

Chapter 46.68 COMMUTE TRIP REDUCTION

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ARTICLE I. ADMINISTRATION

46.68.010 Title.

The ordinance codified in this chapter shall be known as the “Commuter Trip Reduction Ordinance of the City of Everett.” (Ord. 2277-98 Ch. 1 § A, 1998)

46.68.020 Jurisdiction.

The requirements set forth in this chapter shall apply to any affected employer at any single worksite within the incorporated area of the city of Everett, hereinafter referred to as the city. (Ord. 2277-98 Ch. 1 § B, 1998)

46.68.030 Purpose.

The purpose of this chapter is to provide a method for compliance with the Statewide Commute Trip Reduction Law of 1991 (RCW [70.94.521](#) et seq., as amended; Chapter 202, Laws of 1991). The commute trip reduction ordinance shall not be used as a substitute for reviews of projects under the city's traffic mitigation ordinance or other city requirements for compliance with the State Environmental Policy Act (SEPA). (Ord. 3169-10 § 1, 2010; Ord. 2277-98 Ch. 1 § C, 1998)

46.68.040 Administration.

The director of the transportation services department or his/her designee shall have the duty and responsibility of administering the provisions of this chapter with the authority to promulgate rules and regulations to implement and administer this chapter. The transportation services department shall work with other departments to develop and implement an administrative process for enforcing this chapter. (Ord. 2277-98 Ch. 1 § D, 1998)

46.68.050 Definitions.

For the purpose of this chapter, the following definitions shall apply:

1. "Affected employee" means a full-time employee who begins his or her regular workday at a single worksite between six a.m. and nine a.m. on weekdays for at least twelve continuous months. The employee will only be counted at his or her primary worksite. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.
2. "Affected employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular workday between six a.m. and nine a.m. on weekdays for at least twelve continuous months during the year. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.
3. "Affected worksite" means an occupied 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 at which there are one hundred or more full-time employees, of one or more employer, who begin their regular workday between six a.m. and nine a.m. on weekdays, for at least twelve continuous months.
4. "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.
5. "Alternative work schedules" means work schedules which allow employees to work their required hours outside of the traditional Monday to Friday, eight a.m. to five p.m. schedule. Programs such as compressed work weeks that eliminate work trips for affected employees are an example.
6. "Base year" means the twelve-month period commencing when a major employer is determined to be participating in the CTR plan by the city, on which commute trip reduction goals are based.

7. "Base year survey" means the survey completed by the affected employer in accordance with the requirements of the CTR plan, during its base year, of employees at a major employer worksite used to determine the drive-alone rate and VMT per employee at the worksite.
8. "Base year value" means "baseline measurement" as defined in this section.
9. "Baseline measurement" means the measured values of the proportion of single-occupant vehicle commute trips and commute trip vehicle miles traveled per employee at an affected worksite, on which commute trip reduction goals for the affected worksite must be based.
10. "Carpool" means a motor vehicle occupied by at least two people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.
11. "City" means the city of Everett, its officers, employees, and agents.
12. "Commute trips" means trips made from a worker's home to a worksite with a regularly scheduled work start time between six a.m. and nine a.m. on weekdays.
13. "CTR" means commute trip reduction.
14. "CTR Task Force Guidelines" means a document prepared in 1992 (subject to revision) by the statewide Commute Trip Reduction Task Force. The document includes guidelines for preparing plans and ordinances, as well as model programs and data from worksites across the country.
15. "CTR law" means Washington law relating to commute trip reduction adopted in 1991 (Chapter 202, Laws of 1991) and codified in RCW [70.94.521](#) et seq., as amended.
16. "CTR plan" means the city's plan and ordinance to regulate and administer the CTR programs of affected employers within the city.
17. "CTR program" means an employer's strategies to reduce affected employees' SOV use and VMT per employee.
18. "CTR zone" means one of three areas, such as a census tract or combination of census tracts, within Snohomish County, characterized by similar employment density, population density, level of transit service, parking availability, access to high-occupancy vehicle facilities, and other factors that are determined to affect the level of SOV commuting. Everett, Mukilteo and parts of unincorporated Snohomish County have been combined to form one zone.
19. "Commuter matching service" means a system that assists in matching commuters for the purpose of commuting together.
20. "Compressed work week" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four ten-hour days or eighty hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be ongoing arrangements.

21. "Custom bus/buspool" means a commuter bus service arranged to transport one or more specific employee groups to and from work.
22. "Days" means calendar days, unless otherwise specified.
23. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.
24. "Drive alone" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.
25. "Drive alone trips" means commute trips made by affected employees in SOVs.
26. "Employee transportation coordinator (ETC)" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.
27. "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.
28. "Everett" means the "city" as defined in this section.
29. "Exemption" means a waiver from CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.
30. "Flex-time" means 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 of transportation.
31. "Full-time employee" means a person, other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.
32. "Good faith effort" means an employer has met the minimum requirements identified in RCW [70.94.531](#) and this chapter; has notified the city of its intent to substantially change or modify its program and has either received the approval of the city to do so or has acknowledged that its program may not be approved without additional modifications; has provided adequate information and documentation of implementation when requested by the city; 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.
33. "Implementation" means active pursuit by an employer of the CTR goals of RCW [70.94.521](#) et seq. and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to its approved CTR program and schedule.
34. "Major employer" means an "affected employer" as defined in this section.
35. "Major worksite" means "affected worksite" as defined in this section.

36. "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between six a.m. and nine a.m. on weekdays, for at least twelve continuous months during the year.
37. "Mode" means the means of transportation used by employees, such as a single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, and walking.
38. "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.
39. "Peak period" means the hours from six a.m. to nine a.m., Monday through Friday, except legal holidays.
40. "Peak period trip" means any employee trip that delivers the employee to begin his or her regular workday between six a.m. and nine a.m., Monday through Friday, except legal holidays.
41. "Proportion of single-occupant vehicle trips" or "SOV rate" means the number of affected employees in SOVs over a set period divided by the number of affected employees working during that period.
42. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.
43. "Single-occupant vehicle (SOV) trips" means trips made by affected employees in SOVs.
44. "Single worksite" means "affected worksite" as defined in this section.
45. "Teleworking" 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 workplace closer to home, reducing the distance traveled in a commute trip by at least half.
46. "Transit" means, for the purposes of this chapter, a multiple-occupant vehicle operated by public agency or on a for-hire shared-ride basis, including bus, ferry, rail, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.
47. "Transportation demand management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.
48. "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 the city limits, or may have a sphere of influence that extends beyond the city limits.
49. "Vanpool" means a vehicle occupied by five to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip. A vanpool trip counts as zero vehicle trips.

50. "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.

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

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

53. "Worksite" means "affected worksite" as defined in this section.

54. "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. (Ord. 3169-10 § 2, 2010; Ord. 2277-98 Ch. 1 § E, 1998)

ARTICLE II. CTR PLAN

46.68.060 Adopted.

The city's CTR plan set forth in Attachment A to the ordinance codified in this chapter is wholly incorporated herein by reference. Attachment A may be revised by resolution of the Everett city council. (Ord. 3169-10 § 3, 2010; Ord. 2277-98 Ch. 2, 1998)

46.68.065 CTR goals.

The city's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled (VMT) per employee in the city's urban growth area are established by the city's CTR plan.

The drive-alone and VMT goals for affected worksites in the city are established by the city's CTR plan.

If the goals for an affected employer or new affected employer are not listed in the CTR plan, they will be established by the city at a level designed to achieve the goals for the urban growth area. The city will provide written notification of the goals for each affected 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.

Each affected employer is required to develop and implement a CTR program that is designed to meet the affected worksite's assigned CTR goals. (Ord. 3169-10 § 4, 2010)

ARTICLE III. PROGRAM COMPLIANCE

46.68.070 Applicability.

A. Notification of Applicability.

1. Affected employers located in Everett are to receive written notification that they are subject to this chapter. Such notice shall be in writing, addressed to the company's chief executive officer, senior official, or CTR manager at the worksite. Such notification shall be delivered a minimum of one hundred fifty days prior to the due date for submittal of their CTR program.

2. Employers that, for whatever reasons, do not receive notice within thirty days of passage of the ordinance codified in this chapter and are either notified or identify themselves to the city within one hundred eighty days of the passage of the ordinance will be granted an extension to assure up to one hundred fifty days within which to develop and submit a CTR program.

3. Employers that have not been identified or do not identify themselves within one hundred eighty days of the passage of the ordinance codified in this chapter and do not submit a CTR program within one hundred eighty days from the passage of the ordinance are in violation.

B. **New Affected Employers.** Employers that meet the definition of affected employer in this chapter must identify themselves to the city within one hundred eighty days of either moving into the boundaries of the city or growing in employment at a worksite to one hundred or more affected employees. Such employers shall be granted a minimum of one hundred fifty days to develop and submit a CTR program. Employers that do not identify themselves within one hundred eighty days are in violation. New affected employers shall have two years from the city's acceptance of the program to meet the first CTR reduction goal of fifteen percent; four years to meet the second goal of twenty percent; six years to meet the third goal of twenty-five percent; and twelve years to meet the fourth goal of thirty-five percent from the time they begin their program.

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

1. If an employer initially designated as an affected employer no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve 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 one hundred or more affected employees within the same twelve months, that employer will be considered an affected employer for the entire twelve months, and will be subject to the same program requirements as other affected employers.

3. If the same employer returns to the level of one hundred or more affected employees twelve 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. 2277-98 Ch. 3 § A, 1998)

46.68.080 Requirements for employers.

An affected employer is required to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter, to develop and implement a CTR program that will achieve the goals for the affected worksite established by the city's CTR plan, or if the affected employer is not included in the city's CTR plan, the goals for the affected employer as determined by the city to reduce VMT per employee and SOV commute trips. The CTR program must include the mandatory elements described below. The employer shall submit a description of its program to the city and provide regular progress reports to the city on employee commuting and progress toward meeting its goals.

A. **CTR Program Description Requirements.** The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals for each goal year as

established by the city's CTR plan. 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 (TMAs) in developing and implementing CTR programs.

1. Description of Employer's CTR Program. At a minimum, the employer's description must include:

- 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 subsection B of this section);
- d. Description of the additional elements included in the CTR program (as described in subsection B of this section); and
- e. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

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

1. Transportation Coordinator. The employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The coordinator's name, location, and telephone number must be displayed prominently at each affected worksite. Coordinators shall be trained in CTR program development and administration through a program approved by the city. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one transportation coordinator for all sites. The employer shall negotiate with the city for the number of coordinators required.

2. Information Distribution. Information about alternatives to SOV commuting shall be provided to employees at least twice a year. Each employer's program description and progress report must report the information to be distributed and the method of distribution.

3. Progress Report. The CTR program must include a regular review of employee commuting and of progress and good faith efforts toward meeting the SOV and VMT reduction goals. The city will determine the time and frequency for submittal of the progress report by the affected employer. The city's determination will be based on worksite commute trip reduction performances. Affected employers shall file the progress report with the city in accordance with the format established by this chapter and consistent with the CTR Task Force Guidelines. The report shall describe each of the CTR measures that were in effect for the previous year(s), the results of any commuter surveys undertaken during the year(s), 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. The employer should contact the city for the format of the progress report.

4. At least once every two years the affected employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) on a form provided by the city, and achieve at least a seventy percent response rate from employees at a worksite, to measure the affected employer's progress toward its SOV and VMT goals.

5. Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include elements needed to meet CTR goals. Elements may include, but are not limited to, one or more of the following:

- a. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
- b. Instituting or increasing parking charges for SOVs;
- c. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
- d. Provision of subsidies for transit fares;
- e. Provision of vans for vanpools;
- f. Provision of subsidies for carpools or vanpools;
- g. Permitting the use of the employer's vehicles for carpooling or vanpooling;
- h. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- i. Cooperation with transportation providers to provide additional regular or express service to the worksite;
- j. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- k. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- l. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- m. Establishment of a program to permit employees to work part-time or full-time at home or at an alternative worksite closer to their homes;
- n. Establishment of a program of alternative work schedules such as compressed work weeks which reduce commuting;
- o. Promotional activities for ridesharing and transit, as well as fixed commuter information centers;
- p. Guaranteed rides in emergency situations for ridesharers;

- q. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services; and
- r. Reduction of parking provided in accordance with the Everett Zoning Code. (Ord. 3169-10 § 5, 2010: Ord. 2277-98 Ch. 3 § B, 1998)

46.68.090 Record keeping.

Affected employers shall include a list of the records they will keep as part of the CTR program they submit to the city for approval. Records shall reflect the measures selected by the employer. For example, an employer providing transit and vanpool pass subsidies shall keep monthly records of pass sales; employers with parking charges and reduced rates for carpools and vanpools shall record parking pass sales by type. Employers will maintain all records listed in their CTR program for a minimum of thirty-six months. Everett and the employer shall agree on the record keeping requirements as part of the employer's CTR program. (Ord. 2277-98 Ch. 3 § C, 1998)

46.68.100 Schedule and process for CTR reports.

- A. CTR Program. Not more than six months after the adoption of the ordinance codified in this chapter, or within six months after an employer qualifies under the provisions of this chapter, the employer shall develop a CTR program and shall submit to the city a description of that program for review.
- B. CTR Progress Reports. Upon review of an employer's initial CTR program, the city shall establish the employer's regular reporting date, the first of which shall not be less than twelve months from the day the program is submitted. The employer's subsequent regular reporting dates may occur annually or once every two years, as determined by the city. On the employer's regular reporting date, the employer shall submit to the city its progress report.
- C. Document Review. The city shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for the rejection. The employer shall have thirty days to resubmit a modified program. If the employer receives no written notification of extension of the review period for the CTR program or comment on the CTR program or progress report within ninety days of submission, the employer's program or progress report is deemed accepted. The city may extend the review period up to ninety days. The implementation date for the employer's CTR program will be extended an equivalent number of days.
- D. Modification of CTR Program Elements. Any affected employer may request that the city allow the modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping requirements. Such requests may be granted if one of the following conditions exist:
 - 1. The employer can demonstrate that it would be unable to comply with the CTR program elements for reasons beyond the control of the employer;
 - 2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship. This may include evidence from employee surveys administered at the worksite: first, in the base year, showing that the employer's own base year values of VMT per employee and

SOV rates were higher than the CTR zone average; and subsequently, in the progress year(s) showing that the employer has achieved reductions from its own base values that are comparable to the reduction goals established for the employer's CTR zone.

E. Extensions. An employer may request additional time to submit a CTR program or progress report, or to implement or modify a program. Such requests shall be made in writing no less than thirty days before the due date for which the extension is being requested. Requests must be made in writing. Extensions not to exceed ninety days shall be considered for reasonable causes. The city shall grant or deny the employer's extension request in writing within ten working days of receipt. If there is no response issued to the employer, an extension is automatically granted for thirty days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's regular reporting date may be extended at the discretion of the director of transportation services or his/her designee.

F. Implementation of Employer's CTR Program. Unless extensions are granted, the employer shall implement the approved CTR program not more than one hundred eighty days after the program was first submitted to the city. Implementation of the approved program modifications will occur within thirty days of the final decision or one hundred eighty days from submission of the CTR program or progress report, whichever occurs first. (Ord. 3169-10 § 7, 2010; Ord. 2277-98 Ch. 3 § D, 1998)

46.68.105 Timelines for new affected employers.

Regardless of any deadlines, timelines, or completion dates related to the submittal, approval or implementation of an affected employer's CTR program, affected employers that have not completed a baseline measurement under previous iterations of this chapter on or after January 1, 2010, must:

A. Not more than ninety days after becoming an affected employer subject to this chapter, perform a baseline measurement consistent with the rules established by the department of transportation under RCW [70.94.537](#) and the city's CTR plan.

B. Not more than ninety days after receiving the results of the baseline measurement, develop a CTR program and submit a description of that program to the city for review.

C. Not more than ninety days after approval of a CTR program by the city, implement the approved CTR program. (Ord. 3169-10 § 6, 2010)

46.68.110 Credit for transportation demand management efforts.

Repealed by Ord. 3169-10. (Ord. 2277-98 Ch. 3 § E, 1998)

ARTICLE IV. GENERAL

46.68.120 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 SOV trips shall be applied in determining requirements for employer CTR program modifications: (1) if an employer meets either or both of the applicable SOV or VMT goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify the CTR program; (2) if an employer makes a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter, 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 the CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within thirty 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 chapter, and fails to meet 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 thirty 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 thirty 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 acceptable, the city will send written notice to that effect to the employer within thirty days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching 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 chapter are not met:

1. Failure to develop and/or submit on time a complete program, including:
 - a. Employers notified or that have identified themselves to the city within one hundred eighty days of the ordinance codified in this chapter being adopted and that do not submit a CTR program within one hundred fifty days from the notification or self-identification; and
 - b. Employers not identified or self-identified within one hundred eighty days from the adoption of the ordinance codified in this chapter; or
2. 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 chapter; or
3. Failure to make a good faith effort, as defined in RCW [70.94.534\(2\)](#) and this chapter; or
4. Failure to revise a CTR program as defined in RCW [70.94.534\(4\)](#) and this chapter.

D. Penalties.

1. No major employer may be held liable for civil penalties for failure to reach the applicable SOV or VMT goal.

2. Each day of failure to implement the CTR program required by this chapter shall constitute a separate violation, subject to the penalties described in Chapter [7.80](#) RCW. Fines for violations shall be one hundred twenty-five dollars.

3. It shall not be considered a failure to implement the CTR program, if an employer's inability to implement an element of a CTR program was the result of an inability to reach agreement within the preceding twelve-month period with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Employers of union organized employees shall be presumed to act in good faith compliance if they:

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

b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with state law (RCW [70.94.531](#)). (Ord. 2277-98 Ch. 4 § A, 1998)

46.68.130 Exemptions and goal modifications.

A. **Worksite Exemptions.** An affected employer may request that the city grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship complying with the requirements of this chapter 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 SOV trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of this chapter. The city shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. **Employee Exemptions.** Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR 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.**

1. An affected employer may request that the city modify its CTR program goals. Such requests shall be filed in writing at least sixty days prior to the date the worksite is required to submit its program description and progress report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines.
3. An employer may not request a modification of the applicable goals until one year after city approval of its initial program description and progress report. (Ord. 3169-10 § 9, 2010: Ord. 2277-98 Ch. 4 § B, 1998)

46.68.140 Appeals.

A. Appeals. Any affected employer may appeal administrative decisions regarding exemptions, modifications of goals, modification of CTR program elements, and violations. The appeal must be filed with the city clerk no later than the tenth day following the date of the administrative decision. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the administrative decision. At the time of filing the appeal a fee in the amount of one hundred dollars must be paid to the city. The appeal shall be heard by the city's land use hearing examiner. Substantial weight shall be given to the administrative decision and the burden of establishing the contrary shall be upon the appealing party.

B. In reviewing the appeal, the hearing examiner shall determine whether the administrative decision is consistent with the provisions of the CTR law, the CTR Task Force Guidelines and this chapter including Everett's CTR plan. The hearing examiner shall have jurisdiction over the appeal and the authority to affirm, modify, reverse or remand the administrative decision, or to grant other appropriate relief. The decision of the hearing examiner shall constitute the final decision of the city. (Ord. 2277-98 Ch. 4 § C, 1998)

46.68.150 Third party liability.

It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

It is the specific intent of this chapter that no provisions nor any term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation and enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents. (Ord. 2277-98 Ch. 4 § D, 1998)

The Everett Municipal Code is current through Ordinance 3519-16, passed November 9, 2016.

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited.



