

ORDINANCE NO. 1215

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REPEALING CHAPTER 10.28, COMMUTE TRIP REDUCTION PLAN OF THE GIG HARBOR MUNICIPAL CODE, ADOPTED BY ORDINANCE 669, AND ADOPTING NEW CHAPTER 10.28 GHMC, COMMUTE TRIP REDUCTION PLAN IN ACCORDANCE WITH REVISIONS MADE TO RCW 70.94.521 THROUGH 70.94.551.

WHEREAS, the Commute Trip Reduction Act (RCW 70.94.521-551) requires Pierce County affected jurisdictions to develop and implement a Commute Trip Reduction (CTR) Plan; and

WHEREAS, the City of Gig Harbor adopted Ordinance No. 669 on April 11, 1994 to adopt a Commute Trip Reduction Plan; and

WHEREAS, the City of Gig Harbor had one employer which later provided evidence that it was no longer an affected employer as defined in GHMC 10.28.030(B) and Gig Harbor City Council adopted Resolution No. 430, formally removing Gig Harbor as a city in Pierce County with an affected employer; and

WHEREAS, the City of Gig Harbor is once again an affected employer and Resolution No. 802 was adopted on September 14, 2010 reinstating the existing Commute Trip Reduction Plan as codified in Chapter 10.28 GHMC; and

WHEREAS, the 2006 Washington State Legislature made several revisions to RCW 70.94.521-551; and

WHEREAS, on March 28, 2007, at an employer workshop, CTR-affected employers discussed the benefits of employer based CTR programs, identified barriers to decreasing drive alone commute trips and identified possible solutions needed to shift mode split; and

WHEREAS, the drafting of a CTR plan was a cooperative effort between Pierce County, Pierce Transit and the other CTR-affected cities of DuPont, Fife, Lakewood, Puyallup, Tacoma and University Place; and

WHEREAS, Washington State Department of Transportation reviewed and approved the City of Gig Harbor's Draft CTR Plan on May 10, 2010; and

WHEREAS, the Puget Sound Regional Council reviewed and approved the City of Gig Harbor's Draft CTR Plan for regional consistencies on February 8, 2011; and

WHEREAS, the governor appointed Washington State Commute Trip Reduction Board unanimously approved the City of Gig Harbor's Draft CTR Plan on April 22, 2011; and

WHEREAS, on June 20, 2011, Jennifer Kester, Senior Planner for the City of Gig Harbor, concluded that the proposed CTR Plan relates solely to government procedures and is, therefore, exempt from SEPA review;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Repeal. Chapter 10.28 GHMC and Ordinance No. 669 are hereby repealed in their entirety.

Section 2. Adoption of New Code. Chapter 10.28 GHMC, Gig Harbor Commute Trip Reduction is adopted as shown in Exhibit A. attached hereto and incorporated herein by reference.

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 shall be published and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the Council of the City of Gig Harbor, this 11th day of July, 2011

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

By: MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

Angela Belbeck, City Attorney

FILED WITH THE CITY CLERK: 06/21/11
PASSED BY THE CITY COUNCIL: 07/11/11
DATE PUBLISHED: 07/20/11
DATE EFFECTIVE: 07/25/11

Exhibit 'A'

CHAPTER 10.28 COMMUTE TRIP REDUCTION

Sections:

- 10.28.010 Purpose and Intent.
- 10.28.020 Definitions.
- 10.28.030 City Commute Trip Reduction Plan.
- 10.28.040 Responsible Official/Agency.
- 10.28.050 Applicability.
- 10.28.060 Notification of Applicability.
- 10.28.070 Employer Program Requirements.
- 10.28.080 Program Modifications and Exemptions.
- 10.28.090 Review of Commute Trip Reduction Programs.
- 10.28.100 Enforcement and Penalties.
- 10.28.110 Appeals of Administrative Decisions.
- 10.28.120 Commute Trip Reduction Program for Employees of City Government.

10.28.010 Purpose and Intent.

The purpose of this Chapter is to promote the public health, safety, and general welfare by establishing goals and requirements for employers to implement Commute Trip Reduction programs in accordance with RCW 70.94.521-551. The City recognizes the importance of increasing citizens' awareness of climate changes, air quality, energy consumption, and traffic congestion and the contribution individual actions can make toward addressing these issues. The intent of this Chapter is to achieve the following objectives:

1. 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 (SOV) for the commute trip.
2. To make optimal use of existing and planned transportation facilities to minimize development costs and preserve business opportunities in Gig Harbor, Pierce City and the State of Washington.
3. To adopt a cooperative and coordinated approach to reducing the number of SOV trips and average vehicle miles traveled (VMT) to ensure consistency regarding CTR policies and implementation.
4. To treat affected employers in a fair and reasonable manner.

10.28.020 Definitions.

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 workday at a single worksite covered by the Commute Trip Reduction Plan between 6 a.m. and 9 a.m. (inclusive) on two (2) or more weekdays for at least

fifty-two (52) continuous weeks. Independent contract employees are excluded. Seasonal agriculture employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees. Construction workers who work at a construction site with an expected duration of less than two (2) years are excluded from this definition.

- B. "Affected Employer" means an employer who employs one hundred (100) or more affected employees.
- C. "Affected Employer Worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, and at which there are one hundred (100) or more affected employees.
- D. "Alternative Commute Mode" refers to any means of commuting other than that in which the single-occupant motor vehicle is the dominant mode, including teleworking/telecommuting and compressed work week schedules that result in the reduction of commute trips.
- E. "Carpool" means a motor vehicle occupied by two (2) to four (4) people of at least sixteen (16) years of age traveling together for their commute trip that results in the reduction of a minimum of one (1) motor vehicle commute trip.
- F. "Commute Trip" means a trip that is made from a worker's home to a worksite.
- G. "CTR" is the abbreviation of Commute Trip Reduction.
- H. "Commute Trip Reduction (CTR Plan" means the adopted City of Gig Harbor plan and ordinance to regulate and administer the CTR Programs of affected employers.
- I. "CTR Program" means an employer's strategies to reduce employees' SOV trips and average VMT per employee.
- J. "Compressed Work Week" means a full-time employee work schedule that allows an employee to eliminate at least one (1) workday every two (2) weeks by working more hours during the remaining days, resulting in fewer commute trips by the employee. Examples would include working four (4) workdays per week or nine (9) workdays in two weeks. Compressed work weeks are understood to be an ongoing arrangement.
- K. "Day" means calendar day.
- L. "Dominant Mode" means the mode of travel used for the greatest distance of a commute trip.
- M. "Employee Transportation Coordinator" means a designated person who is responsible for the development, implementation and monitoring of an employer's CTR Program.
- N. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, City, district or other individual or entity, whether public, nonprofit, or private, that employs workers.
- O. "Flex-Time" is a flexible work schedule which is a mutual agreement between the employee and the employer to choose the work time, but not the number of working hours. Flex-time is understood to be an ongoing arrangement.

- P. "Full-Time Employee" means a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two (52) weeks for an average of at least thirty-five (35) hours per week.
- Q. "Good Faith Effort" means that an employer has met the minimum requirements identified in RCW 70.94.534(2) and this Chapter and is working collaboratively with the City to continue its existing CTR Program or is developing and implementing program modifications likely to result in improvements to its CTR Program over an agreed upon length of time.
- R. "Implementation" or "Implement" means active pursuit by an employer to achieve the CTR goals of RCW 70.94.521-.551 and this Chapter.
- S. "Mode" means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, train, ferry, bicycle, compressed work week schedules, teleworking/telecommuting, and walking.
- T. "Newly Affected Employer" refers to an employer that is not an affected employer upon the effective date of this Chapter but who becomes an affected employer subsequent to the effective date of this Chapter.
- U. "Proportion of Single-Occupant Vehicle Trips" means the number of commute trips over a set period made by employees in SOVs divided by the number of potential trips taken by employees working during that period.
- V. "Single-Occupant Vehicle" or "SOV" means a motor vehicle occupied by one (1) person for commute purposes, including a motorcycle.
- W. "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.
- X. "Teleworking/telecommuting" means the authorization of an employee to work from home, satellite office or from a teleworking center, thus eliminating a commute trip or reducing the distance traveled in a commute trip by at least half of the employee's regular commute distance.
- Y. "Transit" means a multiple-occupant vehicle operated on a shared-ride basis, including bus, ferry, or rail.
- Z. "Transportation Management Organization (TMO)" or "Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMO/TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.
- AA. "Vanpool" means a vehicle occupied by five (5) to fifteen (15) people of sixteen (16) or more years of age traveling together for their commute trip that results in the reduction of motor vehicle trips.
- BB. "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.
- CC. "Week" means a seven-day calendar period, starting on Sunday and continuing through Saturday.
- DD. "Weekday" means any day of the week except Saturday or Sunday.

EE. "Writing," "Written," or "In Writing" means original signed and dated documents. Facsimile (fax) transmissions and electronic transmissions are a temporary notice of action that must be followed by the original signed and dated via mail or delivery.

10.28.030 City CTR Plan.

The City has a variety of responsibilities pursuant to the requirements of RCW 70.94.521-551. The City CTR Plan addresses these responsibilities and establishes the goals for the City and the CTR-affected employers and is incorporated herein by reference.

10.28.040 Responsible Official/Agency.

The City Administrator and the Employee Transportation Coordinator are jointly responsible for implementing this Chapter.

10.28.050 Applicability.

- A. Affected Employer. The provisions of this Chapter shall apply to any affected employer at any single worksite within the limits set forth in the City CTR Plan.
- B. Change in Status as an Affected Employer. Any of the following changes in an employer's status may change the employer's CTR Program requirements:
 1. Change from Affected to a Non-affected Status. 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 in writing that it is no longer an affected employer and provide supporting evidence.
 2. Change in Status within a Twelve (12) Month Period. If an employer drops below the threshold and then returns to the threshold 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 twelve (12) months, and will be subject to the program requirements as other affected employers.
 3. Change in Status after a Twelve (12) Month Period. If an employer drops below the threshold and then returns to the threshold 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.
- C. Newly Affected Employers.
 1. Identification. Newly affected employers must identify themselves to the City within thirty (30) days of either moving into the boundaries as set forth in the City CTR Plan or growing in employment at a worksite to one hundred (100) or more affected employees. It is the responsibility of the employer to notify

the City of its affected employer status. Newly affected employers who do not identify themselves within thirty (30) days will be considered to be in violation of this Chapter.

2. Survey. Newly affected employers shall perform a baseline measurement within ninety (90) days after the adoption of the CTR Program. The employer shall utilize the State provided survey measurement tool or State approved equivalent format and strive to achieve at least a seventy percent (70%) response rate from employees at the worksite. Employers who do not perform a baseline measurement within ninety (90) days of receiving written notification that they are subject to this Chapter are in violation of this Chapter.
3. Program Development. Not more than ninety (90) days after receiving notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the City, utilizing the format provided by the City. The program shall be developed in consultation with the City to be consistent with the goals of the CTR Plan. Employers who do not submit their CTR Program within ninety (90) days are in violation of this Chapter.
4. Implementation. The program shall be implemented not more than ninety (90) days after approval by the City. Employers who do not implement an approved CTR Program within ninety (90) days are in violation of this Chapter.

10.28.060 Notification of Applicability.

- A. Notice to Known Affected Employers. Known affected employers located in the City shall receive written notification that they are subject to this Chapter and any revisions to this Chapter. Such notice shall be by certified mail or delivery, return receipt, addressed to the company's chief executive officer, senior official, or CTR manager at the work site. Such notification shall be delivered thirty (30) days after the adoption of the Chapter or any revisions to the Chapter.
- B. Self-Identification of Affected Employers. Employers who, for whatever reasons, do not receive notice within thirty (30) days of adoption or amendment of this Chapter shall identify themselves to the City within sixty (60) days of the adoption of this Chapter.
- C. Notification of Non-Applicability. The employer shall notify the City, in writing, the non-applicability of this Chapter to their worksite.

10.28.070 Employer Program Requirements.

An affected employer shall 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 their employees to reduce VMT per employee and SOV trips. The employer shall provide effective staffing levels and financial resources to support the following employer requirements:

- A. CTR Program Description Requirements.

The CTR program description presents the strategies to be undertaken by an employer to achieve the CTR 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;
4. Description of the additional elements included in the CTR program; and
5. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

A. Employee Transportation Coordinator.

1. The employer shall designate an Employee Transportation Coordinator to administer the CTR Program. The coordinator 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 the City.
2. Employers with multiple affected worksites located in the city shall have effective program administration at each affected worksite.
3. An employer may utilize the Employee Transportation Coordinator services of a TMO/TMA. If a TMO/TMA is utilized, the employer shall still be responsible for meeting all the requirements of RCW 70.94.521-551 and this Chapter.

B. Information Distribution.

1. Information about alternatives to SOV commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year.
2. All new employees at the time of hire or during the employer's new hire orientation shall receive information about alternatives to SOV commuting, a summary of the employer's CTR Program and information to access a ridematching database.
3. At least quarterly, the Employer shall provide information to employees about commute options, employer program elements, or Citywide/statewide commuter services, programs and events.
4. At least once a year the employer shall conduct a transportation event or promotional campaign.

C. Emergency Ride Home. The employer shall offer to its employees an emergency ride home program that guarantees employees a free ride home in emergency situations when they use alternative commute modes.

D. Additional Program Elements Designed to Achieve the Goals. In addition to the specific program elements described above, employer CTR Programs shall include, but are not limited to, one or more of the following measures:

1. Provide preferential parking for high-occupancy vehicles;
2. Reduce parking charges for high-occupancy vehicles;
3. Institute or increase parking charges for SOV commuters;
4. Eliminate free parking;
5. Decrease the number of parking stalls within the constraints of the parking code regulations;
6. Provide a parking incentives program such as a rebate for employees who do not use the parking facilities;
7. Provide commuter ride matching services to facilitate employee ride-sharing for commute trips;
8. Provide subsidies for transit, rail, or vanpool fares and/or passes;
9. Provide subsidies for carpools, walking, bicycling, telework/telecommuting or compressed work week schedules;
10. Provide incentives for employees who do not drive alone to work;
11. Provide vans for vanpools;
12. Permit the use of the employer's vehicles for carpooling or vanpooling;
13. Permit the use of the employer's vehicles for emergency ride home or personal errands;
14. Establish a flex-time policy;
15. Establish a compressed work week schedules policy;
16. Establish a telework/telecommute policy;
17. Cooperate with transit providers to provide additional regular or express service to the worksite;
18. Construct a special loading and unloading facilities for transit, carpool, and vanpool users;
19. Provide bicycle parking facilities, changing areas, showers and clothes lockers for employees who bicycle or walk to work;
20. Implement other measures designed to facilitate the use of high-occupancy vehicles, such as on-site services like a cafeteria or day care facility;
21. Other ideas that facilitates the reduction of SOV trips.

E. CTR Program Reporting.

1. Quarterly Reporting. Affected employers shall submit to the City a quarterly progress report in accordance with the format provided by the City.
2. Due Dates for Quarterly Reporting. First quarter (January, February and March), Second Quarter (April, May and June) and Third Quarter (July, August and September) reports shall be due ten (10) days past the end of the quarter. Fourth quarter (October, November, and December) reports shall be due the second Wednesday in December.
3. Annual Reporting. Affected employers shall review their CTR Program and implementation progress by submitting an annual report with the City in accordance with the format provided by the City. The annual report shall

outline the strategies undertaken by an employer to achieve the CTR for the reporting period and the strategies to be undertaken for the next reporting year. The employer should evaluate the effectiveness of the CTR Program, and, if necessary, propose modifications to achieve the CTR goals.

- 4. Due Date for Annual Reporting. All annual reports shall be due by the second Wednesday of December.
- 5. Annual Reporting Extension. An employer may request an extension of up to thirty (30) days for submitting the annual report. The request shall be made in writing to the City no less than fifteen (15) days prior to the due date.

F. Biennial Survey 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 utilize the State provided survey measurement tool or state approved equivalent format and strive to achieve at least a seventy percent (70%) response rate from employees at the worksite. The City will establish a citywide measurement schedule that will require employers to conduct the measurement survey on a two (2) year cycle. Depending on when a newly affected employer is identified, a baseline survey and measurement survey may be required during the established measurement schedule. For the purpose of this Chapter, an employer shall not be required to survey more than once in a twelve (12) month period.

G. Record Keeping. Affected employers shall maintain a copy of official correspondences between the employer and the City, measurement results, and all supporting documentation for the descriptions and assertions made in any CTR report to the City for a minimum of forty-eight (48) months. The City and the employer shall agree on the record keeping requirements as part of the accepted CTR Program.

10.28.080 Program Modifications and Exemptions.

- A. At any time, any affected employer may request that the City grant a modification from a CTR Program requirement other than designation of the Employee Transportation Coordinator, information distribution, surveying, and annual reports.
- B. Modification of individual program measures shall not exempt an affected employer from complying with other required program measures.
 - 1. Employee Adjustment. Groups of employees (1) who are required to drive alone to work as a condition of employment, or (2) employees who work variable shifts throughout the year and do not rotate as a group to identical shifts may be exempted from a worksite's survey measurement. Affected employees who are exempted from a worksite's CTR Program shall be counted when determining the total number of affected employees at the worksite.

2. Hardship. A one (1) year program waiver may be granted only if an affected employer demonstrates extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that would reduce the proportion of SOV trips or average VMT per employee.
- C. Affected Employer May Request a CTR Program Modification or Waiver at Any Time. The City shall review such requests and notify the employer of its decision in writing within thirty (30) days of the date the written request is received. The City shall review annually all modifications and exemptions and shall determine whether they will remain in effect during the following program year.

10.28.090 Review of CTR Programs.

- A. Newly Affected Employer. The first annual report submitted by a newly affected employer shall be accepted by the City as long as it addresses necessary baseline information and all required elements.
- B. Review and Evaluation. The City's review and evaluation shall address the employer's good faith efforts toward meeting the CTR goals. Programs may be deemed acceptable or unacceptable based on the employer's progress in reducing commute trips, as measured by reduction in SOV trips or reduction in average VMT. The employer shall provide adequate information and documentation of program implementation when required by the City.
- C. Document Review. Within ninety (90) days of the date the City receives an employer's annual report, the City shall provide the employer with written notification of whether a CTR Program is deemed acceptable or unacceptable. If the CTR Program is deemed unacceptable, the notification must give cause for the rejection. The City may extend the review period up to ninety (90) days. If the review period is extended, the implementation date for the employer's CTR Program shall be extended an equivalent number of days.
- D. Review Criteria. The City shall use the following criteria to determine whether an affected employer shall be required to make modifications to its CTR Program.
 1. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets or exceeds either the applicable SOV or VMT reduction goal, the employer has satisfied the objectives of this Chapter, 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 fails to meet both the applicable SOV and VMT reduction goals, the City shall work collaboratively with the employer to implement program modifications likely to result in improvements to the program over an agreed upon length of time.
 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 both the applicable SOV and VMT reduction goals, the City shall work collaboratively with the employer to identify modifications to the CTR Program and shall direct the

employer to revise its program accordingly and submit the revised program to the City within thirty (30) days.

- D. Request for Conference. Within ten (10) days of receipt of written notice for an unacceptable CTR Program, the City or employer may request a conference to discuss the City's decision. This conference shall be scheduled during City official hours.
- E. Implementation of CTR Program Modifications. If the City proposes modifications to an affected employer's CTR Program due to the CTR Program's unacceptability, the affected employer shall have thirty (30) days to submit a revised CTR Program that includes the proposed or other mutually agreed modifications.
- F. Employer Intent to Modify. The employer shall notify the City in writing of its intent to substantially change or modify its approved program. Within thirty (30) days, the City shall review the request. If found unacceptable, the City shall work collaboratively with the employer to design program modifications likely to result in improvements to the program over an agreed upon length of time.
- H. Leadership Certificate. Employers who meet at least one (1) goal will receive a CTR Certificate of Leadership from the City.

10.28.100 Enforcement and Penalties.

- A. Compliance. For purposes of this Chapter, compliance shall mean fully implementing all provisions in an approved CTR Program or making a good faith effort as defined in RCW 70.94.534(2) and this Chapter.
- B. Violations. The following constitute violations of this Chapter:
 1. Failure to develop and/or submit a complete program by the applicable deadlines as stated in this Chapter.
 2. Failure to implement an approved CTR Program by the applicable deadlines as stated in this Chapter.
 3. Failure to modify an unacceptable CTR Program by the applicable deadlines as stated in this Chapter.
 4. Failure of an affected employer to identify itself to the City within sixty (60) days of the effective date of this Chapter.
 5. Failure of a newly affected employer to identify itself to the City within thirty (30) days of becoming an affected employer.
 6. Failure to submit quarterly and annual reports by the applicable deadlines as stated in this Chapter.
 7. Failure to complete the survey measurement by the applicable deadlines as stated in this Chapter.
 8. Failure to maintain CTR Program records.
 9. Intentionally submitting fraudulent or false information, data and/or survey results.

C. 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. Violation of this Chapter shall constitute a civil infraction subject to a penalty of two hundred fifty dollars (\$250.00).
3. Each day of failure to implement the program is a continuing offense and shall constitute a separate violation;
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 Gig Harbor and advise the union that the proposal being made is necessary for compliance with state law RCW 70.94.531.

10.28.110 Appeals of Administrative Decisions.

- A. Employers may file a written appeal of the City's final decision 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 a modification of the employer's program.
- B. Such appeals must be filed with the City within fifteen (15) calendar days after the City sends a notice of final decision to the employer.
- C. Timely appeals shall be heard by the City's Hearing Examiner. Determinations on appeals shall be based on whether the decision being appealed was consistent with the state law.

10.28.120 CTR Program for Employees of City Government.

In accordance with RCW 70.94.521-551, the City shall implement a CTR Program for City employees. A copy of the City's CTR Program is on file at the Gig Harbor Civic Center, 3510 Grandview Street, Gig Harbor, WA 98335.