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Title: AN ORDINANCE relating to King County’s commute trip reduction policies; amending Ordinance 10733, Section 1, as amended, and K.C.C. 14.60.010, Ordinance 10733, Section 2, as amended, and K.C.C. 14.60.020, Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030, Ordinance 10733, Section 4, as amended, and K.C.C. 14.60.040, Ordinance 10733, Section 5, as amended, and K.C.C. 14.60.050, Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.060, Ordinance 10733, Section 7, as amended, and K.C.C. 14.60.070 and Ordinance 10733, Section 8, as amended, and K.C.C. 14.60.080, decodifying K.C.C. 14.60.200 and repealing Ordinance 10733, Section 9, as amended, and K.C.C. 14.60.090.

Sponsors: Larry Phillips

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Attachments: 1. 17034.pdf, 2. A. Commute Trip Reduction Plan--October 16, 2009, 3. 2010-0196 Transmittal Letter.doc, 4. 2010-0196 Fiscal Note.xls, 5. 2010-0196 Staff Report - CTR.doc, 6. A. Commute Trip Reduction Plan--February 8, 2011, 7. 2010-0196 Revised Staff Report - CTR, 8. A. Commute Trip Reduction Plan--February 8, 2011

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2/8/2011	1	Transportation, Economy, and Environment Committee		
1/10/2011	1	Metropolitan King County Council	Reintroduced	
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Clerk 02/15/2011

AN ORDINANCE relating to King County’s commute trip reduction policies; amending Ordinance 10733, Section 1, as amended, and K.C.C. 14.60.010, Ordinance 10733, Section 2, as amended, and K.C.C. 14.60.020, Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030, Ordinance 10733, Section 4, as amended, and K.C.C. 14.60.040, Ordinance 10733, Section 5, as amended, and K.C.C. 14.60.050, Ordinance 10733, Section 6, as amended, and K.C.C.

14.60.060, Ordinance 10733, Section 7, as amended, and K.C.C. 14.60.070 and Ordinance 10733, Section 8, as amended, and K.C.C. 14.60.080, decodifying K.C.C. 14.60.200 and repealing Ordinance 10733, Section 9, as amended, and K.C.C. 14.60.090.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Affected employee" means a full-time employee who begins his or her regular work day at a single work site between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve contiguous 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.

B. "Affected employer" means an ~~((public or private))~~ employer that ~~((, for twelve consecutive months,))~~ employs one hundred or more affected employees at a single work site ~~((who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays))~~ covered by the CTR Plan. ((The intent is to include any employer that has one hundred or more full-time employees on site between 6:00 a.m. and 9:00 a.m. (inclusive), even if the individual employees vary over time.)) Construction work sites are excluded from this definition when the expected duration of the construction is less than two years.

C. "Alternative commute mode" means any means of ~~((commute))~~ transportation to and from work other than ~~((that in which the))~~ driving a single-occupant motor vehicle~~((is the dominant mode))~~, including ~~((telecommuting))~~ scheduled work from home and ~~((compressed))~~ work ~~((weeks if they))~~ schedules that result in ~~((reducing))~~ fewer commute trips.

D. ~~((("Alternative work schedules" mean programs such as compressed work weeks that eliminate work trips for affected employees.~~

~~E. "Base year" means the period from January 1, 1992 through December 31, 1992, on which goals for vehicle miles traveled per employee and proportion of single-occupant vehicle trips are based)~~ "Baseline measurement" means the survey of affected employees conducted by an affected employer to determine the drive-alone rate and VMT per affected employee.

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

~~((G.))~~ F. "Commute trips" mean trips made from a worker's home to a work site for a regularly scheduled work day beginning between 6:00 a.m. and 9:00 a.m. (inclusive) on weekdays.

~~((H.))~~ G. "CTR plan" means the county's commute trip reduction plan, as adopted by this ((Θ)) ordinance((10733)), to regulate and administer the CTR programs of affected employers' worksites within ((its jurisdiction)) unincorporated King County.

~~((I.))~~ H. "CTR program" means an affected employer's program, approved by the director, including strategies to reduce affected employees' ((SOV-use and)) VMT per employee and drive-alone rate.

~~((J. "CTR zone" means an area, such as a census tract or combination of census tracts, within unincorporated King County characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities and other factors that are determined to affect the level of SOV commuting.~~

~~K. "Commute Trip Reduction Task Force Guidelines, July 1992" means the guidelines adopted by the state Commute Trip Reduction Task Force as established by RCW 70.94.537.~~

~~L. "Compliance" means fully implementing all provisions in an approved CTR program within the deadlines established in this chapter and meeting or exceeding VMT and SOV goals of this chapter.~~

~~M. "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 working days or eighty hours in nine working days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.~~

N.)) I. "Director" means the director of the department of transportation or his or her authorized designee.

~~((O. "Employee" means anyone who receives financial or other compensation in exchange for work provided to an employer, including owners and partners of the employer.~~

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

K. "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.

~~((Q.))~~ L. "Exemption" means a waiver from CTR program requirements granted to an employer by the county based on unique conditions that apply to the employer or ~~((employment site))~~ worksites.

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

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

~~((T.))~~ N. "Good faith effort" means that an employer has met the minimum requirement identified in RCW 70.94.531~~((and this chapter, and is working collaboratively with the county 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))~~.

~~((U. "Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521 through .551 and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting and commencement of other measures according to their CTR program and schedule.~~

~~V.) O. "Mode" means the means of transportation used by employees, such as single-occupant motor vehicle including motorcycle, rideshare vehicle such as ((f))carpool((;)) or vanpool((;)), transit, ((ferry,)) bicycle and walking.~~

~~((W. "Peak period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.~~

~~X. "Peak period trip" means any employee trip that delivers the employee to a work site to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.~~

~~Y. "Proportion of single-occupant vehicle trips" or "SOV rate" means the number of commute trips over a set period made by affected employees in single-occupant vehicles divided by the number of affected employees working during that period.~~

~~Z. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.~~

~~AA. "Single-occupant vehicle (SOV) trips" means trips made by affected employees in single-occupant vehicles.~~

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

~~((CC. "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.))~~

~~((DD.))~~ Q. "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.

~~((EE. "Transportation demand management (TDM)" means a program designed to reduce SOV commute travel during the peak commute traffic period between 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday.~~

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

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

~~((HH. "Variable work schedule" means a work schedule that includes rotating shifts in which the employee is assigned different start times during the year, noncontinuous schedules in which an employee reports to the work site only during specified periods of a continuous twelve month period or other work schedule arrangements outside of a regularly scheduled continuous work period.~~

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

~~((JJ.))~~ T. "Week" means a seven day calendar period, starting on Monday and continuing through Sunday.

~~((KK.))~~ U. "Weekday" means any day of the week except Saturday or Sunday.

~~((LL. "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.))

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

A. The ~~((1998))~~ 2011 King County Commute Trip Reduction Plan, which is Attachment A to this ((Θ))o rdinance ~~((13321))~~, is hereby adopted.

B. The CTR plan lists the county's goals for reducing ((vehicle miles traveled)) VMT per employee and the ((SOV)) drive-alone rate for ((all major)) the unincorporated urban area and for two affected employers ((shall not be less than a fifteen percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their work site is located by January 1, 1995, twenty percent reduction from the base year values by January 1, 1997, twenty-five percent reduction from the base year values by January 1, 1999, and thirty-five percent reduction from the base year values by January 1, 2005)). ((Employers which become affected employers after February 16, 1993 shall have two years to meet the first goal of fifteen percent, four years to meet the second goal of twenty percent, six years to meet the third goal of twenty-five percent and twelve years to meet the final goal of thirty-five percent reduction from the time they begin their commute trip reduction program.)) The director shall set goals for reducing VMT per employee and the drive-alone rate for any affected employer not listed in the CTR plan.

C. ~~((Commute trip reduction zones shall be the zones in Attachment B to Ordinance 10733, which are applicable to the unincorporated areas of the county. The base year values for affected employers shall be the base year values for SOV and VMT in Attachment C to Ordinance 10733, which are applicable to the unincorporated areas of the county.))~~ The department website shall include a notice of the adoption of the CTR plan and an explanation of its applicability to affected employers. The director shall notify the affected employers listed in the CTR plan and any other employer who becomes an affected employer of the CTR plan and its requirements.

SECTION 3. Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030 are each hereby amended

to read as follows:

~~((The provisions of t))~~ This chapter ~~((shall apply))~~ applies to any affected employer at any single work site within unincorporated King County. Employees will be counted only at their primary work site. ~~((Seasonal agricultural employees, including seasonal employees of processors of agricultural products are excluded from the count of affected employees.))~~ It is the responsibility of the employer to notify the ~~((county~~ director ~~))~~ of a change in status as an affected employer.

~~((A. Employers that meet the definition of an affected employer when Ordinance 10733 becomes effective and that do not submit a CTR program description within one hundred eighty (180) calendar days from approval of Ordinance 10733 are in violation.~~

~~B.))~~ An employer that ~~((meets the definition of))~~ becomes an affected employer after this ~~((Θ))~~ ordinance ~~((10733))~~ becomes effective must ~~((submit a CTR program description))~~ identify itself to the director as an affected employer within ~~((one hundred eighty (180)))~~ ninety calendar days ~~((of the due date of the first quarterly submittal of Washington Employment Security Employer's Quarterly Report of Employee's Wages))~~ after ~~((having achieved))~~ becoming an affected employer ~~((status))~~. ~~((An employer whose number of employees increases to one hundred (100) or more affected employees shall be considered an affected employer beginning with the due date of the next quarterly submittal of the Washington Employment Security Employer's Quarterly Report of Employee's Wages.~~

~~C. If a))~~ An affected employer shall continue to be treated as an affected employer for twelve months after it notifies the director that it no longer employs one hundred ~~((100))~~ or more affected employees and expects not to employ one hundred ~~((100))~~ or more affected employees for the next twelve ~~((12))~~ months ~~((; that employer is no longer an affected employer beginning with the next quarterly submittal of the Washington Employment Security Employment Security Employers' Quarterly Report of Employee's Wages))~~. ~~((It is the responsibility of the employer to provide documentation to the county that it is no longer an affected employer.~~

~~))~~ If the ~~((same))~~ employer ~~((returns to the level of))~~ no longer employs one hundred ~~((100))~~ or more affected

employees ~~((within the same))~~ at the end of the twelve ~~((12))~~ month period, that employer ~~((will be considered))~~ is no longer an affected employer ~~((for the entire twelve (12) month period and will be subject to the same program requirements as other affected employers))~~. If an employer becomes an affected employer within twelve months after it ceased to be an affected employer, the employer shall be treated as if it was continuously an affected employer. If ~~((the same))~~ an employer ~~((returns to the level of one hundred ((100)) or more affected employees))~~ becomes an affected employer more than twelve ~~((12))~~ months after ~~((its change in status to an "unaffected"))~~ it ceased to be an affected employer, that employer shall be treated as a new affected employer ~~((beginning with the due date of the next quarterly submittal of the Washington Employment Security Employer's Quarterly Report of Employee's Wages, and will be subject to the same program requirements as other new affected employers))~~.

~~((D. An affected employer that has a work site located in both unincorporated King County and an adjacent county or one or more cities may jointly, with one of those jurisdictions, petition the county in writing at least sixty (60) calendar days prior to submittal of the employer's CTR program description or annual report to request that the employer be allowed to report to, and be governed by, the applicable commute trip reduction laws and regulations of that jurisdiction. If such request is granted, it shall be in effect for as long as the county receives copies of the employer's CTR program, annual reports and any administrative decisions or actions taken by the jurisdiction or its agents in regard to the employer.))~~

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

A. An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) ~~((and K.C.C. 14.60.010F))~~, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and ~~((SOV commute trips))~~ the drive-alone rate. The employer's CTR program description shall be prepared according to a format provided by the ~~((county))~~ director. ~~((A.))~~ The employer's CTR program ~~((is to contain the following required elements:~~

~~1. At a minimum, the employer's CTR program description must include:~~

- ~~a. a general description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees that affect commute mode choice;~~
- ~~b. total number of employees at the work site and the number of employees affected by the CTR program;~~
- ~~c. documentation of compliance with the mandatory CTR program elements, as described in K.C.C. 14.60.040A.2;~~
- ~~d. description of the additional elements included in the CTR program, as described in K.C.C. 14.60.040A.3;~~
- ~~e. schedule of implementation, assignment of responsibilities and commitment to provide appropriate resources)) must meet the requirements of RCW 70.94.531.~~

~~2. The employer's CTR program shall include the following mandatory elements:~~

- ~~a. the employer shall designate a transportation coordinator to administer the CTR program. An affected employer with multiple sites may have one transportation coordinator for all sites. The coordinator's name, location and telephone number must be displayed prominently at each affected work site. The coordinator shall oversee all elements of the employer's CTR program.~~
- ~~b. the employer shall provide information about alternatives to SOV commuting to employees at least once a year. This information shall consist of, at a minimum, a summary of the employer's program, including the name and telephone number of the employee transportation coordinator. Employers must also provide a summary of their program to all new employees at the time of hire. Each employer's program description and annual report must report the information to be distributed and the method of distribution.~~
- ~~c. the CTR program must include an annual review of affected employee commuting and of progress and good faith efforts toward meeting the SOV and VMT reduction goals as established in K.C.C.~~

14.60.020.

d.) B. When approving the CTR program, the director shall list all records to be maintained to document the employer's program and progress toward ~~((meeting SOV and))~~ reducing VMT ~~((goals))~~ per employee and the drive-alone rate. Records shall be retained for a minimum of ~~((twenty-four))~~ forty-eight months.

~~((3. The employer's CTR program shall include at least one additional element needed to meet CTR goals. Such additional elements may include, but are not limited to, the following options:~~

- ~~a. provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;~~
- ~~b. instituting or increasing parking charges for single-occupant vehicles;~~
- ~~c. provision of commuter ride matching services to facilitate employee ridesharing for commute trips;~~
- ~~d. provision of subsidies for transit fares;~~
- ~~e. provision of vans for vanpools;~~
- ~~f. provision of subsidies for carpools or vanpools;~~
- ~~g. permitting the use of the employer's vehicles for carpooling or vanpooling;~~
- ~~h. permitting flexible work schedules to facilitate employees' use of transit, carpools or vanpools;~~
- ~~i. cooperation with transportation providers to provide additional regular or express service to the work site;~~
- ~~j. construction of special loading and unloading facilities for transit, carpool and vanpool users;~~
- ~~k. provision of bicycle parking facilities, lockers, changing areas and showers for employees who bicycle or walk to work;~~
- ~~l. provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;~~

~~m. 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;~~

~~n. establishment of a program of alternative work schedules, such as a compressed work week, which reduce commuting; and~~

~~o. implementation of other measures designed to facilitate the use of high occupancy vehicles, such as on-site day care facilities and emergency taxi services~~

~~B. Transportation management organizations or other business partnerships, may submit a single program description that describes common program elements among two or more affected employers. The program should also describe specific program elements at each individual employer's work site. The transportation management organization, as an agent for its members, should provide individual performance data for each company as well as combined measurements to the county. Program modifications shall be specific to an employer. Each employer shall remain responsible for meeting the requirements of this chapter.))~~

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

A. Not more than ~~((one hundred eighty))~~ ninety ~~((calendar days after March 8, 1993 or within one hundred eighty calendar))~~ days after the director determines that an employer ~~((achieves status as))~~ has become an affected employer ~~((as provided in K.C.C. 14.60.030, an)),~~ the affected employer shall ~~((submit to the county for review a CTR program description as provided in K.C.C. 14.60.040))~~ perform a baseline measurement consistent with the rules established by the state department of transportation under RCW 70.90.537. ~~((The employer shall implement a CTR program not more than one hundred eighty days after the CTR program description submittal. The employer shall implement approved program modifications within thirty calendar days of the final administrative decision on such modifications.))~~ The director shall use this baseline measurement to set CTR program goals for the affected employer and shall notify the employer of these CTR program goals. The affected employer shall then have ninety days to develop a CTR program in

consultation with the director and to submit it to the director for approval.

B. ~~((Upon review of an employer's CTR program description, the county shall establish the employer's annual reporting date. Each year on the employer's reporting date, the employer shall submit an annual CTR program report to the county. The county shall provide the format for the annual report. At least thirty calendar days prior to the date an annual report is due or program modifications are to be implemented, an employer may make written request for an extension of up to ninety calendar days to complete this action. The county shall grant all or part of the extension request or shall deny the request within ten working days of receipt. If the county fails to respond within ten working days, the extension is automatically granted for thirty calendar days.))~~ The director shall approve or disapprove the affected employer's CTR program within ninety days.

When approving an affected employer's CTR program, the director shall establish the employer's reporting date and a schedule for conducting CTR program surveys of affected employees. Every two years on the affected employer's reporting date, the affected employer shall submit a CTR program report using a format provided by the director. The employer shall implement its CTR program within ninety days after the director approves it.

C. ~~((The county shall complete review of the employer's program description, annual report, or exemption request within ninety calendar days of receipt. The county shall provide the employer with written notification of the decision to approve required program modifications or to disapprove the employer's CTR program, annual report or exemption request including the cause for disapproval. If the employer does not receive written notification of the acceptance or rejection of the employer's CTR program description, annual report, revised CTR program or exemption within the deadlines established in this subsection, they shall be deemed accepted. An affected employer shall implement a CTR program within one hundred eighty calendar days of submitting its initial CTR program description regardless of the status of decisions concerning its approval. Thereafter the employer shall implement required program revisions within thirty calendar days of the final administrative decision on program requirements.))~~

D.)) In response to recommended modifications, the employer shall submit a revised CTR program ((

~~description~~)), including the requested modifications or equivalent measures, within thirty days of receipt. The ~~((county))~~ director shall review ~~((revisions made in response to recommended modifications))~~ the revised CTR program and notify the employer of acceptance or rejection~~((of the revised program))~~ within thirty days. If a revised program is not accepted, the ~~((county will send written notice to that effect to the employer within thirty days and, if necessary,))~~ director has the discretion to require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. ~~((A))~~ The director shall issue a final decision on the required program ~~((will be issued in writing by the county))~~ within ten working days of the conference.

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

~~E. ((Employers may request exemptions, goal modifications or credit for TDM programs that existed prior to 1992 at least two months prior to the due date for the employer's initial CTR program description submittal. Employers may request exemptions, goal modifications, program modifications and program exemption credit as part of the annual report. Employers may request exemptions and program modifications at any time.))~~ The director shall complete review of the employer's CTR program report, survey results, modification request or exemption request within thirty calendar days of receipt. The director shall notify the employer of the decision to approve or disapprove the employer's CTR program report, survey results, modification request or exemption request including the cause for disapproval. If the director does not notify the employer by the deadlines in this section, the employer's CTR program report, survey results, modification request or exemption request shall be deemed accepted.

~~((F. At least one year after its initial CTR program implementation, an affected employer may request a~~

~~modification of the applicable CTR 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 and annual report.))~~

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

~~((A CTR survey supplied by the state Department of Transportation to determine progress toward goal attainment shall be conducted at affected work sites in odd numbered years through 2005. 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:))~~

A. If an employer meets either or both of its goals for reducing VMT per employee and the drive-alone rate, the employer has satisfied the objectives of the CTR plan and will not be required to modify the CTR program~~((;))~~.

B. If an employer makes a good faith effort, as defined in RCW 70.94.534(2)~~((and K.C.C. 14.60.010F))~~, but has not met ~~((or is not likely to meet the applicable SOV nor VMT))~~ its goal, ~~((the county shall work collaboratively with the employer to make modifications to the CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the county for approval within thirty days))~~ no additional modifications to the CTR program are required. An employer is presumed to act in good faith if failure to implement a CTR program is the result of an inability to reach agreement with a union, provided that the employer requests the union to approve any CTR program provision that is subject to collective bargaining and the employer advises the union that the employer is subject to this chapter.

C. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) ~~((and K.C.C. 14.60.010F))~~, and fails to meet the applicable ~~((SOV or))~~ VMT reduction or drive-alone goal, the ~~((county))~~ director shall ~~((work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty days to incorporate the modifications))~~ notify the employer of potential modifications to the CTR program and shall direct the employer to revise the CTR

program within thirty days to incorporate the modifications to comply with the requirements of RCW 70.94.531. The employer shall submit a modified CTR program to the director. The director shall review the revised program and notify the employer that it is accepted or rejected. The director has the discretion to require the employer to attend a conference with program review staff for the purpose of reaching consensus on a revised CTR program. The director shall issue a final decision on the required program within ten working days of the conference.

SECTION 7. Ordinance 10733, Section 7, as amended, and K.C.C. 14.60.070 are each hereby amended to read as follows:

~~A. ((Employers that have implemented TDM programs to reduce SOV commute travel by employees prior to the 1992 base year may apply for TDM program exemption credit at least two months prior to the due date for the employer's initial CTR program description submittal. Such employers shall be considered to have met their 1995 CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a twelve) percent or greater reduction from the employers' base year zone values. This three percentage point credit applies only to the 1995 CTR goals. Application shall include results from a survey of employees or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in the Commute Trip Reduction Task Force Guidelines (July 1992).~~

~~B. Affected employers that have rates of VMT per employee and proportion of SOV trips that are equal to or less than goals for one or more future goal years, may apply to be exempted from CTR program requirements at least two months prior to the due date for their initial in their CTR program description submittal or as part of an annual progress report. Application shall include results from a survey of employees or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in the Commute Trip Reduction Task Force Guidelines (July 1992). Employers that apply for an exemption and whose rates of VMT~~

~~per employee and proportion of SOV trips are determined by the county to be equal to or less than goals for one or more future goal years, and commit in writing to continue their current level of effort, shall be exempt from the requirements of this chapter except for the requirement to report performance in annual reports for their goal years as specified in K.C.C. 14.60.020A. If any of these reports indicate the employer does not satisfy the next applicable goal, the employer shall immediately become subject to all requirements of this chapter.~~

~~C. Adjustments to SOV and VMT rates.~~

~~1. For purposes of counting commute vehicle trips, telecommuting, alternative work schedules (excluding flex time), bicycling and walking shall count as one and two-tenths vehicle commute trips eliminated. This also applies to VMT per employee. A transit trip counts as zero vehicle trips. A vanpool trip counts as zero vehicle trips.~~

~~2. For purposes of counting commute vehicle trips, employers that have modified their employees' work schedules out of the 6 a.m. to 9 a.m. window in response to the CTR law or for impacts associated with the Growth Management Act, chapter 36.70A RCW, may apply for credit toward calculating SOV trips and VMT per employee. Such credit shall be two-tenths of a trip reduced per employee whose work schedule has been shifted out of the 6 a.m. to 9 a.m. window. Credit will be calculated automatically beginning with program reports submitted after 1997. The following information should be submitted in support of this credit:~~

- ~~a. an explanation of how the schedule change is relate to provisions of the Growth Management Act of 1990;~~
- ~~b. the number of employees whose schedules were changed;~~
- ~~c. the date on which the schedule change became effective; and~~
- ~~d. the previous schedule for those employees for which the credit is being claimed.~~

~~D.)) Beginning one year after the director has approved its CTR program, ((A))an employer may request a modification of CTR program goals under the following conditions:~~

- ~~1. The employer demonstrates that it requires employees to use the vehicles they drive to work during~~

the work day for work purposes. Under this condition, the applicable goals will not be changed, but those employees who need daily access to the vehicles they drive to work will not be included in the calculations of proportion of ~~((SOV trips and))~~ VMT per employee and the drive-alone rate used to determine the employer's progress toward program goals. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode exists for these employees and that the vehicles cannot reasonably be used for carpools or vanpools~~((:));~~

~~2. ((The employer demonstrates that its work site is contiguous with a CTR zone boundary and that the work site conditions affecting alternative commute options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's work site may be made subject to the same goals for VMT per employee and proportion of SOV trips as employers in the adjoining CTR zone. The employer's request for a modification based on these conditions must be made to the county at least ninety days prior to the due date for submittal of the employer's CTR program description.~~

~~3.))~~ The employer demonstrates that it has significant numbers of its employees assigned to variable work schedules which makes it unreasonable to expect that such employees regularly participate in CTR programs. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode program can be developed for these employees. Under this condition, the applicable goals will not be changed, but those employees who are assigned to variable work schedules will not be included in the calculations of the proportion of ~~((SOV trips and))~~ VMT per employee and the drive-alone rate used to determine the employer's progress toward program goals~~((:)); and~~

~~((4.))~~ 3. ~~((Beginning with the employer's first goal year, goal modifications may be requested due to unanticipated conditions:~~

~~a. t))~~ The employer demonstrates that opportunities for alternative commute modes do not exist due to factors related to the work site, its work force or characteristics of the business that are beyond the

employer's control;((

b.)) and the employer clearly demonstrates 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. ~~((The county will review and grant or deny requests for goal modifications as follows:~~

~~(1) a site specific goal set by survey;~~

~~(2) five percent lower than applicable goal for minor modification requests meeting the standards set forth in the state CTR Task Force Guidelines; or~~

~~(3) ten percent lower than applicable goal for major modification requests meeting the standards set forth in the state CTR Task Force Guidelines~~

~~E. An affected employer may request modification of CTR program elements, other than the mandatory elements specified in K.C.C. 14.60.040. Such request may be granted if one of the following conditions exist:~~

~~1. The employer demonstrates that it would be unable to comply with one or more of the additional CTR program elements for reasons beyond the control of the employer; or~~

~~2. The employer demonstrates that compliance with one or more of the additional program elements would constitute an undue hardship; or~~

~~3. The employer demonstrates that another program element would be as effective or more effective than an approved additional program element. Modifications granted for the first two conditions must be reapproved as part of the annual program review.~~

F.)) B. An affected employer may request an exemption from all CTR program requirements for a particular work site ~~((in the CTR program description or annual reports))~~. ~~((An exemption may be granted if and only if t))~~The employer must demonstrate((s)) that it would experience undue hardship in complying with the program requirements as a result of the characteristics of its business, its work force or its location or locations. The director may grant an exemption only if the employer demonstrates that it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of

~~((SOV))~~ drive-alone trips and VMT per employee.

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

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

Any affected employer may request reconsideration of ~~((the))~~ a decision by the director ~~((of the department of transportation, who shall issue the final appealable decision on CTR exemptions, modification of goals, or modification of CTR program elements and of finding of violation pursuant to K.C.C. 14.60.090)).~~ A written appeal to the hearing examiner must be filed within ~~((fifteen calendar days of the employer's receipt of the county's final administrative decision with the King County hearing examiner pursuant to))~~ the time period prescribed by K.C.C. chapter 20.24. The appeal must state the decision being appealed and the grounds for the ~~((request))~~ appeal. ~~((Appeals will be evaluated to determine if the administrative decisions were consistent with this chapter.))~~ The appeal shall be reviewed in accordance with K.C.C. chapter 20.24.

SECTION 9. Ordinance 10733, Section 9, as amended, and K.C.C. 14.60.090 are each hereby repealed.

SECTION 10. K.C.C. 14.60.200 is hereby decodified.