

METROPOLITAN COUNCIL EMERGENCY POWERS REPORT

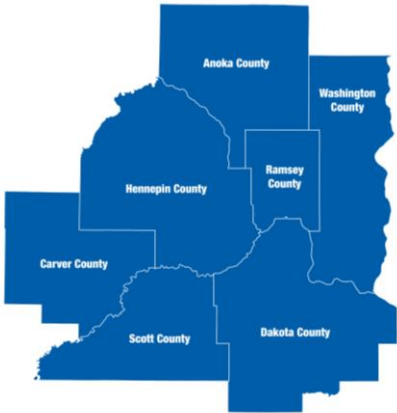


November 2021

The Council's mission is to foster efficient and economic growth for a prosperous metropolitan region

Metropolitan Council Members

Charlie Zelle	Chair	Raymond Zeran	District 9
Judy Johnson	District 1	Peter Lindstrom	District 10
Reva Chamblis	District 2	Susan Vento	District 11
Christopher Ferguson	District 3	Francisco J. Gonzalez	District 12
Deb Barber	District 4	Chai Lee	District 13
Molly Cummings	District 5	Kris Fredson	District 14
VACANT	District 6	Phillip Sterner	District 15
Robert Lilligren	District 7	Wendy Wulff	District 16
Abdirahman Muse	District 8		



The Metropolitan Council is the regional planning organization for the seven-county Twin Cities area. The Council operates the regional bus and rail system, collects and treats wastewater, coordinates regional water resources, plans and helps fund regional parks, and administers federal funds that provide housing opportunities for low- and moderate-income individuals and families. The 17-member Council board is appointed by and serves at the pleasure of the governor.

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Reporting Requirement

Chapter 74, article 1, section 8(a), of the 2020 Session Laws states:

Within 30 days of the expiration of [the COVID-19] peacetime public health emergency period, the chair of the Metropolitan Council must report to the legislative committees with jurisdiction over transportation or the Metropolitan Council regarding any temporary powers exercised during the peacetime public health emergency period, including but not limited to any statutory requirements or administrative rules that were modified or waived. The report must include a timeline as to when and an explanation of why temporary powers were exercised.

Background

On March 13, 2020, Governor Walz issued Emergency Executive Order 20-01 declaring a peacetime emergency in Minnesota in response to the COVID-19 health pandemic. The Governor also issued subsequent executive orders relating to the peacetime emergency. In addition, the federal government enacted a new law that expanded protection under the Family Medical Leave Act and paid sick leave related to the COVID-19 pandemic.

Minnesota Statutes, section 473.123, subdivision 4(d), states in part: “In the performance of its duties the Metropolitan Council may adopt policies and procedures governing its operation, . . .” Under Minnesota Statutes, section 473.125, the Metropolitan Council “shall appoint a regional administrator to serve . . . as the principal administrative officer for the Metropolitan Council” who “shall organize the work of the council staff” and “ensure that all policy decisions of the council are carried out.”

Temporary Changes

To help ensure continuing operations of essential public services (*i.e.*, public transportation, wastewater treatment, public safety and security functions, and rental housing assistance), the Regional Administrator implemented changes to how the Council’s staff is organized and operated. Those changes included broad use of teleworking, staggered work schedules, a COVID-19 leave policy, and modified procedures to address critical technology needs. In consultation with the Chair, the Regional Administrator implemented these changes to help ensure the Council could continue to provide essential public services while protecting the health and safety of Council employees and their families, and members of the public. The Metropolitan Council’s governing body adopted a Peacetime Emergency Policy that went into effect in March 2020.

The temporary policy allowed the Council to adapt its functions and organize the work of its staff to address the peacetime emergency in a timely manner. In consultation with the Chair (and to the extent permitted by law), the Regional Administrator suspended certain Council policies and procedures relating to Employees in the Workplace, Customer Relations & Outreach, and Finance & Asset Management to respond to the peacetime emergency, conforming to laws, rules, and collective bargaining agreements to the extent practicable. The Regional Administrator in consultation with the Chair also implemented measures that were reasonably necessary to respond to the peacetime emergency. These measures included:

- Providing paid leave to employees who had to be absent from work for reasons related to the peacetime emergency including to care for family members;
- Suspending any waiting periods for insurance eligibility for new employees;

- Determining employee work schedules and hours of work; notice periods for changes in work schedules, work hours, or work locations; limitations on supervisor rescission of vacation approval; seniority requirements for filling vacancies, reassignment, or distribution of overtime or on-call work; restrictions on appointment, assignment or reassignment; and notice requirements for seasonal layoff and recall;
- Transferring employees or functions within the Council and between job classifications;
- Suspending hiring policies and procedures; and
- Suspending or modifying certain Customer Relations & Outreach as well as Finance & Asset Management policies and procedures.

The governing body of the Metropolitan Council adopted its Peacetime Emergency Policy at its March 25, 2020 meeting (Business Item No. 2020-114). The policy can be viewed at: [Agenda 3.25.20 - Metropolitan Council \(metro council.org\)](#)

The Metropolitan Council is a political subdivision of the state and therefore did not modify or waive statutory requirements or administrative rules during the pendency of the peacetime emergency. Attached is a table that identify modifications to internal Council policies and procedures, the reasons for those modifications, and the duration of those modifications.

Division	Emergency power	Modification	Reason	Timeline
Regional Administration	The Regional Administrator declared an emergency and activated the Metropolitan Council's Pandemic Continuity of Operations Plan and the enterprise NIMS Incident Command Structure (ICS), for purposes of responding to and managing the COVID-19 crisis at an enterprise-wide level.		The Metropolitan Council has delegated authority to the Regional Administrator to declare emergencies on behalf of the Council when the health, safety or welfare of the public is compromised or potentially compromised, and immediate action is required to address the emergency. The emergency declaration is presented to the appropriate implementation committee for approval and placed on a following Council consent list for formal ratification.	Started March-9 2020 Ending December 31 2021
		All Metropolitan Council and Committee meetings were changed to attendance via telephone or other electronic means, conducted under Minnesota Statutes section 13D.021.	The Metropolitan Council Chair determined it is not practical or prudent to conduct in-person meetings for reasons stated in the Governor's Emergency Executive Order and because of a health pandemic.	Started March 25, 2020 Ending January 3, 2022
Community Development	Community Development did not exercise any temporary emergency powers during the Governor's Peacetime Emergency Declaration.			
Environmental Services	Environmental Services did not exercise any temporary emergency powers during the Governor's Peacetime Emergency Declaration.	There were no modifications to plant permits or operations at any time during the Governor's Peacetime Emergency Declaration.		
		IWPP partnered with PCA to replace on-site industrial inspections with video/phone inspections and modified some other sampling & monitoring practices.	Due to the pandemic and social distancing requirements, MCES and PCA agreed it was safer to do remote video/phone inspections and external samplings	Started May 2020 Ended July 2021
		Collection of outdoor Sewer Access Charges (SAC) were delayed for restaurants.	With the governor's restrictions on indoor dining, many set up outdoor seating. Since people could not sit indoors (or at dramatically less capacity), the outdoor seating did not add incremental capacity demand on the system, so a SAC determination was not warranted. Municipalities tracked locations with temporary outdoor seating and will follow up starting 1-January-2022 to work with the restaurants that make the seating permanent to get SAC determinations completed.	Started May 2020 Ending January 2022

Division	Emergency power	Modification	Reason	Timeline
Metropolitan Transportation Services	Metropolitan Transportation Services did not exercise any temporary emergency powers or implement any modifications or waivers to statutory requirements / administrative rules during the Governor's Peacetime Emergency Declaration.			
Metro Transit	Metro Transit did not exercise any temporary emergency powers during the Governor's Peacetime Emergency Declaration.			
		Service reductions/adjustments and suspensions of service (greater than 25% of route or group of routes), were implemented several times without advance notice or public input, and prior to Title VI technical analysis.	The Governor's Peacetime Emergency Declaration and subsequent Executive Orders mandated public school closures, stay home orders and a transition of many workforces to a telework model, and closure of restaurants and bars to dine-in customers. Colleges and universities extended their Spring Breaks and then transitioned to distance learning models. These factors all created major shifts in the demand for public transportation and each factor, as they occurred, drove corresponding service adjustment decisions. Title VI technical analysis was completed in 2021 for 2020 services changes	



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