CITY OF RENTON

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MAY 15 2008
Transportation Systems Div.

MEMORANDUM

To: Nathan Jones, Transportation Planning

From: Zanetta L. Fontes, Senior Assistant City Attorney

Date: May 14, 2008

Subject: Commute Trip Reduction Ordinance and Resolution Adopting the 2007 Commute Trip Reduction Plan

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I have enclosed copies of the above-mentioned ordinance and resolution. The originals have been sent to the City Clerk.

Zanetta L. Fontes

LJW: scr
Enc.
cc: Jay Covington
Bonnie Walton

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CITY OF RENTON, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF RENTON, WASHINGTON, AMENDING CHAPTER 13, COMMUTE TRIP REDUCTION, OF TITLE X (TRAFFIC), OF ORDINANCE NO. 4260 ENTITLED "CODE OF GENERAL ORDINANCES OF THE CITY OF RENTON, WASHINGTON," BY INCORPORATING RECENT LEGISLATIVE AND ADMINISTRATIVE CHANGES TO THE STATE OF WASHINGTON'S COMMUTE TRIP REDUCTION PROGRAM AS REQUIRED BY RCW 70.94.527.

WHEREAS, Pursuant to RCW 70.94.527 Transportation Demand Management — Requirements for Counties and Cities, the City of Renton has enacted a commute trip reduction plan for major employers, and

WHEREAS, The Washington Legislature has recently made legislative and administrative changes to its requirements for the commute trip reduction plans; and

WHEREAS, the City Council has duly determined after due consideration of the testimony and evidence before it that it is necessary to amend Chapter 13 of the Renton Municipal Code, the City of Renton's Commute Trip Reduction ordinance by adopting relevant sections of the recent legislative and administrative changes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RENTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:

SECTION I. Section 10-13-1, Definitions, of Chapter 13, Commute Trip Reduction, of Title X (Traffic) of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by adding or revising the following definitions to read as follows:

AFFECTED EMPLOYEE: A full-time employee who is scheduled to begin his or her regular work day at a single worksite between six o'clock (6:00) a.m. and

nine o'clock (9:00) a.m. (inclusive) on two (2) or more weekdays for at least twelve (12) 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.

AFFECTED EMPLOYER: An employer that employs one hundred (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 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.

ALTERNATIVE MODE: Commute transportation other than that in which the single-occupant motor vehicle is the dominant means of transport, including telecommuting and teleworking, if they result in reducing commute trips.

ALTERNATIVE WORK SCHEDULES: Programs such as compressed work week schedules that eliminate work trips for affected employees.

BASE YEAR: 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 Renton uses this twelve-month period as the basis upon which it develops commute trip reduction goals.

BASE YEAR SURVEY or BASELINE MEASUREMENT: The survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for

the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City of Renton.

CARPOOL: 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.

COMMUTE TRIPS: Trips made from a worker's home to a worksite (inclusive) on weekdays.

CTR: Commute Trip Reduction.

CTR BOARD: That board established pursuant to RCW 70.94 537.

CTR PLAN: Renton's plan to regulate and administer the CTR programs of affected employers within the city, a copy of which is maintained in the City Clerk's office.

CTR PROGRAM: an employer's strategies to reduce employees' drive alone commutes and average VMT per employee.

COMMUTE TRIP VEHICLE MILES TRAVELED PER EMPLOYEE: See, "VMT," below.

COMPRESSED WORK WEEK: 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 (4) ten (10) hour days or eighty (80) hours in nine (9) days, but may also include other arrangements.

CUSTOM BUS/BUSPOOL: A commuter bus service arranged specifically to transport employees to work.

DOMINANT MODE: The mode of travel used for the greatest distance of a commute trip.

DRIVE ALONE: A motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

DRIVE ALONE TRIPS: Commute trips made by employees in single occupant vehicles.

EMPLOYEE TRANSPORTATION COORDINATOR (ETC): A person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.

EMPLOYER: 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.

EXEMPTION: A waiver from any or all CTR program requirements granted to an employer by City of Renton based on unique conditions that apply to the employer or employment worksite.

FLEX-TIME: 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.

FULL-TIME EMPLOYEE: A person, other than an independent contractor, whose position is scheduled on a continuous basis for fifty-two (52) weeks for an average of at least thirty-five (35) hours per week.

GOALS: Those CTR Goals as the city of Renton set out in Chapters II and III of the Commute Trip Reduction Plan maintained in the City Clerk's office.

GOOD FAITH EFFORT: An employer has met the Mandatory Elements identified in RMC 10-13-6A of this code and meets the conditions set out in RCW 70.94.534(2) as those are currently worded or are hereafter amended.

IMPLEMENTATION: An 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.

MAJOR EMPLOYER: 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.

MAJOR EMPLOYER WORKSITE or AFFECTED EMPLOYER WORKSITE or WORKSITE: The physical location occupied by a major employer, as determined by the local jurisdiction.

MAJOR EMPLOYMENT INSTALLATION: A military base or federal reservation, excluding tribal reservations, or other locations as designated by the City of Renton, at which there are one hundred or more affected employees.

MODE: The means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, or telecommuting.

NOTICE: 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.

PEAK PERIOD: The hours from six o'clock (6:00) a.m. to nine o'clock (9:00) a.m. (inclusive), Monday through Friday, except legal holidays.

PEAK PERIOD TRIP: Any commute trip that delivers the employee to begin his or her regular workday between six o'clock (6:00) a.m. and nine o'clock (9:00) a.m. (inclusive), Monday through Friday, except legal holidays.

PROPORTION OF DRIVE ALONE TRIPS or DRIVE ALONE RATE: The number of commute trips over a set period of time made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.

RIDE MATCHING SERVICE: A system which assists in matching commuters for the purpose of commuting together.

TELEWORKING or TELECOMMUTING: The electronic transport of work through the use of telephones, computers, or other similar technology a) which permits an employee to work from home, thereby eliminating a commute trip. Or, b) use electronic transport of work from a work place closer to home, reducing the distance traveled in a commute trip by at least one half (1/2).

TRANSIT: Multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

TRANSPORTATION DEMAND MANAGEMENT (TDM): A broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

TRANSPORTATION MANAGEMENT ASSOCIATION (TMA): 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.

VANPOOL: A vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, that results in the reduction of a minimum of one motor vehicle trip.

VEHICLE MILES TRAVELED (VMT) PER EMPLOYEE: The number of the individual vehicle commute trip lengths in miles made by all employees over a set period of time divided by the number of employees during that period.

WEEK: A seven-day calendar period starting on Monday and continuing through Sunday.

WEEKDAY: Any day of the week except Saturday or Sunday.

WRITING, WRITTEN, or IN WRITING: An original signed and dated document(s). Electronic and/or facsimile (fax) transmissions will not substitute for an original for a document required herein.

SECTION II. Section 10-13-2, Commute Trip Reduction Goals, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by changing the name "Commute Trip Reduction Goals" to "Commute Trip Reduction Plan" and is amended to read as follows:

10-13-2 Commute Trip Reduction Plan

The goals established for the City of Renton and affected employers are set forth in the City of Renton's 2007 Commute Trip Reduction Plan.

SECTION III. Section 10-13-3, Designation of CTR Zones and Base Year Values, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by changing the name "Designation of CTR Zones and Base Year Values" to "Commute Trip Reduction Goals" and is amended to read as follows:

10-13-3 Commute Trip Reduction Goals

A. Commute Trip Reduction Goals

The City of Renton's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in this jurisdiction, major employment installations, and other areas designated by the City of Renton are set out in the City of Renton's 2007 Commute Trip Reduction Plan, as it is currently worded or is hereafter amended. These goals establish the desired level of performance for the CTR program in its entirety in the City of Renton.

The City of Renton will set the individual worksite goals for affected employers based on how the worksite can contribute to the City of Renton's overall goal established in the CTR Plan. The goals will appear as a component of the affected employer's approved implementation plan outlined in RMC 10-13-6.

B. Commute Trip Reduction Goals for Affected Employers

1. The drive-alone and VMT goals for affected employers in the City of Renton are set forth in the 2007 City of Renton Commute Trip Reduction Plan, as it is currently worded or is hereafter amended.

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

SECTION IV. Section 10-13-4, Responsible City of Renton Agency, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended to read as follows:

The City of Renton agency responsible for implementing this ordinance, the CTR Plan, and the City of Renton CTR program is the Public Works Department – Transportation Systems Division through the Administrator or his/her designee who is hereby given authority necessary to carry out administrative responsibilities itemized in and referenced by this Chapter.

SECTION V. Section 10-13-5, Applicability, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended to read as follows:

The provisions of this ordinance shall apply to any affected employer within the geographic limits of the CTR Plan adopted in RMC 10-13-2.

A. Notification of Applicability

1. In addition to the City of Renton's established public notification for adoption of an ordinance, a notice of availability of a summary of this ordinance, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in the City of Renton's official newspaper not more than 30 days after passage of this ordinance or revisions.

2. Affected employers located in the City of Renton are to receive written notification that they are subject to this ordinance. Such notice shall be addressed to the company's chief executive officer, senior official, 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 the City of Renton.

3. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance and are either notified or identify themselves to the City of Renton within 90 days of the passage of the ordinance 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 the City of Renton.

4. Affected employers that have not been identified or do not identify themselves within 90 days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the City of Renton within 90 days from the passage of the ordinance are in violation of this ordinance.

5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City of Renton, under previous iterations of this ordinance, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers

1. Employers meeting the definition of "affected employer" in this ordinance must identify themselves to the City of Renton within 90 days of either moving into the boundaries outlined in the CTR Plan adopted in RMC 10-13-2 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 ordinance.

2. Newly affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by the City of Renton. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this ordinance are in violation of this ordinance.

3. 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 the City of Renton. The program will be developed in consultation with the City of Renton's Public Works Administrator and/or his/her designee to be consistent with the goals of the CTR Plan adopted in RMC 10-13-2. The program shall be implemented not more than 90 days after approval by the City of Renton. Employers who do not implement an approved CTR program according to this schedule are in violation of this ordinance and subject to the penalties outlined in RMC 10-13-9.

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

2. 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.

3. 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.

SECTION VI. Section 10-13-6, Requirements for Employers, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended to read as follows:

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.

A. Mandatory Program Elements

Each employer's CTR program shall include the following mandatory elements:

1. Employee Transportation Coordinator (ETC)

The employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program. 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 the City of Renton. 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.

2. 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 the City of Renton with the employer's program description and regular report.

B. 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:

1. Provision of preferential parking for high-occupancy vehicles;
2. Reduced parking charges for high-occupancy vehicles;

3. Instituting or increasing parking charges for drive alone commuters;

4. Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;

5. Provision of subsidies for rail, transit, or vanpool fares and/or transit passes;

6. Provision of vans or buses for employee ridesharing;

7. Provision of subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;

8. Provision of incentives for employees that do not drive alone to work;

9. Permitting the use of the employer's vehicles for carpooling or vanpooling;

10. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

11. Cooperation with transportation providers to provide additional regular or express service to the worksite;

12. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

13. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

14. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

15. 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;

16. Establishment of a program of alternative work schedules, such as a compressed work week, which reduces commute trips;

17. 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;

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

19. Other measures that the employer believes will reduce the number and length of commute trips made to the site.

C. CTR Program Report and Description

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

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:

1. A general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;

2. The number of employees affected by the CTR program and the total number of employees at the site;

3. Documentation on compliance with the mandatory CTR program elements (as described in RMC 10-13-6A);

4. Description of any additional elements included in the employer's CTR program (as described in RMC 10-13-6B); and

5. A statement of organizational commitment to provide appropriate resources to the program to meet the employer's established goals.

D. Biennial Measure of Employee Commute Behavior

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

SECTION VII. Section 10-13-7, Record Keeping, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended to read as follows:

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

SECTION VIII. Section 10-13-8, Schedule and Process for CTR Reports, Program Review And Implementation, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by changing the name "Schedule and Process for CTR Reports, Program Review And Implementation" to "Schedule and Process for CTR Program Description and Report" and is amended to read as follows:

10-13-8 Schedule and Process for CTR Program Description and Report

A. Document Review

The City of Renton shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within 90 days of submission, the employer's program or annual report is deemed accepted. The City of Renton 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.

B. Schedule

Upon review of an employer's initial CTR program, the City of Renton shall establish the employer's regular reporting date. This report will be provided in a form provided by the City of Renton consistent with RMC 10-13-6C.

C. Modification of CTR Program Elements

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

1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or

2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

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

D. 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. The City of Renton 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 annual reporting date may be extended at the discretion of the City of Renton.

E. Implementation of Employer's CTR Program

Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than 90 days after receiving written notice from the City of Renton that the program has been

approved or with the expiration of the program review period without receiving notice from the City of Renton.

SECTION IX. Section 10-13-9, Credit for Transportation Demand Management Efforts, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by changing the name "Credit for Transportation Demand Management Efforts" to "Enforcement" and is amended to read as follows:

10-13-9 Enforcement

A. Compliance

For purposes of this section, compliance shall mean:

1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

2. Providing a complete CTR Program Description and Report on the regular reporting date; and

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

B. Program Modification Criteria

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

1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;

2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required; and

3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this ordinance, and fails to meet the applicable drive alone or VMT reduction goal, the City of Renton 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. The City of Renton 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 of Renton 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 of Renton within 10 working days of the conference.

C. Violations

The following constitute violations if the deadlines established in this ordinance are not met:

1. Failure to self identify as an affected employer;
2. Failure to perform a baseline measurement, including:

a. Employers notified or that have identified themselves to the City of Renton within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City of Renton within 90 days from the notification or self-identification;

b. Employers not identified or self-identified within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by the City of Renton within 90 days from the adoption of the ordinance;

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

ii. 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;

iii. Submission of false or fraudulent data in response to survey requirements;

iv. Failure to make a good faith effort, as defined in RCW 70.94.534 and this ordinance; or

v. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this ordinance.

D. Penalties

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

2. No Major Employer shall be liable for civil penalties for failure to reach the applicable commute trip reduction goals;

3. Each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in RCW 7.80;

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

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

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

SECTION X. Section 10-13-10, Goal Modifications, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by combining Section 10-13-10, Goal Modifications, and Section 10-13-14, Exemptions, into Section 10-13-10, and changing the name "Goal Modifications" to "Exemptions and Goal Modifications" and is amended to read as follows:

10-13-10 Exemptions and Goal Modifications

A. Worksite Exemptions

An affected employer may request the City of Renton to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the City of Renton 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. The City of Renton shall grant or deny the request within 30 days of receipt of the request. The City of Renton shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions

Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City of Renton will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests.

The City of Renton shall grant or deny the request within 30 days of receipt of the request. The City of Renton 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 of Renton modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The City of Renton will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines. (3) An employer may not request a modification of the applicable goals until one year after city/county approval of its initial program description or annual report.

SECTION XI. Section 10-13-11, Employer Peer Review Group, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby amended by changing the name "Employer Peer Review Group" to "Appeals" and is amended to read as follows:

10-13-11 Appeals

A. Scope

An Employer may appeal the final decisions of the Public Works Administrator, or his/her designee (hereinafter collectively referred to as "Administrator"), regarding the following actions:

1. Rejection of an Employer's proposed program,

2. Denial of an Employer's request for a waiver or modification of any of the requirements under this Chapter, or

3. Rejection of an Employer's modification of the Employer's program.

B. Requirements to Commence Appeal

1. Notice of Appeal: Within 14 calendar days of receiving notice from the Administrator of any of the final decisions described above, the Employer desiring to appeal must file with the City Clerk, a written Notice of Appeal, which shall fully, clearly, and thoroughly specify the grounds for appeal,. The Notice of Appeal must be signed by the Employer/Appellant. The Employer/Appellant must file with the Notice of Appeal the written notice from the Administrator from which the appeal is being taken. The Notice of Appeal may not contain any factual information that was not submitted to the Administrator.

2. Appeal Fee: The Notice of Appeal shall be accompanied by a fee in the amount provided for appeals of land use decisions, as described in RMC 4-1-170A, as that provision is currently worded and as hereafter amended. All appeal fees must be received by the City Clerk before the end of the business day on the last day of the filing period or the filing will be considered incomplete and will be rejected.

3. Facsimile Filing: The required Notice of Appeal may be filed by facsimile. However, such facsimile filing, in its entirety, must be

received by the City Clerk's office no later than five o'clock (5:00) p.m., on the last date for filing. The filing party bears the burden to ensure that the facsimile filing is transmitted in adequate time so that it will be received, in its entirety, by the City before five o'clock (5:00) p.m. The appeal fee must be received by the City Clerk's office as required by RMC 10-13-11B 2, above.

C. Referral to and Authority of Hearing Examiner

1. The appeal will be referred to the Hearing Examiner of the City (hereinafter referred to as "Examiner").

2. The Examiner shall have all the authority of the office from which the appeal is taken.

3. The Examiner shall have the authority to schedule a hearing, and shall have the duty to notify the Employer/Appellant and the Administrator of the hearing date, time, and location.

4. The Examiner shall have the authority to order or accept submissions by the Employer/Appellant and the Administrator and hear argument by those participants.

D. Record on Appeal:

1. The Record on Appeal shall consist of the materials submitted to the Administrator, the City's CTR Plan, the notice sent to the Employer/Appellant by the Administrator, and the Notice of Appeal.

2. No new or additional evidence or testimony will be accepted by the Examiner unless a showing is made by the party offering the evidence that the evidence could not reasonably have been available at the time of the submissions to the Administrator. If the Examiner determines that additional evidence is

required, the Examiner shall remand the matter to the Administrator with directions to the Employer/Appellant to submit the new information to the Administrator for a new determination.

3. The Employer/Appellant, as well as the Administrator, may submit written arguments based on the record. However, no new evidence will be permitted in these submissions, except as provided above. New evidence submitted that is not in compliance with RMC 10-13-11D2, above, shall be removed from the submissions. These submissions shall become part of the record on appeal.

E. Burden of Proof and Decision:

1. The burden rests with the Employer/Appellant to show by clear, cogent, and convincing evidence that the decision being appealed is not consistent with the State law.

2. The decision of the Administrator shall carry substantial weight in any appeal proceeding.

3. The Examiner shall render a written decision within ten (10) days of the adjournment of the hearing, unless, before the hearing is adjourned he asks the parties for extra time, which shall be a time certain.

4. The Examiner's decision will be final.

SECTION XII. Section 10-13-13, Enforcement and Penalties, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby deleted.

SECTION XIII. Section 10-13-15, Severability, of Chapter 13, Commute Trip Reduction, of Title X (Traffic), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington," is hereby renumbered to Section 10-13-12.

SECTION XIV. This ordinance shall be effective upon its passage, approval, and thirty (30) days after publication.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2008.

_____
Bonnie I. Walton, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2008.

_____
Denis Law, Mayor

Approved as to form:

_____
Lawrence J. Warren, City Attorney

Date of Publication: _____

ORD.1451:3/13/08:scr

CITY OF RENTON, WASHINGTON

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF RENTON, WASHINGTON, ADOPTING THE 2007 CITY OF RENTON COMMUTE REDUCTION PLAN, INCLUDING POLICIES FOR MAJOR EMPLOYERS IN RENTON, TO SATISFY THE COMMUTE TRIP REDUCTION REQUIREMENTS OF STATE LAW.

WHEREAS, in 1993, the City of Renton adopted a Commute Trip Reduction Plan by Resolution No. 2951; and

WHEREAS, in 1993, the City of Renton adopted a Commute Trip Reduction Ordinance, No. 4392; and

WHEREAS, the city's Commute Trip Reduction Ordinance was amended in 1998 by Ordinance No. 4719; and

WHEREAS, the requirements previously imposed by state law have changed; and

WHEREAS, amendments need to be made to the City of Renton Commute Trip Reduction Plan and the Commute Trip Reduction Ordinance; and

WHEREAS, the 2007 City of Renton Commute Trip Reduction Plan is attached hereto as Exhibit A; and

WHEREAS, the City of Renton will adopt contemporaneously with this Resolution amendments to the Commute Trip Reduction Ordinance,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RENTON, WASHINGTON, DOES RESOLVE AS FOLLOWS:

SECTION I. The above recitals are found to be true and correct in all respects.

SECTION II. The City Council of the City of Renton hereby adopts the 2007 City of Renton Commute Trip Reduction Plan, attached hereto as Exhibit A and incorporated by

this reference as if fully set forth herein. This Plan may, from time to time, be amended by resolution of the City Council.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2008.

_____
Bonnie I. Walton, City Clerk

APPROVED BY THE MAYOR this _____ day of _____, 2008.

_____
Denis Law, Mayor

Approved as to form:

_____
Lawrence J. Warren, City Attorney

Date of Publication: _____

RES.1342:5/14/08:scr