Ordinance No. 3086

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Repealed by Ord. 3474;
AN ORDINANCE of the City of Kent, Washington, adopting Commute Trip Reduction (CTR) measures as required by RCW 70.94.527.

WHEREAS, traffic congestion in the City of Kent imposes significant costs on City business, government and individuals in terms of lost working hours and delays in the delivery of goods and services, as well as making the City a less desirable place to live, work, visit and do business; and

WHEREAS, motor vehicle traffic is a major source of emissions that pollute the air, and air pollution causes significant harm to public health and degrades the quality of the environment; and

WHEREAS, reducing the number of vehicles using the streets of the City will postpone or eliminate the need and cost of increasing the capacity of existing roadways; and

WHEREAS, employers have significant opportunities to encourage and facilitate the reduction of single occupant vehicle commuting by their employees; and

WHEREAS, State policy, as set forth in RCW 70.94.521-551 and the CTR Task Force Guidelines, requires the City of Kent to develop and implement a plan to reduce single-occupant vehicle commute trips; and

WHEREAS, the plan must require affected employers to implement programs to reduce vehicle miles traveled per employee and the number of single occupant vehicles used for commuting purposes by their employees; and
WHEREAS, a transportation demand management element is required as part of the Washington State Growth Management Act (RCW 36.70A.070(6e)); NOW, THEREFORE,

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

Section 1. Title 6 of the Kent City Code is amended by adding thereto a new Chapter to be numbered 6.12, which Chapter shall read as follows:

Sec. 6.12.010. Short Title.

This ordinance shall be known as the Commute Trip Reduction (CTR) Ordinance, and may be cited as such.


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.

B. "Affected Employer" means an employer that, for 12 continuous months, employs 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.

C. "Alternative Mode" means any type 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 peak period work trips for affected employees.

E. "Base Year" means the period from January 1, 1992, through December 31, 1992, on which goals for the reduction of vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

F. "City" means the City of Kent.

G. "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.

H. "CTR Program" means an affected employer's strategies to reduce affected employees' SOV use and VMT per affected employee.

I. "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. Compressed work weeks are understood to be an ongoing arrangement.

J. "Dominant Mode" means the mode of travel used for the greatest distance of a commute trip.

K. "Employee" means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners and partners of the employer.

L. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or individual or entity, whether public, non-profit, or private, that employs workers.

M. "Exemption" means a waiver from CTR program requirements granted to an employer by the City based on unique conditions that apply to the employer or employment site.

N. "Full-Time Employee" means a person other than an independent contractor, scheduled to be employed on a continuous basis for fifty-two (52) weeks per year for an average of at least thirty-five (35) hours per week.
O. "Implementation" means active pursuit by an affected employer of a CTR program designed to achieve the goals of RCW 70.94.521-551 and this ordinance.

P. "Mode" means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, and walking.

Q. "Peak Period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

R. "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.

S. "Primary Worksite" means the location where an affected employee reports to work to start their workday the majority of the time.

T. "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 affected employees working during that period.

U. "Single-Occupant Vehicle (SOV)" means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

V. "Single-Occupant Vehicle (SOV) Trips" means trips made by affected employees in SOVs.

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, occupied by one or more affected employers.

X. "Telecommuting" means the use of telephones, computers, or similar technology to permit an employee to work at home, eliminating a commute trip, or to work from a place closer to home, reducing the distance traveled in a commute trip by at least half.
Y.  "Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area.

Z.  "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.

AA.  "Week" means a seven day calendar period, starting on Monday and continuing through Sunday.

BB.  "Weekday" means any day of the week except Saturday or Sunday.

Sec. 6.12.030. Responsible Agent.

A.  The Director of Public Works, under the authority granted pursuant to the Revised Code of Washington (RCW) Chapter 35A and this Chapter, shall have general charge of, and supervision over, the administration and enforcement of this ordinance.

B.  The Director of Public Works shall establish Administrative Regulations consistent with this ordinance for the purpose of enforcing and carrying out its provisions.

Sec. 6.12.040. Commute Trip Reduction Goals.

Employers affected by this ordinance shall achieve the following reductions in vehicle miles traveled per employee and in the proportion of single-occupant vehicle trips from the 1992 base year value:
A. 15 percent reduction by January 1, 1995
B. 25 percent reduction by January 1, 1997
C. 35 percent reduction by January 1, 1999

**Sec. 6.12.050. Base Year Values.**

The base year value for proportion of single occupant vehicle (SOV) trips shall be 85 percent. The base year value for vehicle miles traveled (VMT) per employee shall be 9.3 miles. Commute trip reduction goals for affected employers shall be calculated from these values. Therefore, affected employers shall establish a program designed to result in SOV rates of not more than 72 percent in 1995, 64 percent in 1997, and 55 percent in 1999 and VMT per employee of not more than 8 miles in 1995, 7 miles in 1997, and 6 miles in 1999.

**Sec. 6.12.060. Applicability.**

A. This ordinance shall apply to employers within the corporate limits of the City of Kent. Employees will only be counted at their primary worksite. The following classification of employees are excluded from the requirements of this ordinance: 1) seasonal agricultural employees, including seasonal employees of processors of agricultural products, and 2) employees of construction worksites when the expected duration of the construction project is less than two years.
B. If an affected employer no longer employs 100 or more affected employees, that employer is no longer an affected employer. If that employer returns to the level of 100 or more affected employees within 12 months, the employer will be considered an affected employer for the entire 12 months, and subject to the same program requirements and goals as other affected employers. If that employer returns to a level of 100 or more affected employees after 12 months, the employer shall be treated as a new affected employer. It is the responsibility of the employer to notify the City of changes in its status as an affected employer.

C. Transportation Management Associations. A Transportation Management Association (TMA) may manage or administer affected employer's programs and may submit CTR program descriptions and annual reports on behalf of affected employers; however, each affected employer shall remain accountable for compliance with the requirements of this ordinance.

Sec. 6.12.070. Affected Employer's Commute Trip Reduction Programs and Reports.

A. Affected Employer's CTR Programs. Affected employers shall develop a CTR program that is designed to reduce VMT per employee and SOV commute trips. At a minimum, the program shall include the following mandatory elements:
1. **Transportation Coordinator.** Affected employers shall designate a transportation coordinator to administer the CTR program. The coordinator's name, location, and work telephone number must be prominently displayed at each affected worksite. The coordinator shall oversee all elements of the affected employer's CTR program. An affected employer with multiple sites may have one transportation coordinator for all sites.

2. **Information Distribution.** At least once each year, affected employers shall provide affected employees information on alternatives to SOV commuting. This shall include, but not be limited to, a summary of the employer's program, including the name and phone number of the coordinator. Affected employers must provide a summary of their program to all new employees at the time of hire.

3. **Additional Program Elements.** In addition to the program elements described above, affected employer's CTR programs shall include a set of measures designed to meet CTR goals, as described in RCW 70.94.531 and the City of Kent CTR Administrative Regulations.

**B. Affected Employer's Annual Reports.** Affected employers shall submit an annual CTR progress report to the City by the date designated by the Public Works Director. Each report shall describe the CTR measures that were in effect for the previous year, the results of any commuter surveys conducted during the year, the
number of employees participating in the CTR program, and a summary of the progress toward meeting the SOV and VMT reduction goals. Reports submitted in 1995, 1997, and 1999 shall include the results of an approved survey indicating the commute modes and vehicle miles traveled by their employees.

Sec. 6.12.080. Record Keeping.

Affected employers shall maintain all CTR records required in the City of Kent CTR Administrative Regulations for the duration of this ordinance.


A. CTR Program Submittal. Within six months after an employer qualifies under the provisions of this ordinance, affected employers shall develop a CTR program and submit a description of that program to the City of Kent for approval. The Public Works Director shall provide the form to be used for the program description.

B. Program Review and Modification. Within 90 days of receipt of a CTR program, the City of Kent shall provide the employer with written notification indicating whether a CTR program was approved or is unacceptable.

1. Before 1995, programs will be acceptable if they include all mandatory program elements.

2. Beginning in 1995, if an affected employer has not met either the VMT per employee goal or the SOV rate goal, the City shall require modification of an employer's CTR program. An affected employer
whose program is found unacceptable will be notified by the City and shall have 30 days from the date of notification to submit a revised CTR program. Implementation of program changes approved by the City must occur within 30 days.

C. Implementation of affected employer's CTR Program. Affected employers shall implement an approved CTR program not more than 180 days after the program was first submitted to the City.

D. Extensions of Time. The Public Works Director shall have the discretion to grant time extensions under this ordinance provided an employer can demonstrate sufficient need.

Sec. 6.12.100. Modifications of CTR Requirements.

A. Exemptions. Affected employers may request an exemption from any or all CTR program requirements at a particular worksite. The Public Works Director may grant an exemption if the affected employer can demonstrate it faces an extraordinary circumstance and is unable to implement measures that could reduce the proportion of SOV trips and VMT per employee. The City shall annually review all employer exemptions, and shall determine whether the exemptions will continue to be in effect during the following program year.

B. Goal Modification. Affected employers may request a modification of CTR goals if they can demonstrate they require employees to use the vehicles they drive to work during the work day for work purposes. The affected
employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode exists for these employees and that the vehicles cannot reasonably be used for carpools or vanpools. PROVIDED HOWEVER, 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 affected employer's progress toward CTR goals.

C. Modification of CTR Program Elements. Any affected employer may request modification of an approved CTR program. Requests may be granted under the following conditions:

1. the employer demonstrates that it is unable to implement one or more program elements for reasons beyond its control;

2. the employer demonstrates that implementation of a program element would cause undue hardship; or

3. the employer demonstrates that a substitute program element would be as effective or more effective than the previously approved program element.

Sec. 6.12.110. Credits.

A. Credit for CTR Efforts.

1. Employers with successful CTR programs may apply to the City for program credit.
2. Affected employers whose VMT per employee and proportion of SOV trips are equal to or less than the goals for a future goal year, and commit in writing to continue their current level of effort, shall be exempt from the requirements of this ordinance, except for the requirement to submit an annual progress report. If any report indicates the affected employer does not satisfy the next applicable goals, the affected employer shall immediately become subject to all requirements of this ordinance.

3. Affected employers who apply for program credit in their 1993 program description shall be considered to have met the 1995 CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year values. This three percentage point credit applies only to the 1995 CTR goals.

4. Application for program credit shall include a description of the existing program, 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 Administrative Regulations.

B. Credits for Alternate Work Schedules, Telecommuting, Bicycling and Walking by Affected Employees. In the calculation of SOV rate and VMT per employee, commute trips eliminated through
alternative work schedules, telecommuting, bicycling and walking will count as 1.2 vehicle trips eliminated.

Sec. 6.12.120. Enforcement.

A. Compliance. Compliance means submitting required reports and documentation at prescribed times and fully implementing all provisions in an accepted CTR program or to meet or exceed VMT and SOV goals of this ordinance.

B. Civil Violations. The following shall constitute a civil violation of this ordinance:

1. Failure to submit a complete CTR program within the deadlines specified in Sec. 6.12.090.

2. Failure to implement an approved CTR program;

3. Failure to submit an annual CTR report; and

4. Submission of fraudulent data.

C. Monetary Penalties.

1. The penalty for violations in (B) above shall be assessed by the Public Works Director in an amount not to exceed $250 per violation per day and shall be considered a Class 1 civil infraction pursuant to RCW 7.80.120.

2. Affected employers shall not be liable for monetary 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.

D. Collection. All penalties due and unpaid under this ordinance may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties.

Sec. 6.12.130. Appeal of Administrative Decisions.

A. Affected employers shall be notified in writing of the City's decision regarding unacceptable programs, exemptions, modification of goals, modification of CTR program elements, and violations.

B. Employers shall have 30 days following notification by the City to file an appeal of these decisions with the Kent Hearing Examiner.

C. Hearings before the Hearing Examiner shall be held according to the procedures set forth in Chapter 2.54.100 (A) of the Kent City Code. The Hearing Examiner's decision shall represent final action by the City, unless an appeal is made to the Superior Court of King County within ten (10) working days after issuance of such decisions.
Section 2. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date.

This ordinance shall take effect and be in force thirty (30) days from the time of its final approval and passage as provided by law:

DAN KELLEHER, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A LUBOVICH, CITY ATTORNEY

PASSED the 2 day of February, 1993.
APPROVED the 3 day of February, 1993.
PUBLISHED the 5 day of February, 1993.
I hereby certify that this is a true and correct copy of Ordinance No. 3086, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER
CITY CLERK

(SEAL)