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Article VII.
COMMUTE TRIP REDUCTION (CTR) PLAN

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- 15-200 Definitions.

For the purpose of this article and unless the context clearly requires otherwise, the following terms have the following meanings:

(1) Affected employee means a full-time employee who is scheduled to begin his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week for at least 12 continuous months. For the purposes of this article, shareholders, principles and associates in a corporation, partners (general or limited) in a partnership and participants in a joint venture are to be considered employees.

(2) Affected employer means a public or private employer that, for 12 continuous months, employs 100 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. (inclusive) on two or more weekdays. The individual employees may vary during the year. Construction

worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

(3) Alternative mode means any type 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 period from January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

(6) City means the city of Federal Way.

(7) Commute trips means trips made from a worker's home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.

(8) CTR plan means the city of Federal Way's plan as set forth in this article to regulate and administer the CTR programs of affected employers within its jurisdiction.

(9) CTR program means an employer's strategies to reduce affected employees' SOV use and VMT per employee.

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

(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. Compressed work weeks are understood to be an ongoing arrangement.

(12) Dominant mode means the mode of travel used for the greatest distance of a commute trip.

(13) Employee means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer.

(14) Employer means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private, that employs workers.

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

(16) Full-time employee means a person other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks per year for an average of at least 35 hours per week.

(17) 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 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.

(18) Implementation means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.551 and this article as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to their CTR program and schedule.

(19) Mode means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, and walking.

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

(21) Peak period trip means any employee 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.

(22) Proportion of single-occupant vehicle trips or SOV rate means the number of commute trips over a set period made by affected employees in SOVs divided by the number of affected employees working during that period.

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

(24) Single-occupant vehicle (SOV) trips means trips made by affected employees in SOVs.

(25) Single 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 occupied by one or more affected employers.

(26) 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.

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

(28) 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.

(29) 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.

(30) Waiver means an exemption from CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.

(31) Week means a seven-day calendar period, starting on Monday and continuing through Sunday.

(32) Weekday means any day of the week except Saturday or Sunday. (Ord. No. 93-164, § 1(18.30.000), 1-19-93; Ord. No. 98-313, § 1A., 4-21-98)
15-201 Commute trip reduction goals.

The commute trip reduction goals for affected employers are to achieve the following reductions in vehicle miles traveled per employee as well as in the proportion of single-occupant vehicles from the base year value for either the worksite or the zone in which the worksite is located:

(1) 15 percent by January 1, 1995.

(2) 20 percent by January 1, 1997.

(3) 25 percent by January 1, 1999.

(4) 35 percent by January 1, 2005. (Ord. No. 93-164, § 1(18.30.010), 1-19-93; Ord. No. 98-313, § 1B., 4-21-98)
15-202 Designation of CTR zone and base year values.

Employers in the city of Federal Way fall within the South King County CTR zone designated by the boundaries shown on the map filed with the city of Federal Way clerk's office.

Affected employers may choose to do a baseline survey to determine site specific baseline values as opposed to using the values established by the designated CTR zone. Sites affected after January 1, 1998, wishing to use site specific baseline values shall complete a baseline survey within one year of notification.

The base year value of this zone for proportion of SOV trips shall be 85 percent. The base year value for vehicle miles traveled (VMT) per employee shall be set at 9.3 miles. Commute trip reduction goals for major employers shall be calculated from these values. Therefore, affected employers within the city shall establish programs designed to result in SOV rates of not more than 72 percent in 1995, 68 percent in 1997, and 64 percent in 1999, and 55 percent in 2005, and VMT per employee of not more than 7.9 miles in 1995, 7.4 miles in 1997, and 7.0 miles in 1999, and 6.0 miles in 2005. (Ord. No. 93-164, § 1(18.30.020), 1-19-93; Ord. No. 98-313, § 1C., 4-21-98)
15-203 City of Federal Way CTR Plan.

The city's 1992 CTR plan is on file with the Federal Way city clerk's office and is wholly incorporated herein by reference. This plan may be amended by further action of the Federal Way city council. (Ord. No. 93-164, § 1(18.30.030), 1-19-93)
15-204 Responsible agency.

The city's public works department shall be responsible for implementing this article, the CTR plan, and the city's CTR program for its own employees. The public works director shall have the authority to issue such rules and administrative procedures as are necessary to implement this article. (Ord. No. 93-164, § 1(18.30.040), 1-19-93)
15-205 Applicability.

(a) The provisions of this article shall apply to any affected employer at any single worksite within the corporate limits of the city. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees:

(1) Seasonal agricultural employees, including seasonal employees of processors of agricultural products; and

(2) Employees of construction worksites when the expected duration of the construction is less than two years.

(b) Notification of applicability.

(1) Known affected employers located within the city will receive formal written notification by certified mail that they are subject to this article within 30 days after passage of this article.

(2) Affected employers that, for whatever reason, do not receive notice within 30 days of passage of this article must identify themselves to the city within 180 days of the passage of the article. Once they identify themselves, such employers will be granted 180 days within which to develop and submit a CTR program.

(3) Affected employers that have not identified or do not identify themselves within 180 days of the passage of this article and do not submit a CTR program within 180 days from the passage of this article are in violation of this article.

(4) Any existing employer of 75 or more persons who obtains a business license in the city, subsequent to the passage of this article, will be required to complete an employer assessment form to determine whether or not an employer will be deemed affected or non-affected in accordance with the provisions of this article.

(c) New affected employers. Affected employers must identify themselves to the city within 180 days of either moving into the city boundaries or growing in employment at a worksite to 100 or more affected employees. Once they identify themselves, such employers shall be granted 180 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days are in violation of this article. Newly affected employers shall have two years to meet the first CTR goal of a 15 percent reduction in proportion of single occupancy vehicle trips or vehicles miles traveled per person; four years to meet the second goal of a 20 percent reduction; six years to meet the

third goal of a 25 percent reduction; and 12 years to meet the fourth goal of a 35 percent reduction from the time they begin their program.

(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 affected employer can document that it faces an extraordinary circumstance that will change its status as an affected employer, it can apply for an exemption pursuant to FWCC 15-209(a).

(2) If an employer initially designated as an affected employer no longer employs 100 or more affected employees and has not employed 100 or more affected employees for the past 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the city that it is no longer an affected employer.

(3) If the same employer returns to the level of 100 or more affected employees within the same 12 months, that employer shall be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other new affected employers.

(4) 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 new affected employer and will be subject to the same program requirements as other new affected employers. (Ord. No. 93-164, § 1(18.30.050), 1-19-93; Ord. No. 98-313, § 1D., 4-21-98)
15-206 Requirements for employers.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this article, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips. The CTR program must include the mandatory elements described below, including submittal of a CTR program description and annual progress report. Transportation management associations may submit CTR program descriptions and annual reports on behalf of employers; however, each employer shall remain accountable for the success of its program.

(1) Description of employer's CTR program. Each affected employer is required to submit a description of its CTR program to the city on the official form available from the public works department. 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 organizations in developing and implementing CTR programs. At a minimum, the employer's description must include:

a. General description of each employment site location within the city limits, including transportation characteristics, surrounding services, and 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 subsection (2) of this section.
- d. Description of the additional elements included in the CTR program.
- e. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to carry out the CTR program.

(2) Mandatory program elements. Each employer's CTR program shall include the following mandatory elements:

a. Transportation coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. An affected employer with multiple sites may have one transportation coordinator for all sites.

b. Information distribution. Information about alternatives to SOV commuting shall be provided to employees at least once a year. This shall consist of, at a minimum, a summary of the employer's program, including the transportation coordinator's name and phone number. Employers must also provide a summary of their program to all new employees at the time of hire. Each employer's program description and annual report must describe what information is to be distributed by the employer and the method of distribution.

c. Annual progress report. The CTR program must include an annual review of employee commuting and progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file a progress report annually with the city. The employer should contact the city's public works department for the format of the report. Survey information or approved alternative information approved by the public works director shall be required in the report submitted in the second, fourth, sixth, eighth, tenth and twelfth years after program implementation begins.

d. Additional program elements. In addition to the specific program elements described above, the employer's CTR program shall include a set of measures designed to meet CTR goals, as described in the city's administrative procedures. (Ord. No. 93-164, § 1(18.30.060), 1-19-93; Ord. No. 98-313, § 1E., 4-21-98)
15-207 Record keeping.

Affected employers shall maintain all records required by the public works director for the duration of this article.

15-208 Schedule and process for CTR reports, program review and implementation.

(a) CTR program. Not more than 180 days after the adoption of this article, or within 180 days after an employer becomes subject to the provisions of this article, the employer shall develop a CTR program and shall submit to the city a description of that program for review.

(b) CTR annual reporting date. Employers will be required to submit an annual CTR report to the city beginning with the first annual reporting date assigned during the initial program submittal. The annual reporting date shall be no less than 12 months from the day the initial program description is submitted. Subsequent years' reports will be due on the same date each year.

(c) Content of annual report. The annual progress 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. Survey information or alternative information approved by the public works director must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth, and twelfth years after program implementation begins.

(d) Program review. The city shall provide the employer with written notification indicating whether a CTR program was approved or deemed unacceptable.

(1) Initial program descriptions will be deemed acceptable if:

a. All required information on the program description form is provided; and

b. The program description includes the following information:

1. Name, location and telephone number of the employee transportation coordinator for each worksite.
2. Plan for and documentation of regular distribution of information to employees about the employer's CTR program at the worksite, including alternatives to driving alone to work.
3. Plan for and implementation of at least one additional measure designed to achieve the applicable goal.

(2) Annual reports will be deemed acceptable if the annual report form is complete and contains information about implementation of the prior year's program elements and proposed new program elements and implementation schedule. Annual reports must also contain a review of employee commuting and report of progress toward meeting SOV goals.

(3) Beginning in 1995, the programs described in an affected employer's annual reports will be deemed acceptable based on the criteria contained in FWCC 15-213 of this article. If neither goal has been met, the employer must propose modifications designed to make progress toward the applicable goal in the coming year. If the revised program is not approved, the city shall propose modifications to the program and direct the employer to revise its program within 30 days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(e) Implementation of employer's CTR program. The employer shall implement the approved CTR program not more than 180 days after the program was first submitted to the city unless extensions allow for late implementation. Implementation of programs that have been modified based on non-attainment of CTR goals must occur within 30 days

following city approval of such modifications. (Ord. No. 93-164, § 1(18.30.080), 1-19-93; Ord. No. 98-313, § 1F., 4-21-98)

15-209 Requests for exemption/modification of CTR requirements.

(a) Worksite exemptions. An affected employer may submit a written request to 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 by the city if and only if the affected employer demonstrates that it faces an extraordinary circumstance such as bankruptcy, and is unable to implement measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the affected employer. Requests must be made in writing by certified mail or delivery, return receipt. 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 review annually all employers receiving exemptions and shall determine whether the exemptions 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 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 task force guidelines to assess the validity of employee exemption requests. 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. Any 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. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR task force guidelines. An employer may not request a modification of the applicable goals until one year after city approval of its initial program description or annual report.

(d) Written request for modification. All requests for modification of CTR program goals must be made in writing to the city by certified mail or delivery, return receipt.

(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 made in writing before the due date for which the extension is being requested. Requests for extensions must be made prior to the due date anytime a program submission is going to be more than one week late. Extensions not to exceed 90 days shall be considered for reasonable causes. Employers will be limited to a total of 90 allowed extension days per year. 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 public works director. (Ord. No. 93-164, § 1(18.30.090), 1-19-93; Ord. No. 98-313, § 1G., 4-21-98)

15-210 Credit for transportation demand management efforts.

(a) Credit for programs implemented prior to the base year. Employers with successful transportation demand management (TDM) programs implemented prior to the 1992 base year may apply to the city for program credit.

(1) Employers whose VMT per employee and proportion of SOV trips are already equal to or less than the goals for one or more future goal years, and who commit in writing to continue their current level of effort, shall be exempt from the following year's annual report.

(2) Employers shall be considered to have met the first measurement CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year zone values. This three percentage point credit applies only to the first measurement CTR goals.

For the initial year, employer requests for program credit are due within three months after notification that the employer is subject to this article. Requests for program credit must be received by the employer's assigned reporting dates in 1999 and 2005 for succeeding years.

Application for a program credit shall include an initial program description, written commitment on an official report form to maintain program elements, and results from a survey of employees, or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in the CTR task force guidelines.

(b) Credit for alternative work schedules, telecommuting, bicycling and walking, by affected employees.

(1) The city will count commute trips eliminated through alternative work schedules, telecommuting options, bicycling and walking as 1.2 vehicle trips eliminated. This assumption applies to both the proportion of SOV trips and VMT per employee.

(2) This type of credit is applied when calculating the SOV and VMT rates of affected employers. (Ord. No. 93-164, § 1(18.30.100), 1-19-93; Ord. No. 98-313, § 1H., 4-21-98)
15-211 Employer peer review group.

(a) Appointment of members. The city may appoint member(s) from affected employers to regional or subregional employer peer review groups created through interlocal agreement with other jurisdictions. The specific functions of the peer group review shall be determined by the interlocal agreement.

(b) Limitations of peer review group. Any peer review group shall be advisory in nature. The city shall not be bound by any comments or recommendations of any peer review group. (Ord. No. 93-164, § (18.30.110), 1-19-93)

15-212 Appeals of administrative decisions.

(a) Appeal of final decisions. Employers may file a written appeal of the city's final decisions regarding the following actions:

(1) Rejection of an employer's proposed program.

(2) Denial of an employer's request for an exemption or modification of any of the requirements under this article or a modification of the employer's program.

(3) Denial of credits requested under FWCC 15-210.

Such appeals must be filed with the city within 20 days after the employer receives notice of a final decision. All appeals will be filed and heard by the city's hearing examiner and decided pursuant to the provisions of Chapter 22 FWCC, Zoning, Article VI, Process I. The hearing examiner shall determine whether or not the appealed decision was consistent with RCW 70.94. (Ord. No. 93-164, § 1(18.30.120), 1-19-93)
15-213 Enforcement.

(a) Compliance. For purposes of this section, compliance shall mean submitting required reports and documentation at prescribed times and fully implementing in good faith all provisions in an accepted CTR program.

(b) Program modification criteria. The following criteria for achieving goals for VMT per employee and proportion of SOV trips shall be applied in determining requirements for employer CTR program modifications:

(1) If an employee makes a good faith effort, as defined in RCW 70.94.534(2) and this article, and meets either or both the applicable SOV or VMT goal, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program.

(2) If an employee makes a good faith effort, as defined in RCW 70.94.534(2) and this article, but has not met or is not likely to meet the applicable SOV or VMT goal, the city shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modification, the employer shall submit a revised CTR program description to the city for approval within 30 days of reaching an agreement.

(3) If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this article, and fails to meet either the applicable SOV or VMT reduction goal, the city 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 10 working days of the conference.

(c) Violations. The following actions shall constitute a violation of this article:

(1) 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 SOV goals as specified in this article. Failure to implement a CTR program includes but is not limited to:

a. Failure of any affected employer to submit a complete CTR program within the deadlines specified in FWCC 15-208.

b. Failure to submit required documentation for annual reports.

c. Submission of fraudulent data.

(2) Failure to modify a CTR program found to be unacceptable by the city under FWCC 15-208(d).

(3) Failure to make a good faith effort, as defined in RCW 70.94.534(4) and this article.

(d) Penalties. No affected employer with an approved CTR program which has made good faith effort may be held liable for failure to reach the applicable SOV and VMT goal. Each day of failure by an employer to (a) implement a commute trip reduction program or (b) modify an unacceptable commute trip reduction program shall constitute a separate violation and shall be considered a Class 1 civil infraction pursuant to RCW 7.80.120. The penalty for a violation shall be \$250.00 per day. An 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:

(1) 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

(2) 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 RCW 70.94.531. (Ord. No. 93-164, § 1(18.30.130), 1-19-93; Ord. No. 98-313, § 1I., 4-21-98)

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