



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 31, 2016

Ordinance 18383

Proposed No. 2016-0401.1

Sponsors Lambert

1 AN ORDINANCE relating to commute trip reduction;
2 amending Ordinance 10733, Section 1, as amended, and
3 K.C.C. 14.60.010, Ordinance 10733, Section 2, as
4 amended, and K.C.C. 14.60.020, Ordinance 10733, Section
5 3, as amended, and K.C.C. 14.60.030, Ordinance 10733,
6 Section 4, as amended, and K.C.C. 14.60.040, Ordinance
7 10733, Section 5, as amended, and K.C.C. 14.60.050,
8 Ordinance 10733, Section 6, as amended, and K.C.C.
9 14.60.060, Ordinance 10733, Section 6, as amended, and
10 K.C.C. 14.60.070, Ordinance 10733, Section 8, as
11 amended, and K.C.C. 14.60.080 and Ordinance 10733,
12 Section 10, as amended, and K.C.C. 14.60.100, recodifying
13 K.C.C. 14.60.010, K.C.C. 14.60.020, K.C.C. 14.60.030,
14 K.C.C. 14.60.040, K.C.C. 14.60.050, K.C.C. 14.60.060,
15 K.C.C. 14.60.070, K.C.C. 14.60.080, K.C.C. 14.60.100 and
16 K.C.C. 28.94.110 and adding a new chapter to K.C.C. Title
17 28.

18 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

19 SECTION 1. There is hereby established a new chapter in K.C.C. Title 28. This
20 new chapter shall contain K.C.C. 14.60.010, as recodified by this ordinance, K.C.C.
21 14.60.020, as recodified by this ordinance, K.C.C. 14.60.030, as recodified by this
22 ordinance, K.C.C. 14.60.040, as recodified by this ordinance, K.C.C. 14.60.050, as
23 recodified by this ordinance, K.C.C. 14.60.060, as recodified by this ordinance, K.C.C.
24 14.60.070, as recodified by this ordinance, K.C.C. 14.60.080, as recodified by this
25 ordinance, K.C.C. 14.60.100 as recodified by this ordinance, and K.C.C. 28.94.110, as
26 recodified by this ordinance.

27 SECTION 2. K.C.C. 14.60.010, as amended by this ordinance, is hereby
28 recodified as a new section in the new chapter established in section 1 of this ordinance.

29 SECTION 3. Ordinance 10733, Section 1, as amended, and K.C.C. 14.60.010 are
30 each hereby amended to read as follows:

31 The following definitions ~~((shall))~~ apply ~~((in the interpretation and enforcement~~
32 ~~of))~~ to this chapter unless the context clearly requires otherwise:

33 A. "Affected employee" means a full-time employee who begins ~~((his or her))~~ the
34 employee's regular work day at a single work site between 6:00 a.m. and 9:00 a.m. ~~((t)),~~
35 inclusive~~((t))~~, on two or more weekdays for at least twelve contiguous months and who is
36 not an independent contractor. Seasonal agricultural employees, including seasonal
37 employees of processors of agricultural products, are excluded from the count of affected
38 employees.

39 B. "Affected employer" means an employer that employs one hundred or more
40 affected employees at a single work site covered by the ~~((CTR))~~ commute trip reduction

41 ((P))plan. Construction work sites are excluded from this definition when the expected
42 duration of the construction is less than two years.

43 C. "Alternative commute mode" means any means of transportation to and from
44 work other than driving a single-occupant motor vehicle, including scheduled work from
45 home and work schedules that result in fewer commute trips.

46 D. "Baseline measurement" means the survey of affected employees conducted
47 by an affected employer to determine the drive-alone rate and ((VMT)) vehicle miles
48 travelled per affected employee.

49 E. "Carpool" means a motor vehicle occupied by two to six people who are at
50 least sixteen years old traveling together for their commute trip that results in the
51 reduction of at least one motor vehicle commute trip.

52 F. "Commute trips" mean trips made from a worker's home to a work site for a
53 regularly scheduled work day beginning between 6:00 a.m. and 9:00 a.m. ((f)),
54 inclusive((t)), on weekdays.

55 G. "((CTR)) Commute trip reduction plan" means the county's commute trip
56 reduction plan, as adopted ((by Ordinance 17034)) in K.C.C. 14.60.020, to regulate and
57 administer the ((CTR)) commute trip reduction programs of affected employers'
58 worksites within unincorporated King County.

59 H. "((CTR)) Commute trip reduction program" means an affected employer's
60 program, approved by the director, including strategies to reduce affected employees'
61 ((VMT)) vehicle miles travelled per employee and drive-alone rate.

62 I. "Director" means the director of the department of transportation or ((his or her
63 authorized)) the director's designee.

64 J. "Drive-alone rate" means the percentage of affected employee commute trips
65 made by single occupants of motor vehicles, including motorcycles.

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

69 L. "Exemption" means a waiver from ((CTR)) commute trip reduction program
70 requirements granted to an employer by the county based on unique conditions that apply
71 to the employer or worksite.

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

75 N. "Good faith effort" means that an employer has met the minimum requirement
76 identified in RCW 70.94.531.

77 O. "Mode" means the means of transportation used by employees, such as single-
78 occupant motor vehicle including motorcycle, rideshare vehicle such as carpool or
79 vanpool, transit, bicycle and walking.

80 P. "Single work site" means a building or group of buildings occupied by one or
81 more major employers which are on physically contiguous parcels of land or on parcels
82 separated solely by private or public roadways or rights-of-way.

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

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

88 S. "~~((VMT))~~ vehicle miles travelled per employee" means the sum of the distance
89 in miles of individual vehicle commute trips made by affected employees over a set
90 period divided by the number of affected employees during that period.

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

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

94 SECTION 4. The 2011 King County Commute Trip Reduction Plan, which is
95 Attachment A to Ordinance 17034, is hereby adopted in accordance with K.C.C.
96 14.60.020.

97 SECTION 5. K.C.C. 14.60.020, as amended by this ordinance, is hereby
98 recodified as a new section in the new chapter established in section 1 of this ordinance.

99 SECTION 6. Ordinance 10733, Section 2, as amended, and K.C.C. 14.60.020 are
100 each hereby amended to read as follows:

101 A. ~~((The 2011 King County))~~ A ~~((C))~~ commute ~~((T))~~ trip ~~((R))~~ reduction ~~((P))~~ plan~~((;))~~
102 ~~which is Attachment A to Ordinance 17034, is hereby))~~ shall be adopted by ordinance.

103 B. The ~~((CTR))~~ commute trip reduction plan lists the county's goals for reducing
104 ~~((VMT))~~ vehicle miles travelled per employee and the drive-alone rate for the
105 unincorporated urban area and for two affected employers. The director shall set goals
106 for reducing ~~((VMT))~~ vehicle miles travelled per employee and the drive-alone rate for
107 any affected employer not listed in the ~~((CTR))~~ commute trip reduction plan.

108 C. The department of transportation website shall include a notice of the adoption
109 of the ((CTR)) commute trip reduction plan and an explanation of its applicability to
110 affected employers. The director shall notify the affected employers listed in the ((CTR))
111 commute trip reduction plan and any other employer who becomes an affected employer
112 of the ((CTR)) commute trip reduction plan and its requirements.

113 SECTION 7. K.C.C. 14.60.030, as amended by this ordinance, is hereby
114 recodified as a new section in the new chapter established in section 1 of this ordinance.

115 SECTION 8. Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030 are
116 each hereby amended to read as follows:

117 This chapter applies to any affected employer at any single work site within
118 unincorporated King County. An ((E))employee((s-will)) shall be counted only at their
119 primary work site. It is the responsibility of the employer to notify the director of a
120 change in status as an affected employer. An employer that becomes an affected
121 employer after March 14, 2011, must identify itself to the director as an affected
122 employer within ninety calendar days after becoming an affected employer. An affected
123 employer shall continue to be treated as an affected employer for twelve months after it
124 notifies the director that it no longer employs one hundred or more affected employees
125 and expects not to employ one hundred or more affected employees for the next twelve
126 months. If the employer no longer employs one hundred or more affected employees at
127 the end of the twelve month period, that employer is no longer an affected employer. If
128 an employer becomes an affected employer within twelve months after it ceased to be an
129 affected employer, the employer shall be treated as if it was continuously an affected

130 employer. If an employer becomes an affected employer more than twelve months after
131 it ceased to be an affected employer, that employer shall be treated as a new affected.

132 SECTION 9. K.C.C. 14.60.040, as amended by this ordinance, is hereby
133 recodified as a new section in the new chapter established in section 1 of this ordinance.

134 SECTION 10. Ordinance 10733, Section 4, as amended, and K.C.C. 14.60.040
135 are each hereby amended to read as follows:

136 A. An affected employer is required to make a good faith effort, as defined in
137 RCW 70.94.534(2), to develop and implement a ((~~CTR~~)) commute trip reduction
138 program that will encourage its employees to reduce ((~~VMT~~)) vehicle miles travelled per
139 employee and the drive-alone rate. The employer's ((~~CTR~~)) commute trip reduction
140 program description shall be prepared according to a format provided by the director.
141 The employer's ((~~CTR~~)) commute trip reduction program must meet the requirements of
142 RCW 70.94.531.

143 B. When approving the ((~~CTR~~)) commute trip reduction program, the director
144 shall list all records to be maintained to document the employer's program and progress
145 toward reducing ((~~VMT~~)) vehicle miles travelled per employee and the drive-alone rate.
146 Records shall be retained for a minimum of forty-eight months.

147 SECTION 11. K.C.C. 14.60.050, as amended by this ordinance, is hereby
148 recodified as a new section in the new chapter established in section 1 of this ordinance.

149 SECTION 12. Ordinance 10733, Section 5, as amended, and K.C.C. 14.60.050
150 are each hereby amended to read as follows:

151 A. Not more than ninety days after the director determines that an employer has
152 become an affected employer, the affected employer shall perform a baseline

153 measurement consistent with the rules established by the state ((d))Department of
154 ((t))Transportation under RCW 70.90.537. The director shall use this baseline
155 measurement to set ((CTR)) commute trip reduction program goals for the affected
156 employer and shall notify the employer of these ((CTR)) commute trip reduction R
157 program goals. The affected employer shall then have ninety days to develop a ((CTR))
158 commute trip reduction program in consultation with the director and to submit it to the
159 director for approval.

160 B. The director shall approve or disapprove the affected employer's ((CTR))
161 commute trip reduction program within ninety days. When approving an affected
162 employer's ((CTR)) commute trip reduction program, the director shall establish the
163 employer's reporting date and a schedule for conducting ((CTR)) commute trip reduction
164 program surveys of affected employees. Every two years on the affected employer's
165 reporting date, the affected employer shall submit a ((CTR)) commute trip reduction
166 program report using a format provided by the director. The employer shall implement
167 its ((CTR)) commute trip reduction program within ninety days after the director
168 approves it.

169 C. In response to recommended modifications, the employer shall submit a
170 revised ((CTR)) commute trip reduction program, including the requested modifications
171 or equivalent measures, within thirty days of receipt. The director shall review the
172 revised ((CTR)) commute trip reduction program and notify the employer of acceptance
173 or rejection within thirty days. If a revised program is not accepted, the director has the
174 discretion to require the employer to attend a conference with program review staff for

175 the purpose of reaching a consensus on the required program. The director shall issue a
176 final decision on the required program within ten working days of the conference.

177 D. At least thirty days before a ((CTR)) commute trip reduction program is to be
178 implemented, a ((CTR)) commute trip reduction program report is due or program
179 modifications are to be implemented, an employer may request an extension of up to
180 ninety days to complete this action. The director shall grant all or part of the extension
181 request or deny the request within ten working days of receipt. If the director fails to
182 respond within ten working days, the extension is automatically granted for thirty
183 calendar days.

184 E. The director shall complete review of the employer's ((CTR)) commute trip
185 reduction program report, survey results, modification request or exemption request
186 within thirty calendar days of receipt. The director shall notify the employer of the
187 decision to approve or disapprove the employer's ((CTR)) commute trip reduction
188 program report, survey results, modification request or exemption request including the
189 cause for disapproval. If the director does not notify the employer by the deadlines in
190 this section, the employer's ((CTR)) commute trip reduction program report, survey
191 results, modification request or exemption request shall be deemed accepted.

192 SECTION 13. K.C.C. 14.60.060, as amended by this ordinance, is hereby
193 recodified as a new section in the new chapter established in section 1 of this ordinance.

194 SECTION 14. Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.060
195 are each hereby amended to read as follows:

196 A. If an employer meets either or both of its goals for reducing ((VMT)) vehicle
197 miles travelled per employee and the drive-alone rate, the employer has satisfied the

198 objectives of the ((CTR)) commute trip reduction plan and will not be required to modify
199 ((the)) its v program.

200 B. If an employer makes a good faith effort, as defined in RCW 70.94.534(2), but
201 has not met its goal, no additional modifications to the ((CTR)) commute trip reduction
202 program are required. An employer is presumed to act in good faith if failure to
203 implement a ((CTR)) commute trip reduction program is the result of an inability to reach
204 agreement with a union, provided that the employer requests the union to approve any
205 ((CTR)) commute trip reduction program provision that is subject to collective
206 bargaining and the employer advises the union that the employer is subject to this
207 chapter.

208 C. If an employer fails to make a good faith effort, as defined in RCW
209 70.94.534(2), and fails to meet the applicable ((VMT)) vehicle miles travelled reduction
210 or drive-alone goal, the director shall notify the employer of potential modifications to
211 the ((CTR)) commute trip reduction program and shall direct the employer to revise
212 ((the)) its ((CTR)) commute trip reduction program within thirty days to incorporate the
213 modifications to comply with the requirements of RCW 70.94.531. The employer shall
214 submit a modified ((CTR)) commute trip reduction program to the director. The director
215 shall review the revised program and notify the employer that it is accepted or rejected.
216 The director has the discretion to require the employer to attend a conference with
217 program review staff for the purpose of reaching consensus on a revised ((CTR))
218 commute trip reduction program. The director shall issue a final decision on the required
219 program within ten working days of the conference.

220 SECTION 15. K.C.C. 14.60.070, as amended by this ordinance, is hereby
221 recodified as a new section in the new chapter established in section 1 of this ordinance.

222 SECTION 16. Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.070
223 are each hereby amended to read as follows:

224 A. Beginning one year after the director has approved its ((CTR)) commute trip
225 reduction program, an employer may request a modification of ((CTR)) commute trip
226 reduction program goals under the following conditions:

227 1. The employer demonstrates that it requires employees to use the vehicles they
228 drive to work during the work day for work purposes. Under this condition, the
229 applicable goals will not be changed, but those employees who need daily access to the
230 vehicles they drive to work will not be included in the calculations of proportion of
231 ((VMT)) vehicle miles travelled per employee and the drive-alone rate used to determine
232 the employer's progress toward program goals. The employer shall provide
233 documentation indicating how many employees meet this condition and must
234 demonstrate that no reasonable alternative commute mode exists for these employees and
235 that the vehicles cannot reasonably be used for carpools or vanpools;

236 2. The employer demonstrates that it has significant numbers of its employees
237 assigned to variable work schedules which makes it unreasonable to expect that such
238 employees regularly participate in ((CTR)) commute trip reduction programs. The
239 employer shall provide documentation indicating how many employees meet this
240 condition and must demonstrate that no reasonable alternative commute mode program
241 can be developed for these employees. Under this condition, the applicable goals will not
242 be changed, but those employees who are assigned to variable work schedules will not be

243 included in the calculations of the proportion of ((VMT)) vehicle miles travelled per
244 employee and the drive-alone rate used to determine the employer's progress toward
245 program goals; and

246 3. The employer demonstrates that opportunities for alternative commute modes
247 do not exist due to factors related to the work site, its work force or characteristics of the
248 business that are beyond the employer's control; and the employer clearly demonstrates
249 why the work site is unable to achieve the applicable goal. The work site must also
250 demonstrate that it has implemented all of the elements contained in its approved ((CTR))
251 commute trip reduction program.

252 B. An affected employer may request an exemption from all ((CTR)) commute
253 trip reduction program requirements for a particular work site. The employer must
254 demonstrate that it would experience undue hardship in complying with the program
255 requirements as a result of the characteristics of its business, its work force or its location
256 or locations. The director may grant an exemption only if the employer demonstrates that
257 it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any
258 measures that could reduce the proportion of drive-alone trips and ((VMT)) vehicle miles
259 travelled per employee.

260 C. The director shall approve or disapprove modification or exemption requests
261 within thirty days of receipt. The director shall review annually all employers receiving
262 modifications or exemptions and shall determine whether the exemptions will be in effect
263 during the following program year.

264 SECTION 17. K.C.C. 14.60.080, as amended by this ordinance, is hereby
265 recodified as a new section in the new chapter established in section 1 of this ordinance.

266 SECTION 18. Ordinance 10733, Section 8, as amended, and K.C.C. 14.60.080
267 are each hereby amended to read as follows:

268 Any affected employer may request reconsideration of a decision by the director.
269 If the director denies the request for reconsideration in whole or in part, the director's
270 final decision may be appealed in accordance with K.C.C. 20.22.080.

271 SECTION 19. K.C.C. 14.60.100, as amended by this ordinance, is hereby
272 recodified as a new section in the new chapter established in section 1 of this ordinance.

273 SECTION 20. Ordinance 10733, Section 10, as amended, and K.C.C. 14.60.100
274 are each hereby amended to read as follows:

275 The director of the department of transportation is hereby instructed and
276 authorized to adopt such administrative rules and procedures as are necessary to
277 implement the provisions of this ((aet)) chapter.

278 SECTION 21. K.C.C. 28.94.110, as amended by this ordinance, is hereby
279 recodified as a new section in the new chapter established in section 1 of this ordinance.
280

Ordinance 18383 was introduced on 8/22/2016 and passed by the Metropolitan King County Council on 10/31/2016, by the following vote:

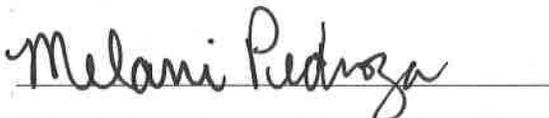
Yes: 8 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn,
Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci
No: 0
Excused: 1 - Mr. McDermott

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



J. Joseph McDermott, Chair

ATTEST:



Melani Pedroza, Acting Clerk of the Council

APPROVED this 2nd day of November 2016



Dow Constantine, County Executive

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CLERK
KING COUNTY COUNCIL

Attachments: None