



Legislation Details (With Text)

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Title:	AN ORDINANCE relating to Seattle's Commute Trip Reduction (CTR) program; adopting an updated Strategic Plan; adopting a local designation of Seattle's Center City as a "Growth and Transportation Efficiency Center" as defined by RCW 70.94.528; and amending Sections 25.02.030, 25.02.035, 25.02.040, 25.02.050, 25.02.055, 25.02.070, 25.02.080, and 25.02.090 of the Seattle Municipal Code.				
Sponsors:	Mike O'Brien				
Indexes:					
Attachments:	1. Att 1 - Commute Trip Reduction Strategic Plan 2019-2023, 2. Summary and Fiscal Note, 3. Presentation, 4. Signed Ordinance 125885, 5. Affidavit of Publication				

Date	Ver.	Action By	Action	Result
8/9/2019	1	City Clerk	attested by City Clerk	
8/9/2019	1	Mayor	returned	
8/9/2019	1	Mayor	Signed	
8/9/2019	1	City Clerk	submitted for Mayor's signature	
8/5/2019	1	City Council	passed	Pass
7/30/2019	1	Sustainability and Transportation Committee	pass	Pass
7/29/2019	1	City Council	referred	
7/2/2019	1	Council President's Office	sent for review	
7/2/2019	1	City Clerk	sent for review	
7/2/2019	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Seattle's Commute Trip Reduction (CTR) program; adopting an updated Strategic Plan; adopting a local designation of Seattle's Center City as a "Growth and Transportation Efficiency Center" as defined by RCW 70.94.528; and amending Sections 25.02.030, 25.02.035, 25.02.040, 25.02.050, 25.02.055, 25.02.070, 25.02.080, and 25.02.090 of the Seattle Municipal Code.

WHEREAS, the Washington State Clean Air Act, codified as Revised Code of Washington (RCW) Chapter

70.94, requires certain local governments in those counties experiencing the greatest automobile-related

pollution and traffic congestion to adopt and implement Commute Trip Reduction (CTR) plans and ordinances to reduce single-occupancy vehicle trips; and

WHEREAS, The City of Seattle (“City”) recognizes the importance of increasing individual citizens’ awareness of air quality, energy consumption, traffic congestion, and the contribution that employers and individuals can make towards addressing these issues; and

WHEREAS, the City’s 2013 Seattle Climate Action Plan specifically calls for emissions-reduction strategies related to Seattle’s transportation system, many of which relate to shifting transportation modes away from single-occupancy vehicle trips; and

WHEREAS, the City’s 2035 Comprehensive Plan, most recently updated in 2018, identifies a citywide Drive Alone Rate (DAR) target of 25 percent by 2035; and

WHEREAS, since the last CTR Strategic Plan update in 2013, Seattle has seen residential and job growth but limited new roadway capacity, making efficient travel choices like transit, walking and biking, carpooling, and vanpooling more crucial for efficient and equitable growth; and

WHEREAS, Seattle’s Center City area has grown significantly, with a transportation network that is stressed by many regionally significant development and infrastructure projects, and thus requires a designation as a Growth and Transportation Efficiency Center (GTEC) as defined by RCW 70.94.528; and

WHEREAS, the City’s nationally renowned CTR program is seen as a model for holistic, employer-government partnership on Transportation Demand Management (TDM) and requires programmatic updates in keeping with the City’s aspirational transportation policy goals; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The 2019-2023 Commute Trip Reduction Strategic Plan (“Plan”), attached to this ordinance as Attachment A, is adopted as Commute Trip Reduction Plan for The City of Seattle (“City”).

Section 2. The City adopts a local designation of Seattle’s Center City, as defined in the attached Plan, as a “Growth and Transportation Efficiency Center” as defined by RCW 70.94.528.

Section 3. Section 25.02.030 of the Seattle Municipal Code, last amended by Ordinance 122825, is amended as follows:

25.02.030 Definitions ((:))

* * *

~~((C. “Alternative mode” means a method of commuting to work other than a single-occupant vehicle being the dominant mode, and may include telecommuting and compressed workweeks if those methods result in fewer commute trips.))~~

~~((D))~~ C. “Base year” means the ~~((twelve))~~ 12-month period on which commute trip reduction goals are based and commencing when an affected employer becomes subject to the requirements of this ~~((chapter))~~ Chapter 25.02.

~~((E))~~ D. “Commute trips” means trips made from an employee’s residence to a worksite during the peak period of ~~((six (6:00)))~~ 6 a.m. to ~~((nine (9:00)))~~ 9 a.m. on weekdays.

~~((F))~~ E. “CTR plan” means the ~~((2008 City of Seattle Commute Trip Reduction Basic Plan))~~ City of Seattle 2019-2023 Commute Trip Reduction Strategic Plan adopted by ordinance.

~~((G))~~ F. “CTR program” means ~~((a document, approved by the Director pursuant to RCW 70.94.531 and Section 25.02.040, 25.02.055 or 25.02.065, containing))~~ the overarching program administered by the Department to implement chapter 70.94 RCW, and it also means an affected employer’s ~~((strategy))~~ set of strategies to reduce affected employees’ SOV use and VMT per employee.

G. “CTR program report” means a document, approved by the Director pursuant to RCW 70.94.531 and Section 25.02.040, 25.02.055, or 25.02.065, containing an employer’s strategy to reduce affected employees’ SOV use and VMT per employee.

* * *

I. “Director” means the Director of the Seattle Department of Transportation or the Director’s designee.

~~((J))~~ “Dominant mode” means the mode of travel used for the greatest distance of a commute trip.)

~~((K))~~ J. “Equivalent survey information” means information that substitutes for the Washington State Department of Transportation goal measurement survey, as determined by the ~~((City))~~ Department.

~~((L))~~ K. “Full-time employee” means an employee ~~((;))~~ scheduled to be employed on a continuous basis for ~~((fifty-two (52)))~~ 52 weeks for an average of at least ~~((thirty-five (35)))~~ 35 hours per week. Full-time employees who are deemed to be independent contractors are not affected employees, and are recommended but not required to participate in the CTR program.

~~((M))~~ L. “Goal” means the measure of reduction in either the percentage of SOV trips or VMT that would result in an affected employer or worksite meeting the SOV or VMT ~~((“Target”))~~ target.

~~((N))~~ M. “Good faith effort” means that an employer has met the minimum requirements identified in RCW 70.94.534(2). Regardless of whether an employer has met its SOV or VMT goals, the Director shall consider the employer to be making a good faith effort if it complies with RCW 70.94.534(2) and works collaboratively with the City, in accordance with the requirements of this ~~((chapter))~~ Chapter 25.02, to: ~~((+))~~ (1) continue its existing CTR program; or ~~((+))~~ (2) develop and implement an initial or revised CTR program consistent with the requirements of this ~~((chapter))~~ Chapter 25.02.

~~((O))~~ N. “Growth and Transportation Efficiency Center (GTEC)” means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation.

~~((P))~~ O. “Mode” means the type of transportation used by employees, such as single-occupant vehicle, rideshare, taxicab, bicycle, walking, ferry, ~~((and))~~ transit, and any other emerging modes of mobility (e.g., bike share, scooter share, and others).

~~((Q))~~ P. “Proportion of SOV trips” or “SOV rate” means the number of commute trips made by single-occupant vehicles divided by the total number of full-time employees.

~~((R))~~ Q. “Single-occupant vehicle (SOV)” means a motor vehicle, including a motorcycle, single occupant ridehail (Transportation Network Company (TNC)) vehicle, taxicab, or any other type of vehicle

occupied by one person for commute purposes. Any TNC vehicle or taxicab with a driver and one passenger is considered a single-occupant vehicle for purposes of this Chapter 25.02.

((S)) R. “Target” means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

((F)) S. “Vehicle miles traveled (VMT) per employee” means the sum of the individual vehicle commute trip lengths, in miles, made by ~~((affected))~~ employees over a set period divided by the number of ~~((affected))~~ employees during that period.

((U)) T. “Worksite” means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.

Section 4. Subsection 25.02.035.B of the Seattle Municipal Code, which section was enacted by Ordinance 122825, is amended as follows:

25.02.035 Applicability ((:))

* * *

B. Change in ~~((Status-))~~ status

1. From ~~((Affected to Unaffected Employer))~~ affected to unaffected employer. If a previously affected employer no longer employs ~~((one hundred (100)))~~ 100 or more affected employees and expects not to employ ~~((one hundred (100)))~~ 100 or more affected employees for the next ~~((twelve (12)))~~ 12 months, the City shall consider that employer no longer to be an affected employer beginning ~~((thirty (30)))~~ 30 days after the employer provides written notice to the Department of its change in status.

a. If the same employer returns to the level of ~~((one hundred (100)))~~ 100 or more affected employees within the same ~~((twelve (12)))~~ 12-month period, that employer will be considered an affected employer for the entire ~~((twelve (12)))~~ 12-month period and will be subject to the same program requirements as other affected employers.

b. If the same employer returns to the level of ~~((one hundred (100)))~~ 100 or more

affected employees more than ~~((twelve (12)))~~ 12 months after changing from an affected employer to an unaffected employer, that employer shall be considered an affected employer beginning ~~((thirty (30)))~~ 30 days after its return to affected status or January 1 of the following calendar year, whichever is earlier.

2. From ~~((Unaffected Employer to Affected Employer))~~ unaffected employer to affected employer. An employer meeting the definition of “affected employer” shall provide written notification to the ~~((City))~~ Department within 30 days of either moving within the City boundaries or growing in employment at a worksite to ~~((one hundred (100)))~~ 100 or more affected employees.

Section 5. Section 25.02.040 of the Seattle Municipal Code, which section was last amended by Ordinance 122825, is amended as follows:

25.02.040 Employer’s baseline measurement and initial commute trip reduction program (())

A. Baseline ~~((Measurement))~~ measurement. An affected employer shall complete a baseline survey of employee commuting patterns in accordance with the requirements of this subsection 25.02.040.A.

1. Preparation ~~((Deadline))~~ deadline

a. After becoming an affected employer, an affected employer that has not adopted an approved CTR program shall conduct its baseline measurements ~~((on or before the later of the following dates: i. ninety (90)))~~ within 90 days after the Department confirms that the employer is affected. ((the effective date of the ordinance introduced as Council Bill 116332, if the employer is an affected employer on that date; or

or

ii. ~~ninety (90) days after issuance of the affected employer’s business license, or renewal thereof, if the employer becomes an affected employer after the effective date of the ordinance.))~~

b. An affected employer may request an extension of up to ~~((one hundred eighty (180)))~~ 180 days. The Director shall grant all or part of the extension request or shall deny the request within ~~((10))~~ ten days of receipt of a written request for extension. If the Director fails to respond within ten days, the

extension is automatically granted for ~~((thirty (30)))~~ 30 calendar days.

2. Contents of Baseline Measurement. An affected employer's baseline measurement shall consist of survey data of affected employee commuting patterns, which shall be the primary source of data for measuring CTR program performance and will be used in developing the employer's CTR program. The survey methodology used by the affected employer, including but not limited to sample size and response rates, shall conform to the guidelines and methodology approved by the Washington State Department of Transportation pursuant to RCW 70.94.537(2)(b) and Chapter 468-63 of the Washington Administrative Code. ~~((Chapter 468 -63.))~~ The Director will provide sample surveys for affected employers to use and will work collaboratively with affected employers to complete and process the surveys.

B. Initial CTR ~~((Program Submittal.))~~ program report submittal

1. Timing of CTR ~~((Program Submittal.))~~ program report submittal. An affected employer shall submit its initial CTR program report to the Director for review no later than ~~((ninety (90)))~~ days after completing its baseline measurement pursuant to subsection 25.02.040.A. ~~((of this section.))~~

2. Extension. An affected employer may request an extension of up to ~~((ninety (90)))~~ 90 days for submitting its initial CTR program report. The Director shall grant all or part of the extension request or shall deny the request within ten ~~((40))~~ days of receipt of the written request. If the ~~((director))~~ Director fails to respond within ten days, the extension is automatically granted for ~~((thirty (30)))~~ 30 calendar days. An extension will not excuse affected employers from developing a commute trip reduction program and submitting a ~~((description of that))~~ program report to the Director for review not more than ~~((ninety))~~ 90 days after the affected employer receives the results of the baseline measurement.

3. If the Director rejects an affected employer's initial CTR ~~((program))~~ program report, the affected employer shall make the changes required by a Director's decision made pursuant to this ~~((section))~~ Section 25.02.040 and resubmit its initial CTR program report within ~~((thirty (30)))~~ 30 days after receiving the Director's decision.

C. ~~((Initial)) CTR ((Program Content))~~ program report content. Each employer CTR program report shall include the following:

1. Worksite Characteristics. A CTR program report shall include a description of worksite characteristics, including the total number of employees and number of affected employees at the worksite, transportation characteristics and surrounding services, and any unique conditions that may affect employee commute choices.

2. ~~((Mandatory))~~ Implementation of mandatory CTR ((Program Elements)) program elements. An affected employer's CTR program shall ~~((specifically identify at least two (2) of the following measures to be implemented by the affected employer))~~ address the following strategic areas known to influence travel behavior and thus demonstrate a program likely to achieve the commute trip reduction goals applicable to the affected employer under the City's CTR plan. Each affected employer must select at least two strategies from each category set out below unless an affected employer has obtained an exemption by the Director under Section 25.02.070:

~~((a. Provide bicycle parking facilities and/or lockers, changing areas, and showers for employees who walk or bicycle to work.~~

~~b. Provide commuter ride matching services to facilitate employee ride-sharing for commute trips.~~

~~c. Provide subsidies for transit fares.~~

~~d. Provide employer vans or third-party vans for vanpooling.~~

~~e. Provide subsidy for carpool and vanpool participation.~~

~~f. Permit the use of the employer's vehicles for carpool and/or vanpool commute trips.~~

~~g. Permit alternative work schedules such as a compressed workweek that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. A compressed workweek~~

~~regularly allows a full-time employee to eliminate at least one (1) workday every two (2) weeks, by working longer hours during the remaining days, resulting in fewer commute trips by the employee.~~

~~h. Permit alternative work schedules such as flex-time that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. Flex-time allows individual employees some flexibility in choosing the time, but not the number, of their working hours.~~

~~i. Provide preferential parking for high-occupancy vehicles.~~

~~j. Provide reduced parking charges for high-occupancy vehicles.~~

~~k. Collaborate with transportation providers to provide additional regular or express service to the work site (e.g., a custom bus service arranged specifically to transport employees to work).~~

~~l. Construct special loading and unloading facilities for transit, carpool and/or vanpool users.~~

~~m. Provide and fund a program of parking incentives such as a cash payment for employees who do not use the parking facilities.~~

~~n. Institute or increase parking charges for SOVs.~~

~~o. Establish a program to permit employees to telecommute either part- or full-time, where telecommuting is an arrangement that permits an employee to work from home, eliminating a commute trip, or to work from a work center closer to home, reducing the distance traveled in a commute trip by at least half.~~

~~p. Provide a shuttle between the employer's worksite and the closest park-and-ride lot, transit center, or principal transit street.~~

~~q. Attend at least four meetings of a local transportation management association, transportation management organization, or employer transportation network group each year.~~

~~r. Implement other measures designed and demonstrated to facilitate the use of non-SOV commute modes or to reduce vehicle miles traveled that are agreed upon between the Director and the~~

~~affected employer.))~~

a. Category A, employee information and amenities: Implement strategies to ensure employees are well informed and that facilities and programs support non-drive-alone commutes. This may include provision of:

1) Real time transportation information such as transit schedules and shared transportation information in a prominent space to ensure both employees and visitors are aware of their travel options to and from the site.

2) “Flexwork”: Create policies to allow and/or encourage alternative work schedules and telework for employees with suitable positions. This may include:

a) A policy allowing employees to work intermittently, part-time, or full-time at home or at a satellite center.

b) Alternative work schedules such as a compressed workweek allowing a full-time employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. Examples include 9/80, 4/40, or 3/36 schedules.

c) Flexible scheduling to shift commute trips by employees outside of the period between 6 a.m. and 9 a.m.

3) Employee shuttles. This may be a circulator between employer locations, between park-and-ride facilities or transit hubs, or over a longer distance to provide a route for which there is no public transit alternative or capacity and along which there is a density of potential users.

4) Guaranteed ride home for employees who do not drive, whether via an area-wide program, company vehicle provision, emergency guaranteed ride, rental car guaranteed trip, or taxicab or TNC guaranteed trip.

5) Rideshare matching to connect employees and promote carpooling and

vanpooling.

6) Bicycle parking facilities and other active commute facilities including but not limited to lockers, changing areas, electric bicycle charging infrastructure, and showers for employees who walk or bicycle to work.

b. Category B, subsidies and modal support: Implement programs to ensure that non-drive-alone commutes are preferable options. This may include:

- 1) Subsidies for transit fares, such as ORCA business products.
- 2) Subsidy for carpool and vanpool participation.
- 3) Provision of employer vans or third-party vans for vanpooling.
- 4) Pre-tax transportation benefits allowing employees to use pre-tax pay for transit passes, bicycle share (or other emerging forms of micro-mobility) payments or passes, or vanpool use.

c. Category C, parking management: If parking is utilized at the site, implement strategies to appropriately price parking, and/or reserve parking space specifically for sustainable uses (e.g., secure bicycle parking). These include:

- 1) Institute or increase parking charges for SOVs. Omit any parking subsidy from employee benefits package and use onboarding processes and regular information sharing to discourage driving to and parking at an employment site.
- 2) Provide parking at a daily rather than monthly rate.
- 3) Preferential parking and/or reduced parking charges for high-occupancy vehicles, bicycles, and other forms of emerging micro-mobility.
- 4) A parking cash out program, providing payment for employees who do not use the parking facilities.
- 5) Provide parking space for carshare vehicles or company-owned cars for employee use.

3. Other measures. An affected employer may propose and implement other measures designed and demonstrated to facilitate the use of non-SOV commute modes or to reduce vehicle miles traveled, as agreed upon between the Director and the affected employer.

((3)) 4. CTR Implementation Plan. An affected employer's CTR program shall meet the requirements of subsection 25.02.040.C.2 and provide for:

a. Distribution of ~~((the))~~ selected CTR program elements to affected employees at least twice a year and to each new affected employee when the new affected employee begins employment. Employers are additionally expected to include information and recommendations (but not requirements) on CTR program options, with or without financial incentives, for any independent contractors who report for a regular work day at an affected employer's worksite between 6 a.m. and 9 a.m. (inclusive) on two or more weekdays per week for at least 12 continuous months, and who are to work at that site on a continuous basis for 52 or more weeks for an average of at least 35 hours per week.

b. Designation of an employee transportation coordinator to administer the CTR program and to act as a liaison to the Director for one or more worksites of an affected employer. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each worksite. The coordinator (or the coordinator's designee) shall participate in at least four events (such as trainings, meetings, etc.) offered through the Department's CTR program annually.

c. Appropriate resources to carry out the CTR program.

d. Retention of all records related to the affected employer's CTR compliance for at least ~~((twenty-four (24)))~~ 24 months.

D. Initial CTR ~~((Program Review and Approval))~~ program review and approval

1. Director's ~~((Decision.))~~ decision

a. Within ~~((ninety (90)))~~ 90 days of the date an affected employer submits its initial CTR ~~((program))~~ program report, the Director shall provide a written decision approving or rejecting the ((

~~program))~~ program report based on the standards in this subsection 25.02.040.D and ~~((mail))~~ email a copy of the decision to the affected employer.

b. If the Director approves an affected employer's initial CTR program, the Director's decision shall establish a date by which the affected employer is required to submit subsequent regular program reports pursuant to Section 25.02.050. The regular program reporting date shall be no sooner than one ~~((--))~~ year and ~~((ninety (90)))~~ 90 days from the date of the Director's decision approving the initial CTR program.

c. If the Director rejects an employer's initial CTR program, the Director's decision shall explain the reasons for the rejection and set forth changes that are required to obtain approval.

2. Review ~~((Standards))~~ standards. An affected employer's CTR program shall be approved if the program:

a. ~~((satisfies))~~ Satisfies the minimum requirements of this ~~((chapter))~~ Chapter 25.02; and

b. ~~((is))~~ Is likely to achieve the commute trip reduction goals applicable to the affected employer under the City's CTR plan.

E. Initial CTR ~~((Program Implementation))~~ program implementation. An affected employer shall begin implementing its approved CTR program no later than ~~((ninety (90)))~~ 90 days after the program is approved pursuant to subsection 25.02.040.D. ~~((of this section.))~~

F. CTR Program Amendment. An affected employer may not alter or amend its approved CTR program without the ~~((express written))~~ approval of the Director.

Section 6. Section 25.02.050 of the Seattle Municipal Code, last amended by Ordinance 122825, is amended as follows:

25.02.050 Regular ~~((Program Reports and Biennial Surveys.))~~ program reports and biennial surveys

A. Program ~~((Reports.))~~ reports

1. Submittal ((:))

a. Except as otherwise provided by this ((chapter)) Chapter 25.02, an affected employer that has an approved CTR program shall submit regular CTR program reports to the Director in a format and on dates established by the Director and consistent with the guidelines established by the State CTR Board, also known as the Transportation Demand Management Executive Board and its Technical Committee.

b. Pursuant to this ((section)) Section 25.02.050, an affected employer may request a ((thirty (30))) 30-day extension to complete its program report. The Director may grant one or more such extensions, but the grant of an extension does not change the normal reporting date for subsequent years.

c. If the Director rejects an affected employer's program report on the grounds that it fails to include the required information, the affected employer shall submit a revised report pursuant to this ((section)) Section 25.02.050.

2. Contents. The program report shall include a review of employee commuting patterns and of progress and good faith efforts toward meeting the reduction goals and targets established for the worksite. The program report shall include each of the following elements:

a. Review of CTR ((Program Elements)) program elements. A description of each CTR program element that was carried out during the reporting period.

b. Number of ((Participants)) participants. The number of employees participating in ((each of)) the CTR program, ((elements:))

c. Summary of ((Program Distribution)) program distribution. A description of the method and frequency by which the information required by the approved CTR program was distributed.

3. Review and ((Approval)) approval

a. Director's ((Decision)) decision. Within ((ninety (90))) 90 days of the date an affected employer submits its program report, the Director shall issue a written decision approving or rejecting the report based on the standards of this ((section)) Section 25.02.050 and shall ((mail)) email a copy of the

decision to the affected employer.

b. Review ~~((Standards.))~~ standards

~~((i))~~ 1) If the program report satisfies the requirements of this ~~((section))~~ Section 25.02.050 and the affected employer has satisfied either or both of its SOV and VMT reduction goals, the report will be approved and no revisions to the affected employer's CTR program will be required.

~~((ii))~~ 2) If the program report satisfies the requirements in this section but the affected employer satisfies neither its SOV nor its VMT reduction goals, the report will be approved, but the affected employer shall submit a revised CTR program pursuant to Section 25.02.055.

~~((iii))~~ 3) If the program report fails to satisfy the requirements of this ~~((section))~~ Section 25.02.050, the report will be rejected and the affected employer shall submit a revised program report within ~~((thirty (30)))~~ 30 days. A revised report is subject to the requirements of this ~~((section))~~ Section 25.02.050.

B. Biennial ~~((Survey of Employees' Commuting Behavior.))~~ survey of employees' commuting behavior

1. At two-year intervals, an affected employer shall measure employee commuting behavior at the affected employer's worksite consistent with the guidelines and methodology approved by the Washington State Department of Transportation as required by RCW 70.94.537(2)(b) and Chapter 468-63 of the Washington Administrative Code, and in alignment with any guidance for local implementation made by the Department with the approval of the Director.

2. The most recent survey data will be the primary source of data for measuring an affected employer's progress towards meeting CTR plan goals and determining an employer's compliance with the requirements of this ~~((chapter))~~ Chapter 25.02.

Section 7. Section 25.02.055 of the Seattle Municipal Code, enacted by Ordinance 122825, is amended as follows:

25.02.055 Affected ~~((Employer's))~~ employer's revised CTR program ~~(())~~

A. Submittal of ~~((Revised CTR Program))~~ revised CTR program. An affected employer shall submit a revised CTR program if, based on a review of the affected employer's program report or most recent ~~((biennial))~~ biennial survey results pursuant to Section 25.02.050, the Director finds that the employer has not met either its VMT or SOV reduction goals.

1. Submittal ~~((Deadline))~~ deadline

a. If the Director's decision finds that an affected employer has made a good faith effort, the affected employer shall submit a revised CTR program by a date agreed to in writing between the affected employer and the Director.

b. If the Director's decision finds that an employer has failed to make a good faith effort, the affected employer shall submit a revised CTR program within ~~((thirty (30)))~~ 30 days following receipt of the Director's decision.

2. Collaborative Process for Developing Revisions. The Director will work collaboratively with an affected employer to reach agreement on program revisions prior to the applicable deadline for submitting a revised CTR program under this section. The Director may grant one or more ~~((thirty (30)))~~ 30-day extensions if the affected employer demonstrates progress in developing revisions to its CTR program.

B. Contents of ~~((Revised CTR Program))~~ revised CTR program. An affected employer's revised CTR program shall include all of the elements required for CTR programs under Section 25.02.040, in addition to changes or modifications to the CTR program that are reasonably likely to achieve the SOV and VMT reduction goals applicable to the affected employer under the City's CTR plan.

C. Review and ~~((Approval of Revised CTR Program))~~ approval of revised CTR program

1. Director's ~~((Decision))~~ decision

a. Within ~~((ninety (90)))~~ 90 days of the date an affected employer submits its revised CTR program, the Director will issue a written decision approving or rejecting the program based on

the review standards in this ~~((section))~~ Section 25.02.055 and will ~~((mail))~~ email a copy of the decision to the affected employer.

b. If the Director approves an affected employer's revised CTR program, the Director's decision shall establish a date by which the affected employer is required to submit subsequent program reports pursuant to Section 25.02.050. The program reporting date shall be no sooner than one ~~((--))~~ year and ~~((ninety (90)))~~ 90 days from the date of the Director's decision approving the revised CTR program.

c. If the Director rejects an affected employer's revised CTR program, the Director's decision shall explain the reasons for the rejection and set forth additional program revisions that are required to obtain approval. The affected employer shall resubmit a revised CTR program plan addressing the Director's concerns within 30 days from the date of the Director's decision rejecting the revised CTR program.

2. Review ~~((Standards))~~ standards. Revisions proposed by an affected employer to its CTR program will be approved if they are reasonably likely to achieve the commute trip reduction goals applicable to the affected employer under the City's CTR plan, considering the following factors:

a. The extent to which the affected employer has implemented its existing CTR program and attained its CTR goals.

b. The extent to which the affected employer has demonstrated a commitment to implementing the proposed revisions to its CTR program and to achieving its VMT and SOV reduction goals.

c. The diversity of modes and strategies included in the revised CTR program.

d. The viability of pedestrian, bicycle, transit, ferry, road, and high occupancy vehicle facilities and the accessibility of such facilities to the affected employer's worksite.

e. The expected benefit to be derived from specific program revisions, as well as the effect of those revisions on the entire program.

f. The likely effect of proposed program revisions on the cost and convenience of commuting by non-SOV as opposed to SOV modes of transportation.

Section 8. Section 25.02.070 of the Seattle Municipal Code, last amended by Ordinance 122825, is amended as follows:

25.02.070 Exemptions from CTR ((Requirements)) requirements and adjustments to CTR calculations ((

A. Exemptions from ((Requirement to Implement CTR Program)) requirement to implement CTR program

1. Worksite ((Exemptions)) exemptions. An affected employer that has adopted a CTR program pursuant to Section 25.02.040 may, at any time, submit a request to the Director for an exemption from the requirement to implement its CTR program or from specific elements contained therein, for one or more of its worksites. The affected employer's request must cite the specific CTR program requirements from which it is seeking an exemption and demonstrate that:

a. ((due)) Due to the characteristics of the affected employer's business, workforce, or location, complying with the requirements of this ((chapter)) Chapter 25.02 would cause undue hardship, such as bankruptcy; or

b. ((the)) The affected employer is unable for economic reasons to implement any measures that could reduce the proportion of SOV trips and VMT per employee.

2. Employee ((Exemptions:)) exemptions

a. Request for ((Exemption:)) exemption

((i)) 1) An affected employer may request that the Director exempt the following types of employees from a worksite's CTR program:

((f)) a) Specific employees or groups of employees who are required to drive alone to work as a condition of employment; and

((f)) b) ((employees)) Employees who work variable shifts throughout the year and who ((do not rotate as a group to identical shifts)) commute during the morning peak hours of 6 a.m.

to 9 a.m. on average less than two weekdays per week throughout the year.

~~((ii))~~ 2) Affected employers requesting employee exemptions must do so at least ~~((thirty (30)))~~ 30 days prior to conducting the surveys required by Section 25.02.050 and shall provide credible documentation indicating the number of employees who qualify for an employee exemption under this subsection 25.02.070.A.2.

3. Duration of Exemption. The Director shall review annually all affected employers receiving any exemption and shall determine if the exemption will remain in effect during the following program year. In making this determination, the Director may require the affected employer to provide additional information related to the economic hardship or other factors on which the exemption was based.

~~((C))~~ B. Adjustments to the ~~((Calculation of Affected Employees.))~~ calculation of affected employees

1. Request for ~~((Adjustment.))~~ adjustment

a. An affected employer may request that the Director, in determining whether the affected employer has met its goals and targets for purposes of the biannual survey, exclude the following types of employees in calculating the total number of affected employees:

~~((i))~~ 1) ~~((employees))~~ Employees who are required to use the vehicles they drive to work during the workday for work purposes; and

~~((ii))~~ 2) ~~((full))~~ Full-time employees who work variable shifts that sometimes begin between ~~((six (6:00)))~~ 6 a.m. to ~~((nine (9:00)))~~ 9 a.m. and sometimes begin outside of that time period. ~~((, but not those employees who rotate shifts together as part of a group.))~~

2. Deadline to ~~((Request Adjustments))~~ request adjustments. Affected employers requesting adjustments to the calculation of affected employees must do so at least ~~((thirty (30)))~~ 30 days prior to conducting the survey required by Section 25.02.050. The affected employer shall provide credible documentation indicating how many employees qualify to be excluded from the calculation of affected

employees pursuant to this subsection 25.02.070.B and must demonstrate that no reasonable alternative commute trip reduction program can be developed for these employees.

3. Effect of ~~((Adjustment))~~ adjustment. Adjustments to the calculation of affected employees approved pursuant to this subsection 25.02.070.B are solely for the purpose of determining affected employer progress toward achieving the CTR goals and do not change whether the affected employer is subject to this ~~((chapter))~~ Chapter 25.02.

~~((D))~~ C. Director's ~~((Decision on Requests for Exemptions and Adjustments.))~~ decision on requests for exemptions and adjustments

1. Requirements for ~~((Requests))~~ requests. All requests made by affected employers pursuant to this ~~((section))~~ Section 25.02.070 shall be addressed to the ~~((Director))~~ Department in writing and shall include the information required for the particular type of exemption or adjustment being sought.

2. Standards for ~~((Granting Exemptions and Adjustments))~~ granting exemptions and adjustments. The Director shall grant requests for exemptions and adjustments that are supported by credible documentation and meet the applicable criteria in this ~~((section))~~ Section 25.02.070. Within ~~((thirty (30)))~~ 30 days of receiving a request from an affected employer pursuant to this ~~((section))~~ Section 25.02.070, the Director shall issue a written decision via email granting or denying the request. ~~((and mail a copy of the decision to the affected employer.))~~

Section 9. Section 25.02.080 of the Seattle Municipal Code, last amended by Ordinance 123899, is amended as follows:

25.02.080 Appeal of Director's ~~((Decision))~~ decision

A. ~~((Appealable Decisions))~~ Reviewable decisions. An affected employer that is aggrieved by any of the following decisions ~~((of the Director))~~ may ~~((appeal the decision to the Office of the Hearing Examiner pursuant to this Section 25.02.080))~~ request timely reconsideration by the Director ^{ff:}:

1. Decisions rejecting a CTR program pursuant to Section 25.02.040.

2. Decisions rejecting a CTR program report pursuant to Section 25.02.050 for failure to include the required performance data.

3. Decisions approving a CTR program report pursuant to Section 25.02.050, but finding that the affected employer has not met its goals and targets and is therefore required to submit a revised CTR program pursuant to Section 25.02.050 and 25.02.055.

4. Decisions rejecting a revised CTR program pursuant to Section 25.02.055.

5. Decisions denying a request for an exemption or adjustment under Section 25.02.070.

B. ~~Effect of ((Appeal or Failure to Appeal)) Director's review. ((If a Director's decision is timely appealed to the Hearing Examiner, any deadline imposed by that decision for submitting an initial or revised CTR program or report is tolled pending the outcome of the appeal. If the Hearing Examiner affirms the Director's decision, the Hearing Examiner shall set a new deadline for submitting an initial or revised CTR program or report. If the affected employer does not appeal a Director's decision to the Hearing Examiner, the Director's decision is final for purposes of enforcement action under Section 25.02.090))~~ An affected employer may request administrative review as established in this Section 25.02.080 by filing a written request for review with the Director within ten calendar days of the date of the decision. If the tenth day falls on a Saturday, Sunday, or legal holiday, then the deadline for Director's review falls on the next business day. The request for administrative review shall identify the decision for which review is requested, the objection(s) to the decision, and the specific alternative being proposed. The Director shall designate a review officer, who shall make a recommendation to the Director. The Director may, at the Director's discretion, stay implementation of a decision pending review. The Director's decision on review shall be final.

1. If a Director's decision is timely requested for review, any deadline imposed by that decision is tolled pending the outcome of the review.

2. If the affected employer does not request a review of a Director's decision, the Director's decision is final for purposes of enforcement action under Section 25.02.090.

3. If the affected employer, after requesting review by the Director pursuant to this Section 25.02.080, fails to follow the Director's decision and meet appropriate requirements of the CTR Program, the affected employer will be subject to the violation process for enforcement action under Section 25.02.090.

~~((C. Hearing Examiner Appeal Procedures. Except as otherwise provided by this Section 25.02.080, appeals of Director's decisions pursuant to this Chapter 25.02 are governed by the Hearing Examiner's rules for contested cases adopted pursuant to Chapter 3.02.~~

~~1. Standing. Only an affected employer subject to a decision of the Director may appeal that decision to the Hearing Examiner.~~

~~2. Filing Requirements.~~

~~a. Appeals shall be filed with the Hearing Examiner no later than 5 p.m. on the fourteenth calendar day following the date of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until 5 p.m. on the next business day. The appeal shall be accompanied by payment of the applicable filing fee set forth in Section 3.02.125.~~

~~b. In form and content, the appeal shall conform to the rules of the Hearing Examiner adopted pursuant to Chapter 3.02.~~

~~3. Hearing and Notice of Hearing. The Hearing Examiner shall schedule a hearing and provide notice of the hearing at least 20 days prior to the scheduled hearing date.~~

~~D. Hearing Scope of Review. The hearing shall be conducted de novo and in accordance with the Hearing Examiner's rules of procedure. The Hearing Examiner shall consider only those issues raised in the notice of appeal and relating to the requirements of this Chapter 25.02.~~

~~E. Hearing Examiner's Decision. Within 30 days after the hearing, the Hearing Examiner shall issue a written decision that shall include findings of fact and conclusions of law in support of the decision. The Hearing Examiner may affirm, reverse, remand, or modify the Director's decision. The Director and the affected employer that appealed the Director's decision shall be bound by the terms and conditions of the~~

~~Hearing Examiner's decision unless the decision is reversed or remanded on judicial review.~~

~~F. Notice of Hearing Examiner Decision. On the day the Hearing Examiner issues a decision, the Hearing Examiner shall provide the decision to the Director and to the employer that appealed.))~~

Section 10. Section 25.02.090 of the Seattle Municipal Code, last amended by Ordinance 122825, is amended as follows:

25.02.090 Violation-Penalties ((:))

A. Civil ((Penalties.)) penalties

1. Amount of ((Penalty)) penalty. ((A person)) An affected employer who commits any of the violations enumerated in this ((section)) Section 25.02.090 is subject to a cumulative civil penalty in an amount not to exceed ((two hundred and fifty (\$250) dollars)) \$250 for each day that the violation continues, beginning on the date for compliance established by a notice of violation issued pursuant to this ((section)) Section 25.02.090.

2. Collection of ((Penalty.)) penalty

a. If the violation relates to a requirement imposed by a decision of the Director, and that decision has been ((appealed to the Hearing Examiner)) reviewed by the Director pursuant to Section 25.02.080, no action for civil penalties shall be commenced and no civil penalties may be collected or imposed until the ((appeal)) review has been ((resolved)) completed.

b. The penalty imposed by this ((section)) Section 25.02.090 shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any employer subject to a penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

3. Burden of ((Proof)) proof. In any civil action for a penalty, the City shall have the burden of proving by a preponderance of the evidence that the violation enumerated in a notice of violation exists or existed. ((An unappealed)) A decision of the Director ((or an unappealed decision of the Hearing Examiner))

that includes a finding that a CTR program or report fails to comply with this chapter is not conclusive evidence of a violation.

B. Violations (~~(-)~~)

1. Violations (~~((Subject to Civil Penalties.))~~) subject to civil penalties

a. Failure to comply with the requirements of Section 25.02.040 for initial CTR programs; the requirements of Section 25.02.050 for CTR program reports, or the requirements of Section 25.02.055 for revised CTR programs.

b. Failure to make a good faith effort as defined in RCW 70.94.534(2) and this (~~chapter~~) Chapter 25.02.

2. Violations (~~((Not Subject to Penalties.))~~) not subject to penalties

a. Violations resulting from an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by an employer and pursued in good faith. A unionized employer shall be presumed to act in good faith if it:

~~((i))~~ 1 Proposes 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

~~((ii))~~ 2 Advises the union that compliance with the CTR program approved by the City is required by the Washington Clean Air Act (RCW 70.94.521 ~~(())~~ through 70.94.555) and advises the union that the proposal being made is necessary for compliance with the CTR program.

b. Failure to achieve SOV or VMT reduction goals so long as an affected employer is working in good faith to meet such goals.

C. Notice of (~~(Violation.))~~) violation

1. Issuance and (~~((Service))~~) service. If the Director determines that an affected employer has failed to comply with the requirements of this (~~chapter~~) Chapter 25.02., the Director may issue a notice of violation and send it by first class mail addressed to the affected employer's chief executive officer or highest-

ranking official at the worksite.

2. Contents. The notice of violation shall contain:

a. The name and address of the affected employer;

b. A statement that the Director has found the affected employer to have committed a violation subject to civil penalty pursuant to this ~~((chapter))~~ Chapter 25.02, with a description of the specific requirements found to have been violated.

c. A statement of the corrective action required to cure the violation and the date by which such action must be taken in order to avoid the imposition of civil penalties by the Director. Unless agreed upon by both the employer and the Director, action by an employer to correct the violation must take place within 90 days.

3. Legal ~~((Effect))~~ effect. The Director may not seek civil penalties pursuant to this ~~((section))~~ Section 25.02.090 unless a notice of violation has been issued, but the notice of violation is not evidence of the violation in any civil action to collect such penalties.

~~((D. Criminal Penalties. An employer who submits a report pursuant to this chapter is subject to state and local laws making it a crime to submit false information.))~~

Section 11. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2019, and signed by me in open session in authentication of its passage this _____ day of _____, 2019.

President _____ of the City Council

Approved by me this _____ day of _____, 2019.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2019.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Commute Trip Reduction Strategic Plan 2019-2023