

Tumwater

Chapter 16.34 COMMUTE TRIP REDUCTION

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16.34.010 Short title.

This chapter shall be known as the “commute trip reduction ordinance” of the city of Tumwater.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.020 Purpose.

The purpose of this chapter is to establish CTR program requirements for affected employers within the city of Tumwater. These requirements will promote alternative commute modes and reduce the vehicle miles traveled (VMT) per employee and the proportion of drive-alone trips, decreasing traffic congestion, automobile-related air pollution and energy use within the city of Tumwater.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.030 Definitions.

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

- A. “Affected employee” means a full-time employee who begins his/her 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 twelve continuous months, who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, and employees required to work rotating shifts are excluded from the count of affected employees.
- B. “Affected employer” means an employer that employs one hundred or more full-time employees at a single worksite covered by the commute trip reduction plan between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months who are not independent contractors. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

- C. "Alternative work schedules" means programs such as compressed work week schedules that eliminate work trips for affected employees.
- D. "Base year" means the twelve-month period which commences when a major employer is determined by the city of Tumwater to be participating within the CTR program. The city of Tumwater uses this twelve-month period as the basis upon which it develops commute trip reduction goals.
- E. "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 CTR coordinator 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 CTR coordinator.
- F. "Carpool" means a motor vehicle, including a motorcycle, occupied by two to six people of at least sixteen years of age traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.
- G. "Commute trips" means trips made from a worker's home to a worksite for a regularly scheduled work day beginning between 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.
- H. "CTR" means the abbreviation of commute trip reduction.
- I. "CTR coordinator" means the person or entity designated by the city of Tumwater to provide CTR administration under this chapter.
- J. "CTR program" means an employer's strategies to reduce employees' drive-alone commutes and average VMT per employee.
- K. "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.
- L. "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 biweekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.
- M. "Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.
- N. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.
- O. "Drive alone" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.
- P. "Drive-alone trips" means commute trips made by employees in single occupant vehicles.
- Q. "Employee transportation coordinator" or "ETC" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.
- R. "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.

- S. “Exemption” means a waiver from any or all CTR program requirements granted to an affected employer by the CTR coordinator based on unique conditions that apply to the employer or employment site.
- T. “Flex time” means an employer policy that provides work schedules allowing individual employees flexibility in choosing the start and end time but not the number of their working hours.
- U. “Full-time employee” means a person other than an independent contractor, whose position is scheduled on a continuous basis for fifty-two weeks for an average of thirty-five hours per week.
- V. “Good faith effort” means an affected employer has met the minimum requirements identified in RCW [70.94.531](#) and this chapter, and is working collaboratively with the CTR coordinator 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.
- W. “Implementation” means the active pursuit by an employer of the CTR goals of RCW [70.94.521](#) through [70.94.555](#) and the city’s CTR plan as evidenced by the appointment of an employee transportation coordinator (ETC), distribution of information to employees regarding alternatives to drive-alone commuting, and the commencement of other measures according to its approved CTR program and schedule.
- X. “Major employment installation” means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the city, at which there are one hundred or more affected employees.
- Y. “Mode” means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.
- Z. “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.
- AA. “Peak period” means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
- BB. “Peak period trip” means any commute trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
- CC. “Proportion of drive-alone trips” or “drive-alone rate” means the number of commute trips over a set period made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.
- DD. “Single worksite” means a building or group of buildings on physically contiguous parcels of land or on parcels of land separated solely by private or public roadways or rights-of-way occupied by one or more affected employers.
- EE. “Ride matching service” means a system which assists in matching commuters for the purpose of commuting together.
- FF. “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.

GG. "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.

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

II. "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.

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

KK. "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 of time divided by the number of employees working during that period.

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

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

NN. "Writing/written/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. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.035 CTR plan.

The city council hereby approves and adopts the 2008 city of Tumwater CTR plan. This plan may be amended by further action of the city council.

The goals established for the jurisdiction and affected employers in the city's commute trip reduction plan set forth in Attachment A to the ordinance codified in this chapter are incorporated herein by reference. The city staff is directed to make any corrections for typographical errors, including any graphical materials for information, and complete the commute trip reduction plan.

(Ord. O2009-005, Added, 02/02/2010)

16.34.040 CTR plan administration.

A. CTR Coordinator. In order to ensure consistency and flexibility, Thurston County and the cities of Lacey, Olympia and Tumwater (hereinafter referred to as "the local jurisdictions") have determined that it is within the best interest of the public to enter into a contract with a CTR coordinator. The CTR coordinator is hereby designated as the lead coordinator responsible for implementing and administering the CTR plan and CTR ordinance.

B. Administrative Procedures. The CTR coordinator is hereby authorized to develop and adopt, in consultation with the local jurisdictions, such administrative procedures as necessary to implement the provisions of this chapter.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.050 Commute trip reduction goals.

A. Commute Trip Reduction Goals for the City of Tumwater. The city of Tumwater CTR plan sets forth goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the city's jurisdiction. These goals establish the desired level of performance for the CTR program in its entirety in the city.

The CTR coordinator will set the individual worksite goals for affected employers based on how the worksite can contribute to the city's overall goal established in the CTR plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in TMC [16.34.070](#).

B. Commute Trip Reduction Goals for Affected Employers.

1. The drive-alone and VMT goals for affected employers in the city are hereby established as set forth in the city of Tumwater CTR plan.
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 CTR coordinator at a level designed to achieve the city's overall goals for the jurisdiction and other areas as designated by the city. The CTR coordinator shall provide written notification of the goals for each affected employer worksite by providing the information when the CTR coordinator reviews the employer's proposed program and incorporating the goals into the program approval issued by the CTR coordinator.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.060 Applicability.

The requirements of this chapter shall apply to any affected employer within the geographic limits of the CTR plan adopted in the city of Tumwater.

A. Notification.

1. In addition to the city's established public notification for adoption of an ordinance, a notice of availability of a summary of the ordinance codified in this chapter and a notice of the requirements for affected employers to comply with the ordinance and subsequent revisions shall be published at least once in Thurston County's official newspaper not more than thirty days after passage of the ordinance or revisions.
2. Affected employers located in the city of Tumwater 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 program manager or registered agent at the worksite. Such notification shall provide ninety days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the CTR coordinator.
3. Affected 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 CTR coordinator within ninety days of the passage of the ordinance 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 CTR coordinator.
4. Affected employers that have not been identified or do not identify themselves within ninety days of the passage of the ordinance codified in this chapter and do not perform a baseline measurement consistent with the

measurement requirements specified by the CTR coordinator within ninety days from the passage of the ordinance are in violation of this chapter.

5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the CTR coordinator, under previous iterations of the ordinance codified in this chapter, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers.

1. Employers meeting the definition of “affected employer” in this chapter must identify themselves to the CTR coordinator within ninety days of either moving into the boundaries outlined in the CTR plan, or growing in employment at a worksite to one hundred or more affected employees. Employers who do not identify themselves within ninety days are in violation of this chapter.

2. Newly affected employers shall be given ninety days to perform a baseline measurement consistent with the measurement requirements specified by the CTR coordinator. Employers who do not perform a baseline measurement within ninety days of receiving written notification that they are subject to this chapter are in violation of this chapter.

3. 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 CTR coordinator. The program will be developed in consultation with the CTR coordinator to be consistent with the goals of the CTR plan. The program shall be implemented not more than ninety days after approval by the CTR coordinator. Employers who do not implement an approved CTR program according to this schedule are in violation of this chapter and subject to the penalties outlined in TMC [16.34.090\(D\)](#).

C. Change in Status as an Affected Employer. Any of the following changes in an affected employer’s status will change the employer’s CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more employees for the next twelve months, that employer is no longer considered an affected employer. It is the responsibility of the employer to notify the CTR coordinator that it is no longer an affected employer. The burden of proof lies with the 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 an affected employer for the entire twelve-month period, and will be subject to the same program requirements as other affected employers.

3. If the same employer returns to the level of one hundred or more affected employees twelve months or more after the change in status to an “unaffected” employer, that employer shall be considered a newly affected employer and will be subject to the same requirements as other newly affected employers.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.070 Employer requirements.

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 shall include the mandatory elements described below.

A. **Mandatory Program Elements.** Each affected employer's CTR program shall include the following mandatory program elements:

1. **Employee Transportation Coordinator.** The affected employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The coordinator's name, location and telephone number must be prominently displayed physically or electronically at each affected worksite. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple worksites in the city of Tumwater is not required to have an ETC at each worksite. The ETC is responsible for administering and implementing the CTR program. The ETC is the primary CTR program contact person for the employees as well as between the employer and the CTR coordinator. ETCs are required to attend the ETC basic training course provided by the CTR coordinator within one year of appointment to the position of ETC.
2. **Information Distribution.** Information about alternatives to drive-alone commuting as well as a summary of the employer's CTR program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR program shall also be submitted to the CTR coordinator with the employer's program description and regular report.
3. **Coordination and Collaboration.** With the assistance of the CTR coordinator, each employer must coordinate and collaborate with other CTR affected and voluntary worksites in geographic proximity. This coordination includes but is not limited to: joint education and promotional events (i.e., Smart Commuter Fairs) and ridematching coordination.

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

1. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
2. Instituting or increasing parking charges for drive-alone commuters;
3. Provision of commuter ride matching services to facilitate employee ride sharing for commute trips;
4. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
5. Provision of vans for vanpools;
6. Provision of vans or buses for employee ridesharing;
7. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed work schedules;
8. Provision of incentives for employees that do not drive alone to work;
9. Permitting the use of the employer's vehicles for carpooling or vanpooling;
10. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

11. Cooperation with transportation providers to provide additional regular or express service to the worksite;
12. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
13. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
14. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
15. Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;
16. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;
17. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services or guaranteed ride home programs;
18. Charging employees for parking, and/or the elimination of free parking; and
19. Other measures that the employer believes will reduce the number and length of commute trips made to the site.

C. CTR Program Report and Description. Affected employers shall review their program and file a regular progress report with the CTR coordinator in accordance with the format provided by CTR coordinator.

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 implement program elements.

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

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

D. 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.

E. 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 CTR coordinator for a minimum of forty-eight months. The CTR coordinator and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.080 Schedule and process for CTR program description and report.

A. Document Review. The CTR coordinator shall provide the affected employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the affected employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within ninety days of submission, the affected employer's program or regular report is deemed accepted. The CTR coordinator may extend the review period up to ninety days. The implementation date for the affected employer's CTR program will be extended an equivalent number of days.

B. Schedule. Upon review of an employer's initial CTR program description, the CTR coordinator shall establish the employer's regular reporting date. This report will be provided in a form provided by the CTR coordinator consistent with TMC [16.34.070\(C\)](#).

C. Modification of CTR Program Elements. Any affected employer may submit a request to the CTR coordinator for modification of CTR requirements. Such request may be granted if one of the following conditions exists. The CTR coordinator may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

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 description and 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 CTR coordinator shall grant or deny the employer's extension request by written notice within ten working days of its receipt of the extension request. 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 CTR coordinator.

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 receiving written

notice from the CTR coordinator that the program has been approved or with the expiration of the program review period without receiving notice from the CTR coordinator.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993)

16.34.090 Compliance and 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 CTR coordinator shall apply the following criteria for achieving goals for VMT per employee and proportion of drive-alone trips in determining requirements for employer CTR program modifications:

1. If an employer meets either or both goals, the employer shall be deemed to have 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 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 CTR coordinator 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 description and report, including the requested modifications or equivalent measures, within thirty days of receiving written notice to revise its program. The CTR coordinator shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the CTR coordinator 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 CTR coordinator within ten working days of the conference.

C. Violations. Any of 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 CTR coordinator within ninety days of the ordinance codified in this chapter being adopted and that do not perform a baseline measurement consistent with the requirements specified by the CTR coordinator within ninety days from the notification or self-identification;

b. Employers not identified or self-identified within ninety days of the ordinance codified in this chapter being adopted and that do not perform a baseline measurement consistent with the requirements specified by the CTR coordinator within ninety days from the adoption of the ordinance codified in this chapter;

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. 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. Any affected employer violating any provision of this section shall be guilty of a civil infraction and subject to the imposition of civil penalties pursuant to Chapter [7.80](#) RCW.

1. Whenever the CTR coordinator makes a determination that an affected employer is in violation of this chapter, the CTR coordinator shall issue a notice of civil infraction in accordance with Chapter [7.80](#) RCW as adopted or hereinafter amended.
2. Each infraction shall constitute a separate violation.
3. Each day that an affected employer is in violation shall constitute a separate violation.
4. Penalties will begin to accrue fifteen days following the notice of civil infraction. In the event that an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the appeal be decided in favor of the appellant, all of the monetary penalties will be dismissed.
5. 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 CTR coordinator and advise the union that the proposal being made is necessary for compliance with state law (RCW [70.94.531](#)).

E. Schedule of Penalties. The violation of any provision of this chapter is designated as a class 2 civil infraction pursuant to Chapter [7.80](#) RCW. Additional assessments may be imposed in accordance with RCW [3.62.090](#) and other applicable statutory requirements.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993. Formerly 16.34.100)

16.34.100 Exemptions and goal modifications.

A. **Worksite Exemptions.** An affected employer may request the CTR coordinator to grant an exemption from all CTR program requirements or penalties for a particular worksite. The affected employer must demonstrate that it would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive-alone trips and VMT per employee. Exemptions may be granted by the CTR coordinator 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 CTR coordinator shall grant or deny the request within thirty days of receipt of the request. The CTR coordinator 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 CTR coordinator will use the criteria identified in the CTR board administrative guidelines to assess the validity of employee exemption requests. The CTR coordinator shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year. The CTR coordinator shall grant or deny the request within thirty days of receipt of the request.

C. **Modification of CTR Program Goals.**

1. An affected employer may request that the CTR coordinator modify its CTR program goals. Such requests shall be filed in writing at least sixty days prior to the date the worksite 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.

2. The CTR coordinator 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 CTR coordinator's approval of its initial program description or annual report.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993. Formerly 16.34.110)

16.34.110 Appeals process.

A. **CTR Appeals Board.** The CTR coordinator is hereby authorized to develop procedures implementing an appeals process and establish a CTR appeals board to review such appeals. Such a board should be composed of both representatives of appropriate local jurisdictions and selected affected employers.

B. **Appeals Process.** Any affected employer may appeal administrative decisions regarding exemptions, goal modifications, program element modifications, and violations to a CTR appeals board. In the event of a violation, the affected employer shall be notified of the intent to impose penalties and the manner in which penalties may be appealed.

The appeal should be addressed to the CTR coordinator which will refer the matter to the CTR appeals board.

The decision of the CTR appeals board is final. An affected employer may, within thirty days of the notice of final decision, appeal the CTR appeals board's decision to the Thurston County superior court.

(Ord. O2009-005, Amended, 02/02/2010; Ord. O2002-003, Amended, 02/05/2002; Ord. O99-018, Amended, 09/21/1999; Ord. 1368, Added, 02/16/1993. Formerly 16.34.120)

The Tumwater Municipal Code is current through Ordinance O2013-018, and legislation passed through October 1, 2013.

Disclaimer: The City Clerk's Office has the official version of the Tumwater Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.