

CITY OF LYNNWOOD
ORDINANCE NO. 2273

RELATING TO COMMUTE TRIP REDUCTION PROGRAMS FOR MAJOR EMPLOYERS:
AMENDING LYNNWOOD'S MUNICIPAL CODE TITLE 11, TRAFFIC, CHAPTER 11.14
CONSISTENT WITH THE 1997 REVISIONS TO THE STATE COMMUTE TRIP REDUCTION LAW

WHEREAS, the Washington State Commute Trip Reduction (CTR) Law was adopted by the 1991 Legislature (Chapter 202, Sections 10 to 19) and incorporated into the Washington Clean Air Act as RCW 70.94.521-551; and

WHEREAS, the intent of the state CTR Law is to improve air quality, reduce traffic congestion, and reduce the consumption of petroleum fuels through employer-based programs that encourage the use of alternatives to the single-occupant vehicle for the commute trip; and

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

WHEREAS, the City of Lynnwood adopted Ordinance No. 1930, on December 28, 1992 (codified as LMC Chapter 11.14) consistent with the requirements of the state CTR law; and

WHEREAS, on May 5, 1997, Washington State Governor Locke signed Substitute House Bill 1513 into law amending the state CTR Law; and

WHEREAS, certain revisions to LMC Chapter 11.14 are necessary to be consistent with the 1997 amendments to the state CTR Law; and

WHEREAS, upon motion duly made the City Council of the City of Lynnwood has determined to amend the official text of the Municipal Code of the City of Lynnwood;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

SECTION 1. LMC 11.14.010 Amended. Section 11.14.010 of the Lynnwood Municipal Code, is amended by adding a new definition to read as follows:

11.14.010. Good Faith Effort

"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 Lynnwood 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.

SECTION 2. LMC 11.14.010 Amended. Section 11.14.010 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.010 Transportation Manager

"Transportation Manager" means the Community Development Director, or his or her designee(s) who will be responsible for administering the City's Commute Trip Reduction activities.

SECTION 3. LMC 11.14.042 Amended. Section 11.14.042 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.042 NEW AFFECTED EMPLOYERS

Employers that meet the definition of "Affected Employer" in this Chapter must identify themselves to the City within 180 days of either moving into the boundaries of Lynnwood or growing in employment at a worksite to one hundred (100) or more affected employees. Such employers shall be granted a minimum of 150 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days of becoming an Affected Employer are in violation. New Affected Employers shall have two years to meet the first CTR goal of fifteen (15%) percent; four years to meet the second goal of twenty (20%) percent; and six years to meet the third goal of twenty-five (25%) percent; and twelve years to meet the fourth goal of thirty-five (35%) from the time they begin their program. The SOV and VMT goals specified above are based on reductions from the 1992 zone values for the CTR zone in which the worksite is located, or on the worksite's own base year value as measured by the CTR employee survey.

SECTION 4. LMC 11.14.050 Amended. Section 11.14.050 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.050 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 CTR program must include the mandatory elements described below. The employer shall submit a description of its program to the City and provide an annual progress report to the City on employee commuting and progress toward meeting the SOV goals.

SECTION 5. LMC 11.14.052 Amended. Section 11.14.052 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.052 CTR PROGRAM DESCRIPTION REQUIREMENTS

- A. The CTR program description presents the strategies to be undertaken by an Affected Employer to achieve the commute trip reduction goals for 1995, 1997, 1999, and 2005. 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.

SECTION 6. LMC 11.14.054 Amended. Section 11.14.054 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.054 MANDATORY PROGRAM ELEMENTS

- C. Annual Progress Report. The CTR program must include an annual review of employee commuting and of progress toward meeting the SOV reduction goals. Affected employers shall file an annual progress report with the City in accordance with the format established by the City. 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 1995, 1997, 1999, 2001, 2003 and 2005 annual reports.

SECTION 7. LMC 11.14.076 Repealed. Section 11.14.076 of the Lynnwood Municipal Code, is repealed.

SECTION 8. LMC 11.14.080 Amended. Section 11.14.080 of the Lynnwood Municipal Code, is amended to read as follows

11.14.080 CREDIT FOR TRANSPORTATION DEMAND MANAGEMENT EFFORTS

- C. Process to Apply for Program Exemption Credit. Affected employers may apply for program exemption credit for the results of past or current transportation demand management (TDM) efforts by applying to the City in their initial program description or as part of any other annual report. Application shall include results from a survey of employees, or equivalent 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 Section 7 of the Measurement and Evaluation Guidelines of the Commute Trip Reduction Task Force Guidelines (Revised Fall 1997).

SECTION 9. LMC 11.14.090 Amended. Section 11.14.090 of the Lynnwood Municipal Code, is amended by adding a new violation to read as follows:

11.14.090 ENFORCEMENT

- B. Violations. The following constitute violations if the deadlines established in this Chapter are not met:
 - 1. Failure to develop and/or submit on time a complete program, including:
 - a. Employers notified or that have identified themselves to the City as Affected Employers within 180 days of the ordinance being adopted and that do not submit a CTR program within 150 days from the notification or self-identification; or

- b. Affected Employers not identified or self-identified within 180 days of the ordinance being adopted and that do not submit or implement a CTR program within 180 days from the adoption of the ordinance;
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 Chapter; or
3. Failure to modify an unacceptable CTR program after 1995.
4. Failure to make a good faith effort, as defined in RCW 70.94.534(4) and this ordinance.

SECTION 10. LMC 11.14.095 Amended. Section 11.14.095 of the Lynnwood Municipal Code, is amended by adding new language to read as follows:

11.14.095 PENALTIES

- C. No affected employer with an approved CTR program may be held liable for failure to reach the applicable SOV or VMT goals.

SECTION 11. LMC 11.14.100 Amended. Section 11.14.100 of the Lynnwood Municipal Code, is amended by revising language and adding two new exemptions to read as follows:

11.14.100 EXEMPTIONS AND GOAL MODIFICATIONS

- A. **Worksite Exemptions.** An Affected Employer may submit a request to the city to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the Chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the Affected Employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by the City at any time based on written notice provided by the 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 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 Lynnwood will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

- C. Modification of CTR Program Goals. An affected employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description and annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program. The City of Lynnwood 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 the City approved its initial program description or annual report.

SECTION 12. LMC 11.14.110 Amended. Section 11.14.110 of the Lynnwood Municipal Code, is amended to read as follows:

11.14.110 MODIFICATION OF EMPLOYER CTR PROGRAM

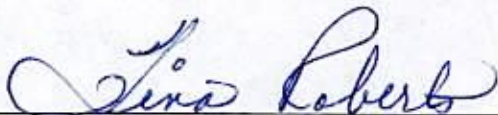
The following criteria for achieving goals for VMT per employee and proportion of SOV trips shall be applied in determining requirements for employer CTR program modifications:

- A. If an affected employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets the either or both the applicable SOV or VMT goal, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program; and
- B. If an affected employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable SOV or VMT goal, the City of Lynnwood 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 City of Lynnwood for approval within 30 days of reaching an agreement.
- C. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this section, and fails to meet either the applicable SOV or VMT reduction goal, the City of Lynnwood shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The City of Lynnwood 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 Lynnwood will send written notice to that effect to the employer 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 Lynnwood within ten working days of the conference.

SECTION 13. SEVERABILITY. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 14. EFFECTIVE DATE. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

PASSED THIS 25th day of October 1999 and signed in authentication of its passage this 26 day of October 1999.



TINA ROBERTS, Mayor

ATTEST:



MIKE BAILEY, Finance Director

APPROVED AS TO FORM:



JOHN WATTS, City Attorney

File Number: 98CAM0003

File Name: CTR AMENDMENT