

Title 15 ENVIRONMENTAL PROTECTION

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Chapter 15.28

COMMUTER TRIP REDUCTION

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

“Affected employee” means a full-time employee who begins his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least 12 continuous months. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

“Affected employer” means an employer that employs 200 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 12 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.)

“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.

“Alternative work schedules” mean programs such as compressed work weeks that eliminate work trips for affected employees.

“Base year” means the period on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

“Carpool” means a motor vehicle occupied by two to six people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

“Commute trips” mean trips made from a worker’s home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.

“CTR plan” means a (Town’s/county’s) plan and ordinance to regulate and administer the CTR programs of affected employers within its jurisdiction.

“CTR program” means an employer’s strategies to reduce affected employees’ SOV use and VMT per employee.

“CTR zone” means an area, such as a census tract or combination of census tracts, within a (Town/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.

“Commuter matching service” means a system that assists in matching commuters for the purpose of commuting together.

“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 10-hour days or 80 hours in nine days, but may also include other arrangements.

“Custom bus/buspool” means a commuter bus service arranged specifically to transport employees to work.

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

“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.

“Exemption” means a waiver from any or all CTR program requirements granted to an employer by a Town based on unique conditions that apply to the employer or employment site.

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

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

“Good faith effort” means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter, and is working collaboratively with the Town 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.

“Implementation” means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.551 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.

“Mode” means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, walking, compressed work schedule and telecommuting.

“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.

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

“Peak period trip” means any employee trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

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

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

“Single-occupant vehicle (SOV) trips” mean commute trips made by affected employees in SOVs.

“Single worksite” means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way occupied by one or more affected employers.

“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.

“Transit” means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero vehicle trips.

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

“Transportation management organization (TMO)” means a group of employers or an association representing a group of employers in a defined geographic area. A TMO may represent employers within specific Town limits or may have a sphere of influence that extends beyond Town limits.

“Vanpool” means a vehicle occupied by from seven to 15 people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

“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.

“Week” means a seven-day calendar period starting on Monday and continuing through Sunday.

“Weekday” means any day of the week except Saturday or Sunday.

“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.

15.28.020 Eatonville CTR plan.

The Town’s CTR plan set forth in Attachment A to the ordinance codified in this chapter is wholly incorporated herein by reference.

15.28.030 Responsible Eatonville agency.

The Town administrator or his or her designee responsible for implementing this chapter, the CTR plan, and the Eatonville CTR program should be identified together with any authority necessary to carry out such responsibilities such as rulemaking or certain administrative decisions.

15.28.040 Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the Town.

15.28.050 Notification of applicability.

In addition to Eatonville's established public notification for adoption of an ordinance, a notice of availability of a summary of this chapter, a notice of the requirements and criteria for affected employers to comply with this chapter, and subsequent revisions shall be published at least once in Eatonville's official newspaper not more than 30 days after passage of the ordinance codified in this chapter or revisions. Affected employers located in Eatonville are to receive written notification that they are subject to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR manager at the worksite. Such notification shall be at least 180 days prior to the due date for submittal of their CTR program. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of said ordinance and are either notified or identify themselves to the Town within 180 days of the passage of said ordinance will be granted an extension to assure up to 180 days within which to develop and submit a CTR program. Affected employers that have not been identified or do not identify themselves within 180 days of the passage of said ordinance and do not submit a CTR program within 180 days from the passage of said ordinance are in violation of this chapter.

15.28.060 New affected employers.

Employers that meet the definition of "affected employer" in this chapter must identify themselves to the Town within 180 days of either moving into the boundaries of Town or growing in employment at a worksite to 200 or more affected employees. Such employers shall be given 180 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days are in violation of this chapter. New affected employers shall have two years to meet the first CTR goal of a 15 percent reduction in proportion of single occupant vehicle trips or vehicles miles traveled per person; four years to meet the second goal of a 20 percent reduction; six years to meet the third goal of a 25 percent reduction; and 12 years to meet the fourth goal of a 35 percent reduction, from the time they begin their program.

15.28.070 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 200 or more affected employees and expects not to employ 200 or more affected employees for the next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to notify the Town that it is no longer an affected employer.

(2) If the same employer returns to the level of 200 or more affected employees within the same 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 200 or more affected employees 12 or more months after its change in status to an “unaffected” employer, that employer shall be treated as a new affected employer and will be subject to the same program requirements as other new affected employers.

15.28.080 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 encourage its employees to reduce VMT per employee and SOV commute trips. The employer shall submit a description of its program to Eatonville and provide an annual progress report to Eatonville on employee commuting and progress toward meeting the SOV goals. The CTR program must include the mandatory elements as described below.

15.28.090 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. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees’ commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs.

At a minimum, the employer’s description must include:

(1) General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;

(2) Number of employees affected by the CTR program;

(3) Documentation of compliance with the mandatory CTR program elements (as described in EMC 15.28.100);

(4) Description of the additional elements included in the CTR program (as described in EMC 15.28.100); and

(5) Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

15.28.100 Mandatory program elements.

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

(1) Transportation Coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator’s and/or designee’s name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer’s CTR program and act as liaison between the employer and Town. 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.

(2) Information Distribution. Information about alternatives to SOV commuting shall be provided to employees at least once a year. Each employer’s program description and annual report must report the information to be distributed and the method of distribution.

(3) Annual Progress Report. The CTR program must include an annual review of employee commuting and progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file an annual progress report with the Town 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, the results of any commuter surveys undertaken during the year, 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. Survey information or approved alternative information must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth, and twelfth years after implementation begins. The employer should contact the Town for the format of the report.

(4) 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 preferential parking or reduced parking charges, or both, for high-occupancy vehicles; instituting or increasing parking charges for SOVs; provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;

(b) Provision of subsidies for transit fares;

(c) Provision of vans for vanpools;

(d) Provision of subsidies for carpools or vanpools;

(e) Permitting the use of the employer's vehicles for carpooling or vanpooling;

(f) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;

(g) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(h) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

(i) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(j) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

(k) Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes;

(l) Establishment of a program of alternative work schedules, such as a compressed work week which reduces commuting; and

(m) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

15.28.110 Record keeping.

Affected employers shall include a list of the records they will keep as part of the CTR program they submit to Eatonville for approval. Employers will maintain all records listed in their CTR program for a minimum of 24 months. Eatonville and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

15.28.120 Schedule and process for CTR reports.

(1) CTR Program. Not more than 180 days 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 Town a description of that program for review.

(2) Document Review. Eatonville 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 Town 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.

(3) CTR Annual Progress Reports. Upon review of an employer's initial CTR program, the Town shall establish the employer's annual reporting date, which shall not be less than 12 months from the day the program is submitted. Each year on the employer's reporting date, the employer shall submit to the Town its annual CTR report.

(4) Modification of CTR Program Elements. Any affected employer may submit a request to Eatonville for modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping 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. 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/or secondly, in the goal measurement 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.

(5) Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be 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 Town 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 annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the Town administrator.

15.28.130 Implementation of employer's CTR program.

Unless extensions are granted, the employer shall implement its approved CTR program not more than 180 days after the program was first submitted to the Town. Implementation of the approved program modifications shall begin within 30 days of the final decision or 180 days from submission of the CTR program or CTR annual report, whichever is greater.

15.28.140 Credit for transportation demand management efforts leadership certificate.

As public recognition for their efforts, employers with VMT per employee and proportion of SOV trips lower than the zone average will receive a commute trip reduction certificate of leadership from the Town.

15.28.150 Credit for programs implemented prior to the base year.

Employers with successful TDM programs implemented prior to the base year may be eligible to apply for program exemption credit, which exempts them from most program requirements. Affected employers wishing to receive credit for the results of existing TDM efforts may do so by applying to Town within 90 days of the adoption of the ordinance codified in this chapter. Application shall include data from a survey of employees or equivalent to establish the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent data shall conform to all applicable standards established in the CTR task force guidelines. The employer shall be considered to have met the first measurement goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the final base year CTR zone values. This three percentage point credit applies only to the first measurement goals.

15.28.160 Program exemption credit.

Affected employers may apply for program exemption credit for the results of past or current TDM efforts by applying to the Town within 90 days of adoption of the applicable CTR ordinance, or as part of any annual report. Application shall include results from a survey of employees, or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in the CTR task force guidelines. Employers that apply for credit and whose VMT per employee and proportion of SOV trips are equal to or less than goals for one or more future goal years, and commit in writing to continue their current level of effort, shall be exempt from the requirements of this chapter except for the requirements to report performance in the measurement years. If any of these reports indicate the employer does not satisfy the next applicable goal(s), the employer shall immediately become subject to all requirements of the CTR ordinance.

15.28.170 Compliance.

For purposes of this section, "compliance" means fully implementing in good faith all provisions in an approved CTR program.

15.28.180 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 goals, the employer has satisfied the objectives of the CTR plan and will not be required to modify its 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 Town/county shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the Town/county for approval within 30 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 Town shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The Town shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the Town 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 Town within 10 working days of the conference.

15.28.190 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 CTR program, including:

(a) Employers notified or that have identified themselves to the Town within 180 days of the ordinance codified in this chapter being adopted and that do not submit a CTR program within 180 days from the notification or self-identification;

(b) Employers not identified or self-identified within 180 days of the ordinance codified in this chapter being adopted and that do not submit or implement a CTR program within 180 days from the adoption of the ordinance codified in this chapter;

(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;

(3) Failure to make a good faith effort, as defined in RCW 70.94.534 and this chapter; or

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

15.28.200 Penalties.

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 SOV or VMT goal; each day of failure to implement the program shall constitute a separate violation, subject to penalties as described in Chapter 7.80 RCW. The Town administrator shall prepare a schedule of fines. 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 Eatonville and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

15.28.210 Worksite exemptions.

An affected employer may request Eatonville 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 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 Eatonville 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. Eatonville shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year. (Ord. 18-99 § 23, 1999).

15.28.220 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 work site'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. Eatonville will use the criteria identified in the CTR task force guidelines to assess the validity of employee exemption requests. Eatonville shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

15.28.230 Modification of CTR program goals.

An affected employer may request that Eatonville modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program. The Town will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR task force guidelines. An employer may not request a modification of the applicable goals until one year after Town/county approval of its initial program description or annual report.

15.28.240 Appeals.

Affected employers may appeal administrative decisions to the Town council by submitting a written request for such an appeal to the Town administrator within 20 calendar days of the administrative decision.

END -- COB