

Selah WA CTR

[Selah, Washington, Code of Ordinances](#)

[Title 8 - TRAFFIC Chapter 8.84 COMMUTE TRIP REDUCTION \(CTR\) PLAN*](#)

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Chapter 8.84 COMMUTE TRIP REDUCTION (CTR) PLAN*

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8.84.010 Definitions.

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

"Affected employee" means a full-time employee who begins his or her regular work day at a single work site 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. Seasonal agricultural employees, including seasonal employees of processors of agricultural products are excluded from the count of affected employees.

"Affected employer" means an employer that employs one hundred or more full-time employees at a single work site covered by the commute trip reduction plan 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 work sites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)

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

"Alternative work schedules" means programs such as compressed work weeks that eliminate work trips for affected employees.

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

"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 measurement must be implemented in a manner that meets the requirements specified by the city of Selah.

"Carpool" means a motor vehicle occupied by two to six people traveling together for their commute trip resulting in the reduction of a minimum of one motor vehicle commute trip.

"Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

"Commute trips" means trips made from a worker's home to a work site (inclusive) on weekdays.

"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.

"CTR" is the abbreviation of commute trip reduction.

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

"Custom bus/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 a motor vehicle occupied by one employee for commute purposes, including a motorcycle.

"Drive alone trips" means commute trips made by employees in single occupant vehicles.

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

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

"Exemption" means a waiver from CTR program requirements granted to an employer by the city of Selah 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.

"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 per week.

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

"Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this chapter as evidenced by appointment of an Employee Transportation Coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to their CTR program and schedule.

"A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between six a.m. and nine a.m. on weekdays for at least twelve continuous months.

"Major employer worksite" or "affected employer worksite" or "worksite" means the physical location occupied by a major employer, as determined by the local jurisdiction.

"Major employment installation" means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the city of Selah, at which there are one hundred or more affected employees.

"Mode" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work week 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" means the hours from six a.m. to nine a.m. (inclusive), Monday through Friday, except legal holidays.

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

"Proportion of drive alone trips" or "drive alone rate" means the number of commute trips over a set period made by affected employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.

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

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

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

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

"Vanpool" means a vehicle occupied by five to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip.

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

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

"Weekday" means any day of the week except Saturday or 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. 1717 § 1, 2008.)

8.84.020 City of Selah CTR plan.

The goals established for the jurisdiction and affected employers in the 1999 City of Selah CTR Plan set forth in Attachment A is wholly incorporated herein by reference. The city of Selah staff is directed to make any corrections for typographical errors, include any graphical materials for information, and complete the commute trip reduction plan.

(Ord. 1717 § 2, 2008.)

8.84.030 CTR goals.

(a) Commute Trip Reduction Goals. The city of Selah's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the city of Selah's jurisdiction, major employment installations, and other areas designated by the city are hereby established by the city of Selah's CTR plan incorporated by [Section 8.84.020](#) of this chapter. These goals establish the desired level of performance for the CTR program in its entirety in Selah.

The city of Selah will set the individual worksite goals for affected employers based on how the worksite can contribute to Selah's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in [Section 8.84.060](#) of this chapter.

(b) Commute Trip Reduction Goals for Affected Employers.

(1) The drive-alone and VMT goals for affected employers in the city of Selah are hereby established as set forth in the CTR plan incorporated by [Section 8.84.020](#) of this chapter.

(2) If the goals for an affected employer or newly affected employer are not listed in the CTR plan, they shall be established by the city of Selah at a level designed to achieve the city's overall goals for the jurisdiction and other areas as designated by the city of Selah. The city of Selah shall provide written notification of the goals for each affected employer worksite by providing the information when the city reviews the employer's proposed program and incorporating the goals into the program approval issued by the city.

(Ord. 1717 § 3, 2008.)

8.84.040 Responsible agency—City of Selah.

The city of Selah is responsible for implementing this chapter, the CTR plan, and the city of Selah's CTR program should be identified together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

(Ord. 1717 § 4, 2008.)

8.84.050 Applicability.

The provisions of this chapter shall apply to any affected employer at any single work site within the corporate limits of the city of Selah.

(1) Notification of Applicability.

(A) In addition to city of Selah established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in the city of Selah's official newspaper not more than thirty days after passage of the ordinance codified in this chapter or revisions

(B) Affected employers located in the city of Selah are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, CTR manager, or registered agent at the work site. Such notification shall provide ninety days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the city of Selah.

(C) Affected employers who, 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 of Selah within ninety days of the passage of the ordinance codified in this chapter will be granted an extension to assure up to ninety days within which to perform a baseline measurement consistent with the measurement requirements specified by the city of Selah.

(D) Affected employers who have not been identified or do not identify themselves within ninety days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the city of Selah ninety days from the passage of the ordinance codified in this chapter are in violation of this chapter.

(E) If an affected employer has already performed a baseline measurement or an alternative acceptable to the city of Selah, under previous iterations of this chapter, the employer is not required to perform another baseline measurement.

(2) Newly Affected Employers.

(A) Employers meeting the definition of "affected employer" in this chapter must identify themselves to the city of Selah within ninety days of either moving into the boundaries outlined in the CTR plan adopted in [Section 8.84.020](#) of this chapter or growing in employment at a work site to one hundred or more affected employees. Employers who do not identify themselves within ninety days are in violation of this chapter.

(B) Newly affected employers identified as such shall be given ninety days to perform a baseline measurement consistent with the measurement requirements specified by the city of Selah. Employers who do not perform a baseline measurement within ninety days of receiving written notification that they are subject to the ordinance codified in this chapter are in violation of this chapter.

(C) Not more than ninety days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR program to the city of Selah. The program will be developed in consultation with city staff listed in [Section 8.84.040](#) of this chapter to be consistent with the goals of the CTR plan adopted in [Section 8.84.020](#) of this chapter. The program shall be implemented not more than ninety days after approval by the city of Selah. Employers who do not implement an approved CTR program according to this schedule are in violation of this ordinance and subject to the penalties outlined in [Section 8.84.090\(D\)](#) of this chapter.

(3) 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) If an employer initially designated as an affected 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 an affected employer. It is the responsibility of the employer to notify the city of Selah that it is no longer an affected employer. The burden of proof lies with the employer.

(B) 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 an affected employer for the entire twelve months, and will be subject to the same program requirements as other affected employers.

(C) 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 affected employer, and will be subject to the same program requirements as other new affected employers.

(Ord. 1717 § 5, 2008.)

8.84.060 Requirements for employers.

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

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

(A) **Employee Transportation Coordinator (ETC).** The employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected work site. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city of Selah. The objective is to have an effective transportation coordinator presence at each work site; an affected employer with multiple sites may have one ETC for all sites.

(B) **Information Distribution.** Information about alternatives to drive alone commuting as well as a summary of the employer's CTR program shall be provided to employees at least once a year and to new employees at the time of hire, the summary of the employer's CTR program shall also be submitted to the city of Selah with the employer's program description and regular report.

(2) **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:

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

(B) Reduced parking charges for high-occupancy vehicles;

(C) Instituting or increasing parking charges for drive alone commuters;

(D) Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;

(E) Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;

(F) Provision of vans or buses for employee ridesharing;

(G) Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;

(H) Provision of incentives for employees that do not drive alone to work;

(I) Permitting the use of the employer's vehicles for carpooling or vanpooling;

(J) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

(K) Cooperation with transportation providers to provide additional regular or express service to the work site;

(L) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

(M) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(N) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

(O) Establishment of a program to permit employees to work part- or full-time at home or at an alternative work site closer to their homes which reduces commute trips;

(P) Establishment of a program of alternative work schedules such as a compressed work week which reduce commute trips;

(Q) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services, or guaranteed ride home programs;

(R) Charging employees for parking, and/or the elimination of free parking; and

(S) Other measures that the employer believes will reduce the number and length of commute trips made to the site.

(3) **CTR Program Report and Description.** Affected employers shall review their program and file a regular progress report with the city of Selah in accordance with the format provided by the city of Selah.

The CTR program report and description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. 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 to programs elements.

At a minimum, the employer's CTR program report and description must include:

- (A) A general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;
- (B) The number of employees affected by the CTR program and the total number of employees at the site;
- (C) Documentation of compliance with the mandatory CTR program elements (as described in subsection (1) of this section);
- (D) Description of any additional elements included in the employer's CTR program (as described in subsection (2) of this section);
- (E) A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

(4) Biennial Measure of Employee Commute Behavior. In addition to the baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect commute trip reduction program employee questionnaires (surveys) at least once every two years, and strive to achieve at least a seventy percent response rate from employees at the worksite.

(Ord. 1717 § 6, 2008.)

8.84.070 Record keeping.

Affected employers shall maintain a copy of their approved CTR program description and report, their CTR program employee questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the city of Selah for a minimum of forty-eight months. The city of Selah and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

(Ord. 1717 § 7, 2008.)

8.84.080 Schedule and process for CTR program description and report.

(a) Document Review. The city of Selah shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for the 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 of Selah may extend the review period up to ninety days. The implementation date for the employers CTR program will be extended an equivalent number of days.

(b) Schedule. Upon review of an employer's initial CTR program, the city of Selah shall establish the employer's regular reporting date. This report will be provided in a form provided by the city of Selah consistent with [Section 8.84.060](#)(3) of this chapter.

(c) Modification of CTR Program Elements. Any affected employer may request to the city of Selah for the modification of CTR requirements. Such request may be granted if one of the following conditions exist:

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

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

(d) Extensions. An employer may request additional time to submit a CTR program description and report, or to implement or modify a program. Such requests shall be made 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 of Selah shall grant or deny the employer's extension request by written notice within ten working days of its receipt. If there is no response issued to the employer, an 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 regular 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 of Selah.

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

(Ord. 1717 § 8, 2008.)

8.84.090 Enforcement.

(a) Compliance. For purposes of this section, compliance shall mean:

- (1) Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR program description and report;
- (2) Providing a complete CTR program description and report on the regular reporting date; and
- (3) Distributing and collecting the CTR program employee questionnaire during the scheduled survey time period.

(b) Program Modification Criteria. The following criteria for achieving goals for VMT per employee and proportion of SOV trips shall be applied in determining requirements for employer CTR program modifications:

- (1) If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
- (2) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is unlikely to meet the applicable drive alone or VMT goal, no additional modifications are required;
- (3) If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and fails to meet the applicable drive alone or VMT reduction goal, the city of Selah shall direct the employer to revise its program within thirty days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR program, including the requested modifications or equivalent measures, within thirty days of receiving written notice to revise its program. The city of Selah 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 of Selah will send written notice 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 of Selah 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 self identify as an affected employer;
- (2) Failure to perform a baseline measurement including:
 - (A) Employers notified or that have identified themselves to the city of Selah within ninety days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the city of Selah within ninety days from the notification or self-identification,
 - (B) Employers not identified or self-identified within ninety days of the ordinance being adopted and who do not perform a baseline measurement consistent with the requirements specified by the city of Selah within ninety days from the adoption of the ordinance;
- (3) Failure to develop and/or submit on time a complete CTR program;
- (4) Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in this chapter;
- (5) Submission of false or fraudulent data in response to survey requirements;
- (6) Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter; or
- (7) Failure to revise a CTR program as defined in RCW 70.94.534(4) and this chapter.

(d) Penalties.

- (1) No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal;
- (2) Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in RCW 7.80. There will be no fines imposed;
- (3) An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

(A) Propose to a 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 of Selah and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

(Ord. 1717 § 9, 2008.)

8.84.100 Exemptions and goal modifications.

(a) **Worksite Exemptions.** An affected employer may request the city of Selah to grant an exemption from all CTR program requirements or penalties for a particular work site. 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 locations. An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the city of Selah at any time based on the 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 requirement of the CTR program. The city of Selah 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 of Selah will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests, and shall determine whether the exemption will be in effect during the following program year the city of Selah shall grant or deny the request within thirty days of receipt of the request. The city of Selah shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

(c) **Modification of CTR Program Goals.**

(1) An affected employer may request that the city of Selah modify its CTR 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 and annual report. The goal modification request must clearly explain why the work site is unable to achieve the applicable goal. The work site must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

(2) The city of Selah will review and grant or deny any 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 of Selah approves its initial program description or annual report.

(Ord. 1717 § 10, 2008.)

8.84.110 Appeals.

(a) **Appeals.** Any affected employer may appeal administrative decisions regarding exemptions, modification of goals, modification of CTR program elements, and violations to the city of Selah appeals board so designated in subsection (b) of this section. Affected employers shall be notified of the city of Selah's intent to impose penalties and shall "be advised of the manner in which penalties may be appealed" within thirty days to the appeals board.

(b) **Appeals Board.** The city of Selah appoints the city council as the CTR appeals board.

(c) Criteria to Judge Appeals. The appeals board will evaluate employers' appeals of administrative decisions by determining if the decisions were consistent with the CTR Law and Board Guidelines. Appeals may be granted if the employer can show the violations for which the penalties were imposed occurred for the reasons beyond the control of the employer, or the penalties were imposed for the failure of the employer to revise its CTR program as directed by the city of Selah and the employer can demonstrate that measures the city of Selah directed the employer to incorporate in its CTR program are unlikely to reduce the proportion of drive alone trips and/or VMT per employee. Administrative appeals may also be granted as outlined in subsection (a) of this section.

(d) Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. 1717 § 11, 2008.)