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NOA09-02

NOTICE OF ACTION ISSAQUAH CITY COUNCIL

January 26, 2009

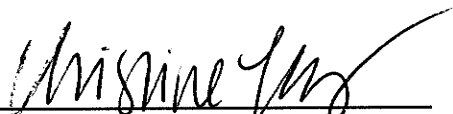
TO: Washington Department of CTED
PO Box 42525
Olympia, WA 98504-2525

RE: Commute Trip Reduction

AGENDA BILL NO: AB 5909

DATE OF ACTION: January 20, 2009

ACTION TAKEN: Adopted Ordinance No. 2547 relating to Transportation Demand Management, repealing Chapter 10.46 and Replacing with a new Chapter 10.46 of the Issaquah Municipal Code relating to Commute Trip Reduction, adopting the Implementing Measures as required by RCW 70.94.527.



Christine L. Eggers, City Clerk

Attachment: Ordinance No. 2547

cc: Mark Hinthorne, Planning Director
Trish Heinonen, Planning Manager
File

Commuter Trip Reduction Program - Salmon Friendly Commuting

ORDINANCE NO. 2547

AN ORDINANCE OF THE CITY OF ISSAQUAH RELATING TO TRANSPORTATION DEMAND MANAGEMENT, REPEALING CHAPTER 10.46 AND REPLACING WITH A NEW CHAPTER 10.46 OF THE ISSAQUAH MUNICIPAL CODE RELATING TO COMMUTE TRIP REDUCTION, ADOPTING THE IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, State law and policy requires the City of Issaquah to develop and implement a plan to reduce single occupant vehicle commute trips; and

WHEREAS, a number of legislative and administrative changes to the commute trip reduction (CTR) program have taken place recently; and

WHEREAS, many of these changes require corresponding changes to the City's CTR chapter; and

WHEREAS, the City seeks to make its CTR chapter consistent with State law and the guidelines established by the CTR task force; and

WHEREAS, the Commute Trip Reduction Efficiency Act of 2006 requires the City to amend its CTR Plan and Chapter 10.46 of the Issaquah Municipal Code consistent with RCW 70.94.527; and

WHEREAS, the City approved and adopted a City CTR plan on September 17, 2007, this ordinance contains the amendment to the IMC Chapter 10.46 Commute Trip Reduction for repeal and replacement of IMC 10.46; and

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

NOW, THEREFORE, the City Council of the City of Issaquah do ordain as follows:

Section 1. IMC Section 10.46 of the Issaquah Municipal Code entitled "Commuter Trip Reduction" is hereby repealed and replaced to read as shown in Attachment A;

Section 2. Copy to CTED. Pursuant to RCW 36.70A.106, a copy of this ordinance shall be transmitted to the Washington State Department of Community, Trade and Economic Development within 10 days after adoption.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Passed by the City Council of the City of Issaquah, the 20th day of January, 2009.

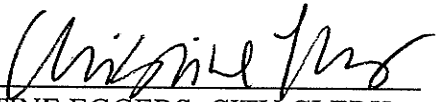
Approved by the Mayor of the City of Issaquah the 20th day of January, 2009.

APPROVED:



AVA FRISINGER, MAYOR


ATTEST/AUTHENTICATED:



CHRISTINE EGGERS, CITY CLERK

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY 

PUBLISHED: January 28, 2009

EFFECTIVE DATE: February 2, 2009

ORDINANCE NO: 2547/AB 5909

:

Chapter 10.46
COMMUTE TRIP REDUCTION

Sections

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10.46.010 Purpose

The purpose of the Commuter Trip Reduction (CTR) Plan is to improve air quality, reduce traffic congestion and minimize energy consumption. These regulations are prepared to comply with RCW 70.94.521 through 70.94.555. This CTR Plan does this by requiring employer-based

programs that encourage employees to find alternatives to drive alone commuting with collaboration between the City of Issaquah and affected employers.

10.46.015 Definitions

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter.

- A. "*Affected Employee*" means a full-time employee who begins his or her regular work day at a single worksite covered by the Commute Trip Reduction Plan between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.
- B. "*Affected Employer*" means an employer that employs one hundred (100) or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)
- C. "*Alternative Mode*" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work week schedules if they result in reducing commute trips.
- D. "*Alternative Work Schedules*" mean programs such as compressed work week schedules that eliminate work trips for affected employees.
- E. "*Base year*" means the twelve-month period which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. The City of Issaquah uses this twelve-month period as the basis upon which it develops commute trip reduction goals.
- F. "*Base year survey*" or "*baseline measurement*" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by City of Issaquah.
- G. "*Carpool*" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.
- H. "*Commute Trips*" mean trips made from a worker's home to a worksite (inclusive) on weekdays.
- I. "*CTR*" is the abbreviation of Commute Trip Reduction.

- J. "*CTR Program*" means an employer's strategies to reduce employees' drive alone commutes and average VMT per employee.
- K. "*Commute trip vehicle miles traveled per employee*" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.
- L. "*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.
- M. "*Custom Bus/Buspool*" means a commuter bus service arranged specifically to transport employees to work.
- N. "*Dominant Mode*" means the mode of travel used for the greatest distance of a commute trip.
- O. "*Drive Alone*" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.
- P. "*Drive Alone Trips*" means commute trips made by employees in single occupant vehicles.
- Q. "*Employee Transportation Coordinator (ETC)*" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.
- R. "*Employer*" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs workers.
- S. "*Exemption*" means a waiver from any or all CTR program requirements granted to an employer by the City of Issaquah based on unique conditions that apply to the employer or employment site.
- T. "*Flex-Time*" is an employer policy that provides work schedules allowing individual employees flexibility in choosing the start and end time but not the number of their working hours.
- U. "*Full-Time Employee*" means a person, other than an independent contractor, whose position is scheduled on a continuous basis for 52 weeks for an average of at least 35 hours per week.
- V. "*Good Faith Effort*" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this ordinance, and is working collaboratively with the City of Issaquah 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.

- W. "*Implementation*" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this ordinance as evidenced by appointment of an employee transportation coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to its approved CTR program and schedule.
- X. "*A major employer*" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months.
- Y. "*Major employer worksite*" or "*affected employer worksite*" or "*worksite*" means the physical location occupied by a major employer, as determined by the local jurisdiction.
- Z. "*Major employment installation*" means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the City of Issaquah, at which there are one hundred or more affected employees.
- AA. "*Mode*" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.
- BB. "*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.
- CC. "*Peak Period*" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
- DD. "*Peak Period Trip*" means any commute trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
- EE. "*Proportion of Drive Alone Trips*" or "*Drive Alone Rate*" means the number of commute trips over a set period made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.
- FF. "*Ride Matching Service*" means a system which assists in matching commuters for the purpose of commuting together.
- GG. "*Salmon Friendly Commuting Alternatives*" means the use of walking, biking, transit, vanpool, vanship, carpool and teleworking as alternatives to single occupancy vehicle use

to educate people about the connection between pollution caused by transportation choices and the impact those choices have on our environmental quality of life.

- HH. "*Teleworking*" or "*Telecommuting*" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.
- II. "*Transit*" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.
- JJ. "*Transportation Demand Management (TDM)*" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.
- KK. "*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.
- LL. "*Vanpool*" means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.
- MM. "*Vehicle Miles Traveled (VMT) Per Employee*" means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period divided by the number of employees during that period.
- NN. "*Week*" means a seven-day calendar period starting on Monday and continuing through Sunday.
- OO. "*Weekday*" means any day of the week except Saturday or Sunday.
- PP. "*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.

10.46.020 City of Issaquah CTR Plan

The goals established for the jurisdiction and affected employers in the City of Issaquah Commute Trip Reduction Plan (September 2007) are incorporated herein by reference.

10.46.030 CTR Goals

Issaquah's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in Issaquah's jurisdiction, major employment installations, and other areas designated by Issaquah are hereby established by Issaquah's CTR

Plan. These goals establish the desired level of performance of 10% reduction in drive alone trips and 13% in Vehicle miles traveled (VMT) for the CTR program in its entirety in Issaquah.

10.46.031 Commute Trip Reduction Goals

The City of Issaquah will set the individual worksite goals for affected employers based on how the worksite can contribute to the City of Issaquah's overall goal established in the CTR plan.

10.46.032 Commute Trip Reduction Goals for Affected Employers

- A. The drive-alone and VMT goals for affected employers in City of Issaquah are hereby established as set forth in the CTR Plan.

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

10.46.040 Responsible Agency

The City of Issaquah is responsible for implementing these regulations, the CTR Plan, and the Issaquah CTR program should be identified together with any authority necessary to carry out such responsibilities such as rule-making or certain administrative decisions.

10.46.050 Applicability

The provisions of this chapter shall apply to any affected employer within the geographic limits of the CTR Plan.

10.46.051 Notification of Applicability

- A. In addition to the City established public notification for adoption of these regulations, a notice of availability of a summary of these regulations, a notice of the requirements and criteria for affected employers to comply with these regulations, and subsequent amendments shall be published at least once in City of Issaquah's official newspaper not more than 30 days after adoption of these regulations or amendments.

- B. Affected employers located in Issaquah are to receive written notification that they are subject to these regulations. Such notice shall be addressed to the company's chief executive officer, senior official, CTR program manager, or registered agent at the worksite. Such notification shall provide 90 days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by Issaquah.

- C. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of these regulations and are either notified or identify themselves to Issaquah within 90 days of the passage of these regulations will be granted an extension to assure up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by Issaquah.
- D. Affected employers that have not been identified or do not identify themselves within 90 days of the passage of these regulations and do not perform a baseline measurement consistent with the measurement requirements specified by Issaquah within 90 days from the passage of these regulations are in violation of this chapter.
- E. If an affected employer has already performed a baseline measurement, or an alternative acceptable to Issaquah, under Issaquah's previous CTR Program, the employer is not required to perform another baseline measurement.

10.46.052 Newly Affected Employers

- A. Employers meeting the definition of "affected employer" in this ordinance must identify themselves to Issaquah within 90 days of either moving into the boundaries outlined in the CTR Plan or growing in employment at a worksite to one hundred (100) or more affected employees. Employers who do not identify themselves within 90 days are in violation of this chapter.
- B. Newly affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by Issaquah. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to these regulations are in violation of this chapter.
- C. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to Issaquah. The program will be developed in consultation with the City to be consistent with the goals of the CTR Plan. The program shall be implemented not more than 90 days after approval by Issaquah. Employers who do not implement an approved CTR Program according to this schedule are in violation of this chapter and subject to the penalties outlined in this chapter.

10.46.053 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:

- A. If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is placed on a 12-month watch * and are subject to the same program requirements as other affected employers. At the end of the 12-month watch, if they no longer employ one-hundred (100) affected employees; they are no longer an affected employer. It is the responsibility of the employer to provide documentation to the county that they are no longer an

affected employer. It is the responsibility of the employer to notify Issaquah that it is no longer an affected employer. The burden of proof lies with the employer.

** the 12-month watch is an administrative tool to reduce labor of having to start and stop a worksite into and out of the CTR program, getting them entered in the database, assignment of a state code and all of the other processing is labor intensive..*

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

10.46.060 Requirements for Employers – RCW 70.94.531

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

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

A. Employee Transportation Coordinator (ETC)

The employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program. Any designated ETC must attend training provided by the City. The ETC and/or designee's name, location, and telephone number must be prominently displayed physically or electronically at each affected worksite. The ETC shall oversee all elements of the employer's CTR program and act as liaison between the employer and Issaquah. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one ETC for all sites.

B. Information Distribution

Information about alternatives to drive alone commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR Program shall also be submitted to Issaquah with the employer's program description and regular report.

C. Additional Mandatory elements

Affected employers shall be required to implement the following:

1. Provision of preferential parking for high-occupancy vehicles.
2. Provision of secure bicycle parking facilities.
3. Commuter information center.

4. Promotional events.

10.46.062 Additional Program Elements

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

- A. Provision of commuter ride matching services to facilitate employee ridesharing;
- B. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;
- C. Provision of vans or buses for employee ridesharing;
- D. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;
- E. Provision of incentives for employees that do not drive alone to work;
- F. Permitting the use of the employer's vehicles for carpooling or vanpooling;
- G. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- H. Cooperation with transportation providers to provide additional regular or express service to the worksite;
- I. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- J. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- K. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work.
- L. Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes which reduces commute trips;
- M. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;
- N. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services, or guaranteed ride home programs;
- O. Charging employees for parking, and/or the elimination of free parking; and
- P. Other measures that the employer believes will reduce the number and length of commute trips made to the site.
- Q. Instituting or increasing parking charges for drive alone commuters;

10.46.063 CTR Program Report and Description

Affected employers shall review their program and file a regular progress report with Issaquah in accordance with the format provided by Issaquah.

The CTR Program Report and Description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reporting period. Employers are encouraged to consider innovative strategies and combine program elements in a manner that

will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other to implement program elements.

At a minimum, the employer's CTR Program Report and Description must include:

- A. a general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;
- B. the number of employees affected by the CTR program and the total number of employees at the site;
- C. documentation on compliance with the mandatory CTR program elements (as described in *Section 6.1*);
- D. description of any additional elements included in the employer's CTR program (as described in *Section 6.2*); and
- E. a statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

10.46.064 Biennial Measure of Employee Commute Behavior

In addition to the mandatory baseline measurement, employers shall conduct a program evaluation as a means of determining worksite progress toward meeting CTR goals. As part of the program evaluation, the employer shall distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at least once every two years, and strive to achieve at least a 70% response rate from employees at the worksite.

10.46.070 Record Keeping

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

10.46.080 Schedule and Process for CTR Program Description and Report

10.46.081 Document Review

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

10.46.082 Schedule

Upon review of an employer's initial CTR program, Issaquah shall establish the employer's regular reporting date. This report will be provided in a form provided by Issaquah consistent with this chapter.

10.46.083 Modification of CTR Program Elements

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

- A. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or
- B. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

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

10.46.084 Extensions

An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. Issaquah shall grant or deny the employer's extension request by written notice within 10 working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 30 days.

Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's biennial reporting date may be extended at the discretion of Issaquah.

10.46.085 Implementation of Employer's CTR Program

Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than 90 days after receiving written notice from Issaquah that the program has been approved or with the expiration of the program review period without receiving notice from Issaquah.

10.46.090 Enforcement

10.46.091 Compliance

For purposes of this section, compliance shall mean:

- A. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;
- B. Providing a complete CTR Program Description and Report on the regular reporting date;

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

10.46.092 Program Modification Criteria

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

- A. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
- B. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required.
- C. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this ordinance, and fails to meet the applicable drive alone or VMT reduction goal, Issaquah shall direct the employer to revise its program within 30 days to come into compliance with the measures defined by RCW 70.94.534(2), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. Issaquah shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, Issaquah 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 Issaquah within 10 working days of the conference.

10.46.093 Violations

The following constitute violations if the deadlines established in these regulations are not met:

- A. Failure to self identify as an affected employer;
- B. Failure to perform a baseline measurement, including:
 - 1. Employers notified or that have identified themselves to Issaquah within 90 days of these regulations being adopted and that do not perform a baseline measurement consistent with the requirements specified by Issaquah within 90 days from the notification or self-identification;
 - 2. Employers not identified or self-identified within 90 days of these regulations being adopted and that do not perform a baseline measurement consistent with the requirements specified by Issaquah within 90 days from the adoption of these regulations;
- C. Failure to develop and/or submit on time a complete CTR program;
- D. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in ordinance;
- E. Submission of false or fraudulent data in response to survey requirements;

- F. Failure to make a good faith effort, as defined in RCW 70.94.534 and these regulations;
or
- G. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this ordinance.

10.46.094 Penalties

- A. No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable drive alone or VMT goal;
- B. Each day of failure by an employer to (a) implement a commute trip reduction program, or (b) modify an unacceptable commute trip reduction program, or (c) fail to perform any activity required by this chapter relating to implementation of or required modification to a CTR program shall constitute a separate violation and shall be considered a civil infraction. The penalty for a violation shall be two hundred fifty dollars (\$250) per day.
- C. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
 - 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 Issaquah and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).
- D. CTR penalty fees. Penalties resulting from violations of these regulations shall go back to the violating entities for use in their CTR program or be deposited in the City Tree Fund IMC 18.12.180 City Tree fund.

10.46.100 Exemptions and Goal Modifications

10.46.101 Worksite Exemptions

An affected employer may request Issaquah 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 these regulations as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by Issaquah at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. Issaquah shall grant or deny the request within 30 days of receipt of the request. Issaquah shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

10.46.102 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. Issaquah will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. Issaquah shall grant or deny the request within 30 days of receipt of the request. Issaquah shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

10.46.103 Modification of CTR Program Goals

- A. An affected employer may request that the Issaquah 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 biennial 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.
- B. The City of Issaquah will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.
- C. An employer may not request a modification of the applicable goals until one year after city/county approval of its initial program description or biennial report.

10.46.110 Appeals

Affected employers may appeal any decisions made under this code to the City's Public Works Engineering Director as per IMC Chapter 1.32 Appeals. The applicable timeline for the appeal, fees and criteria by which appeals may be judged are as provided for in IMC Chapter 1.32 Appeals.