

Arlington, Washington, Code of Ordinances

Title 10 - VEHICLES AND TRAFFIC

Chapter 10.80 - TRANSPORTATION DEMAND MANAGEMENT*

Accessed November 5, 2013 at

http://library.municode.com/HTML/16199/level2/TIT10VETR_CH10.80TRDEMA.html#TIT10VETR_CH10.80TRDEMA_10.80.000PU

Sections:

[10.80.000 - Purpose.](#)

[10.80.010 - Definitions.](#)

[10.80.020 - Arlington CTR plan.](#)

[10.80.030 - Responsible city official.](#)

[10.80.040 - Applicability.](#)

[10.80.050 - Notification of applicability.](#)

[10.80.060 - Applicability to new major employers.](#)

[10.80.070 - Change in status as a major employer.](#)

[10.80.080 - Employer requirements.](#)

[10.80.090 - Recordkeeping.](#)

[10.80.100 - Schedule and process for CTR reports.](#)

[10.80.120 - Enforcement.](#)

[10.80.130 - Exemptions or goal modifications.](#)

[10.80.140 - Appeals.](#)

10.80.000 - Purpose.

The purpose of this chapter is to provide a method for compliance with the Washington State Commute Trip Reduction Law of 1991 (RCW 70.94.521 through 70.94.551), as amended in 2006 by the Commute Trip Reduction Efficiency Act. The Commute Trip Reduction Law was passed to reduce traffic congestion, air pollution, and dependency on fossil fuels through employer-based programs encouraging alternative commute methods to the single-occupancy vehicle.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 1, 8-3-2009)

10.80.010 - Definitions.

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

"Affected employee" means a full-time employee who begins his or her regular work day at a major employer worksite between six a.m. and nine a.m. (inclusive) on two or more weekdays for at least twelve continuous months, who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

"Affected urban growth area" means

- (1) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person per hours of delay threshold calculated by the WA state department of transportation, and any contiguous urban growth areas; and
- (2) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas; or
- (3) An urban growth area identified by the WA department of transportation as listed in WAC 468-63-020(2)(b).

"Alternative mode" means any means of commute transportation other than that in which the drive-alone motor vehicle is the dominant mode, including telecommuting and compressed work weeks if they result in reducing commute trips.

"Alternative work schedules" means work schedules that allow employees to work their required hours outside of the traditional Monday to Friday, eight a.m. to five p.m. schedule, such as compressed work weeks that eliminate work trips for affected employees.

"Base year" means the twelve-month period, that commences when the city of Arlington determines an employer is required to comply with the CTR law, on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (drive-alone) trips shall be based.

"Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite 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 measurements must be implemented in a manner that meets the requirements specified by the city.

"Carpool" means a motor vehicle occupied by at least two persons traveling together for their commute trip that result in the reduction of a minimum of one motor vehicle commute trip.

"City" means the city of Arlington.

"Commute trip" mean trips made from a worker's home to a worksite during the peak period of six a.m. to nine a.m. (inclusive) on weekdays.

"Commute trip reduction (CTR) plan" means the city's plan and ordinance to regulate and administer the CTR programs of major employers within its jurisdiction.

"CTR commuter" means a resident or employee in an affected urban growth area who is participating in the city's commute trip reduction program, including any growth and transportation and efficiency center programs, implemented to meet Arlington's established targets.

"CTR program" means an employer's strategies to reduce affected employees' drive-alone use and VMT per employee.

"CTR law" means the commute trip reduction law passed by the Washington State legislature in 1991 (Chapter 202, Laws of 1991) and codified in RCW 70.94.521 through 70.94.551, and amended in 1997 and 2006 requiring counties of over one hundred fifty thousand residents, with one or more major

employers, to implement a CTR ordinance and plan. All cities in such counties with one or more major employers are also required to adopt CTR ordinances and plans.

"Commuter trip vehicle miles traveled per employee (VMT)" means the sum of the individual commute trip lengths in miles over a set period divided by the number of full-time employees.

"Commuter matching service" means a system that assists in matching commuters for the purpose of commuting together.

"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. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements.

"Custom bus pool" means a commuter bus service arranged specifically to transport employees to work.

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

"Drive-alone" means single-occupant vehicle.

"Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private, that employs workers.

"Employee transportation coordinator (ETC)" means a person who is designated as responsible for the development, implementation, and monitoring of an employer's CTR program.

"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.

"Flex-time" is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.

"Full-time employee" means a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours a week.

"Goal" means a purpose toward which efforts are directed.

"Good faith effort" means that an major employer has met the minimum requirements identified in this chapter and is working in collaboration with the city and Snohomish County to continue its existing program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

"Growth and transportation efficiency center (GTEC)" means a defined, compact, mixed-use urban center that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a GTEC must meet minimum criteria established by the CTR board under RCW 70.04.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

"Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521-551 and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to drive-alone commuting, and commencement of other measures according to its approved CTR program and schedule.

"Jurisdiction's base year measurement" means the proportion of drive-alone vehicle commute trips by CTR commuters and commute trip vehicle miles traveled per CTR commuter on which commute trip reduction targets for the city shall be based. The city's base year measurement shall be determined based on employee surveys administered in the 2006-2007 survey cycle. If complete employee survey data from the 2006-2007 survey cycle is not available, then the base year measurement shall be calculated from the most recent and available set of complete employee survey data.

"Major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employee at a major worksite who are scheduled to begin their regular work day between six a.m. and nine a.m. (inclusive) on two or more weekdays for at least twelve continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)

"Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels of land separated solely by private or public roadways or rights-of-way, and at which there are one hundred or more full-time employees, who begin their regular workday between six a.m. and nine a.m. on weekdays, for at least twelve continuous months.

"Mode" means the means of transportation used by employees, such as drive-alone motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

"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.

"Peak period trip" means any employee trip that delivers the employee to begin his or her regular work day between six a.m. and nine a.m. Monday through Friday, except legal holidays.

"Person hours of delay" means the daily person hours of delay per mile the peak period of six a.m. to nine a.m., as calculated using the best available methodology by the WA State department of transportation.

"Proportion of single-occupant vehicle trips" or "drive-alone rate" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

"Single-occupant vehicle (drive-alone)" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle. If there are other passengers occupying the motor vehicle, but the ages of these passengers are sixteen or under, the motor vehicle is still considered a "single-occupant vehicle" for measurement purposes.

"Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

"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.

"Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.

"Transportation demand management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

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

"Vanpool" means a vehicle occupied by from five to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

"Voluntary employer worksite" means the physical location occupied by an employer who is voluntarily implementing a CTR program.

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

"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.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 2, 8-3-2009)

10.80.020 - Arlington CTR plan.

The most recently adopted Arlington CTR plan is wholly incorporated herein by reference. A true copy of the CTR plan shall be maintained in the office of the city clerk for inspection by the public.

(Ord. 1457 § 1(part), 2008).

10.80.030 - Responsible city official.

The city administrator, or his or her designee, shall be responsible for implementing this chapter, the CTR plan, and the city CTR program. The city administrator or his or her designee shall also have all authority necessary to carry out such responsibilities, including but not limited to, the promulgation of necessary rules or regulations and all necessary administrative decisions required to implement the CTR plan.

(Ord. 1457 § 1(part), 2008).

10.80.040 - Applicability.

The provisions of this chapter shall apply to any major employer at any single worksite within the corporate limits of the city.

(Ord. 1457 § 1(part), 2008).

10.80.050 - Notification of applicability.

- (a) In addition to the city's established public notification of adoption of an ordinance, a notice of availability of summary of the ordinance codified in this chapter, a notice of the requirements and criteria for major employers to comply with said ordinance, and subsequent revisions shall be published at least once in the city's official newspaper not more than thirty days after passage of this chapter or revisions.
- (b) Major employers located within the city are to receive written notification that they are subject to the ordinance codified in this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR manager at the worksite. Such notification shall provide ninety days for the major employer to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to submit a CTR program to the city.
- (c) Major employers that, for whatever reason, do not receive notice within thirty days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within ninety days of the passage of said ordinance will be granted an extension to assure up to ninety days within which to perform a baseline survey. After the results of the baseline survey are provided to the major employer, they have ninety days to develop and submit a CTR program to the city.
- (d) Major employers that have not been identified or do not identify themselves within ninety days of the passage of said ordinance, do not complete a baseline survey within ninety days, or submit a CTR program within one hundred eighty days are in violation of this chapter.
- (e) If a major employer has already performed a baseline survey, the major employer or voluntary worksite is not required to perform another survey and is required to submit a CTR plan to the city within ninety days.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 3, 8-3-2009)

10.80.060 - Applicability to new major employers.

- (a) Employers that meet the definition of "major employer" in this chapter must identify themselves to the city within ninety days of either moving into the boundaries of the city or growing in employment at a worksite to one hundred or more affected employees. Such employers shall be given ninety days to complete a baseline survey and an additional ninety days to submit a CTR program once the baseline survey results are given to the employer. The CTR program will be developed in consultation with the city and implemented not more than ninety days after the programs approval.
- (b) Employers that do not identify themselves within ninety days are in violation of this chapter.
- (c) New major employers shall have four years to meet the CTR program goals of a ten percent reduction in drive alone trips and a thirteen percent reduction in vehicle miles traveled.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 4, 8-3-2009)

10.80.070 - Change in status as a major 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 a major employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months, that employer is no longer a major employer. It is the responsibility of the employer to notify the city that it is no longer a major employer.

(2) If the same employer returns to the level of one hundred or more affected employees within the same twelve months, that employer will be considered a major employer for the entire twelve months, and will be subject to the same program requirements as other major employers.

(3) If the same employer returns to the level of one hundred or more affected employees twelve or more months after its change in status to an unaffected" employer, that employer shall be treated as a new major employer, and will be subject to the same program requirements as other new major employers.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 5, 8-3-2009)

10.80.080 - Employer requirements.

A major 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. The employer shall submit a description of its program to the city and provide an annual progress report to the city on employee commuting and progress toward meeting the drive-alone and VMT goals. The CTR program must include the mandatory elements as described below.

(1) CTR Program Description Requirements. The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals. 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 each other and to form or use transportation management organizations in developing and implementing CTR programs. At a minimum, the employer's description must include:

- (A) General description of the employment site location, transportations characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;
- (B) Number of employees affected by the CTR program;
- (C) Documentation of compliance with the mandatory CTR program elements (as described in subsection (2) of this section);
- (D) Description of the additional elements included in the CTR program (as described in subsection (2) of this section) and
- (E) Schedules of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

(2) Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

- (A) Transportation Coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. Newly designated ETCs shall attend a training class organized by the city within six months of being designated an ETC. All designated ETCs shall attend annual ETC training and a minimum of six hours of other training or network meetings annually, or as organized by the city. The objective is to have an effective transportation coordinator presence at each worksite; a major employer with multiple sites may have one transportation coordinator for all sites.

(B) Information Distribution. Information about alternatives to drive-alone commuting shall be provided to employees at least twice a year. Each employer's program description and annual report must report the information to be distributed and the method of distribution.

(C) Annual Progress Report. The CTR program must include an annual review of employee commuting and of progress and good faith efforts towards meeting the drive-alone reduction goals. Major employers shall file an annual progress report with the city in accordance with the format established by this chapter and consistent with the CTR task force guidelines. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in the CTR programs. Within the report the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals.

(D) Biannual survey or measurement. In addition to the specific program 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 achieve a seventy percent response rate from employees at the worksite.

(E) Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include additional elements needed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

- (i) Provision of the preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
- (ii) Instituting or increasing parking charges for drive-alones;
- (iii) Provision of commuter ride matching service to facilitate employee ride-sharing for commute trips;
- (iv) Provision of subsidies for transit fares;
- (v) Provision of vans for vanpools;
- (vi) Provision of subsidies for carpools or vanpools;
- (vii) Permitting the use of the employers' vehicles for carpooling or vanpooling;
- (viii) Permitting the use of the employer' vehicles for carpooling or vanpooling;
- (ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;
- (x) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- (xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- (xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- (xiii) Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes;
- (xiv) Establishment of a program of alternative work schedules, such as a compressed work week which reduce commuting; and
- (xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 6, 8-3-2009)

10.80.090 - Recordkeeping.

Major employers shall include a list of the records they will keep as part of the CTR program they submit to the city for approval. Employers will maintain all records listed in their CTR program for a minimum of forty-eight months. The city and the employer shall agree on the recordkeeping requirements as part of the accepted CTR program.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 7, 8-3-2009)

10.80.100 - Schedule and process for CTR reports.

(a) Document Review. 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 for the CTR program or comment on the CTR program or annual report within ninety days of submission, the employer's program or annual report is deemed accepted. The city may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

(b) CTR Annual Progress Reports. Upon review of an employer's initial CTR program, the city shall establish the employer's annual reporting date, which shall not be less than twelve months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit to the city its annual CTR report.

(c) Modification of CTR Program Elements. Any major employer may submit a request to the city for the modification of CTR program elements, other than the mandatory elements specified in this chapter, including recordkeeping 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.

(d) Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be via written notice at least thirty days before the due date for which the extension is being requested. Extensions not to exceed ninety days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request in writing within ten working days of its receipt of the extension request. If there is no response issued to the employer, and extension is automatically granted for thirty 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 annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the city administrator or his or her designee.

(e) Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement its approved CTR program not more than ninety days after receiving written notice from the city that the program has been approved or within the expiration of the program review period without receiving notice from the city.

(Ord. 1457 § 1(part), 2008).

10.80.120 - Enforcement.

- (a) Compliance. For purposes of this section, compliance means fully implementing in good faith all provisions in an accepted CTR program.
- (b) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of drive-alone trips shall be applied in determining requirements for employer CTR program modifications:
- (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 goals, 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 drive-alone 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 thirty days of reaching agreement.
 - (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 work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty 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 thirty 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 thirty 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 ten working days of the conference.
- (c) Violations. The following constitute violations if the deadlines established in this chapter are not met:
- (1) Failure to perform a baseline measurement within ninety days of written notification from the city that an employer qualifies as a major employer;
 - (2) Failure to develop and/or submit on time a complete CTR program;
 - (3) 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 this chapter;
 - (4) Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter;
 - (5) Failure to revise a CTR program as defined in RCW 70.94.434(4) and this chapter;
 - (6) Submission of false or fraudulent data in response to survey requirements.
- (d) Penalties.
- (1) No major 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) Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in RCW Chapter 7.80.
 - (3) A major employer shall not be liable for civil penalties if failure to implement an element of CTR program was the result of 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 recognized union any provision 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 70.94.534).

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 9, 8-3-2009)

10.80.130 - Exemptions or goal modifications.

(a) **Worksite Exemptions.** A major employer may request 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 work force, or its location(s). An exemption may be granted if and only if the major employer demonstrates that it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that would reduce the proportion of drive-alone trips and VMT per employee. Exemptions may be granted by the city during the annual program review process. 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 work site'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 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. The city shall respond to exemption requests within thirty days of the receipt of the request.

(c) **Modification of CTR Program Goals.** An employer may request a modification of CTR program goals under the following conditions:

(1) Prior to implementation, a major employer may request from the city a modification of program goals. Such requests shall be filed in writing at least sixty days prior to the date the work site is required to submit its program description or 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.

Requests for CTR program goal modifications will be considered if the following conditions exist:

- (A) The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer;
- (B) The employer can demonstrate that compliance with the program elements would constitute an undue hardship; or
- (C) The employer can demonstrate a significant change in local service or the transportation infrastructure that impacts the effectiveness of their adopted CTR program, or will increase the effectiveness of other program elements.

(2) The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR board guidelines. An employer may not request a modification of the applicable goals until one year after the city's approval of its initial program

description or annual report. The city shall respond to requests for goal modifications within thirty days of the receipt of the request.

(Ord. 1457 § 1(part), 2008).

(Ord. No. 1472, § 10, 8-3-2009)

10.80.140 - Appeals.

Any major employer may appeal administrative decisions regarding exemptions, modification of goals, modification of CTR program elements, and determinations regarding violations. The appeal must be filed with the city clerk not later than ten days following the date of the administrative decision. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the administrative decision. At the time of filing the appeal, a fee in the amount of one hundred dollars must be paid to the city. Appeals shall be heard by a hearing examiner appointed by the city. Substantial weight shall be given to the administrative decision and the burden of establishing error shall be upon the appealing party. In reviewing the appeal, the hearing examiner shall determine whether the administrative decision is consistent with the provisions of this chapter, including the city CTR plan. The hearing examiner shall have authority to affirm, modify, reverse or remand the administrative decision or to grant other appropriate relief. The decision of the hearing examiner shall constitute a final decision appealable to the city council.

(Ord. 1457 § 1(part), 2008).