

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5795

AN ORDINANCE relating to Commute Trip Reduction (CTR); amending Sections 14.40.010, 14.40.020, 14.40.040, 14.40.050, 14.40.060, 14.40.070, 14.40.080, 14.40.090, 14.40.100, 14.40.110, 14.40.120, 14.40.130, and 14.40.140; repealing 14.40.030 and 14.40.120 and establishing an effective date.

WHEREAS, the City adopted a Commute Trip Reduction Plan in 1993 and also added Chapter 14.40, Commute Trip Reduction, to the Bellevue City Code by Ordinance No. 4506; and

WHEREAS, the city updated the Commute Trip Reduction (CTR) Plan and Chapter 14.40 of the Bellevue City Code in 1999 by Ordinance No. 5157 to reflect changes to state law;

WHEREAS, the Commute Trip Reduction Efficiency Act of 2006 requires the City to amend its CTR Plan and Chapter 14.40 of the Bellevue City Code consistent with RCW 70.94.527;

WHEREAS, the ordinance reflects the intent of the law, specific elements of the implementation of the City's CTR program are detailed in the associated Implementation Guidelines, which may be amended administratively; and

WHEREAS, the adoption of this ordinance will promote the public health, safety, and general welfare within the City of Bellevue and the region; now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Section 14.40.010 is amended to read as follows:

14.40.010. Definitions

The following definitions shall apply throughout this chapter:

A. "*Affected Employee*" means a full-time employee who begins his or her regular work day at a single worksite covered by the Commute Trip Reduction Plan between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

B. "*Affected Employer*" means an employer that employs one hundred (100) or more affected employees, as defined in this section, at a single worksite. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

C. "*Alternative Mode*" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work week schedules if they result in reducing commute trips.

D. "*Alternative Work Schedules*" mean programs such as compressed work week schedules that eliminate commute trips for affected employees.

E. "*Base year*" means the twelve-month period which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. The City of Bellevue uses this twelve-month period as the basis upon which it develops commute trip reduction goals.

F. "*Baseline measurement*" means the results of a survey of affected employees at a major employer worksite or agreed to zone average designated during the base year, to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified in the City of Bellevue CTR Implementation Guidelines.

G. "*Carpool*" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

H. "*City*" means the City of Bellevue.

I. "*Commute Trips*" mean trips made from a worker's home to a worksite on weekdays.

J. "*CTR*" is the abbreviation of Commute Trip Reduction.

K. "*CTR Implementation Guidelines*" or "*Implementation Guidelines*" means the compilation of additional guidance by the city to guide employers in defining and executing their CTR programs.

L. "*CTR Plan*" means the city's Commute Trip Reduction Plan adopted as required by RCW 70.94.527.

M. "*CTR Program*" means an employer's strategies to reduce employees' drive alone commutes and average VMT per employee.

N. "*CTR Zone*" means an area within Bellevue characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, or other factors that may affect the level of SOV commuting. The city's CTR zones are defined in the Implementation Guidelines.

O. "*Compressed Work Week*" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. Compressed workweeks are understood to be an ongoing arrangement.

P. "*Custom Bus/Buspool*" means a commuter bus service arranged specifically to transport employees to work.

Q. "*Dominant Mode*" means the mode of travel used for the greatest distance of a commute trip.

R. "*Drive Alone*" means a motor vehicle, including a motorcycle, occupied by one employee for commute purposes.

S. "*Drive Alone Trips*" or "*single-occupant vehicle (SOV)*" means commute trips made by employees in single occupant vehicles, including motorcycles.

T. "*Employee*" means anyone, other than an independent contractor or seasonal agricultural employee, who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer. For the purposes of this chapter, shareholders, principals and associates in a corporation, partners (general or limited) in a partnership and participants in a joint venture are to be considered employees.

U. "*Employee Transportation Coordinator (ETC)*" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR Program.

V. "*Employer*" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs employees.

W. "*Exemption*" means a waiver from any or all CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.

X. "*Flex-Time*" means an employer policy allowing individual employees flexibility in choosing the start and end time, but not the number of their working hours, to facilitate the use of alternative modes.

Y. "*Full-Time Employee*" means a person, other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

Z. "*Good Faith Effort*" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter, and is working collaboratively with the city to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

AA. "*Implementation*" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this chapter as evidenced by appointment of an employee transportation coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to its approved CTR program and schedule.

BB. "*Major Employer*" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months.

CC. "*Major Employer Worksite*" or "*Affected Employer Worksite*" or "*Worksite*" means the physical location occupied by a major employer, as determined by the city.

DD. "*Mode*" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.

EE. "*Notice*" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

FF. "*Peak Period*" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

GG. "*Peak Period Trip*" means any commute trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

HH. "*Proportion of Drive Alone Trips*" or "*Drive Alone Rate*" means the number of commute trips over a set period made by affected employees in single occupancy vehicles divided by the number of potential trips taken by affected employees working during that period.

II. "*Ride Matching Service*" means a system that assists in matching commuters for the purpose of commuting together.

JJ. "*Teleworking*" or "*Telecommuting*" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

KK. "*Transit*" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

LL. "*Transportation Demand Management (TDM)*" means a broad range of strategies that are primarily intended to reduce the number of drive alone trips and thereby reshape demand on the transportation system.

MM. "*Transportation Management Association (TMA)*" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

NN. "*Vanpool*" means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

OO. "*Vehicle Miles Traveled (VMT) Per Employee*" means the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

PP. "*Week*" means a seven-day calendar period starting on Monday and continuing through Sunday.

QQ. "*Weekday*" means any day of the week except Saturday or Sunday.

RR. "*Writing*," "*Written*," or "*In Writing*" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

SS. "*Zone Average*" means a figure that may be used to establish a baseline measurement for a new major employer. The zone average is calculated using existing survey data from the other affected employers in the zone to develop an average drive alone rate and VMT per employee.

Section 2. Existing Bellevue City Code Section 14.40.020 Commute Trip Reduction Goals is amended to become Section 14.40.030. Existing Section 14.40.040 City of Bellevue CTR Plan is amended to become 14.40.020 as follows.

14.40.020 City of Bellevue CTR Plan

The goals established for the jurisdiction and affected employers in the city's Commute Trip Reduction Plan, given Clerk's Receiving No. 42488 and incorporated by reference as if fully set forth herein, is hereby adopted. This plan replaces the 1999 plan and may be amended by further action of the City Council.

Section 3. Existing Bellevue City Code Section 14.40.030 Designation of CTR Zones and Base Year Values is repealed. Existing Bellevue City Code Section 14.40.020 Commute Trip Reduction Goals is amended to become section 14.40.030 as follows:

14.40.030 CTR Goals

The city's goals for reductions in the proportion of drive-alone commute trips and vehicle miles traveled per employee by affected employers within Bellevue's jurisdiction are established by the city's CTR Plan and represent the desired level of performance for the city's CTR program in its entirety.

The city will set the individual worksite goals for affected employers based on how the worksite can contribute to the city's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan.

If the goals for an affected employer or newly affected employer are not listed in the CTR Plan, they shall be established by the city at a level designed to achieve the city's overall goals for the program. The city shall provide written notification of the goals for each affected employer worksite by providing the information during review of the employer's proposed program and incorporating the goals into the program approval issued by the city.

The Implementation Guidelines describe the methods used to calculate worksite goals for established and newly affected employers.

Section 4. Existing Bellevue City Code Section 14.40.050 Responsible Department is amended to become Section 14.40.040 as follows:

14.40.040 Responsible Department

The city manager, or his or her designee, shall designate the city department and officials who shall be responsible for administering this chapter and the city's CTR program for city employees.

Section 5. Existing Bellevue City Code Section 14.40.060 Applicability is amended to become Section 14.40.050 as follows:

14.40.050 Applicability

A. The provisions of this chapter shall apply to any affected employer within the corporate limits of the city. Each affected employee will be counted only at a single worksite.

B. Notification of Applicability

1. The city will publish a notice of availability of a summary of the ordinance codified in this chapter and a notice of the requirements and criteria for affected employers to comply with the ordinance at least once in the city's official newspaper not more than 30 days after passage of this ordinance.
2. Affected employers located in the city will receive formal written notification that they are subject to this chapter within 30 days after passage of the ordinance codified in this chapter. Such notification shall provide 90 days for the affected employer to establish a baseline measurement consistent with the measurement requirements specified by the city. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the city under previous iterations of this code, the employer is not required to perform another baseline measurement.
3. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance codified in this chapter must identify themselves to the city within 90 days of the passage of the ordinance and will be granted a 90 day extension to establish a baseline measurement consistent with the measurement requirements specified by the city.

C. Newly Affected Employers.

Employers that meet the definition of "affected employer" in this chapter must identify themselves to the city within 90 days of either moving into the corporate limits of the city or growing in employment at a worksite to one hundred (100) or more affected employees. Such employers shall be granted 90 days from the date they identify themselves to perform a baseline measurement consistent with the measurement requirements specified by the city. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the city. The program will be developed to be consistent with the goals of the adopted CTR Plan and be implemented not more than 90 days after approval by the city. Employers who do not identify themselves or implement an approved CTR Program according to this schedule are in violation of this section and are subject to the penalty provisions outlined in BCC 14.40.110 (Civil violations and monetary penalties).

D. Change in Status as an Affected Employer

Any of the following changes in an employer's status will change the employer's CTR program requirements:

- 1) If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the city that it is no longer an affected employer.
- 2) If the same employer returns to the level of one hundred (100) or more affected employees within the same twelve (12) months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.
- 3) If the same employer returns to the level of one hundred (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

Section 6. Existing Bellevue City Code Section 14.40.070 Requirements for Affected Employers is amended to become Section 14.40.060 as follows:

14.40.060 Requirements for Affected Employers

A. An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and drive alone commute trips.

B. Mandatory Program Elements

Each affected employer's CTR program shall include the following mandatory elements:

- 1) The employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program.
- 2) Information Distribution. Information about alternatives to drive alone commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR Program shall also be submitted to the city with the employer's program description and regular report.

C. Additional Program Elements. The employer's CTR program shall include additional elements, as needed to meet CTR goals. Approved additional elements are detailed in the Implementation Guidelines.

D. Review and Description of Employer's CTR Program.

Affected employers are required to review their program and file a regular progress report with the city in accordance with the format provided by the city as described in the Implementation Guidelines. At a minimum, the employer's CTR Program Report and Description must include:

- 1) a general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, surrounding services; and unique conditions experienced by the employer or its employees;
- 2) the number of employees affected by the CTR program and the total number of employees at the site;
- 3) documentation on compliance with the mandatory CTR program elements (as described in subsection B);
- 4) description of any additional elements included in the employer's CTR program (as referenced in subsection C); and
- 5) a statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

E. Biennial Measure of Employee Commute Behavior

In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at least once every two years, and strive to achieve at least a 70% response rate from employees at the worksite.

Section 7. Existing Bellevue City Code Section 14.40.080 Record Keeping is amended to become Section 14.40.070 as follows:

14.40.070 Record Keeping

Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the city for a minimum of 48 months.

Section 8. Existing Bellevue City Code Section 14.40.090 Schedule and Process for CTR Reports, Program review and Implementation is amended to become Section 14.40.080 as follows:

14.40.080 Schedule and Process for CTR Program Review, Reports, and Implementation

A. Document Review

Program descriptions shall be deemed acceptable if all information referenced in Section 14.40.060(D) is provided. The City shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within 90 days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

B. Schedule

Upon review of an employer's initial CTR program, the city shall establish the employer's regular reporting date. This report will be provided in a form provided by the city consistent with Section 14.40.060 and the Implementation Guidelines.

C. Modification of CTR Program Elements

Any affected employer may submit a request to the city for modification of mandatory CTR requirements. Such requests may be granted if one of the following conditions exist:

- 1) The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or
- 2) The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

The city may require the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

D. Extensions

An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request by written notice within 10 working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions.

Section 9. Existing Bellevue City Code Section 14.40.100 Modification of CTR Requirements and Section 14.40.110 Credit for Transportation Demand Management Efforts are amended to become Section 14.40.090 Modification, Exemption, and Credit of CTR Requirements as follows:

14.40.090 Modification, Exemption, and Credit of CTR Requirements

A. Goal Modification

An affected employer may request that the city modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or regular report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in Implementation Guidelines. An employer may not request a modification of the applicable goals until one year after approval of its initial program description.

B. Exemptions

1. An affected employer may request the city grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The city shall grant or deny the request within 30 days of receipt of the request. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.
2. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Board Administrative Guidelines (and reflected in the city's Implementation Guidelines) to assess the validity of employee exemption requests. The city shall grant or deny the request within 30 days of receipt of the request. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Credit for Transportation Demand Management Efforts

Employers whose VMT per employee and drive alone rate are already equal to or less than the goals for one or more future goal years, and that commit in writing to continue the current level of effort, may be exempted from one or more of the mandatory requirements in Section 14.40.060(B). Employers must fulfill the survey

and reporting requirements during measurement years. If a measurement year report indicates that the employer is no longer achieving the applicable goals, the credit shall be revoked and the employer shall immediately become subject to all requirements of this chapter and shall be so notified by the city.

Section 10. Existing Bellevue City Code Section 14.40.120 Peer Review Committee is repealed. Existing Bellevue City Code Section 14.40.130 Appeal of Administrative Decisions is amended to become Section 14.40.100 as follows:

14.40.100 Appeal of Administrative Decisions

A. Content of Notice of Appeal. An affected employer may appeal an administrative decision. Any notice of appeal filed with the city clerk shall reference the administrative decision that is being appealed and shall contain a brief statement identifying exceptions or objections to the administrative decision and describing the requested relief, modification, or alternative sought by the appealing employer. The written appeal must be filed together with an appeal notification available from the office of the city clerk.

B. Appeal process. Any appeal of an administrative decision filed pursuant to this section shall be processed pursuant to the Process II appeal procedures, LUC 20.35.250.

C. Hearing Body. The hearing examiner shall serve as the hearing body on all appeals filed pursuant to this section.

D. Review Guidelines. The hearing examiner shall be guided in his/her decision on the appeal of this chapter and the state CTR law.

Section 11. Existing Bellevue City Code Section 14.40.140 Civil Violations and Monetary Penalties is amended to become Section 14.40.110 as follows:

14.40.110 Compliance, Civil Violations, and Penalties

A. For purposes of this section, programmatic compliance shall mean:

- 1) Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;
- 2) Providing a complete CTR Program Description and Report on the regular reporting date; and
- 3) Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

B. For the purposes of this section, performance shall relate to the achievement of VMT per employee and proportion of drive alone trip goals, and compliance shall be defined as:

- 1) If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
- 2) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met the applicable drive alone or VMT goal, no additional modifications are required.
- 3) If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive alone or VMT reduction goal, the city shall direct the employer to revise its program within 30 days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The city shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the city will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the city within 10 working days of the conference.

C. Violations. The following constitute violations if the deadlines established in this ordinance are not met:

1. Failure to self identify as an affected employer;
2. Failure to perform a baseline measurement;
3. Failure to develop and/or submit on time a complete CTR program;
4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in ordinance;
5. Submission of false or fraudulent data in response to survey requirements;
6. Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter; or
7. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this chapter.

D. Civil Violations and Penalties. The city may issue a notice of civil violation and may impose monetary penalties in the manner set forth in Chapter 1.18 BCC for any civil violation committed by an employer (14.40.110(C)); provided that any monetary penalty imposed shall not exceed \$250.00 per day for each violation and that no monetary penalties shall accrue subsequent to the filing of an appeal by an

employer of such notice of civil violation. Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in RCW 7.80.

E. Limitation of Monetary Penalties

- 1) No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal;
- 2) An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
 - a. Propose to a certified collective bargaining representative adoption of any provision of the employer's CTR program that is subject to collective bargaining pursuant to the National Labor Relations Act, the Public Employee's Collective Bargaining Act (Chapter 41.56 RCW), or any other applicable federal or state collective bargaining law; and
 - b. Advise the union of the existence of the CTR statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).
- 3) Hearing Examiner Decision. Monetary penalties proposed by the city for failure of an employer to revise its CTR program as directed by the city may be reduced or vacated by the hearing examiner if the employer can demonstrate to the satisfaction of the hearing examiner that measures are unreasonable or are demonstrably unlikely to reduce the proportion of drive alone trips and/or VMT per employee.

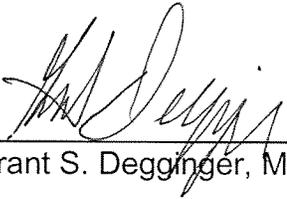
Section 12. This ordinance shall take effect and be in force thirty (30) days after its passage.

ORIGINAL

1010-ORD
02/21/08

Passed by the City Council this 10th day of March, 2008
and signed in authentication of its passage this 10th day of March,
2008.

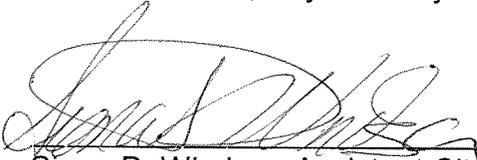
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Grant S. Degginger, Mayor

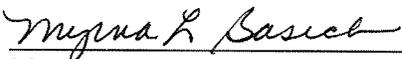
Approved as to form:

Lori M. Riordan, City Attorney



Siona D. Windsor, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published March 13, 2008