

Chapter 21.16 COMMUTE TRIP REDUCTION PROGRAM

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21.16.005 Purpose and intent.

The purpose of this Chapter is to promote the public health, safety, and general welfare by establishing goals and requirements for employers to implement commute trip reduction programs in accordance with RCW 70A.15.4000-4080 The City recognizes the importance of increasing citizens' awareness of climate changes, air quality, energy consumption, and traffic

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congestion and the contribution individual actions can make toward addressing these issues. The intent of this Chapter is to achieve the following objectives:

1. To improve air quality, reduce traffic congestion, and reduce the consumption of petroleum fuels through employer-based programs that encourage the use of alternatives to the single-occupant vehicle for the commute trip.
2. To make optimal use of existing and planned transportation facilities to minimize development costs and preserve business opportunities in Puyallup, Pierce County, and the State of Washington.
3. To adopt a cooperative and coordinated approach to reducing the number of drive alone trips and average vehicle miles traveled (VMT) to ensure consistency regarding Commute Trip Reduction (CTR) policies and implementation.
4. To treat affected employers in a fair and reasonable manner.

21.16.010 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Affected employee" means a full-time employee, including telework/telecommute employee, who begins ~~his or her~~ their regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least 12 continuous months. Seasonal employees and independent contract employees are excluded. Seasonal agriculture employees, including seasonal employees of processors of agricultural products are excluded from the count of affected employees. Construction workers who work at a construction site with an expected duration of less than two years are excluded from this definition.

(2) "Affected employer" means an employer that employs 100 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. (inclusive) on two or more weekdays for at least 12 continuous months.

(3) "Affected employer worksite" refers to a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, and at which there are 100 or more affected employees.

~~(3)(4)~~ "Alternative commute mode" refers to any means of commuting other than that in which the single-occupant motor vehicle is the dominant mode. Teleworking/telecommuting and compressed work weeks are considered an alternative commute modes if they result in the reduction ~~a~~ of a commute trips are also considered an alternative commute mode.

~~(4)(5)~~ "Carpool" means a motor vehicle occupied by at least two ~~to six~~ people of at least 16 years of age traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

~~(5)(6)~~ "Commute trip" means a trip that is made from a worker's/~~student's~~ home to a worksite/~~school with a regularly scheduled work start time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.~~

(7) "CTR" is the abbreviation of Commute Trip Reduction.

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~~(6)(8)~~ “Commute trip reduction (CTR) plan” means the city of Puyallup plan and ordinance to regulate and administer the CTR programs of affected employers.

~~(7)(9)~~ “Commute trip reduction (CTR) program” means an employer’s strategies to reduce affected employees’ single-occupant vehicle use and vehicle miles traveled per employee.

~~(8) “Commute trip reduction (CTR) task force guidelines” means the official guidelines to RCW 70.94.527 developed by the Washington State Commute Trip Reduction Task Force (RCW 70.94.537).~~

~~(9) “Commute trip reduction (CTR) zone” means an area, such as a census tract or combination of census tracts, within the city characterized by similar employment density, population density, level of transit service, parking availability, access to high-occupancy vehicle facilities, and other factors that are determined to affect the level of single-occupant vehicle commuting.~~

~~(10) “Commuter matching service” means a system that assists in matching commuters for the purpose of commuting together.~~

~~(11)(10)~~ “Compressed work week” means a full-time employee’s work schedule that allows an 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. Examples would include working four workdays per week or nine workdays in two weeks. Compressed work weeks are understood to be an ongoing arrangement.

~~(12) “Custom bus/buspool” means a commuter bus service arranged specifically to transport employees to work.~~

~~(13)~~ “Day(s)” means calendar day(s).

~~(14)~~ “Dominant mode” means the mode of travel used for the greatest distance of a commute trip.

~~(15)~~ “Drive Alone” means a motor vehicle occupied by one person for commute purposes, including a motorcycle.

~~(16)~~ “Employee transportation coordinator” means a designated person(s) who is responsible for the development, implementation and monitoring of an ~~administering the~~ employer’s commute trip reduction program.

~~(17)~~ “Employer” means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, military installation or private, that employs workers.

~~(18)~~ “Flex-time” means a flexible work schedule which allows the employee to choose their work time, but not the number, of their working hours to facilitate the use of alternative modes. Flex-time is understood to be an ongoing arrangement.

~~(19)~~ “Full-time employee” means a person, other than an independent contractor or seasonal employee, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

~~(20)(18)~~ “Good faith effort” means that an employee has met the minimum requirements identified in RCW 70.94.531 70A.15.4050 and this chapter and is working collaboratively with

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the city to continue its existing CTR program or is developing and implementing program modifications likely to result in performance improvements to its CTR program over an agreed upon length of time.

(19) "Implementation" or "implement" means active pursuit by an employer to achieve the CTR goals of RCW ~~70.94.521 through 70.94.551~~ 70A.15.4000 through 70A.15.4110 and this chapter.

~~(21)(20)~~ "Mode" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, light rail, train, ferry, bicycle, walking, compressed work week, and teleworking.

~~(22)(21)~~ "Newly affected employer" refers to an employer that is not an affected employer upon the effective date of the ordinance codified in this chapter but who becomes an affected employer subsequent to the effective date of the ordinance codified in this chapter.

~~(23)~~ ~~"Proportion of single-occupant vehicle (SOV) trips" or "single-occupant vehicle (SOV) rate"~~ "Proportion of Drive Alone Trips" means the number of commute trips over a set period made by ~~affected employees/students~~ in ~~single-occupant vehicles-SOVs~~ divided by the number of ~~potential trips taken by affected~~ employees working during that period.

~~(24)~~ ~~"Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee/student for commute purposes, including a motorcycle.~~

~~(25)~~ ~~"Single-occupant vehicle (SOV) trips" means trips made by affected employees/students in SOVs.~~

~~(26)(23)~~ "Single worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.

~~(27)(24)~~ "Teleworking /telecommuting" means the authorization of an employee to work from home, satellite office, alternate worksite or from a teleworking center, thus eliminating a commute trip or reducing the distance traveled in a commute trip by at least half the employee's regular commute distance. Teleworking can include, but is not limited to, the use of telephones, computers, or other similar technology.

~~(28)~~ ~~"Transportation demand management (TDM)" means the use of strategies to reduce the use of single-occupant vehicles and vehicle miles traveled.~~

~~(29)(25)~~ "Transit" means a multiple-occupant vehicle operated on a shared-ride basis. This definition includes bus or, ferry, rail, shared-ride taxi, or shuttle bus.

~~(30)(26)~~ "Transportation management organization (TMO)" or "transportation management association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMO/TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

~~(31)(27)~~ "Vanpool" means a vehicle occupied by seven to 15 people ~~3 to 15 people of 16 or more years of age~~ traveling together for their commute trip that results in the reduction of motor vehicle trips.

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~~(32)(28)~~ "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths in miles made by ~~affected employers~~ employees over a set period divided by the number of ~~affected~~ employees during that period.

~~(33)(29)~~ "Week" means a seven-day calendar period, ~~starting on Monday and continuing through Sunday.~~

~~(34)(30)~~ "Weekday" means Monday, Tuesday, Wednesday, Thursday, or Friday.

~~(35)(31)~~ "Writing," "written," or "in writing" means original signed, including e-signatures, and dated documents that are mailed, emailed, or otherwise submitted through a City approved document upload or sharing platform. ~~Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated via mail or delivery.~~

~~(36)~~ "Zone base year" means the period from January 1, 1992, through December 31, 1992, on which goals for VMT per employee and proportion of SOV trips shall be based.

21.16.020 City of Puyallup CTR plan.

The City has a variety of responsibilities pursuant to the requirements of RCW 70A.15.4000-4110. The Puyallup Commute Trip Reduction Plan addresses these responsibilities and establishes the goals for the City and the CTR-affected employers as set forth as Attachment A of Ordinance No. XXXX and incorporated herein by reference.

~~The city of Puyallup Commute Trip Reduction Plan set forth in Attachment A* is wholly incorporated herein by reference. The plan includes the following:~~

- ~~(1) Goals for reductions in the proportion of single-occupant vehicle commute trips and the vehicle miles traveled per employee.~~
- ~~(2) Designation of commute trip reduction zones.~~
- ~~(3) Identification of the reductions in the proportion of single-occupant vehicle commute trips and the vehicle miles traveled per employee for the commute trip reduction zones in the city.~~
- ~~(4) Requirements for affected employers.~~
- ~~(5) A commitment to develop a commute trip reduction program for employees of the city.~~
- ~~(6) A commitment to review city parking policies.~~
- ~~(7) Summary of the appeals process for affected employers to appeal the decisions of the city.~~
- ~~(8) The methodology for determining the base year values for single-occupant vehicle use and vehicle miles traveled per employee.~~
- ~~(9) A methodology for ensuring that employers receive credit for existing transportation demand management efforts.~~
- ~~(10) A commitment to ensure consistency with statewide affected jurisdictions.~~
- ~~(11) Reference to appropriate administrative guidelines for review and analysis of commute trip reduction programs.~~

~~*Attachment A to Ordinance No. 2594 is on file in the city clerk's office.~~

21.16.030 Responsible city agency.

The city engineering ~~department~~ division will be responsible for implementing this chapter and the commute trip reduction plan.

21.16.040 Applicability.

(1) Affected Employer. The provisions of this chapter shall apply to any affected employer at any single worksite, as defined by RCW 70A.15.4020, within the limits of the city.

(2) 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:

(a) ~~Becomes a Nonaffected Employer~~ Change from Affected to a Non-affected Status. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more affected employees for the next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to notify the city that it is no longer an affected employer and provide supportive evidence.

(b) Change in Status Within a 12-Month Period. If an employer drops below the threshold and then returns to the threshold level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months, and will be subject to the program requirements as other affected employers.

(c) Change in Status After a 12-Month Period. If an employer drops below the threshold and then returns to the threshold level of 100 or more affected employees 12 or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer.

(3) Newly Affected Employers.

(a) ~~Reporting Date~~ Identification. Newly affected employers must identify themselves to the city within ~~180-30~~ days of either moving into the boundaries of the city as set forth in RCW 70A.15.4020 or growing in employment at a worksite to 100 or more affected employees. It is the responsibility of the employer to notify the city of its affected employer status. Newly affected employers who do not identify themselves within ~~180-30~~ days will be considered to be in violation of this chapter.

(b) ~~CTR Program Schedule~~ Survey. Newly affected employers identified as such shall be given 90 days to perform a baseline measurement. The employer shall utilize the state provided survey measurement tool or state approved equivalent format and strive to achieve at least a 70 percent response rate from employees who report to the worksite. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this chapter are in violation of this chapter.

(c) Program Development. After receiving notification of the results of the baseline measurement, ~~A~~ newly affected employers shall have ~~60-180~~ days to develop and submit a CTR program to the City. The employer shall submit their CTR Program utilizing the format provided by the City. The program will be developed in consultation with the City to be

~~consistent with the goals of the CTR Plan. Employers who do not submit their CTR Program within 60 days are in violation of this chapter. After submittal of the program, newly affected employers shall have 180 days to implement the CTR program.~~

~~(d)(e) Implementation. The program shall be implemented not more than 90 days after approval by the City. Employers who do not implement an approved CTR Program within 90 days are in violation of this chapter. CTR Goal Achievement. For the duration of Chapter 70.94 RCW and from the time of affected employer status, newly affected employers shall have two years to meet the first CTR goal of 15 percent; four years to meet the second goal of 20 percent; six years to meet the third goal of 25 percent; and 12 years for the fourth goal of 35 percent.~~

21.16.050 Notification of applicability.

~~(1) Publication Notice. The city shall publish a notice of availability of the CTR plan.~~

~~(12) Notice to Known Affected Employers. Known affected employers located in the city will receive written notification that they are subject to the chapter and any revisions to this chapter. Such notice shall be by certified mail, or delivery, or email return receipt, addressed to the company's chief executive officer, senior official, or highest-ranking official or CTR manager at the worksite. Such notification shall be delivered a minimum of 150 30 days prior to the due date for submittal of their CTR program after adoption of the chapter or any revisions to the chapter.~~

~~(23) Self-Identification of Affected Employers. Employers who, for whatever reasons, do not receive notice within 30 days of passage of the ordinance codified in this chapter shall identify themselves to the city within 6090 days of the passage of the ordinance codified in this chapter. Upon self-identification, such affected employers will be granted 180 days to develop and submit a CTR program.~~

~~(3) Notification of Non-Applicability. It is the responsibility of the employer to provide the Department, in writing, the non-applicability of this chapter to their worksite.~~

21.16.060 Requirements for employers.

~~(1) CTR Program Description. Affected employers must develop a CTR program for their employees within 180-90 days of the adoption of this chapter. Employers are required to make a good faith effort, as defined in RCW 70.94.531 70A.15.4050 and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV drive alone commute trips. The employer shall provide effective staffing levels and financial resources to support the following employer requirements:~~

~~(a) CTR Program Description Submittal Date. The CTR program description shall be submitted to the city within 180 days of the adoption of the ordinance codified in this chapter.~~

~~(b) Extension. An employer may request additional time to submit a CTR program description. Such requests must be made in writing no less than 30 days before the due date for which the extension is being requested. Requests must be made by certified~~

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~~letter, return receipt. Extensions shall not exempt an employer from any responsibility in meeting program goals.~~

~~(12) Employee Transportation Coordinator. CTR Program Elements.~~

~~(a) Employee Transportation Coordinator.~~ The employer shall designate an employee transportation coordinator(s) to administer the CTR program. The coordinator(s) name, or designee's name location, and telephone number must be displayed prominently at each affected worksite. The coordinator(s) shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city.

(b) Employers with multiple affected worksites within the City shall have onside program administration at each affected worksite.

(c) An employer may utilize the employee transportation coordinator services of a consultant or transportation management organization/association. If a consultant or transportation management organization/association is utilized, the employer will still be held responsible for meeting all the requirements of RCW 70A.15.4000 through 70A.15.41110 and this chapter.

~~(2b)~~ Information Distribution.

(a) Information about alternatives to ~~drive aloneSOV~~ commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year.

(b) All new employees at the time of hire or during the employer's new hire orientation shall receive information about alternatives to drive alone commuting, a summary of the employer's CTR Program and information to access a ridematching service.

(c) At least once a month, provide information to employees about commute options, employer program elements, or countywide/statewide commuter services, promotions, campaigns, programs and events.

(d) Conduct a transportation event or promotional campaign at least once a year. Each employer's program description and annual report must report the information to be distributed and the method of distribution.

(3) Emergency Ride Home. The employer shall offer to its employees an emergency ride home program that guarantees employees a ride home in emergency situations on the day they use alternative commute modes. The ride shall cover up to the first one-hundred dollars (\$100) of the ride cost.

~~(c)(4)~~ Additional CTR Program Elements Designed to Achieve the Goals. In addition to the specific program elements described above, the employer's CTR program shall include, but are not limited to, one or more of the following:

~~(a)~~ (a) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;

~~(b)~~ (b) Instituting or increasing parking charges for drive alone commutersSOVs;

~~(c)~~ (c) Provisions of commuter ride matching services to facilitate employee ride-sharing for commute trips;

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- ~~(div)~~ Provision of subsidies for transit, rail, or vanpool fares and/or passes;
- ~~(ev)~~ Provision of vans for vanpools;
- ~~(fvi)~~ Provision of subsidies for carpools, walking, bicycling, telework/telecommuting or compressed work week schedules or vanpools;
- ~~(gvii)~~ Permitting the use of the employer's vehicles for carpooling or vanpooling;
- ~~(hviii)~~ ~~Permitting Establishing a~~ flexible work schedule policy s to facilitate employees' use of transit, carpools, or vanpools;
- ~~(ix)~~ Cooperation with transit providers to provide additional regular or express service to the worksite;
- ~~(jx)~~ Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- ~~(kxi)~~ Provision of covered and secure bicycle parking facilities, bicycle maintenance tools, lockers, changing areas, and showers for employees who bicycle or walk to work;
- ~~(lxii)~~ Provision of a program of parking incentives such as rebate for employees who do not use the parking facilities;
- ~~(xiiim)~~ Establishment of a telework/telecommute policy program to permit employees to work part- or full-time at home or program to allow employees to work at an alternative worksite closer to their homes;
- ~~(xivn)~~ Establishment of compressed work week schedules which reduce commute tripspolicy;
- ~~(xvo)~~ Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities or -and emergency taxi servicescafeteria;-
- (p)Provision of fleet vehicles and/or bicycles for work trips and/or personal trips during the workday;
- (q)Permitting the use of the employer's vehicles for emergency ride home or personal errands;
- (r) Eliminating free parking;
- (s) Decreasing the number of parking stalls within the constraints of PMC Chapter 20.55;
- (t) Provide incentives, such as a monthly prize drawing, for employees who do not drive alone to work;
- (u) Other ideas that facilitate the reduction of drive alone trips.

~~(5)(3)~~ CTR Program Reporting.

- (a)Quarterly Reporting. Affected employers shall submit to the City a quarterly progress report in accordance with the format provided by the City.
- (b) Due Dates for Quarterly Reporting. First quarter (January, February and March), Second Quarter (April, May and June) and Third Quarter (July, August and September)

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shall be due ten calendar days past the end of the quarter. Fourth quarter (October, November, and December) shall be due the second Wednesday in December.

(c) Annual Reports. Annual reports shall be prepared by affected employer's utilizing the official CTR employee annual report and program description form. The annual reports must include a review of employee commuting and of progress toward meeting the SOV and average VMT goal reduction. Affected employers shall review their program and implementation progress by submitting an annual report with the City in accordance with the format provided by the City. The annual report outlines the strategies that were undertaken by an employer to achieve the commute trip reduction goals for the reporting period. It shall also outline the strategies to be undertaken for the next reporting year. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with other employers to implement program elements.

(db) Due Date for Annual Reports. All annual reports shall be due to the city engineering division by the second Wednesday of December.

(e) Annual Reporting Extension. An employer may request an extension of up to 30 days for submitting the annual report. The request shall be made in writing to the city engineering division no less than one day prior to the due date.

(6)(c)-Biennial Survey 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 utilize the state provided survey measurement tool or state approved equivalent format and strive to achieve at least a 70 percent response rate from employees who report to the worksite. The city will establish a citywide measurement schedule that will require employers to conduct the measurement survey on a two-year cycle. Depending on when a newly affected employer is identified, a baseline survey and measurement survey may be required during the established measurement schedule. For the purposes of this chapter, an employer shall not be required to survey more than once in a 12-month period. Surveying. Employers are required to survey their affected employees to measure progress toward CTR performance targets. Survey years are 1995, 1997, 1999, 2001, 2003, and 2005. Newly affected employees shall survey on an alternative schedule as outlined in PMC 21.16.040(3)(c). An employer's survey of employees shall utilize the WSDOT form or submit city-approved equivalent data as set forth in the Washington State CTR Task Force Guidelines.

(d) Extension. An employer may request additional time to submit an annual CTR program report. Such request shall be made in writing no less than 30 days before the due date for which the extension is being requested. Requests must be made by certified letter, return receipt. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extension granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements.

~~(7)(4)~~ Record Keeping. Affected employers shall keep records related to the CTR program they implement, which includes but is not limited to, official correspondences between the employer and the city, their measurement results, and all supporting documentation for the descriptions and assertions made in any CTR report to the city. Employers shall maintain all CTR program records listed ~~in their CTR programs~~ for a minimum of ~~24~~ 48 months. The city and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

21.16.070 CTR Program goal modifications and CTR program exemptions.

(1) ~~Modification of CTR Program Elements.~~ At Aany time, any affected employers may make a request to the city for the modification of CTR program ~~goals~~ requirements other than designation of the employee transportation coordinator, information distribution, surveying, quarterly and annual reports. Such request may be granted if one of the following conditions exist:

~~(a) Beyond Control of Affected Employer.~~ The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer.

~~(b) Employer's Worksite Conditions Differ from the Base Year Values.~~ To apply for a goal modification under this subsection, the employer must demonstrate that its worksite conditions differ from the base year values. This demonstration must include evidence from employee surveys administered within 120 days of the passage of the ordinance codified in this chapter or within 120 days of becoming a newly affected employer. These surveys must be administered at the worksite and show that the employer's own base year values of VMT per employee and SOV rates were higher than the CTR zone average; and subsequently, in the measurement year(s) showing that the employer has achieved reductions from its own base values that are comparable to the stated reduction goals of 15 percent, 20 percent, 30 percent, and 35 percent.

~~(c) A Significant Number of Employees Need Their Personal Commuting Vehicles for Work Related Trips.~~ An affected employer may apply for a modification of CTR goals if it can demonstrate that significant numbers of its employees need to use the vehicles they drive to work during the work day for work purposes. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode exists for these employees and that the vehicles cannot reasonably be used for carpools or vanpools. Under this condition, the applicable goals will not be changed but those employees who need daily access to the vehicles they drive to work will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

~~(d) CTR Values of Contiguous CTR Zone are More Applicable.~~ An affected employer may apply for a modification of CTR goals if it demonstrates that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affecting alternative commute options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's worksite may be made subject to the same goals for VMT per employee and modification based on these conditions prior to the CTR program implementation date.

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(2) Modification of individual program measures shall not exempt an affected employer from complying with the other required program measures.

(a) Employee Adjustment. ~~Specific employees or G~~groups of employees (1) who are required to drive alone to work as a condition of employment, ~~or (2) employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts~~ may be exempted from a worksite's ~~performance target~~ survey measurements. Affected employees who are exempted from a worksite's CTR program shall be counted when determining the total number of affected employees at the worksite. ~~Employees who telework/telecommute are not exempt from the program and shall be counter when determining the total number of affected employees.~~

(b) Hardship. A one-year program waiver may be granted if and only if an affected employer demonstrates that it faces an extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that would reduce the proportion of drive alone trips or average VMT per employee.

(2) Exemptions.

(a) Employer Exemptions. An affected employer may submit a request to the city to 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 ordinance as a result of the characteristics of its business, its workforce, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as a bankruptcy, and is unable to implement any measures that could reduce the proportion of SOV 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 review annually all employers receiving exemptions and shall determine whether the exemption will be in effect during the following program year.

(b) Employee Exemptions. ~~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 Task Force Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests and shall determine whether the exemption will be in effect during the following program year.~~

(3) 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 and annual 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

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~~accordance with procedures and criteria identified in the CTR Task Force Guidelines. An employer may not request a modification of the applicable goals until one year after the city approval of its initial program description or annual report.~~

~~(a) Minor Goal Modification. A five percent reduction (e.g., reducing the 1999 performance target from 25 percent to 20 percent) may be granted from the applicable SOV or VMT performance targets after considering all of the following factors:~~

- ~~(i) Transit access to the site;~~
- ~~(ii) Frequency of transit service during peak periods;~~
- ~~(iii) Potential for internal ridematching opportunities;~~
- ~~(iv) Potential for ridematching with other employers in the area;~~
- ~~(v) Access to the site for bicyclist and pedestrians;~~
- ~~(vi) Ability to implement compressed work weeks and/or telecommuting;~~
- ~~(vii) ETC/employer participation in training sessions, events, promotions, and networking activities;~~
- ~~(viii) Utilization of services provided by the local jurisdiction, transit agencies, and TMAs.~~

~~(b) Major Goal Modification. A 10 percent reduction may be granted from the applicable SOV or VMT performance targets (e.g., reducing the 1999 goal from 25 to 15 percent) if all of the following conditions apply:~~

- ~~(i) No transit access within one-quarter mile of the site;~~
- ~~(ii) Limited potential for internal ridematching opportunities;~~
- ~~(iii) No potential for ridematching with other employers in the area;~~
- ~~(iv) No reasonable access to the site for bicyclist and pedestrians;~~
- ~~(v) Limited ability to implement compressed work weeks and/or telecommuting due to characteristics of the business;~~
- ~~(vi) ETC/employer participation in training sessions, events, promotions, and networking activities;~~
- ~~(vii) Utilization of services provided by the local jurisdiction, transit agencies, and TMAs.~~

~~(3) Affected Employer May Request a CTR Program Modification or Waiver at Any Time. The department shall review such requests and notify the employer of its decision in writing within 30 days of the date the department receives the written request. The department shall review annually all modifications and exemptions and shall determine whether they will remain in effect during the following program year.~~

~~21.16.080 Credit for transportation demand management efforts.~~

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~~(1) Credit for Transportation Demand Management Programs Implemented Prior to the Base Year. Employers with successful TDM programs implemented prior to the base year may be eligible to apply for TDM program credit. If the employer's VMT per employee or proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year CTR zone values when these employers apply for the TDM program credit in their initial CTR program descriptions, they shall be considered to have met the first CTR goals. This three percentage point credit applies only to the first CTR goals.~~

~~(2) Process to Apply for TDM Program Credit. Affected employers may apply for program exemption credit by applying to the city in their initial program description as part of any other annual report. This application shall be made within 180 days of passage of this chapter or within 180 days of attaining status as an affected employer. Application shall include results from a survey of employees utilizing the Washington State Department of Transportation Employee CTR Survey form or equivalent data as specified in the Washington State Commute Trip Reduction Task Force Guidelines.~~

~~(3) Annual Reporting. Employers who apply for credit and whose VMT per employee or proportion of SOV trips are equal to or less than goals for one or more future goal years, and commit in writing to continue their current level of effort, shall be exempt from the requirements of this chapter except for the requirements to submit annual CTR program reports and measurement year reports utilizing the city CTR program report form as specified in PMC 21.16.060(4). If any of these reports indicate the employer does not satisfy the next applicable goal(s), the employer shall immediately become subject to all requirements of the CTR chapter.~~

21.16.090 Credit for schedule changes.

~~(1) Employers who have permanently modified their employees' work schedules so that some or all affected employees are to begin work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating SOV trips and VMT per employee ((RCW 70.94.537(2)(i))). This credit is to be awarded if implementation of the schedule change was an identified element in a worksite's approved CTR program, or if the schedule change occurred due to impacts associated with Chapter 36.70A RCW, the Growth Management Act.~~

~~(2) Credit. For every five employees whose schedules are changed in order to avoid a peak hour commute, a worksite will be credited with one full trip reduced.~~

~~(a) Retroactive Credit. Any employer may apply for a retroactive credit for schedule changes implemented prior to the 1997 survey. Application for the retroactive credit shall be made in writing to the city by March 31, 1998, or within 180 days of becoming affected.~~

~~(b) New Credit. At anytime an employer may apply for new credit for schedule changes.~~

~~(c) Application Process. The application must be submitted in writing. The credit application must include the following information:~~

~~(i) An explanation of how the schedule change is related to provisions of the Growth Management Act of 1990 or a demonstration that the schedule change was an identified element of a previously approved annual report.~~

~~(d) Shift Below 100 Affected Employees. Employers who shift below 100 affected employees are not affected as outlined in PMC 21.16.040(2)(a).~~

21.16.100 Review ~~schedule for of~~ CTR programs ~~descriptions –~~ Annual reports.

(1) ~~Newly Affected Employer. The first Annual Report submitted by a newly affected employer shall be accepted by the city as long as it addresses necessary baseline information and all required elements including elements likely to result in reductions in drive alone trips or reduction in average VMT.~~

(2) ~~Review and Evaluation. The city's review and evaluation will address the employer's good faith efforts toward meeting the CTR goals. Consequently, programs may be deemed acceptable or unacceptable based on the employer's progress in reducing commute trips, as measured by reduction in drive alone trips or reduction in average VMT. The employer shall provide adequate information and documentation of program implementation when requested by the City.~~

(3) ~~Document Review. Within 90 days of receipt of an employer's CTR Program Annual Report program report form, the city shall provide the employer with written notification if of whether~~ a CTR program is deemed acceptable or unacceptable. If the CTR program is deemed unacceptable, the notification must give cause for the rejection. The city may extend the review period up to 90 days. If the review period is extended, the implementation date for the employer's CTR program will be extended an equivalent number of days.

(4) ~~Review Criteria. The city shall use the following criteria to determine whether an affected employer shall be required to make modifications to its CTR Program.~~

~~(a) If an employer makes a good faith effort, as defined in RCW 70A.15.4050 and this chapter, and meets or exceeds either the applicable drive alone or VMT reduction goal, the employer has satisfied the objectives of this chapter, and will not be required to modify its CTR Program.~~

~~(b) If an employer makes a good faith effort, as defined in RCW 70A.15.4050 and this chapter, but fails to meet either the applicable drive alone and VMT reduction goals, the City shall work collaboratively with the employer to implement program modifications likely to result in improvements to the program over an agreed upon length of time.~~

~~(c) If an employer fails to make a good faith effort, as defined in RCW 70A.15.4050 and this chapter, and fails to meet either the applicable drive alone and VMT reduction goals, the City shall work collaboratively with the employer to identify modifications to the CTR Program and shall direct the employer to revise its program accordingly and submit the revised program to the City within 30 days.~~

(5) ~~Request for Conference. Within 10 days of receipt of written notice for an unacceptable CTR program, the city or the employer may request a conference to discuss the city's decision. This conference shall be scheduled during the city's official standard business hours.~~

~~(63)~~ Implementation of CTR Program Modifications. If the city proposed modifications to an affected employer's CTR program due to the CTR program's unacceptability, the affected employer shall have 30 days to submit a revised CTR program that includes the proposed or other mutually agreed modifications.

(7) Employer Intent to Modify. The employer shall notify the City in writing of its intent to substantially change or modify its approved program. Within 30 days, the City will review the request. If found unacceptable, the City shall work collaboratively with the employer to design program modifications likely to result in improvements to the program over an agreed upon length of time.

(8) Leadership Program. Employers will be provided the opportunity to receive recognition from the City for outstanding performance.

21.16.110 Enforcement – Compliance.

For purposes of this section, compliance shall mean fully implementing all provisions in an accepted CTR program or is determined to have made a good faith effort as defined in RCW 70A.15.4050 and this chapter.

21.16.120 Program modification criteria.

~~The city shall use the following criteria in determining whether an affected employer shall be required to make modifications to its CTR program.~~

~~(1) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets either or both the applicable SOV or VMT goal, the employer has satisfied the objectives of the CTR plan and will not be required to modify 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 or is not likely to meet the applicable SOV or VMT goal, the city shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within 30 days of reaching an agreement.~~

~~(3) If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) 70A.15.4050 and this chapter, and fails to meet either the applicable SOV or VMT reduction goal, the city shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications the employer shall submit a revised CTR program description, 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, required 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.~~

21.16.130 Violations.

The following constitute violations ~~if the deadlines established in~~ of this chapter ~~are not met~~:

- (1) Failure to develop and/or submit ~~on time~~ a complete program by the applicable deadlines as stated in this chapter.
- (2) Failure to implement an approved CTR program by the applicable deadlines as stated in this chapter.
- (3) Failure to modify an unacceptable CTR program by the applicable deadlines as stated in this chapter.
- (4) Failure of an affected employer to identify itself to the city within ~~180-60~~ days of the effective date of the ordinance codified in this chapter.
- (5) Failure of a newly affected employer to identify itself to the city within ~~180-30~~ days of becoming an affected employer.
- (6) Failure to submit ~~quarterly and on time a CTR~~ annual reports to the city by the applicable deadlines as stated in this chapter.
- (7) Failure to maintain agreed upon CTR program records.
- (8) Intentionally submitting fraudulent, false, ~~or bogus~~ information, data and/or survey results.
- (9) Failure to complete the survey measurement by the applicable deadlines as stated in this chapter in the goal years.
- ~~(10) Failure to make a good faith effort as defined by RCW 70.94.534(4) and this chapter.~~

21.16.140 Penalties.

No affected employer with an approved CTR program may be held liable for failure to reach the applicable ~~SOV-drive alone~~ or VMT reduction goals.

(1) Civil Infraction. Any affected employer violating any provision of this chapter shall be guilty of a Class 1 civil infraction, and subject to civil penalties pursuant to ~~Chapter 70.80 RCW PMC 1.02. In addition to any other penalty or remedy available, violation of any provision of this chapter may constitute a civil violation as defined in Chapter 1.03 PMC.~~

(2) Written Notice. Whenever the city makes a determination that an affected employer is in violation of this chapter, the city shall notify the employer in writing ~~issue a written notice and order and send it certified mail or registered mail return receipt requested to the affected employer~~. The notice and order shall contain:

- (a) The name and address of the affected employer;
- (b) A statement that the city has found the affected employer to be in violation of this chapter with a brief and concise description of the conditions found to be in violation;
- (c) A statement of the corrective actions required to be taken. If the city has determined that corrective action is required, the order shall require that all corrective action be completed by a date stated in the notice;

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(d) A statement specifying the amount of any civil penalty assessed on account of the violation;

(e) A statement advising that the order shall become final unless, no later than 10 days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the city hearing examiner.

(3) Penalty Amount. The penalty for violation shall be \$250.00 per day.

(4) Penalty Accrual. Penalties will begin to accrue following the official date of notice from the city. In the event that an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the hearing examiner decide in favor of the appellant, all or a portion of the monetary penalties will be dismissed.

(5) Union Negotiations. An employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of inability to reach agreement with 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 if they:

(a) Proposed to recognized union any provisions of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

(b) Advise the union of the existence of the 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~~ 70A.15.4000 through RCW 70A.15.4110) and this chapter.

21.16.150 Appeals.

(1) Appeals. Any affected employer may appeal administrative decisions regarding modification of goals, modification of CTR program elements, and penalties to the city hearing examiner pursuant to Chapter 2.54 PMC, Office of the Hearing Examiner. Appeals shall be filed within 30 days of the administrative decision.

(2) ~~Criteria to Judge Appeals.~~ The hearing examiner will evaluate employers' appeals of administrative decisions by determining whether if the decisions were consistent with CTR Law and Task Force Guidelines, Washington Administrative Code Chapter 468-63, and this chapter. An appeal may be granted if the employer can demonstrate:

~~a) Appeals may be granted if the employer can show That~~ the violations for which the penalties were imposed occurred for the reasons beyond the control of the employer;
or

~~b) the penalties were for the failure of the employer to revise its CTR program as directed by the city and the employer can demonstrate that That the~~ measures the city directed the employer to incorporate in its CTR program are unlikely to reduce the drive alone proportion of SOV trips or VMT per employee.

(3) ~~Judicial Appeal of Hearing Examiner Decision.~~ An affected employer may appeal any decision of the city hearing examiner to the city council appellate examiner pursuant to Chapter 2.54 PMC. Any such appeal shall be limited to the record made before the hearing examiner. The city

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~~council will evaluate employers' appeals of administrative decisions and the hearing examiner's decision by determining if the decisions were consistent with the CTR Law, Chapter 70.94 RCW, the Washington State Commute Trip Reduction Task Force Guidelines and the city CTR chapter.~~