in writing, an opportunity to make presentations on the report before appropriate committees of the legislature.

**Subd. 4. Financial reporting; budgeting.** The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

**Subd. 4a. Summary budget.** The council and each metropolitan agency shall prepare a summary budget for agency fiscal year 1988 and each year thereafter. The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop guidelines and models for the summary budgets. The purpose of the summary budget is to increase public knowledge and agency accountability by providing citizens outside of the agency with a condensed, accessible, and graphic description of the financial affairs of the agency. The document should contain a coherent, effectively communicated, understandable statement of: financial trends and forecasts; budget policies and policy changes; agency financial assumptions, objectives, and plans; revenue sources and expenditures by program category; personnel policies, decisions, and allocation; budgetary performance measures; and similar matters serving the purpose of the document.

**Subd. 4b. Annual budget.** The council and each metropolitan agency shall include in the annual budget:

(1) a statement of the reserve or fund balance carried forward at the end of the budget year, for at least the two preceding fiscal years;

(2) a comparison of budgeted and actual expenditures, reported by department and, if the agency has a program budget, by program, for at least the two preceding fiscal years;

(3) a comparison of budgeted and actual revenues, reported by revenue source, for at least the two preceding fiscal years; and

(4) a listing, by contract or project, of proposed or anticipated expenditures for consultants and professional, technical, and other similar services.

**Subd. 5. Administrative coordination.** The advisory committee shall evaluate the benefits, costs, methods, and effects, including operational effects, of joint or uniform and coordinated exercise of powers by the council and metropolitan agencies for appropriate administrative functions. The study must include at least ongoing managerial reporting, contracts, purchasing, data processing, and personnel. The council shall report to the legislature from time to time on the findings and recommendations of the advisory committee to date and on legal and other impediments to increased coordination of administrative functions. Before submitting the report, the council shall request comments on the report from the affected metropolitan agencies, and the comments must be submitted along with the report.

**Subd. 6. Personnel and ethical practices; communication.** By January 1 of each year, the council and each agency represented on the advisory committee established under this section shall report to the legislature on the following:

(1) agency personnel practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and

(2) ethical practices requirements for board members and employees of each agency, including the sources of the requirements, agency comparisons, and comparison with requirements for state and local government officers and employees; and

(3) the activities undertaken by each agency board member and council member to regularly meet with and communicate with local officials and legislators in the member's district about issues before the agency or council.

The report on employee salaries under clause (1) must include details of: all lump sum payments or bonuses; and a description of all payments, expense accounts, allowances, including travel allowances, and other current benefits granted to individuals that are not made generally available to employees of the council or agency.

**History:** 1986 c 460 s 18; 1987 c 278 s 4-7; 1988 c 675 s 4,5; 1989 c 306 s 2-4

#### **473.163 METROPOLITAN AGENCY BUDGET PREPARATION; REVIEW AND APPROVAL.**

Subdivision 1. Requirement. Each metropolitan agency that is subject to this section by its enabling law shall prepare a proposed budget by August 1 of each year. The budget must be consistent with and effectuate the implementation plan. The budget must show for each year:

(a) The estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(b) Capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year; all in such detail and form as the council may prescribe; and

(c) The estimated source and use of pass-through funds.

Subd. 2. Procedure; approval of council. As early as practicable before August 15 of each year, the agency shall hold a public hearing on a draft of the proposed budget. Along with the draft, the agency shall publish a report on user charges. The report must include an estimate and analysis of the changes in user charges, rates, and fees that will be required by the agency's budget. Not less than 14 days before the hearing, the agency shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person. Following the hearing, the agency shall publish a report of the hearing that summarizes the comments received and the agency's response. Until the budget for agency fiscal year 1990, those parts of the budget relating to revenues and expenditures for capital improvements must be submitted to the council by August 15 of each year for review and approval by the council. If council approval is required the council shall act to approve or disapprove by October 1 of each year. Before December 15 of each year the agency shall by resolution adopt a final budget. Each agency shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year.

Subd. 2a. Effect. Except in an emergency, for which procedures must be established by the agency, the agency and its officers, agents and employees may not spend money for any purpose, other than debt service, without an appropriation by the agency, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. After obtaining approval of the council, if required under subdivision 2, the agency may amend the budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose.

Subd. 3. [Repealed, 1986 c 460 s 59]

Subd. 4. [Repealed, 1986 c 460 s 59]

History: 1975 c 13 s 13; 1980 c 509 s 171; 1986 c 460 s 19,20

#### **473.164 PAYMENT OF METROPOLITAN COUNCIL COSTS.**

Subdivision 1. The metropolitan parks and open space commission, the regional transit board, the metropolitan waste control commission, and the metropolitan airports commission shall annually reimburse the council for costs incurred by the council in the discharge of its responsibilities relating to the commission or board. The costs may be charged against any revenue sources of the commission or board as determined by the commission or board.

Subd. 2. On or before May 1 of each year, the council shall transmit to each commission or board an estimate of the costs which the council will incur in the discharge of its responsibilities related to the commission or board in the next budget year including, without limitation, costs in connection with the preparation, review, implementation and defense of plans, programs and budgets of the commission or board. Each commission or board shall include the estimates in its budget for the next budget year and may transmit its comments concerning the estimated amount to the council during



the budget review process. Prior to December 15 of each year, the amount budgeted by each commission or board for the next budget year may be changed following approval by the council. During each budget year, the commission or board shall transfer budgeted funds to the council in advance when requested by the council.

Subd. 3. At the conclusion of each budget year, the council, in cooperation with each commission or board, shall adopt a final statement of costs incurred by the council for each commission or board. Where costs incurred in the budget year have exceeded the amount budgeted, each commission or board shall transfer to the council the additional moneys needed to pay the amount of the costs in excess of the amount budgeted, and shall include a sum in its next budget. Any excess of budgeted costs over actual costs may be retained by the council and applied to the payment of budgeted costs in the next year. Costs incurred during 1976 shall be reimbursed to the council on or before December 31, 1976 following receipt and in accordance with a statement of costs transmitted by the council. Notwithstanding the provisions of this section, after July 1, 1981, the metropolitan council shall not charge the regional transit board for any costs incurred by the council for the study of light rail transit unless the study plan and budget have been approved by the board.

*History: 1976 c 321 s 3; 1981 c 363 s 50; 1984 c 654 art 3 s 110*

#### **473.165 COUNCIL REVIEW; INDEPENDENT COMMISSIONS, BOARDS, AND AGENCIES.**

(1) The metropolitan council shall review all long-term comprehensive plans of each independent commission, board, or agency prepared for its operation and development within the metropolitan area but only if such plan is determined by the council to have an areawide effect, a multicomcommunity effect, or to have a substantial effect on metropolitan development. Each plan shall be submitted to the council before any action is taken to place the plan or any part thereof, into effect.

(2) No action shall be taken to place any plan or any part thereof, into effect until 60 days have lapsed after the date of its submission to the council, or until the council finds and notifies the submitting commission, board, or agency that the plan is consistent with its comprehensive guide for the metropolitan area and the orderly and economic development of the metropolitan area, whichever first occurs. If, within 60 days after the date of submission, the council finds that a plan, or any part thereof, is inconsistent with its comprehensive guide for the metropolitan area or detrimental to the orderly and economic development of the metropolitan area, or any part thereof, it may direct that the operation of the plan, or such part thereof, be indefinitely suspended; provided that the council shall not direct the suspension of any plan or part thereof of any sanitary sewer district operating within the metropolitan area which pertains to the location and construction of a regional sewer plant or plants or the expansion or improvement of the present Minneapolis-St. Paul sanitary district treatment plant. An affected commission, board, or agency may appeal the decision of the metropolitan council suspending a plan, or part thereof, to the entire membership of the metropolitan council for public hearing. If the metropolitan council and the affected commission, board, or agency are unable to agree as to an adjustment of the plan, so that it may receive the council's approval, then a record of the disagreeing positions of the metropolitan council and the affected commission, board, or agency shall be made and the metropolitan council shall prepare a recommendation in connection therewith for consideration and disposition by the next regular session of the legislature.

*History: 1975 c 13 s 14*

#### **473.167 HIGHWAY PROJECTS.**

Subdivision 1. **Controlled access highways: council approval.** Before acquiring land for or constructing a controlled access highway in the area, the state transportation department or local government unit proposing the acquisition or construction shall submit to the council a statement describing the proposed project. The statement must be in the form and detail required by the council. Immediately upon receipt of the state-

ment, the council shall transmit a copy to the regional transit board, which shall review and evaluate the project in relationship to the board's implementation plan and report its recommendations and comments to the council. The council shall also review the statement to ascertain its consistency with its policy plan and the development guide. No project may be undertaken unless the council determines that it is consistent with the policy plan and implementation plan. This approval is in addition to the requirements of any other statute, ordinance or rule.

**Subd. 2. Loans for acquisition.** The council may make loans to counties, towns, and statutory and home rule charter cities within the metropolitan area for the purchase of property within the right-of-way of a state trunk highway shown on an official map adopted pursuant to section 394.361 or 462.359 or for the purchase of property within the proposed right-of-way of a principal or intermediate arterial highway designated by the council as a part of the metropolitan highway system plan and approved by the council pursuant to subdivision 1. The loans shall be made by the council, from the fund established pursuant to this subdivision, for purchases approved by the council. The loans shall bear no interest. The council shall make loans only: (1) to accelerate the acquisition of primarily undeveloped property when there is a reasonable probability that the property will increase in value before highway construction, and to update an expired environmental impact statement on a project for which the right-of-way is being purchased; or (2) to avert the imminent conversion or the granting of approvals which would allow the conversion of property to uses which would jeopardize its availability for highway construction. The council shall not make loans for the purchase of property at a price which exceeds the fair market value of the property or which includes the costs of relocating or moving persons or property. A private property owner may elect to receive the purchase price either in a lump sum or in not more than four annual installments without interest on the deferred installments. If the purchase agreement provides for installment payments, the council shall make the loan in installments corresponding to those in the purchase agreement. The recipient of an acquisition loan shall convey the property for the construction of the highway at the same price which the recipient paid for the property. The price may include the costs of preparing environmental documents that were required for the acquisition and that were paid for with money that the recipient received from the loan fund. Upon notification by the council that the plan to construct the highway has been abandoned or the anticipated location of the highway changed, the recipient shall sell the property at market value in accordance with the procedures required for the disposition of the property. All rents and other money received because of the recipient's ownership of the property and all proceeds from the conveyance or sale of the property shall be paid to the council. If a recipient is not permitted to include in the conveyance price the cost of preparing environmental documents that were required for the acquisition, then the recipient is not required to repay the council an amount equal to 40 percent of the money received from the loan fund and spent in preparing the environmental documents. The proceeds of the tax authorized by subdivision 3, all money paid to the council by recipients of loans, and all interest on the proceeds and payments shall be maintained as a separate fund. For administration of the loan program, the council may expend from the fund each year an amount no greater than three percent of the amount of the authorized levy for that year.

**Subd. 2a. Hardship acquisition and relocation.** (a) The council may make hardship loans to acquiring authorities within the metropolitan area to purchase homestead property located in a proposed state trunk highway right-of-way or project, and to provide relocation assistance. Acquiring authorities are authorized to accept the loans and to acquire the property. Except as provided in this subdivision, the loans shall be made as provided in subdivision 2. Loans shall be in the amount of the appraised fair market value of the homestead property plus relocation costs and less salvage value. Before construction of the highway begins, the acquiring authority shall convey the property to the commissioner of transportation at the same price it paid, plus relocation costs and less its salvage value. Acquisition and assistance under this subdivision must conform to sections 117.50 to 117.56.

(b) The council may make hardship loans only when:

(1) the owner of affected homestead property requests acquisition and relocation assistance from an acquiring authority;

(2) federal or state financial participation is not available;

(3) the owner is unable to sell the homestead property at its appraised market value because the property is located in a proposed state trunk highway right-of-way or project as indicated on an official map or plat adopted under section 160.085, 394.361, or 462.359;

(4) the appraisal of the fair market value of the homestead property has been approved by the council. The council's approval shall not be unreasonably withheld; and

(5) the owner of the homestead property is burdened by circumstances that constitute a hardship, such as catastrophic medical expenses; a transfer of the homestead owner by the owner's employer to a distant site of employment; or inability of the owner to maintain the property due to physical or mental disability or the permanent departure of children from the homestead.

(c) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Acquiring authority" means counties, towns, and statutory and home rule charter cities in the metropolitan area.

(2) "Homestead property" means a single-family dwelling occupied by the owner, and the surrounding land, not exceeding a total of ten acres.

(3) "Salvage value" means the probable sale price of the dwelling and other property that is severable from the land if offered for sale on the condition that it be removed from the land at the buyer's expense, allowing a reasonable time to find a buyer with knowledge of the possible uses of the property, including separate use of serviceable components and scrap when there is no other reasonable prospect of sale.

**Subd. 3. Tax.** The council may levy a tax on all taxable property in the metropolitan area, as defined in section 473.121, to provide funds for loans made pursuant to subdivisions 2 and 2a. This tax for the right-of-way acquisition loan fund shall be certified by the council, levied, and collected in the manner provided by section 473.13. The tax shall be in addition to that authorized by section 473.249 and any other law and shall not affect the amount or rate of taxes which may be levied by the council or any metropolitan agency or local governmental unit. The amount of the levy shall be as determined and certified by the council, except as otherwise provided in this subdivision.

The property tax levied by the metropolitan council for the right-of-way acquisition loan fund shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 5/100 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, except as provided in section 473.249, subdivision 3, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area;

(c) for taxes payable in 1990, an amount not to exceed \$2,700,000; and

(d) for taxes payable in 1991 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable in 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property

located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the 1987 assessment year.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The property tax levied under this subdivision for taxes payable in 1988 and subsequent years shall not be levied at a rate higher than that determined by the metropolitan council to be sufficient, considering the other anticipated revenues of and disbursements from the right-of-way acquisition loan fund, to produce a balance in the loan fund at the end of the next calendar year equal to twice the amount of the property tax levy limitation for taxes payable in the next calendar year determined under this section.

**Subd. 4. State review.** The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year. The commissioner of revenue shall annually determine whether the property tax for the right-of-way acquisition loan fund certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. The determination must be completed prior to September 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

**Subd. 5. Levy increase.** For the purpose of determining the levy limitation for taxes payable in 1989 under subdivision 3, the levy limitation for taxes payable in 1988 shall be multiplied by two.

**History:** 1975 c 13 s 15; 1976 c 166 s 7; 1982 c 520 s 4; 1984 c 654 art 3 s 111; 1985 c 47 s 1,2; 1985 c 248 s 70; 1986 c 444; 1986 c 460 s 21; 1988 c 675 s 6-9; 1989 c 306 s 5-7; 1Sp1989 c 1 art 9 s 66

#### **473.168 FREEWAY EXCLUSIVE LANES.**

**Subdivision 1.** For the purpose of this section, "freeway" means a completely controlled access highway where ingress and egress is allowed only at certain designated points as determined by the road authority having jurisdiction over the highway.

**Subd. 2.** The metropolitan council in consultation with the regional transit board may require that any freeway constructed in the metropolitan area on which actual construction has not been commenced by April 12, 1974 include provisions for exclusive lanes for buses and, as the council may determine, other forms of multipassenger transit. The council, in making its determination, must demonstrate that the exclusive lanes are necessary to implement the transportation policy plan of the development guide.

**History:** 1975 c 13 s 16; 1984 c 654 art 3 s 112

**473.169** [Renumbered 473.3994]

**473.1691** [Repealed, 1989 c 339 s 24]

**473.17** [Repealed, 1989 c 339 s 24]

#### **473.171 COUNCIL REVIEW; APPLICATIONS FOR FEDERAL AND STATE AID.**

**Subdivision 1.** The council shall review all applications of a metropolitan agency, independent commission, board or agency, and local governmental units for funds, grants, loans or loan guarantees from the United States of America or agencies thereof submitted in connection with proposed matters of metropolitan significance, all other applications by metropolitan agencies, independent commissions, boards and agencies,

and local governmental units for grants, loans, or loan guarantees from the United States of America or any agency thereof if review by a regional agency is required by federal law or the federal agency, and all applications for grants, loans, or allocations from funds made available by the United States of America to the metropolitan area for regional facilities pursuant to a federal revenue sharing or similar program requiring that the funds be received and granted or allocated or that the grants and allocations be approved by a regional agency.

Subd. 2. The council shall review all applications or requests of a metropolitan agency, independent commission, board or agency, and local governmental units for state funds allocated or granted for proposed matters of metropolitan significance, and all other applications by metropolitan agencies, independent commissions, boards, agencies, and local governmental units for state funds if review by a regional agency is required by state law or the granting state agency.

*History: 1975 c 13 s 17; 1986 c 460 s 22,23*

#### **473.173 COUNCIL REVIEW; METROPOLITAN SIGNIFICANCE.**

Subdivision 1. The council shall review all proposed matters of metropolitan significance to be undertaken by any private organization, independent commission, board or agency, local governmental unit, or any state agency in accordance with the rules adopted pursuant to this section and the provisions of any other relevant statute.

Subd. 2. By September 1, 1976, the council shall adopt and put into effect rules establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance, and establishing a procedure for the review of and final determination on such matters in accordance with the powers and requirements set forth in this section. The purpose of these rules shall be to promote the orderly and economic development, public and private, of the metropolitan area.

Subd. 3. In developing the rules, the council and the advisory metropolitan land use committee, as defined in section 473.852, shall give consideration to all factors deemed relevant including but not limited to the following:

(1) The impact a proposed matter will have on the orderly, economical development, public and private, of the metropolitan area and its consistency with the metropolitan development guide;

(2) The relationship a proposed matter will have to the policy statement goals, standards, programs, and other applicable provisions of the development guide;

(3) The impact a proposed matter will have on policy plans adopted by the council and on the implementation plans and functions performed and to be performed by a metropolitan agency that is subject to section 473.161;

(4) Functions of municipal governments in respect to control of land use as provided for under the municipal planning act.

Subd. 4. The rules shall include, without limitation, provisions to effectuate and comply with the following powers and requirements:

(1) No applicant shall be required to submit a proposed matter for review more than once unless it is materially altered.

(1a) A public hearing shall be held prior to the final determination with regard to a proposed matter.

(2) The council shall be empowered to suspend action on a proposed matter during the period of review and for a period not to exceed 12 months following the issuance of its final determination. In its final determination, the council may prescribe appropriate conditions with regard to a proposed matter which, if incorporated or complied with, would cause the council to remove the suspension.

(3) The council's recommendation or determination concerning a proposed matter, including the determination as to its metropolitan significance, shall be issued within 90 days following its receipt of a proposal accompanied by adequate supporting information, unless all parties consent in writing to an extension. The council shall

extend the time to complete the proceeding by an additional 30 days if the council determines that a fair hearing cannot be completed in the time allowed. To avoid duplication, the review may be suspended for not more than 90 days to await completion of review of a matter by another public agency.

(4) The council shall be required to review a proposed matter upon request of an affected local governmental unit or metropolitan agency that is subject to section 473.161. The rules shall include a procedure for review of a proposed matter upon petition by a specified number of residents of the metropolitan area 18 years of age or older.

(5) The council shall be empowered to review all proposed matters of metropolitan significance regardless of whether the council has received a request from an affected body to conduct that review.

(6) The council shall review all proposed matters determined to be of metropolitan significance as to their consistency with and effect upon metropolitan system plans as defined in section 473.852 and their adverse effects on other local governmental units.

(7) Previously approved policy plans and implementation plans and areas of operational authority of metropolitan agencies that are subject to section 473.161 shall not be subject to review under this section, except as specifically provided in section 473.171.

(8) When announcing the scope of a significance review in the notice commencing the review, the council shall state with particularity, with respect to each issue identified in the scoping document, the policies, provisions, statements, or other elements in metropolitan development guide chapters or policy plans and any other criteria or standards that will be considered or relied on in assessing and determining the metropolitan significance of the proposed project. The statement may be amended by notice to all parties given at least seven days before the public hearing. The statement does not preclude council comment on the consistency of the proposed project with any plans or policies of the council.

(9) Hearings must be conducted in accordance with the following procedures, unless waived in writing by the parties:

- (a) The parties have the right to counsel.
- (b) All testimony must be under oath.
- (c) A complete and accurate record of all proceedings must be maintained.
- (d) Any party or witness may be questioned by the hearing committee or judge, or by other parties.
- (e) The burden of proof that a matter is of metropolitan significance is on the council.

(f) Decisions of the council on the metropolitan significance of a project must be based on a fair preponderance of the relevant evidence contained in the record and on written findings.

Subd. 5. The rules and any major alteration or amendment thereto shall be developed and promulgated by the council in accordance with the provisions of this section and, to the extent not inconsistent or at variance with this section, in accordance with the administrative procedure act, chapter 14, and rules pursuant to thereto. Once the development of all of the rules has been completed by the council and the committee, and no later than 30 days prior to the date specified for their adoption, the council shall hold a public hearing for the purpose of considering the developed rules and receiving comments and recommendations thereon. Notice of the hearing shall be published in appropriate newspapers of general circulation in the metropolitan area and mailed to all persons who have registered for that purpose under chapter 14, appropriate state and regional agencies and all cities, counties, towns, school districts, and watershed districts within the metropolitan area no later than 30 days prior to the hearing. In adopting or amending the rules the enactment of this section shall be deemed to establish or show the need for and to provide evidence in support of the rules or amendments as required in chapter 14, and rules pursuant thereto, but the council shall prepare for distribution a written summary describing the basis for the composition of the draft rules or amend-

ments submitted for hearing and shall afford to all interested persons an opportunity at the hearing to question and make suggestions concerning their composition. Following the hearing, the council may revise the proposed rules, giving consideration to all comments received, and thereafter the council shall finally adopt these rules.

Subd. 6. The council and the advisory metropolitan land use committee shall review and assess the rules following their effective date and at least every two years thereafter. No major alteration or amendments to standards for determining metropolitan significance shall be put into effect by the council until 90 days have elapsed following a report to the legislature in which the alteration or amendment was proposed and recommended by the council in the form of a proposed rule published under section 14.14, subdivision 1a, or 14.22. The report to the legislature must be made during the month of January.

*History: 1975 c 13 s 18; 1976 c 321 s 2; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 460 s 24,25; 1988 c 675 s 11; 1989 c 306 s 8,9*

#### **473.175 COUNCIL REVIEW; COMPREHENSIVE PLANS, SCHOOL DISTRICT CAPITAL IMPROVEMENT PROGRAMS.**

Subdivision 1. The council shall review the comprehensive plans of local governmental units and the capital improvement programs of school districts, prepared and submitted pursuant to Laws 1976, chapter 127, sections 1 to 23, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans and capital improvement programs with other adopted chapters of the metropolitan development guide. The council may require a local governmental unit to modify any comprehensive plan or part thereof which may have a substantial impact on or contain a substantial departure from metropolitan system plans.

Subd. 2. Within 120 days following receipt of a capital improvement program of a school district, unless a time extension is mutually agreed to, the council shall return to the school district a statement containing its comments. Within 120 days following receipt of a comprehensive plan of a local governmental unit, unless a time extension is mutually agreed to, the council shall return to the local governmental unit a statement containing its comments and, by resolution, its decision, if any, to require modifications to assure conformance with the metropolitan system plans.

No action shall be taken by any local governmental unit or school district to place any such comprehensive plan, capital improvement program or part thereof into effect until the council has returned the statement to the unit or district and until the local governmental unit has incorporated any modifications in the plan required by a final decision, order, or judgment made pursuant to section 473.866. Promptly after submission, the council shall notify each city, town, county, or special district which may be affected by the plans or programs submitted, of the general nature of the plans or programs, the date of submission, and the identity of the submitting unit or district. Political subdivisions contiguous to or within the submitting unit or district shall be notified in all cases. Within 30 days after receipt of such notice any governmental unit or district so notified or the local governmental unit or district submitting the plan or program may request the council to conduct a hearing at which the submitting unit or district and any other governmental unit or subdivision may present its views. The council may attempt to mediate and resolve differences of opinion which exist among the participants in the hearing with respect to the plans or programs submitted. If within 120 days, unless a time extension is mutually agreed to, the council fails to complete its written statement the plans or programs shall be deemed approved and may be placed into effect. Any amendment to a plan or program subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan or program. The written statement of the council shall be filed with the plan of the local government unit or the program of the school district at all places where the plan or program is required by law to be kept on file.

Subd. 3. If a local governmental unit fails to adopt a comprehensive plan in accordance with Laws 1976, chapter 127, sections 1 to 23 or if the council after a public hearing by resolution finds that a plan substantially departs from metropolitan system plans and that the local governmental unit has not adopted a plan with modifications required pursuant to section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866, the council may commence civil proceedings to enforce the provisions of Laws 1976, chapter 127, sections 1 to 23 by appropriate legal action in the district court where the local governmental unit is located.

*History: 1975 c 13 s 19; 1976 c 127 s 14; 1977 c 347 s 68*

#### **473.181 ADDITIONAL COUNCIL REVIEW POWERS.**

Subdivision 1. **Trunk highways.** The council shall review proposed trunk highway construction pursuant to sections 161.171 et seq.

Subd. 2. **Parks.** The council shall review local government park master plans pursuant to section 473.313. The metropolitan council shall approve the use of moneys made available for land acquisition to local units of government from the land and conservation fund, the open space program of HUD, the natural resources account in the state treasury, if the use thereof conforms with the system of priorities established by law as part of a comprehensive plan for the development of parks; otherwise it shall disapprove of the use thereof.

Subd. 3. **Metropolitan transit commission.** The council shall review acquisition of public transit systems and the issuance of revenue bonds by the metropolitan transit commission pursuant to section 473.405, subdivision 5.

Subd. 4. **Solid waste.** The council shall review solid waste management activities of local government units as provided in sections 473.801 to 473.834 and 115A.80 to 115A.89.

Subd. 5. **Airports.** The council shall review metropolitan airports commission capital projects pursuant to section 473.621, subdivision 6. The plans of the metropolitan airports commission and the development of the metropolitan airports system by the commission shall, as provided in sections 473.611, subdivision 5, and 473.655, be consistent with the development guide of the council.

*History: 1975 c 13 s 20; 1984 c 644 s 60; 1984 c 654 art 3 s 113; 1987 c 384 art 2 s 102*

#### **473.191 LOCAL PLANNING ASSISTANCE.**

Subdivision 1. The metropolitan council may, at the request of local governmental units, enter into contracts or make other arrangements with local governmental units and others for the provision of services for and assistance with comprehensive community planning. This may include:

(a) Assistance in the preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities together with long-range fiscal plans for such development;

(b) Programming of capital improvements based on a determination of relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program;

(c) Coordination of all related plans of the departments or subdivision of the government concerned;

(d) Intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned; and

(e) Preparation of regulatory and administrative measures in support of the foregoing.

Subd. 2. The metropolitan council may provide technical assistance to cities, counties, and towns to expedite adoption and enforcement of local ordinances under sections 103F.121, 103F.201 to 103F.221, and 473.204 to 473.208.

*History: 1975 c 13 s 21; 1987 c 384 art 2 s 1; 1990 c 391 art 8 s 54*



#### **473.192 AIRCRAFT NOISE ATTENUATION.**

Subdivision 1. Citation. This section may be cited as the "metropolitan area aircraft noise attenuation act."

Subd. 2. Definitions. For purposes of this section, "metropolitan area" has the meaning given it in section 473.121, subdivision 2. "Aviation policy plan" means the plan adopted by the metropolitan council pursuant to section 473.145. "Municipality" has the meaning provided by section 462.352, subdivision 2.

Subd. 3. Ordinance. A municipality in the metropolitan area that, in part or in whole, is within the aircraft noise zones designated in the aviation policy plan may adopt and enforce ordinances and controls to regulate building construction methods and materials for the purpose of attenuating aircraft noise in habitable buildings in and around the noise zone. The ordinance or control shall not apply to remodeling or rehabilitating an existing residential building nor to the construction of an appurtenance to an existing residential building. An ordinance adopted by a municipality must be adequate to implement the metropolitan council's guidelines for land use compatibility with aircraft noise. Section 16B.62 does not apply to ordinances adopted under this section.

Subd. 4. Metropolitan airports commission; noise abatement. Nothing in this section shall be construed to diminish the responsibility of the metropolitan airports commission to conduct noise abatement programs under section 473.612 or any other state or federal law.

*History: 1987 c 155 s 1*

**473.193** [Repealed, 1986 c 460 s 59]

#### **473.194 DEFINITIONS.**

For the purposes of sections 473.194 to 473.201, the terms defined in the municipal housing and redevelopment act shall have the meanings given them in that act.

*History: 1975 c 13 s 23; 1986 c 460 s 26*

#### **473.195 POWERS.**

Subdivision 1. In addition to, and not in limitation of, all other powers invested in it by law, the council, and the members thereof, shall have, throughout the metropolitan area, the same functions, rights, powers, duties, privileges, immunities and limitations as are provided for housing and redevelopment authorities created for municipalities, and for the commissioners of such authorities. The provisions of sections 469.001 to 469.047 and of all other laws relating to housing and redevelopment authorities shall be applicable to the council when functioning as an authority, except as herein provided or as clearly indicated otherwise from the context of such laws. Section 469.003 shall have no application to the council nor to any municipality or county within which the council undertakes a project. Any municipality or county, and the governing bodies of any municipality or county, within and for which the council undertakes a project shall have all the powers, authority and obligations granted to municipalities and counties by the provisions of sections 469.001 to 469.047 and all other laws relating to housing and redevelopment authorities. The council may plan and propose projects within the boundaries of any municipality, and may otherwise exercise the powers of an authority at any time; provided, however, that the council shall not implement any housing project, housing development project, redevelopment project or urban renewal project within the boundaries of any municipality or county without the prior approval of the governing body of the municipality or county in which any such project is to be located; and provided further that the council shall not propose any project to the governing body of a municipality or county having an active authority created pursuant to section 469.003, or pursuant to special legislation, without first submitting the proposed project to the municipal or county authority for its review and recommendations; and provided further that as to any project proposed by the council

and approved by the municipality or county, the council shall not undertake the project if within 60 days after it has been proposed, the municipality or county agrees to undertake the project. Notwithstanding section 469.012, subdivision 3, the council may plan and administer a section 8 program in the metropolitan area without the approval of the governing body of the local governmental unit or housing and redevelopment authority in whose jurisdiction the program is operated. The council shall not operate a section 8 program in the jurisdiction of a local governmental unit or housing and redevelopment authority in the metropolitan area which was operating its own section 8 program under a separate annual contributions contract with the Department of Housing and Urban Development on January 1, 1990, provided that the council may continue to administer a section 8 program within such jurisdictions until the council completes an orderly transfer of its section 8 program responsibilities in such jurisdictions. For purposes of this subdivision, "section 8 program" has the meaning given it in section 469.002, subdivision 24. For the purposes of this subdivision, "annual contributions contract" has the meaning given it in United States Code, title 42, section 1437f, and implementing federal regulations. All plans and projects of the council shall be consistent with the comprehensive development guide.

Subd. 2. The council may provide technical assistance to existing municipal or county housing and redevelopment authorities at the request of such authorities.

Subd. 3. The council may cooperate with or act as agent for the federal government, the state government, or any agencies or instrumentalities thereof, in carrying out the provisions of any federal or state legislation relating to the general purposes of the municipal housing and redevelopment act.

Subd. 4. The council shall, as part of any project proposal to a municipality, propose a means for citizens substantially affected by the proposed project to participate in the formulation and carrying out of projects undertaken by the council pursuant to the terms of sections 473.194 to 473.201.

**History:** 1975 c 13 s 24; 1982 c 424 s 109; 1986 c 460 s 27; 1987 c 291 s 227; 1990 c 532 s 13

**NOTE:** Subdivision 1, as amended by Laws 1990, chapter 532, section 13, applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. See Laws 1990, chapter 532, section 15.

#### **473.199 EFFECT UPON MUNICIPAL AND COUNTY HOUSING AND REDEVELOPMENT AUTHORITIES.**

Nothing in sections 473.194 to 473.201 shall be construed to impair the powers and obligations of municipal, county or multicounty housing and redevelopment authorities within the metropolitan area.

**History:** 1975 c 13 s 25; 1986 c 460 s 28

#### **473.201 FINANCES.**

Subdivision 1. The council shall allocate the net unreimbursed costs of any project which it undertakes to the municipality or group of municipalities or county for which the project is undertaken. The governing body of each such municipality or county shall impose taxes or other revenue measures to provide funds necessary to pay the allocated costs, and the governing body of each such municipality or county shall have all the powers, authority and obligation granted to authorities by section 469.033 and all other provisions of law regarding the financing of such projects, provided that the council shall have the powers of an authority for purposes of applying for and receiving federal grants in connection with all projects which it undertakes.

Subd. 2. The council may expend for the purposes of sections 473.194 to 473.201 any revenues derived pursuant to section 473.249.

**History:** 1975 c 13 s 26; 1986 c 460 s 29; 1987 c 291 s 228

#### **473.203 [Repealed, 1986 c 460 s 59]**

#### **473.204 STANDARDS AND CRITERIA.**

Subdivision 1. Before January 1, 1976, the metropolitan council shall, after public hearings, promulgate standards and criteria and suggested model ordinances for the regulation of the use and development of the land and water within the metropolitan area which will provide for:

- (a) the protection and preservation of those wetlands and lowlands permanently or intermittently covered with waters, such as marshes, swamps, bogs, meadows, pot-holes and sloughs which are essential to hydrological or ecological systems or for flood control;
- (b) the protection of groundwater recharge areas which contribute significantly to the recharge of groundwater aquifers;
- (c) the minimum erosion of those slopes which are subject to severe or moderate erosion because of their degree of slope and soil type;
- (d) the maximum retention of existing forests and woodlands, the minimum removal of trees for development, and the encouragement of replanting where removal is unavoidable;
- (e) the determination of the suitability of soils or bedrock for development, design and construction measures for development which would compensate for existing soil or bedrock problems, and the prevention of the type of development for which such soils or bedrock are unsuitable;
- (f) the protection and preservation of the natural watercourses, intermittent or permanent, and minimizing the discharge of pollutants into water bodies and watercourses by storm runoff and otherwise;
- (g) the protection and preservation of areas containing unique or endangered species of plants and animals;
- (h) the prevention of premature development for nonagricultural use of prime agricultural lands where such land is essential for agricultural purposes;
- (i) the regulation of the extraction of minerals, including sand and gravel, to minimize undesirable environmental effects and provide for future utilization of the lands involved;
- (j) the preservation of natural resource areas of particular historical significance.

Subd. 2. In preparation of these standards, criteria and model ordinances, described in subdivision 1, clauses (a), (b), (d), (f), (g) and (i) and in order to assure consistency with rules, standards, criteria and model ordinances promulgated by other state agencies, the metropolitan council shall seek the assistance and approval of the department of natural resources; in preparation of these standards, criteria and model ordinances, described in subdivision 1, clauses (c) and (e), the metropolitan council shall seek the assistance and approval of the board of water and soil resources; in preparation of these standards, criteria and model ordinances, described in subdivision 1, clause (h), the metropolitan council shall seek the assistance and approval of the department of agriculture. In addition, the metropolitan council shall, where appropriate, seek the assistance of the commissioner of trade and economic development, the Minnesota pollution control agency, soil and water conservation districts, the University of Minnesota, the department of agriculture, and other appropriate agencies.

**History:** 1975 c 13 s 28; 1975 c 271 s 6; 1976 c 149 s 59; 1976 c 239 s 116; 1981 c 356 s 239; 1983 c 289 s 115 subd 1; 1985 c 248 s 70; 1987 c 312 art 1 s 26 subd 2; 1987 c 358 s 34; 1987 c 384 art 3 s 42

#### **473.206 LOCAL ORDINANCES.**

Each county, city or town in the metropolitan area shall be provided with standards, criteria and suggested model ordinances and may, after review and comment by the metropolitan council, adopt ordinances which provide for the protection of the resources described in section 473.204.

**History:** 1975 c 13 s 29

#### **473.208 COOPERATION.**

In adopting and enforcing the ordinances for which standards and criteria are provided by sections 473.204 to 473.208, counties, cities and towns shall consult and cooperate with affected soil and water conservation districts, watershed districts, and lake conservation districts on matters of common concern.

*History: 1975 c 13 s 30; 1987 c 384 art 2 s 1*

**473.215** [Repealed, 1986 c 460 s 59]

**473.216** [Repealed, 1986 c 460 s 59]

**473.217** [Repealed, 1986 c 460 s 59]

**473.218** [Repealed, 1986 c 460 s 59]

**473.219** [Repealed, 1986 c 460 s 59]

#### **473.223 FEDERAL AID.**

For the purposes of this section the term "governmental subdivision" includes municipalities, counties and other political subdivisions generally. If federal aid for transportation programs and projects is otherwise unavailable to an existing agency or governmental subdivision, the metropolitan council may cooperate with the government of the United States and any agency or department thereof and the affected agency or other governmental subdivision in establishing metropolitan area eligibility to receive federal aid, and may comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such projects as are proposed for federal assistance. If necessary to meet federal requirements, the council, the regional transit board, and the metropolitan transit commission may be considered a single eligible unit to carry out their respective responsibilities. The metropolitan council may accept federal aid and other aid, either public or private, for and in behalf of the metropolitan area or any governmental subdivision of the state, for transportation programs and projects within the metropolitan area upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and is authorized to act as agent of any governmental subdivision of the state with jurisdiction in the metropolitan area upon request of such subdivision in accepting the aid in its behalf for such programs or projects financed either in whole or in part by federal aid. The governing body of any such subdivision is authorized to designate the metropolitan council as its agent for such purposes and to enter into an agreement with the council prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations. The metropolitan council is authorized to designate an appropriate state agency as its agent for such purposes and to enter into an agreement with such agency prescribing the terms and conditions of the agency relationship in accordance with state and federal laws, rules and regulations.

Nothing contained herein shall limit any separate authority of agencies or governmental subdivisions of the state to contract for and receive federal aid.

*History: 1975 c 13 s 36; 1980 c 509 s 172; 1984 c 654 art 3 s 114*

#### **473.241 DATA COLLECTION.**

The metropolitan council in cooperation with other departments and agencies of the state and the regents of the University of Minnesota may develop a center for data collection and storage to be used by it and other governmental users and may accept gifts as otherwise authorized in this section for the purposes of furnishing information on such subjects as population, land use, governmental finances, and the like.

*History: 1975 c 13 s 37*

#### 473.247 METROPOLITAN AGENCIES; PUBLIC INFORMATION.

The council shall publish a consolidated metropolitan bulletin or register containing official notices, meeting and hearing schedules, notices of adopted ordinances, rules, policies, and similar matters for the council and all metropolitan agencies. Metropolitan agencies shall cooperate with the council in providing timely information for publication.

*History: 1987 c 278 s 9*

#### 473.249 TAX LEVY.

Subdivision 1. The metropolitan council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law. This tax for general purposes shall be levied and collected in the manner provided by section 473.13.

The property tax levied by the metropolitan council for general purposes shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 8/30 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (2) the lesser of

(i) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the previous assessment year;

(ii) an index equal to the implicit price deflator for state and local government purchases of goods and services for the most recent month for which data are available divided by the implicit price deflator for state and local government purchases of goods and services for the same month of the previous year; or

(iii) 103 percent.

For the purpose of determining the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Subd. 2. The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year. The commissioner of revenue shall annually determine whether the ad valorem property tax certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. The determination shall be completed prior to September 1 of each year. If current information regarding gross tax capacity in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current gross tax capacity within that county for purposes of making the calculation.

Subd. 3. [Repealed, 1989 c 306 s 12]

*History: 1975 c 13 s 42; 1976 c 179 s 19; 1978 c 543 s 4; 1978 c 766 s 17, 18; 1986 c 460 s 31; 1988 c 675 s 12, 13; 1988 c 719 art 5 s 84; 1989 c 306 s 10; 1989 c 329 art 15 s 20; 1Sp1989 c 1 art 9 s 67*

#### **473.242 URBAN RESEARCH.**

Where studies have not been otherwise authorized by law the metropolitan council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the peoples of the metropolitan area, may institute demonstration projects in connection therewith, and may accept gifts for such purposes as otherwise authorized in this section.

*History: 1975 c 13 s 38*

#### **473.243 EMERGENCY SERVICES.**

The metropolitan council may coordinate emergency services, community shelter planning within the metropolitan area, accept gifts for such purposes as otherwise authorized in section 473.129 and contract with local governmental agencies and consultants in connection therewith.

*History: 1975 c 13 s 39*

#### **473.244 SPECIAL STUDIES AND REPORTS.**

Subdivision 1. The metropolitan council shall engage in a continuous program of research and study concerning the matters enumerated in this section.

Subd. 2. The control and prevention of air pollution.

Subd. 3. The acquisition and financing of suitable major parks and open spaces within and adjacent to the metropolitan area.

Subd. 4. The control and prevention of water pollution in the metropolitan area in conformity with applicable federal and state laws.

Subd. 5. The development of long-range planning in the metropolitan area but not for the metropolitan area.

Subd. 6. The acquisition of necessary facilities for the disposal of solid waste material for the metropolitan area and the means of financing such facilities.

Subd. 7. The examination of the tax structure in the metropolitan area and consideration of ways to equalize the tax resources therein.

Subd. 8. Assessment practices in the metropolitan area.

Subd. 9. The acquisition of necessary storm water drainage facilities for the metropolitan area and the means of financing such facilities.

Subd. 10. The necessity for the consolidation of common services of local governmental units and the kind of consolidation most suitable in the public interest.

Subd. 11. Advance land acquisition for development purposes in the metropolitan area and the role of the public in connection therewith.

Subd. 12. All studies shall include recommendations as to the governmental organization, governmental subdivision, or governmental district best suited to discharge the powers recommended.

*History: 1975 c 13 s 40*

#### **473.245 REPORTS.**

On or before January 15, of each year the metropolitan council shall report to the legislature. The report shall include:

(1) A statement of the metropolitan council's receipts and expenditures by category since the preceding report;

(2) A detailed budget for the year in which the report is filed and the following year including an outline of its program for such period;

(3) An explanation of any policy plan and other comprehensive plan adopted in whole or in part for the metropolitan area and the review comments of the affected metropolitan agency;

(4) Summaries of any studies and the recommendations resulting therefrom made by the metropolitan council, and a listing of all applications for federal money made by governmental units within the metropolitan area submitted to the metropolitan council;

(5) A listing of plans of local governmental units and proposed matters of metropolitan significance submitted to the metropolitan council;

(6) A detailed report on the progress of any project undertaken by the council pursuant to sections 473.194 to 473.201; and

(7) Recommendations of the metropolitan council for metropolitan area legislation, including the organization and functions of the metropolitan council and the metropolitan agencies.

*History: 1975 c 13 s 41; 1986 c 460 s 30; 1987 c 384 art 2 s 1*

Title 23  
Section 134(b) (1)

Code of Federal Regulations

(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

Title 23  
Section 450.106

Code of Federal Regulations

**§ 450.106 Metropolitan planning organization.**

(a) Designation of a metropolitan planning organization shall be made by agreement among the units of general purpose local government and the Governor. To the extent possible, only one metropolitan planning organization should be designated for each urbanized area or group of contiguous urbanized areas.

(b) Principal elected officials of general purpose local governments shall be represented on the metropolitan planning organization to the extent agreed to pursuant to paragraph (a) of this section.

