



City of Tukwila

Washington

Ordinance No. 2201

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING TUKWILA MUNICIPAL CODE SECTION 9.44, "COMMUTE TRIP REDUCTION PLAN AND PROGRAM REQUIREMENTS," TO REFLECT CHANGES IN STATE POLICY; ADOPTING THE TUKWILA COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527; REPEALING ORDINANCE NO. 1868; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, State policy, set forth in RCW 70.94.527(4), requires the City of Tukwila to develop and implement a program and plan to reduce single-occupant vehicle commute trips and vehicle miles traveled for the City and affected employers; and

WHEREAS, this ordinance is consistent with the Commute Trip Reduction (CTR) Board Guidelines; and

WHEREAS, changes in State legislation require clarification and amendments to existing City of Tukwila code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 9.44, "Commute Trip Reduction Plan and Program Requirements," of the Tukwila Municipal Code (TMC), is hereby amended to read as follows:

9.44.010 Purpose

A. The purpose of TMC Chapter 9.44 is to improve air quality, reduce traffic congestion, and minimize energy consumption. These regulations are prepared to comply with RCW 70.94.521, by requiring employer-based programs that encourage employees to find alternatives to drive-alone commuting, with collaboration between the City of Tukwila and affected employers.

B. The Commute Trip Reduction Plan for the City of Tukwila, as required by RCW 70.94.527, is hereby adopted by reference hereto as it appears in Attachment A, or as hereto amended by ordinance of the City Council.

9.44.020 Definitions

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

1. "Affected Employee" means a full-time employee who begins his or her regular workday at a single worksite between 6:00 and 9:00 AM (inclusive) on two or more weekdays for at least 12 continuous months. Seasonal, agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

2. "Affected Employer" means an employer that employs 100 or more full-time employees at a single worksite who are scheduled to begin their regular workday

between 6:00 and 9:00 AM (inclusive) on two or more weekdays for at least 12 continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

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

4. "*Alternative Work Schedules*" means programs such as compressed work weeks that eliminate work trips for affected employees.

5. "*Base Year*" means the 12-month period that commences when a major employer is determined by the local jurisdiction to be participating within the local CTR program. The City of Tukwila uses this 12-month period as the basis upon which it develops local commute trip reduction goals.

6. "*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 Tukwila.

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

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

9. "*CTR Plan*" means the City of Tukwila's plan and ordinance to regulate and administer the CTR programs of affected employers within its jurisdiction.

10. "*CTR Program*" means an employer's strategies to reduce employees' drive-alone commutes and vehicle miles traveled (VMT) per employee.

11. "*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.

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

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

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

15. "*Drive-Along Trips*" means commute trips made by affected employees in single occupant vehicles.

16. "*Employee*" means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners or partner of the employer.

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

18. "*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.

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

20. *"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.

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

22. *"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 Tukwila 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.

23. *"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 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.

24. *"Major Employer"* means a private or public employer, including state agencies, that employs 100 or more full-time employees at a single worksite who begin their regular workday between 6:00 and 9:00 AM on weekdays for at least 12 continuous months during the year.

25. *"Major Employer Worksite"* or *"Affected Employer Worksite"* or *"Worksite"* means the physical location occupied by a major employer, as determined by the local jurisdiction.

26. *"Major Employment Installation"* means a military base or federal reservation, or other facilities as designated by the City of Tukwila, at which there are 100 or more full-time employees who begin their regular workday between 6:00 and 9:00 AM on weekdays for at least 12 continuous months during the year.

27. *"Mode"* is the means of transportation or alternate mode used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

28. *"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.

29. *"Peak Period"* means the hours between 6:00 and 9:00 AM (inclusive), Monday through Friday, except legal holidays.

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

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

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

33. *"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.

34. *"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.

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

36. "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.

37. "Urban Growth Area" means the City of Tukwila in its entirety.

38. "Vanpool" means a vehicle occupied by 4 to 15 people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

39. "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.

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

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

42. "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.

9.44.030 CTR Goals

A. Commute Trip Reduction Goals for the Urban Growth Area.

1. The City of Tukwila's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled (VMT) per employee by affected employers in the City are hereby established by reference to the City of Tukwila's CTR plan. These goals establish the desired level of performance for the CTR program in its entirety in the City of Tukwila. Future adopted versions of the CTR plan may establish new goals for the urban growth area and affected employers. This ordinance is not required to be amended in order for the new adopted goals to take effect.

2. The City of Tukwila will set the individual worksite goals for affected employers based on how the worksite can contribute to the City's overall goal for its urban growth area.

B. Commute Trip Reduction Goals for the Urban Growth Area.

1. The drive-alone and VMT goals for affected employers in the City are hereby established as set forth in the CTR plan.

2. If the goals for an affected employer or newly-affected employer are not listed in the CTR plan, they shall be established by Tukwila at a level designed to achieve the goals for the urban growth area. The City shall provide written notification of the goals for each affected employer worksite by either incorporating the information into the results of the baseline measurement or subsequent survey measurements, or providing the information when the City reviews the employer's proposed CTR program.

3. Each affected employer is required to develop and implement a CTR program that is designed to meet the affected worksite's assigned CTR goals.

C. *Recognition for Commute Trip Reduction Efforts.* As public recognition for their efforts, affected employers who meet or exceed the CTR goals as set forth in Section 9.44.030.B will receive a Commute Trip Reduction Certificate of Leadership from the City.

9.44.040 Responsible City Agencies

The Mayor of the City of Tukwila shall be responsible for implementing this ordinance, the CTR plan, and the City's CTR program, together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

9.44.050 Applicability

A. Generally, the provisions of this ordinance shall apply to any affected employer within the corporate city limits of the City of Tukwila.

B. *Notification of Applicability.*

1. 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 newspaper of record of the City of Tukwila, not more than 30 days after passage of this ordinance or amendments.

2. Affected employers located in Tukwila 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, or ETC at the worksite. Such notification shall provide 90 days for the affected employer to perform a baseline measurement consistent with the measurement requirements outlined by WAC 468-63-050 or as defined by the City of Tukwila CTR Coordinator.

3. 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 of up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by the City.

4. 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.

5. 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.

C. *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 of Tukwila or growing in employment at a worksite to 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. Newly-affected employers identified as such will also be given 90 days to designate an ETC to work closely with the City's CTR Coordinator to develop, implement, and monitor strategies and processes to meet defined CTR goals for their specific job site. If for any reason the ETC is displaced from the position, a new Transportation Coordinator must be designated by the employer within 90 days. Employers who fail to designate an ETC within 90 days of being identified as an affected employer, or in the event of the absence of a current ETC position, are in violation of this ordinance.

4. 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 commute trip reduction program to the City of Tukwila. The program shall be implemented not more than 90 days after approval by the City. Employers who do not implement an approved commute trip reduction plan according to this schedule are in violation of this ordinance.

D. *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 100 or more affected employees and expects not to employ 100 or more affected employees for the next 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.

2. If the same employer returns to the level of 100 or more affected employees within the same 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 100 or more affected employees 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.

9.44.060 Requirements for Employers

A. *Compliance Required.* 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 employer shall submit a description of its program to the City of Tukwila, and provide an annual progress report to the City on employee commuting and progress toward meeting the drive-alone reduction goals. The CTR program must include the mandatory elements as described in this section.

B. CTR Program Description Requirements.

1. The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals for each goal year. 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 and to form or use transportation management associations in developing and implementing CTR programs.

2. 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;

b. number of employees affected by the CTR program;

c. documentation of compliance with the mandatory CTR program elements (as described in this section);

d. description of the additional elements included in the CTR program (as described in this section); and

e. a schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

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

1. *Employee Transportation Coordinator.* The employer shall designate an ETC to administer the CTR program. The ETC and/or designee's name, location, and telephone number must be displayed prominently 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 of Tukwila. 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. 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.

2. *Information Distribution.* Information about alternatives to drive-alone commuting shall be provided to employees at least once a year. Each employer's program description and annual report must report the information to be distributed and the method of distribution. The information distributed shall be forwarded to the City's CTR Coordinator upon distribution to employees, to ensure a consistent marketing element in promoting the targeted and accomplished goals of the employer's CTR program.

3. *Regular Review.* The CTR program must include a regular review of employee commuting and progress and good-faith efforts toward meeting the drive-alone reduction goals. Affected employers shall file a regular progress report with the City of Tukwila in accordance with the format provided by the City. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, propose modifications to achieve the CTR goals. Survey information or approved alternative information must be provided in the reports.

4. *Biennial Measurement.* 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) every two years, and strive to achieve at least a 70% response rate from employees at the worksite.

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

1. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
2. Instituting or increasing parking charges for drive-alone commuters;
3. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;
4. Provision of subsidies for transit or vanpool fares and/or transit passes;
5. Provision of vans or buses for employee ridesharing;
6. Provision of subsidies for carpools or vanpools;
7. Provision of incentives for employees that do not drive alone to work;
8. Permitting the use of the employer's vehicles for carpooling or vanpooling;
9. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
10. Cooperation with transportation providers to provide additional regular or express service to the worksite;
11. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
12. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
13. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

14. Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes;

15. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commuting;

16. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site daycare facilities and emergency taxi services;

17. Charging employees for parking, and/or the elimination of free parking;

18. Intensive marketing campaigns through the distribution of informational newsletters, emails, brochures, or memos in a consistent manner.

9.44.070 Record Keeping

Affected employers shall include a list of the records they will keep as part of the CTR program as submitted to the City of Tukwila for approval. Employers will maintain all records listed in their CTR program for a minimum of 24 months. The City and the employer shall agree on the recordkeeping requirements as part of the accepted CTR program.

9.44.080 Schedule and Process for CTR Reports

A. *CTR Program.* Not more than 90 days after the adoption of this ordinance, or within three months after an employer qualifies under the provisions of this ordinance, the employer shall perform a baseline measurement consistent with the measurement requirements specified by the City of Tukwila. 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 commute trip reduction program to the City's CTR Coordinator. The program shall be implemented not more than 90 days after approval by the CTR Coordinator.

B. *Document Review.* The City of Tukwila 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 an additional 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

C. *CTR Annual Progress Reports.* Upon review of an employer's initial CTR program, the City of Tukwila shall establish the employer's annual reporting date, which shall not be less than 12 months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit to the City its annual CTR report.

D. *Modification of CTR Program Elements.* Any affected employer may submit a request to the City of Tukwila 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.

E. *Extensions.* An employer may request additional time to submit a CTR program or CTR annual progress 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 of Tukwila shall grant or deny the employer's extension request by written notice within ten working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 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 annual 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 of Tukwila that the program has been approved.

9.44.090 Enforcement

A. *Compliance.* For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program.

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 modify 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 or is not likely to meet the applicable drive-alone or VMT goal, the City/County shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the City/County for approval within 30 days of reaching agreement.

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 of Tukwila shall work collaboratively with the employer to identify modifications to the CTR program, and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, 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 ten working days of the conference.

C. *Violations.* The following constitute violations if the deadlines established in this ordinance are not met:

1. Failure to perform a baseline measurement, including:

a. Employers notified or that have identified themselves to the City of Tukwila 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.

2. Failure to develop and/or submit on time a complete CTR program.

3. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive-alone goals as specified in this ordinance.

4. Failure to designate an ETC within 90 days from notification or self-identification, to implement and carry out the approved CTR program elements.
5. Failure to make a good faith effort, as defined in RCW 70.94.534 and this ordinance.
6. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this ordinance.

D. *Penalties.*

1. No affected employer with an approved CTR program, which has made a good faith effort, may be held liable for failure to reach the applicable drive-alone or VMT goal.

2. Any violation of any provision, or failure to comply with any of the requirements of this chapter, shall be subject to the terms and conditions of Chapter 8.45.

3. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the City of Tukwila, and advise the union that the proposal being made is necessary for compliance with State law (RCW 70.94.531).

9.44.100 Exemptions and Goal Modifications

A. *Worksite Exemptions.* An affected employer may request the City of Tukwila 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. The City shall issue a decision regarding an exemption no more than 30 days from receiving a written request from the employer for such status. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. Appeals to these decisions are addressed in Section 9.44.110, "Appeals," of this ordinance. 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 of Tukwila will use the criteria identified in the State CTR Board Guidelines outlined in RCW 70.94.521 to assess the validity of employee exemption requests. All employee exemption requests received by September 30 of each year shall be administratively reviewed by December 31 of the same year, and shall determine whether the exemption will be in effect during the following program year.

C. *Modification of CTR Program Goals.*

1. An affected employer may request that the City of Tukwila 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 of Tukwila will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals until one year after the City's approval of its initial program description or annual report.

9.44.110 Appeals

A. Any affected employer may appeal administrative decisions made by the City regarding exemptions, modification of goals, CTR program elements. Appeals must arrive, by registered mail, within 14 calendar days following an administrative decision from the City. An appeal must be made in writing and specify the decision being appealed, as well as the specific basis for the appeal.

B. The City's Hearing Examiner shall hear timely appeals. Determinations made in the review of such appeals shall be based on consistency with State statutes RCW 70.94.521-551.

Section 2. Repealer. Ordinance No. 1868, as codified at TMC 9.44, is hereby repealed.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City of Tukwila, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this 5TH day of MAY, 2008.

ATTEST/AUTHENTICATED:

Christy O'Flaherty
Christy O'Flaherty, CMC, City Clerk

Jim Haggerton
Jim Haggerton, Mayor

APPROVED AS TO FORM BY:
[Signature]
Office of the City Attorney

Filed with the City Clerk: 4-30-08
Passed by the City Council: 5-5-08
Published: 5-8-08
Effective Date: 5-13-08
Ordinance Number: 2201

Attachment A: The City of Tukwila CTR Plan

Attachment A
Ordinance No. 2201, dated 5/5/08
Adopts by reference

Attachment A
The City of Tukwila
COMMUTE TRIP REDUCTION PLAN
Dated April 9, 2008
(bound document)

This document is available upon request
from the City Clerk's Office.

SUMMARY OF
Ordinance No. 2201

City of Tukwila, Washington

On May 5, 2008 the City Council of the City of Tukwila, Washington, adopted Ordinance No. 2201, the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING TUKWILA MUNICIPAL CODE SECTION 9.44, "COMMUTE TRIP REDUCTION PLAN AND PROGRAM REQUIREMENTS," TO REFLECT CHANGES IN STATE POLICY; ADOPTING THE TUKWILA COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527; REPEALING ORDINANCE NO. 1868; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

Approved by the City Council at a Regular Meeting on May 5, 2008.



Christy O'Flaherty, CMC, City Clerk

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