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Spokane County Commute Trip Reduction Ordinance ORDINANCE NO: 99 0690

AN ORDINANCE ADOPTING THE SPOKANE COUNTY COMMUTE TRIP REDUCTION (CTR) PLAN AND IMPLEMENTING MEASURES AS REQUIRED BY RCW 70.94.527; AUTHORIZING THE COUNTY'S CODE REVISER TO ADD A NEW CHAPTER TO THE SPOKANE COUNTY CODE (SCC); AND OTHER MATTERS RELATING THERETO.

Spokane County does ordain:

That there be added to the SCC, a new Chapter, to be codified by the County's Code reviser and a designated Commute Trip Reduction Ordinance and Plan, to read as set forth in this document. The purpose of the Commute Trip Reduction Ordinance 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.

Section 1. Definitions

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

- A. "*Affected Employee*" means a full-time employee who is scheduled to begin 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 twelve continuous months. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.
- B. "*Affected Employer*" means an employer that employs one hundred (100) or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)
- C. "*Alternative Mode*" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks if they result in reducing commute trips.
- D. "*Alternative Work Schedules*" mean programs such as compressed work weeks that eliminate work trips for affected employees.
- E. "*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.

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- F. "*Carpool*" means a motor vehicle occupied by two (2) to six (6) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.
- G. "*Commute Trips*" mean trips made from a worker's home to a worksite with a regularly scheduled arrival time to meet a scheduled start time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.
- H. "*CTR Plan*" means Spokane County's plan and ordinance to regulate and administer the CTR programs of affected employers within its jurisdiction.
- I. "*CTR Program*" means an employer's strategies to reduce affected employees' SOV use and VMT per employee.
- J. "*CTR Zone*" means a geographic area, such as a census tract or combination of census tracts, 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.
- K. "*Commuter RideMatching Service*" means a system that assists in matching commuters for the purpose of commuting together.
- L. "*Compressed Work Week*" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements.
- M. "*Custom Bus/Buspool*" means a commuter bus service arranged specifically to transport employees to work.
- N. "*Dominant Mode*" means the mode of travel used for the greatest distance of a commute trip.
- O. "*Employer*" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs workers.
- P. "*Exemption*" means a waiver from any or all CTR program requirements granted to an employer based on unique conditions that apply to the employer or employment site.
- Q. "*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.

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- R.** "*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.
- S.** "*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 Spokane County 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.
- T.** "*Implementation*" means active pursuit by an employer of the CTR goals of RCW 70.94.521-551 and this ordinance 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.
- U.** "*Mode*" refers to 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.
- V.** "*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.
- W.** "*Peak Period*" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
- X.** "*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.
- Y.** "*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.
- Z.** "*Single-Occupant Vehicle (SOV)*" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.
- AA.** "*Single-Occupant Vehicle (SOV) Trips*" means commute trips made by affected employees in SOVs.
- BB.** "*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.

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CC. "*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.

DD. "*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 (0) vehicle trips.

EE. "*Transportation Coordinator*" means a designated person who is an employee of the affected employer and who is accessible to a worksite's employees in order to carry out the commute reduction requirements contained in this Ordinance and act as liaison between the employer and Spokane County.

FF. "*Transportation Demand Management (TDM)*" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

GG. "*Transportation Management Association/Organization (TMA/TMO)*" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA/TMO may represent employers within the unincorporated areas of Spokane County, or may have a sphere of influence that extends beyond County limits to include Cities within Spokane County.

HH. "*Vanpool*" means a vehicle occupied by from seven (7) to fifteen (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 (0) vehicle trips.

II. "*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.

JJ. "*Week*" means a seven-day calendar period starting on Monday and continuing through Sunday.

KK. "*Weekday*" means any day of the week except Saturday, Sunday and legal holidays.

LL. "*Writing, "Written," or "In Writing"*" means original signed and dated documents.

Facsimile (fax) or electronic mail (e-mail) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

Section 2. Spokane County CTR Plan

Spokane County's CTR Plan set forth in Attachment A is wholly incorporated herein by reference.

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Section 3. Responsible Agency

The Spokane County Commute Trip Reduction Office, a section within the Department of Public Works, Division of Engineering and Roads, is responsible for implementing this ordinance and the CTR plan. This responsibility may be exercised directly by County administrative staff or by contracting with another agency. The Spokane County Engineer is designated as the Responsible Official.

Section 4. Applicability

The provisions of this ordinance shall apply to any affected employer at any single worksite within the unincorporated limits of Spokane County. Employees will only be counted at their primary area worksite. It is the responsibility of the employer to notify Spokane County of a change in status as an affected employer.

A. Notification of Applicability

1. In addition to Spokane County'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 Spokane County's official newspaper not more than 30 days after passage of this ordinance or revisions.
2. Affected employers located in unincorporated Spokane County 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, 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.
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 Spokane County within 180 days of the passage of the ordinance will be granted an extension to assure up to 180 days within which to develop and submit a CTR program.
4. Affected Employers that have not been identified or do not identify themselves within 180 days of the passage of the ordinance and do not submit a CTR program within 180 days from the passage of the ordinance are in violation of this ordinance.

B. Newly Affected Employers

Employers that meet the definition of "affected employer" in this ordinance must identify themselves to Spokane County within 180 days of either moving into the boundaries of unincorporated Spokane County or growing in employment at a worksite to one hundred

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(100) or more affected employees. Such employers shall be given 180 calendar days from the official County notice that they are an affected employer to develop and submit a CTR program. Employers that do not identify themselves within 180 calendar days of becoming an affected employer are in violation of this ordinance. Newly affected employers shall have two years from the date of initial CTR Program approval 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 twelve years to meet the fourth goal of a 35 percent reduction.

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 and provide documentation to Spokane County that it is no longer an affected employer.
2. If the same employer returns to the level of one hundred (100) or more affected employees within the same twelve (12) month period, 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 5. Requirements for Employers

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 SOV commute trips. The employer shall submit a description of its program to Spokane County and provide an annual progress report to Spokane County on employee commuting and progress toward meeting the SOV goals, as set forth in Section 6 of this Ordinance. The employer shall measure progress toward applicable CTR goals every two years from affected date, in accordance with procedures and criteria identified in the Washington State Commute Trip Reduction (CTR) Task Force Guidelines. The CTR program must include the mandatory elements as described below.

A. CTR Program Description Requirements

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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. Each affected employer shall have the option of limiting its CTR program to affected employees only or making it's CTR program applicable to all employees, regardless of when their work shift begins.

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 subsection B of this section); 4) description of the additional elements included in the CTR program (as described in subsection B of this section); and 5) schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

B. 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 Spokane County. The objective is to have an effective transportation coordinator presence at each Spokane County worksite; an affected employer with multiple sites may have one transportation coordinator for these sites. The Transportation Coordinator must complete the Basic ETC Training Course offered by Spokane County within six (6) months of assuming "designated Transportation Coordinator" status.

2. Information Distribution

Information about alternatives to SOV commuting shall be provided to employees at least once a year. At a minimum, one written information piece that summarizes all the approved program elements in an employer's specific CTR program must be distributed directly to each affected employee every year. Each employer's program description and annual report must include a sample of the information distributed and method, along with a plan for the distribution of information and method of distribution in the next program year. At the time of hire, new employees must receive the current written CTR program summary. The employer should provide information on alternatives to commuting by single occupant vehicle to employees on a consistent basis throughout the program year, as specified and provided by Spokane County.

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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 Spokane County in accordance with the format established by this ordinance 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. The employer should include additional information as requested by Spokane County at the time of annual report notification. 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 Spokane County 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 combined with the provision of commuter ridematching services;
- b) Instituting or increasing parking charges for SOVs;
- c) Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips, when combined with personalized ETC assistance;
- d) Provision of subsidies for transit fares;
- e) Provision of vans for vanpools;
- f) Provision of subsidies for carpools or vanpools;
- g) Permitting the use of the employer's vehicles for carpooling or vanpooling;
- h) Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- i) Cooperation with transportation providers to provide additional regular or express service to the worksite;
- j) Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- k) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- l) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;

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- m) Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes;
- n) Establishment of a program of alternative work schedules, such as a compressed work week which reduces commuting; and
- o) Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as Guaranteed Ride Home emergency services or on-site day care facilities.

5. Base Year Survey

An affected employer must conduct an initial employee commute transportation survey to establish its worksite baseline for the number of VMTs and SOVs within its affected employee population. The base year survey should be conducted within ninety (90) days of notification from Spokane County of affected status, using questionnaires provided by Spokane County.

C. Record Keeping

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

Section 6. CTR Goals

Except as otherwise provided in this Ordinance, an affected employer shall include in its CTR Program measures designed to achieve the following percentage reductions from the applicable base year values by calculating the VMTs and SOVs of its employees. The percentage reductions will be calculated from the base year values for the CTR zone in which the affected employer is located or the employer's own worksite base year values, whichever generates the calculations most advantageous for the worksite. The goals are specified in RCW 70.94.527(4g).

Year	Percentage reduction of VMTs	Percentage reduction of SOVs
1995	15%	15%
1997	20%	20%
1999	25%	25%
2005	35%	35%

The CTR goals apply to newly affected employers on a corresponding timeline of 15% reduction after two years, 20% reduction after four years, 25% reduction after six years and a 35% reduction after twelve years.

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The base year values for the CTR zones and a map of the CTR zones within Spokane County are set forth in the County's CTR Plan, Appendix A.

Section 7. Schedule and Process for CTR Reports

A. CTR Program

Not more than 180 days after the adoption of this ordinance, or within six months after an employer qualifies under the provisions of this ordinance, the employer shall develop a CTR program and shall submit to Spokane County a description of that program for review.

B. Document Review

Spokane County shall send a letter of CTR Program approval to all affected employers that submit a CTR Program which is deemed acceptable by the County within ninety (90) calendar days of the date the completed CTR Program was received by Spokane County from the affected employer. Spokane County shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection.

Spokane County may extend the CTR Program review period up to 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days. 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.

C. CTR Annual Progress Reports

Upon review of an employer's initial CTR program, Spokane County shall establish the affected 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 Spokane County its annual CTR report. The County will distribute a standardized annual report form and program submittal information to each affected employer not less than thirty (30) days prior to the employer's annual reporting date. Spokane County may include provision for the submittal of additional information by the employer at the time of annual report notification.

D. Modification of CTR Program Elements

Any affected employer may submit a request to Spokane County for modification of CTR program elements, other than the mandatory elements specified in this ordinance, including record keeping requirements. Such request may be granted if one of the following conditions exist:

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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. 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.

E. Extensions

An affected 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. Spokane County shall grant or deny the employer's extension request by written notice within 14 calendar 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 Responsible Official.

F. 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 Spokane County. 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.

Section 8. Credit For Transportation Demand Management Efforts

A. Leadership Certificate

As public recognition for their efforts, affected employers who meet or exceed the CTR Goals as set forth in Section 6 of this Ordinance, will receive a Commute Trip Reduction Certificate of Leadership from Spokane County.

B. Credit For Programs Implemented Prior to the Base Year

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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, for their first year as an affected employer. Affected employers wishing to receive credit for the results of existing TDM efforts may do so by applying to Spokane County within 90 days of the adoption of this ordinance. 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 base year CTR zone values. This three percentage point credit applies only to the first measurement goals.

Section 9. Enforcement

A. Compliance

For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program and satisfying the requirements of this Ordinance.

B. 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 Ordinance, but has not met or is not likely to meet the applicable SOV or VMT goal, Spokane County shall work collaboratively with the employer to make required modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to Spokane 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 ordinance, and fails to meet the applicable SOV or VMT reduction goal, Spokane County shall work collaboratively with the employer to identify required 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 required 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. Spokane County shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, Spokane County

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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 Spokane County within 10 working days of the conference.

C. Violations

The following constitute violations if the applicable deadlines 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 Spokane County within 180 days of the ordinance 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 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, as defined in RCW 70.94.534 and this Ordinance;
- 3) Failure to make a good faith effort, as defined in RCW 70.94.534 and this Ordinance(2);
or;
- 4) Failure to revise an unacceptable CTR program as defined in RCW 70.94.534(4) and this Ordinance.

D. Penalties

Any affected employer violating any provision of this Ordinance shall be guilty of a civil infraction and subject to the imposition of civil penalties.

1. Whenever the County makes a determination that the affected employer is in violation of this Ordinance, the County shall issue a written notice and order and send it registered mail, return receipt requested, to the chief executive officer or highest ranking official at the worksite. The notice and order shall contain:
 - a) The name and address of the affected employer.
 - b) A statement that Spokane County has found the affected employer to be in violation of this Ordinance with a brief and concise description of the conditions found to be in violation.

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- c) A statement of the corrective action required to be taken. If Spokane County has determined that corrective action is required, the order shall require that all corrective action be completed by a date stated in the notice.
 - d) A statement specifying the amount of any civil penalty assessed on account of the violation; and
 - e) A statement advising that the order shall become final unless, no later than ten (10) working days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the designated Hearing Examiner as well as the name and mailing address of the person with whom the appeal must be filed.
2. The penalty for a first violation shall be \$100 per working day. The penalty for subsequent violations will be \$250 per working day for each violation.
 3. Penalties will begin to accrue 15 working days following the official date of notice from Spokane County. In the event an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the designated Hearing Examiner decide in favor of the appellant, all or a portion of the monetary penalties may be dismissed by the designated Hearing Examiner.
 4. 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.
 5. 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 Spokane County and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

Section 10. Exemptions and Modifications

A. Worksite Exemptions

An affected employer may request Spokane County 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

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extraordinary circumstances, such as bankruptcy or a protracted labor strike, and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by Spokane County at any time based on written notice of request 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. Spokane County 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. Spokane County will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. Under this condition, the applicable goals will not be changed, but those employees who need daily access to the vehicles they drive to work will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's program toward meeting the CTR goals. Spokane County 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 Spokane County modify its worksite 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) Spokane County 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 Spokane County approval of its initial program description or annual report.

D. Modification of CTR Zone

An affected employer may request that Spokane County adjust the CTR zone designation of a specific worksite. The employer must demonstrate that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affecting alternative commute options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's worksite may be made subject to the same goals for VMT per employee and proportion of SOV trips as employers in the adjoining CTR zone.

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Section 11. Appeals

Any affected employer may appeal administrative decisions regarding exemptions, modification of goals, CTR Program elements, and violations and penalties to the designated Hearing Examiner. Appeals shall be filed within 15 working days of the administrative decision. All appeals shall be filed with the Clerk of the Board of County Commissioners of Spokane County with offices at West 1116 Broadway Avenue, Spokane, Washington 99260. All appeals shall be in writing and must specify the decision being appealed as well as the specific basis for the appeal.

A. Criteria on Appeals

The designated Hearing Examiner, upon notification of a timely appeal by the Clerk of the Board of County Commissioners of Spokane County, will evaluate the appeal to determine if the decision is consistent with the CTR Law and the CTR Guidelines. The designated Hearing Examiner may schedule a meeting between the affected employer and the County. The decision of the designated Hearing Examiner shall be reduced to writing. It shall be sent by certified mail, return receipt requested, to the affected employer.

B. Appeal to the Board of County Commissioners.

Any affected employer may appeal the written decision of the designated Hearing Examiner to the Board of County Commissioners. Appeals shall be filed within 15 working days of the designated Hearing Examiner's written decision. All appeals shall be filed with the Clerk of the Board of County Commissioners of Spokane County.

The Board of County Commissioners shall consider only testimony and written documentation submitted to the designated Hearing Examiner on any matter appealed to the Board. No additional evidence shall be considered by the Board of County Commissioners.

Upon receipt of an appeal, the Board of County Commissioners will set a date no later than 30 calendar days, at which they will render their written decision on the appeal.

C. Judicial Appeals.

Any decision of the Board of County Commissioners, as provided for in Section (B) herein, shall be final and conclusive, unless not later than twenty (20) calendar days from the date of the written decision, the affected employer appeals to the Superior Court pursuant to RCW 36.32.330.

Section 12. Severability

If any provision of this Ordinance is held to be invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby.

NOT AN OFFICIAL COPY

PASSED and ADOPTED by the Board of County Commissioners of Spokane County, Washington, this 3rd day of August, 1999.

**BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON**