

Chapter 10.42 TRANSPORTATION DEMAND MANAGEMENT

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10.42.010 Purpose.

The purpose of this chapter is to promote the development of transportation demand management (TDM) programs at employer work sites with one hundred or more employees during the morning peak traffic period to reduce traffic impacts and improve air quality within the city. To accomplish that purpose, this chapter establishes certain reporting requirements to enable the city to evaluate the effectiveness of existing TDM programs and to chart city-wide progress toward achieving the average vehicle ridership goals established in [Section 10.42.050](#). It is also the purpose of this chapter to require certain employers to designate specified individuals to ensure the proper coordination and implementation of TDM programs.

(Ord. 1850 § 1(part), 1992).

10.42.020 Definitions.

For the purpose of this chapter, the following terms are defined and shall be construed as set forth in this section:

- (1) "Average vehicle ridership (AVR)" means the total number of employees assigned to a work site between six a.m. and nine a.m. Monday through Friday divided by the number of vehicles they drive from home to work. Credit may be given for employee work trips eliminated during a biweekly period due to the use of compressed work weeks or telecommuting.
- (2) "Carpool" means a motor vehicle occupied by two or more employees traveling together.
- (3) "Commute" means a home-to-work or work-to-home trip.
- (4) "Commute alternatives" means any form of commute transportation except by single-occupancy vehicle.
- (5) "Commute coordinator" means an employee or contractor of an employer, whose responsibility is the day-to-day management of any TDM program.

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- (6) "Compressed work week" means a work schedule for an employee which eliminates at least one round-trip commute biweekly. For example, forty hours of work in four ten-hour days or a work plan that allows one day off every other week, known as the nine-eighty plan.
- (7) "Designee(s)" means any private entity or governmental agency designated by the city to administer all or any of the provisions of this chapter except those related to the bringing of enforcement actions under this chapter.
- (8) "Employee" means one who is assigned to the designated work site in the a.m. peak period. An employee is one who works in the service of an employer for either wages or salary, as a contract employee under the direction of the work site employer or through a temporary service agency during a period of more than ninety continuous days.
- (9) "Employer" means any public or private employer which has a work site in the city. For purposes of this chapter, the maximum number of employees on the day shift at the designated work site shall determine the size of the employer.
- (10) "Flexible work hours" means a variation of an employee's work hours to provide an incentive for the employer to use commute alternatives.
- (11) "Peak period" means the hours from six a.m. to nine a.m., Monday through Friday, excluding federal holidays. Peak period trips shall mean employees' commute trips to a work site where the employees' work day begins.
- (12) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association or other business entity, city, county, district, the state, any department or agency thereof, or the United States, to the extent authorized by law.
- (13) "Single-occupancy vehicle" means a motor vehicle occupied by one employee for commute purposes.
- (14) "Telecommuting" means a system of either working at home or at an off-site work station with computer facilities that link to the work site.
- (15) "Transportation demand management (TDM)" means the provision of information, assistance, incentives or other measures designed to increase average vehicle ridership (AVR) and which is intended to reduce the number of motorized vehicles driven to the work site.
- (16) "Transportation demand management program (TDM program)" means a plan implemented by an employer designed to carry out TDM. TDM programs may include any or all of the following TDM services and incentives:
 - (A) Rideshare matching;
 - (B) Preferential parking for ridesharing vehicles;
 - (C) Carpool/vanpool subsidies or rewards;
 - (D) Transit ticket sales;
 - (E) Transit ticket subsidies;
 - (F) Shuttle to transit line;
 - (G) Flexible work hours for people who do not drive alone;
 - (H) Compressed workweeks;
 - (I) Work-at-home programs;
 - (J) Telecommuting;
 - (K) Establishing fees for employee parking;

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- (L) Membership in a transportation management association that provides TDM services and incentives;
 - (M) Contribution to a transportation systems management program administered by a member agency;
 - (N) Cycling and walking subsidies or rewards;
 - (O) Site design amenities that would encourage transit use, ridesharing, cycling and walking;
 - (P) Other programs approved by the city's designee to reduce the number of employees who drive alone to the work place.
- (17) "Transportation management association (TMA)" means an organization through which developers, employers and/or local governments cooperate in designing, implementing and evaluating a TDM program.
- (18) "Transportation systems management" means low-cost improvements to the transportation system (roads and transit) which increase the operational efficiency and/or capacity of the system.
- (19) "Vanpool" means a van occupied by seven to fifteen employees who commute together to work.
- (20) "Vehicle" means a vehicle as defined in the California Vehicle Code, but for the calculation of AVR does not include public or private transit buses or non-motorized bicycles.
- (21) "Work site" means any place of employment, base of operation or predominant location of the employer. All buildings or facilities operated or occupied by the employer within the city and within a radius of one and one-half miles of a single centrally located building or facility operated or occupied by the same employer shall be deemed a single work site. For the purposes of this chapter, the actual boundary area of a work site will be identified in submittals made pursuant to this chapter and approved by the city or its designee.

(Ord. 1850 § 1(part), 1992).

10.42.030 Applicability.

The provisions of this chapter shall apply to all work sites within the city with one hundred or more employees during the hours of six a.m. to nine a.m.

(Ord. 1850 § 1(part), 1992).

10.42.040 Administration.

- a. Within the city, the implementation of trip reduction and travel demand requirements pursuant to Government Code Section 65089.3 shall be satisfied through the administration, implementation and enforcement by the Bay Area Air Quality Management District of District Regulation [13](#), Rule 1-Trip Reduction Requirements for Large Employers.
- b. The city shall certify annually to the congestion management agency that the ordinance codified in this section remains in effect.

(Ord. 1904, 1994; Ord. 1850 § 1(part), 1992).

10.42.050 Average vehicle ridership goals.

- (a) The following AVR goals are established in order to achieve and measure progress toward a net increase in the use of commute alternatives and a reduction in vehicle trips to the work site during the peak period:

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- (1) By July 1, 1993, the AVR goal shall be 1.18;
 - (2) By July 1, 1995, the AVR goal shall be 1.26;
 - (3) By July 1, 1997, the AVR goal shall be 1.33.
- (b) Nonattainment of the AVR goals shall not constitute a violation of this chapter and shall not subject employers to the enforcement provision contained in [Section 10.42.100](#)
(Ord. 1850 § 1(part), 1992).

10.42.060 Implementation schedule.

- (a) It is the intent of this chapter to establish an implementation date for every employer subject to the provisions of this chapter. For purposes of establishing an implementation date, the employers shall be divided into the following four categories, based upon the employers' work sites within the city:
- (1) Category 1 consists of all work sites operated or occupied by the city and all other work sites having one thousand or more employees;
 - (2) Category 2 consists of all work sites having five hundred to nine hundred ninety-nine employees;
 - (3) Category 3 consists of all work sites having two hundred fifty to four hundred ninety-nine employees;
 - (4) Category 4 consists of all work sites having one hundred to two hundred forty-nine employees.
- (b) All actions required by this chapter to be taken by an employer shall be taken within the period of time specified by this chapter measured from the implementation date established in this section for the work site category within which the particular work site falls. It is the intent of this chapter that the implementation dates for Categories 2, 3 and 4 shall be set at approximately six- month consecutive intervals following the implementation date for Category 1; however, the exact implementation date for each category shall be established by resolution of the city council and shall be published in a newspaper of general circulation within the city pursuant to Section 6061 of the California Government Code.
(Ord. 1850 § 1(part), 1992).

10.42.070 Designation of manager and commute coordinator.

- (a) Within forty-five days after the scheduled implementation date, every employer within any of the categories in [Section 10.42.060](#) shall appoint a designated manager for each work site. An employer having more than one work site within the city may appoint one manager for all work sites or individual managers for one or more of the work sites. The manager shall have the obligation to and shall carry out the following duties, responsibilities and functions:
- (1) Manage the operation of any TDM program implemented at the work site;
 - (2) Compile, review, approve and submit the baseline and annual TDM reports for the work site(s) to the city or its designee;
 - (3) File with the city or its designee such other material or information as is required by this chapter;
 - (4) Serve as management liaison with the city or its designee concerning TDM.
- (b) Within forty-five days after the implementation date, the employer shall appoint a commute coordinator for each work site within the city. The commute coordinator shall have the day to day responsibility for administering any TDM programs implemented by the employer. If the commute coordinator has not had a total of twelve months' experience as a TDM program coordinator the

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coordinator shall complete, within sixty days of appointment, a commute coordinator training course. The course may be conducted by any recognized TDM consultant or association or public entity or employer in-house training program with a TDM training program which is approved by the city or its designee. A designated manager may also directly administer the employer's TDM programs without a separate commute coordinator being required. However, any such manager shall meet the qualifications set forth in this subsection.

- (c) Within thirty days after making the appointments required by this section, the employer shall notify the city or its designee in writing of the appointments. Such notification may be mailed first class, postage prepaid, to the officer and address designated by the city or its designee. The employer shall assume responsibility for determining that such notification has been received by the city or its designee. The notice shall include the following information regarding each appointee:
- (1) Name;
 - (2) Title;
 - (3) Business hours;
 - (4) Business telephone number;
 - (5) Business mailing address.

The employer shall provide similar written notice to the city or its designee within thirty days of any change in any such appointment.

- (d) In the event any employer or work site becomes subject to this chapter after its effective date, the employer shall comply with the terms of this section within the times specified measured from the date on which the employer or work site became subject to this chapter.

(Ord. 1850 § 1(part), 1992).

10.42.080 Baseline TDM report.

- (a) Within one hundred eighty-five days of the implementation date for any work site, every employer within any of the categories set forth in [Section 10.42.060](#) shall file with the city or its designee a baseline TDM report for all work sites within the city. The baseline report shall be in such format as may be established by the city or its designee. An employer having multiple work sites within the city may, with the consent of the city or its designee, establish a schedule for submittal of baseline TDM reports for its various work sites which vary from that set forth in this section. The baseline TDM report for each work site within the city shall be submitted not later than the scheduled filing date for any work site pursuant to this section.
- (b) The information to be provided in the baseline TDM reports for each work site shall include the following:
- (1) Number of employees by work hours and work site of the day shift;
 - (2) A residence zip code breakdown of employees by work site;
 - (3) The average vehicle ridership (AVR) as determined by one or more of the following means:
 - (A) An employee survey developed by the city or its designee. The distribution of such survey shall be accompanied by information affording each employee the option, at the request of the employee, to receive a carpool or vanpool matchlist and/or transit information,
 - (B) An employee survey developed by the employer and approved by the city or its designee. The distribution of the survey shall include information affording each employee the option, at the request of the employee, to receive a carpool or vanpool matchlist and/or transit information,

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- (C) A statistically valid random sample survey utilizing a methodology approved by the city or its designee,
 - (D) Parking lot counts utilizing a methodology approved by the city or its designee,
 - (E) Gate counts using a methodology approved by the city or its designee;
 - (4) A description of all TDM services and incentives offered to employees;
 - (5) A listing of all parking charges imposed on employees;
 - (6) A description of the factors that might influence use of commute alternatives;
 - (7) Such other information as may be required by the city or its designee.
- (c) Regardless of the reporting schedule used for parking lot counts, the measurement of the AVR for the six a.m. to nine a.m. peak period shall be performed between nine a.m. and ten forty-five a.m. on Tuesday, Wednesday and Thursday of the same week. Regardless of the reporting schedule used for gate counts, the measurement of the AVR shall be performed from six a.m. to nine a.m. on Tuesday, Wednesday and Thursday of the same week.
- (d) Measurements shall not be taken in a week falling within those times of the year established by the city or its designee which would be expected to result in a distortion of the results based on holiday, annual rideshare promotion or other similar occurrences.
- (e) Any work site or employer which becomes subject to this chapter after its effective date shall file a baseline report for any work sites subject to this chapter within one hundred eighty-five days of becoming subject to this chapter or having an additional work site become subject to this chapter.
- (Ord. 1850 § 1(part), 1992).

10.42.090 Annual TDM reports.

Every employer required to file a baseline TDM report shall submit an annual TDM report to the city or its designee every twelve months thereafter. The information submitted shall be current to within nine months of the annual report due date. The annual reports shall contain the same type of information as is required in the baseline report.

(Ord. 1850 § 1(part), 1992).

10.42.100 Enforcement.

- (a) Criminal Penalties.
- (1) It is unlawful for any person, firm or corporation to violate any provision, or fail to comply with any requirement of this chapter with the exception of [section 10.42.050](#). Except as otherwise provided in subdivision (2) of this subsection, any entity violating any provision, or failing to comply with any mandatory requirement of this chapter is guilty of an infraction, and upon conviction shall be punished by a fine of not more than one hundred dollars.
 - (2) Notwithstanding any provision to the contrary, any person, firm or corporation committing any act made unlawful pursuant to subdivision (1) of this subsection shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars and/or imprisonment of not more than six months, if any of the following circumstances exists:
 - (A) The violation was committed wilfully or with knowledge of its illegality;
 - (B) The violator does not cease, or otherwise abate the violation after receiving notice of such violation;

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- (C) The violator has previously been convicted of violating the same provision of this chapter within two years of the currently charged violation; or
 - (D) The provision violated specifies that such violation shall be a misdemeanor.
- (3) Each person, firm or corporation violating any provision, or failing to comply with the mandatory requirements of this chapter shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this title is committed, continued or permitted by such person, firm or corporation, and shall be punishable as provided in this chapter.
- (b) Civil Penalties. Any person who violates any provision of this chapter with the exception of [Section 10.42.050](#) shall be liable for a civil penalty not to exceed five hundred dollars per day for each violation. The civil penalty shall be assessed and recovered in a civil action brought in the name of the people by the city attorney. In any civil action brought to seek such civil penalty, and/or to obtain injunctive relief for violation of any provision of this chapter in which action the city prevails, the court shall determine and impose reasonable expenses, including attorneys' fees, incurred by the city in the investigation and prosecution of the action.
- (c) Remedies Not Exclusive. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal.
- (Ord. 1850 § 1(part), 1992).