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ORDINANCE NO. 516

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, RELATING TO TRANSPORTATION DEMAND MANAGEMENT, ADOPTING A COMMUTE TRIP REDUCTION ("CTR") PLAN, AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527; AND REPEALING SHORELINE MUNICIPAL CODE CHAPTER 14.10

WHEREAS, motor vehicle traffic is a major source of emissions that pollute the air, and air pollution causes significant harm to public health and degrades the quality of the environment; and

WHEREAS, increasing motor vehicle traffic aggravates traffic congestion in the City of Shoreline; and

WHEREAS, traffic congestion imposes significant costs on City businesses, government, and individuals in terms of lost working hours and delays in the delivery of goods and services as well as making the City a less desirable place to live, work, visit and do business; and

WHEREAS, capital and environmental costs of fully accommodating the existing and projected motor vehicle traffic on roads and highways are prohibitive while decreasing the demand for vehicle trips is significantly less costly and is at least as effective in reducing traffic congestion and its impacts as constructing new transportation facilities; and

WHEREAS, the City of Shoreline recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption and traffic congestion, and the contribution individual actions can make toward addressing these issues;

WHEREAS, employers have significant opportunities to encourage and facilitate the reduction of single-occupant vehicle commuting by employees; and

WHEREAS, State policy, as set forth in RCW 70.94.521-.555, requires the City of Shoreline to develop and implement a plan to reduce single occupant vehicle commute trips; and

WHEREAS, the plan must require affected employers to implement programs to reduce vehicle miles traveled per employee and the number of single-occupant vehicles used for commuting purposes by their employees; and

WHEREAS, adoption of this Ordinance will promote the public health, safety, and general welfare within the City of Shoreline and the region; and

WHEREAS, the Washington State Commute Trip Reduction Board approved the City of Shoreline Draft Commute Trip Reduction Plan on January 25, 2008;

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Repeal; New Section. Shoreline Municipal Code Chapter 14.10 is hereby repealed in its entirety and a new Chapter 14.10 is adopted as set forth in Exhibit A.

Section 2. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force five days after publication of a summary consisting of its title in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON AUGUST 25, 2008

Mayor Cindy Ryu

ATTEST:

Scott Passey
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of Publication: August 28, 2008
Effective Date: September 2, 2008

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EXHIBIT A

14.10.010 Definitions.

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

"*Affected Employee*" means a full-time employee who begins his or her regular work day 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 is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

"*Affected Employer*" means an employer that employs one hundred (100) or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan 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 for at least twelve continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)

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

"*Alternative Work Schedules*" mean programs such as compressed work week schedules that eliminate work trips for affected employees.

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

"Base year survey" or *"baseline measurement"* means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City of Shoreline.

"*Carpool*" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

"City" means the City of Shoreline.

"*Commute Trips*" mean trips made from a worker's home to a worksite (inclusive) on weekdays.

"*CTR*" is the abbreviation of Commute Trip Reduction.

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

"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.

"*Compressed Work Week*" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements.

"*Custom Bus/Buspool*" means a commuter bus service arranged specifically to transport employees to work.

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

"*Drive Alone*" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

"*Drive Alone Trips*" means commute trips made by employees in single occupant vehicles.

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

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

"*Exemption*" means a waiver from any or all CTR program requirements granted to an employer by the City of Shoreline based on unique conditions that apply to the employer or employment site.

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"*Flex-Time*" is 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.

"*Full-Time Employee*" means a person, other than an independent contractor, whose position is scheduled on a continuous basis for 52 weeks for an average of at least 35 hours per week.

"*Good Faith Effort*" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this ordinance, and is working collaboratively with the City of Shoreline to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

"*Implementation*" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this ordinance as evidenced by appointment of an employee transportation coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to its approved CTR program and schedule.

"*A major employer*" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months.

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

"*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.

"*Notice*" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

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

"*Peak Period Trip*" means any commute trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

"*Proportion of Drive Alone Trips*" or "*Drive Alone Rate*" means the number of commute trips over a set period made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.

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

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

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

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

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

"*Vanpool*" means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

"*Vehicle Miles Traveled (VMT) Per Employee*" means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period divided by the number of employees during that period.

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

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

"*Writing*," "*Written*," or "*In Writing*" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

14.10.020 City of Shoreline CTR Plan.

The goals established for the jurisdiction and affected employers in the City's Commute Trip Reduction Plan set forth in Attachment A are incorporated herein by reference. City staff is directed to make any corrections for typographical errors, include any graphical materials for information, and complete the Commute Trip Reduction Plan.

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14.10.030 CTR Goals.

A. Commute Trip Reduction Goals. The City's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in Shoreline, and other areas designated by the City are hereby established by the City's CTR Plan incorporated by SMC 14.10.020. These goals establish the desired level of performance for the CTR program in its entirety in Shoreline. The City will set the individual worksite goals for affected employers based on how the worksite can contribute to Shoreline'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 SMC 14.10.060.

1. Commute Trip Reduction Goals for Affected Employers

   a. The drive-alone and VMT goals for affected employers in Shoreline are hereby established as set forth in the CTR Plan incorporated by SMC 14.10.020.

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

14.10.040 Responsible Agency.

The City of Shoreline shall be responsible for implementing this Chapter, the CTR Plan and the City's CTR program for its own employees. The City Manager or his or her authorized designee shall have the authority to issue such rules and administrative procedures and delegate authority to other City departments as may be necessary to implement this Chapter.

14.10.050 Applicability.

The provisions of this ordinance shall apply to any affected employer within the geographic limits of the CTR Plan adopted in SMC 14.10.020.

A. Notification of Applicability. In addition to the City's established public notification for adoption of an ordinance, a notice of availability of a summary of this ordinance, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in the City's official newspaper not more than 30 days after passage of this ordinance or revisions.

1. Affected employers located in Shoreline are to receive written notification that they are subject to this ordinance. 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 90 days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the City.

2. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance and are either notified or identify themselves to the City within 90 days of the passage of the ordinance will be granted an extension to assure up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by the City.

3. Affected employers that have not been identified or do not identify themselves within 90 days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the City within 90 days from the passage of the ordinance are in violation of this ordinance.

4. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City, under previous iterations of this ordinance, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers

1. Employers meeting the definition of "affected employer" in this ordinance must identify themselves to the City within 90 days of either moving into the boundaries outlined in the CTR Plan adopted in SMC 14.10.020 or growing in employment at a worksite to one hundred (100) or more affected employees. Employers who do not identify themselves within 90 days are in violation of this ordinance.

2. Newly affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by the City. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this ordinance are in violation of this ordinance.

3. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the City. The program will be developed in consultation with City of Shoreline staff to be consistent with the goals of the CTR Plan adopted in SMC 14.10.020. The program shall be implemented not more than 90 days after approval by the City. Employers who do not implement an approved CTR Program according to this schedule are in violation of this ordinance and subject to the penalties outlined in SMC 14.10.090(D) below.

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

1. If an employer initially designated as an affected employer 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. It is the responsibility of the employer to notify the City 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 (100) or more affected employees within the same twelve (12) months, that employer will be

considered an affected employer for the entire 12 months 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 (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.

14.10.060 Requirements for Employers – RCW 70.94.531.

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

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

1. Employee Transportation Coordinator (ETC). The employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City. The Transportation Coordinator must complete the basic ETC training course as provided by King County within six months of assuming the status of designated transportation coordinator, in order to help ensure consistent knowledge and understanding of CTR laws, rules and guidelines statewide. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites.

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 City with the employer's program description and regular report.

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 for high-occupancy vehicles
2. Reduced parking charges for high-occupancy vehicles;
3. Instituting or increasing parking charges for drive alone commuters;
4. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
5. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
6. Provision of vans or buses for employee ridesharing;
7. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed 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 City in accordance with the format provided by the City. 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 SMC 14.10.060(A);

4. description of any additional elements included in the employer's CTR program as described in SMC 14.10.060(B); 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 70% response rate from employees at the worksite.

14.10.070 Record Keeping.

Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to the City for a minimum of 48 months. The City and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

14.10.080 Schedule and Process for CTR Program Description and Report.

A. Document Review. The City shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within 90 days of submission, the employer's program or annual report is deemed accepted. The City may extend the review period up to 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

B. Schedule. Upon review of an employer's initial CTR program, the City shall establish the employer's regular reporting date. This report will be provided in a form provided by the City consistent with SMC 14.10.060(C) above.

C. Modification of CTR Program Elements. Any affected employer may submit a request to the City for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or

2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

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

E. 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 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. The City shall grant or deny the employer's extension request by written notice within 10 working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these

extensions. An employer's annual reporting date may be extended at the discretion of the City.

F. 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 90 days after receiving written notice from the City that the program has been approved or with the expiration of the program review period without receiving notice from the City.

14.10.090 Exemptions and Goal Modifications

A. Worksite Exemptions. An affected employer may request the City to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the 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 City 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 City shall grant or deny the request within 30 days of receipt of the request. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a 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 City will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. The City shall grant or deny the request within 30 days of receipt of the request. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Modification of CTR Program Goals

1. An affected employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least 60 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 City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

b.An employer may not request a modification of the applicable goals until one year after city/county approval of its initial program description or annual report.

14.10.100 Enforcement.

A. Compliance. For purposes of this section, compliance shall mean:

1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

2. Providing a complete CTR Program Description and Report on the regular reporting date; and

3. Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

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

1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;

2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, 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 ordinance, and fails to meet the applicable drive alone or VMT reduction goal, the City shall direct the employer to revise its program within 30 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 30 days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within 10 working days of the conference.

C. Violations. The following constitute violations of this ordinance:

1. Failure to self identify as an affected employer;

2. Failure to perform a baseline measurement, including:

a. Employers notified or that have identified themselves to the City within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within 90 days from the notification or self-identification;

b. Employers not identified or self-identified within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City within 90 days from the adoption of the ordinance;

3. Failure to develop and/or submit on time a complete CTR program;
4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in ordinance;
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 ordinance; or
7. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this ordinance.

D. Penalties
1. A violation of this ordinance shall be punishable as a civil infraction under RCW 7.80, with each day of noncompliance constituting a separate violation. The civil penalty for a violation shall be $250 per day.
2. 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. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
   a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and
   b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the City and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

14.10.110 Appeals of administrative decisions.

A. Appeal of Final Decisions. Employers may file a written appeal to the city's hearing examiner of the city's final decisions regarding the following actions:
1. R ejection of an employer's proposed program.
2. Denial of an employer's request for a wavier or modification of any of the requirements under this chapter or a modification of the employer's program.
3. Denial of exemptions requested under SMC 14.10.100.

B. Appeals filed under this section must be filed with the city within 20 days after the employer receives notice of a final decision and shall stay the final decision. Determinations on appeals shall be based on whether the decision being appealed was consistent with the state law.