ORDINANCE NO. 3917

AN ORDINANCE of the City Council of the City of Kent, Washington, amending chapter 6.12 of the Kent City Code, entitled "Commute Trip Reduction," adopting the City's Commute Trip Reduction Plan in implementing measures required by state law.

RECITALS

A. The State Commute Trip Reduction Act, RCW 70.94.521 et. seq. and rules adopted there under require municipalities to develop and implement a program and plan to reduce drive alone commute trips and vehicle miles traveled for the City and affected employees.

B. The City of Kent has complied by adoption of chapter 6.12 of the Kent City Code.

C. Recent amendments to state law require corresponding amendments to the city code which changes are also reflected in the City of Kent Commute Trip Reduction Local Plan 2008-2011.
D. On February 5, 2008, the City of Kent’s Commute Trip Reduction ("CTR") Local Plan was unanimously approved by the Washington State Commute Trip Reduction Board.

E. On June 17, 2008, the Transportation Master Plan ("TMP") was adopted by the Kent City Council. The TMP incorporates the Kent CTR Local Plan by reference. An executive summary of the Kent CTR Plan constituted chapter eight (8) of the TMP.

F. On June 17, 2008, the Transportation Element of the Kent Comprehensive Plan was amended to incorporate the 2008 Transportation Master Plan by reference into the Kent Comprehensive Plan.

G. The City of Kent recognizes the importance of increasing individual citizen’s awareness of air quality, energy consumption, and traffic congestion, and the contribution individual actions can make toward addressing these issues.

H. A transportation demand management element, such as a CTR plan, is required as part of the Washington State Clean Air Act, RCW 70.94.

I. This Ordinance both adopts the CTR Local Plan and amends Chapter 6.12 of the Kent City Code consistent with the CTR Local Plan and the requirements of state law.

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

Commute Trip Reduction
Amend KCC 6.12
ORDINANCE

SECTION 1. - Adopt. The City hereby adopts the CTR Local Plan, attached hereto as Exhibit "A" and incorporated herein by this reference. A copy of the City's CTR Plan is available at the Public Works Department, with the City Clerk, and on the City's website.

SECTION 2. - Amendment. Chapter 6.12 of the Kent City Code, "Commute Trip Reduction," is amended as follows:

CHAPTER 6.12
COMMUTE TRIP REDUCTION

Sec. 6.12.010 Short title. This chapter shall be known as the Commute Trip Reduction (CTR) Ordinance, and may be cited as such.

Sec. 6.12.020 CTR program goals. The City's goals for reductions in the proportions of drive-alone commute trips and vehicle miles traveled per employee by affected employers in the City's jurisdiction, major employment installations, and other areas designed by the City are set forth in the City's CTR Plan adopted herein by this reference. These goals establish the desired level of performance for the CTR program in its entirety in Kent, including drive-alone and VMT goals for affected employers and newly affected employers.

Sec. 6.12.030 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

A. Affected employee means a full-time employee who is scheduled to begin his or her regular work day at a single worksite covered by the Commute Trip Reduction Plan between 6:00 a.m. and 9:00 a.m.
(inclusive) on two (2) or more weekdays for at least twelve (12) continuous months who is not an independent contractor. 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, at a single worksite, one hundred (100) or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two (2) or more weekdays for at least twelve (12) continuous months. The individual employees may vary during the year. Construction worksites, when the expected duration of the construction is less than two (2) years, are excluded from this definition. (Also see definition of employer.)

C. **Alternative mode** means any type means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks schedules if they result in reducing commute trips.

D. **Alternative work schedules** means programs, such as compressed work weeks, flex time, or working on Saturday and/or Sunday, that eliminate work tripspeak period work trips for affected employees.

E. **Base year** means the twelve (12) month period on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based, which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. The City uses this twelve-month period as the basis upon which it develops commute trip reduction goals.
F. **Base Year survey or baseline measurement** means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by the City.

G. **Carpool** means a motor vehicle, including a motorcycle occupied by two (2) to six (6) people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

H. **City** means the City of Kent.

I. **Commute trips** means 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 any weekday.

J. **Commute trip reduction (CTR) plan** means the City of Kent’s Commute Trip Reduction Local Plan 2008-2011. The CTR Plan is referenced in the Kent Transportation Master Plan adopted by Ordinance No. 3883, which is an element of the Kent Comprehensive Plan. It is adopted by this reference in this chapter, 6.12.

K. **CTR plan** means the city of Kent’s plan as set forth in this chapter to regulate and administer the CTR programs of affected employers within its jurisdiction.

L. **Commute trip reduction (CTR) program** means an employer’s strategies to reduce affected employees’ drive alone commutes and average SOV use and VMT per employee.

5 **Commute Trip Reduction Amend KCC 6.12**
J. *CTR zone* means an area, such as a census tract or combination of census tracts, within the city characterized by similar employment 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.

L. *Commutte trip vehicle miles traveled per employee* means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

KM. *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 (1) work day every two (2) 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 (4) ten (10) hour days or eighty (80) hours in nine (9) days, but may also include other arrangements. Compressed work weeks must be an ongoing arrangement.

N. *Custom bus/buspool* means a commuter bus service arranged specifically to transport employees to work.

LQ. *Dominant mode* means the mode of travel used for the greatest distance of a commute trip.

P. *Drive alone* means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

*Commute Trip Reduction*
*Amend KCC 6.12*
Q. *Drive alone trips* means commute trips made by employees in single occupant vehicles.

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

S. *Employee transportation coordinator (ETC)* means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.

NT. *Employer* means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, nonprofit, or private, that employs workers.

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

PV. *Flex time* means an employer policy that provides work schedules allowing individual employees some flexibility in choosing the start and end time, but not the number, of their working hours to facilitate the use of alternative modes.

QW. *Full-time employee* means a person, other than an independent contractor, whose position is 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.
RX. **Good faith effort** means that an employer has met the minimum requirements identified in RCW 70.94.531, as now enacted or subsequently amended, and this chapter, and is also 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.

SY. **Implementation** means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.55-16, as now enacted or subsequently amended, and this chapter as evidenced by appointment of an **ETC** transportation coordinator, distribution of information to employees regarding alternatives to drive alone commuting, and SOV commuting, or commencement of other measures according to its approved CTR program and schedule.

Z. **Major Employer** means a private or public employer, including state agencies, 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. on weekdays for at least twelve (12) continuous months.

AA. **Major employer worksite or affected employer worksite or worksite** means the physical location occupied by a major employer, as determined by the local jurisdiction.

BB. **Major employment installation** means a military base or federal reservation, excluding tribal reservations, or other locations as designated by the City, at which there are one hundred (100) or more affected employees.
**FCC.** Mode means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, bicycle, walking, compressed work week schedule and telecommuting.

**DD.** Newly affected employer means an affected employer either moving into the boundaries outlined in the CTR Plan or growing in employment at a worksite to one hundred (100) or more affected employees.

**FE.** Notice means written communication delivered via the United States Postal Service with return receipt requested. Service shall be deemed sufficient 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.

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

**VGG.** Peak period trip means any commute trip 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.

**WHH.** Proportion of drive alone trips or drive alone rate single-occupant vehicle trips or SOV rate means the number of commute trips over a set period made by affected employees in single occupancy vehicles SOVs divided by the number of potential trips taken by affected employees working during that period.
II. **Ride Matching Service** means a system which assists in matching commuters for the purpose of commuting together.

X. **Single-occupant vehicle (SOV)** means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

Y. **Single-occupant vehicle (SOV) trips** means commute trips made by affected employees in SOVs.

Z. **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.

AAJJ. **Telecommuting or teleworking** 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.

KK. **Transit** means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger, ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

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

CCMM. **Transportation Management Organization Association (TMOA)** means a group of employers or an association representing a group of employers in a defined geographic area. A TMOA may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

10 **Commute Trip Reduction**

*Amend KCC 6.12*
NN. **Vanpool** means a vehicle occupied by from five (5) to fifteen (15) people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

DDQQ. **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.

EEPP. *Week* means a seven (7) day calendar period starting on Monday and continuing through Sunday.

FFQQ. *Weekday* means any day of the week except Saturday or Sunday.

RR. **Writing, written or in writing** means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

Sec. 6.12.0340 Responsible agent/city officials.

A. The director of public works, or his/her designate(s), shall have general charge of, and supervision over, the administration and enforcement of this chapter. He/her is hereby authorized to implement this chapter, the CTR Plan and the City CTR program.

B. The director of public works shall establish administrative regulations consistent with this chapter for the purpose of enforcing and carrying out its provisions.

Sec. 6.12.040 Designation of CTR zone and base year
All employers within the city's boundaries, including the city's potential annexation area boundaries, are located in the commute trip reduction zone known as the "South King County Zone." The 1992 base year value for the South King County Zone's proportion of SOV trips shall be eighty-five (85) percent. The 1992 base year value for the South King County Zone's vehicle miles traveled per employee shall be set at 9.3 miles. Commute trip reduction goals for affected employers shall be calculated from these 1992 South King County Zone values or from values determined through a baseline survey of each worksite at the time the worksite first becomes CTR-affected. Therefore, affected employers shall establish a program designed to result in the base year values for each CTR-affected worksite to be reduced by the amounts and dates specified in the commute trip reduction goals listed in KCC 6.12.050.

values:

Sec. 6.12.050 Applicability. The provisions of this Chapter shall apply to any affected employer at any single worksite within the limits of the City of Kent.

A. Notification of applicability.

1. In addition to the City'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 the City's official newspaper not more than thirty (30) days after passage of this ordinance or revisions.

2. Affected employers 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 ETC of the worksite or
upon the registered agent for the affected employee. Such notification shall provide ninety (90) days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by the City.

3. Affected employers that, for whatever reason, do not receive notice within thirty (30) days of passage of the ordinance and are either notified or identify themselves to the City within ninety (90) days of the passage of the ordinance will be granted an extension to assure up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by the City.

4. Affected employers that have not been identified or do not identify themselves within ninety (90) days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by the City within ninety (90) days from the passage of the ordinance are in violation of this ordinance.

5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to the City, under previous iterations of this ordinance, the employer is not required to perform another baseline measurement.

6. Any existing employer of seventy-five (75) or more employees who obtains a business license in the City shall be required to complete an employer assessment form, provided to the employer by the City, to determine whether or not that employer will be deemed affected, or non-affected, in accordance with the provisions of this chapter.

B. New affected employers.
1. **Employers** that meet the definition of “affected employer” in this chapter must identify themselves to the City within ninety (90) days of either moving into the boundaries outlined in the CTR Plan or growing in employment at a worksite to one hundred (100) or more affected employees. Employers who do not identify themselves within ninety (90) days are in violation of this ordinance.

2. Newly affected employers identified as such shall be given ninety (90) days to perform a baseline measurement consistent with the measurement requirements specified by the City. Employers who do not perform a baseline measurement within ninety (90) days of receiving written notification that they are subject to this ordinance are in violation of this ordinance.

3. Not more than ninety (90) days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to the City. The program will be developed in consultation with the City staff appointed by the Public Works Director to be consistent with the goals of the CTR Plan. 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 according to this schedule are in violation of this ordinance and subject to the penalties outlined in KCC 6.12.120.

C. **Change in status of 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

---

*Commute Trip Reduction*

*Amend KCC 6.12*
the next twelve (12) months, that employer is no longer an affected employer. It is the responsibility of the employer to notify the City that it is no longer an affected employer. The burden of proof lies with the employer.

2. If the same employer returns to the 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 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 new affected employer and will be subject to the same program requirements as other new affected employers.

Sec. 6.12.050 Commute trip reduction goals. Affected employers shall achieve the following reductions in vehicle miles traveled per employee as well as in the proportion of single-occupant vehicle trips as determined by the 1992 base year values for South King County CTR Zone, if the employer met the "affected employer" definition in 1992, or through the employer's initial baseline survey conducted at the worksite:

A. Fifteen (15) percent reduction after two (2) years.
B. Twenty (20) percent reduction after four (4) years.
C. Twenty-five (25) percent reduction after six (6) years.
D. Thirty-five (35) percent reduction after twelve (12) years.
Sec. 6.12.060 Applicability. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees: (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 is less than two (2) years. The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the city of Kent.

A. Notification of applicability:

1. The city will use its best efforts to provide written notification to known affected employers located within the city that they are subject to this chapter within thirty (30) days after passage of the ordinance codified in this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR manager at the worksite.

2. If affected employers do not receive notice within thirty (30) days of passage of the ordinance codified in this chapter, the city may grant an extension of up to one hundred eighty (180) days within which to develop and submit a CTR program.

3. If an affected employer has not been identified or does not identify itself within one hundred eighty (180) days of the effective date of the ordinance codified in this chapter or if the affected employer does not submit a CTR program within one hundred eighty (180) days from the effective date of the ordinance, that employer is in violation of this chapter.

4. Any existing employer of seventy-five (75) or more employees who obtains a business license in the city shall be required to complete an employer assessment form, provided to the employer by the city, to determine whether or not that employer will be deemed affected, or non-affected, in accordance with the provisions of this chapter.

B. New affected employers.
1. **Notice to city.** Employers that meet the definition of “affected employer” in this chapter must identify themselves to the city within one hundred eighty (180) days of either moving into the boundaries of the city of Kent or growing in employment at a worksite to one hundred (100) or more affected employees. These employers shall be given one hundred eighty (180) days to develop and submit a CTR program.

2. **Violation.** Employers that do not identify themselves within one hundred eighty (180) days shall be deemed in violation of this chapter.

3. **Reduction goals.** Newly-affected employers shall have two (2) years to meet the first CTR goal of a fifteen (15) percent reduction in proportion of single-occupant vehicle (SOV) trips or vehicle miles traveled (VMT) per-person; four (4) years to meet the second goal of a twenty (20) percent reduction; six (6) years to meet the third goal of a twenty-five (25) percent reduction; and twelve (12) years to meet the fourth goal of a thirty-five (35) percent reduction, from the time they submit an approved CTR program.

C. **Change in status of an affected employer:**

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.

2. If the same employer returns to the 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 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 a non-affected employer, that employer shall be
treated as a new affected employer and will be subject to the same program requirements as other new affected employers. It is the responsibility of the employer to notify the city of changes in its status as an affected employer.

Sec. 6.12.0760 Affected employer’s requirements and reporting 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 SOVdrive alone commute trips. The affected employer shall submit a description of its program to the city and shall provide an annual progress report to the city on employee commuting and progress toward meeting its SOV goals. The CTR program must include the following mandatory elements described below:

A. Mandatory Program Elements and Implementation Requirements. CTR programs submitted by affected employers shall, at a minimum, include the following mandatory elements: Employers are required to make a good faith effort to achieve the goals identified in KC 6.12.060. Each employer’s CTR program shall include the following mandatory elements:

1. Employee Transportation Coordinator. The affected employer shall designate an Employee Transportation Coordinator (ETC) to administer the CTR program. The ETC’s name, location, and work telephone number must be prominently displayed, physically or electronically, 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 eCity. An affected employer with multiple sites may have one (1) transportation coordinator for all sites.

2. **Information Distribution.** Information about alternatives to SOV drive alone commuting as well as a summary of the employer's CTR Program shall be provided to employees at least once a year and to new employees at the time of hire. The summary of the employer's CTR Program at the time of hire shall also be submitted to the City with the employer's program description and regular report. This shall include, but not be limited to, a summary of the employer's program and the name and phone number of the transportation coordinator. Affected employers must also provide a summary of their program to all new employees at the time of hire. Each employer's program description and annual report must report the information to be distributed and the method of distribution.

B. **Additional Program Elements.** In addition to the specified program elements described above, the employer's CTR program shall include additional elements as needed to meet the CTR goals. 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 to implement program elements. Elements may include, but are not limited to, one or more of the following:

1. Preferential parking for high-occupancy vehicles;

2. Reduced parking charges for high-occupancy vehicles;

3. Increasing parking charges for drive alone commuters;
4. Commuter ride matching services to facilitate employee ridesharing for commute trips;

5. Subsidies for rail, transit, or vanpool fares and/or transit passes;

6. Vans or buses for employee ridesharing;

7. Subsidies for carpools, walking, bicycling, teleworking, or compressed schedules;

8. Incentives for employees that do not drive alone to work;

9. Use of the employer’s vehicles for carpooling or vanpooling;

10. Flexible work schedules to facilitate employees’ use of transit, carpools, or vanpools;

11. Additional regular or express service to the worksite, in cooperation with transit service providers;

12. Special loading and unloading facilities for transit, carpool, and vanpool users;

13. Bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

14. A program of parking incentives such as a rebate for employees who do not use the parking facilities;
15. Program(s) to permit employees to work part or full-time at home or at an alternative worksite closer to their homes which reduces commute trips.

16. Program(s) of alternative work schedules, such as a compressed work week, which reduces commute trips.

17. Other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities, emergency taxi services, or guaranteed ride home programs.

18. Elimination of free parking; and

19. Other measures that the employer believes will reduce the number and length of commute trips made to the site.

C. CTR Program Report and Description. Affected employers shall review their program and file a regular program report and description on the forms provided by the City.

1. General. The CTR Program Report and Description outlines the strategies to be undertaken by an employer to achieve the commute trip reduction goals for the reported period.

2. Minimum Requirements. At a minimum, the employer's CTR Program Report and Description must include:

   a. a general description of the employment site location, transportation characteristics, employee parking availability, on-site amenities, and surrounding services;
b. the number of employees affected by the CTR program and the total number of employees at the site;

c. documentation on compliance with the mandatory CTR program elements (as described in Section 6.12.060(A));

d. description of any additional elements included in the employer’s CTR program (as described in Section 6.12.060 (B)); and

e. a statement of organizational commitment to provide appropriate resources to the program to meet the employer’s established goals.

3. Annual progress report. The CTR program must include an annual review of employee commuting and progress in the form of an annual progress report. This report must demonstrate good faith efforts toward meeting the SOV and VMT reduction goals. Affected employers shall file an annual progress report with the city in accordance with the format established by this chapter and consistent with the CTR task force guidelines. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Survey information or approved alternative information must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth, and twelfth years after implementation begins. The employer should contact the city for the format of the report.

4. Additional program elements. In addition to the program elements described above, affected employer’s CTR programs shall include a set of additional measures designed to meet CTR goals. These additional measures must receive prior written approval from the city. A list of

22 Commute Trip Reduction Amend KCC 6.12
suggested additional elements are described in RCW 70.94.531 and are available from the city.

D. Biennial 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 distribute and collect Commute Trip Reduction Program Employee Questionnaires (surveys) at least once every two (2) years, and strive to achieve at least a 70% response rate from employees at the worksite.

Sec. 6.12.0870 Record keeping. Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire 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 all records of their CTR program for a period of at least four (4) years or until authorized by the city to dispose of such records. All records shall be made available to the city upon reasonable request for the purposes of reviewing program progress and/or compiling summary reports and analysis.

Sec. 6.12.0980 Schedule and process for CTR program submittal, review and implementation description and report.

A. CTR program submittal. Affected employers shall develop a CTR program and submit a description of that program to the City of Kent for approval within one hundred eighty (180) days from the date the employer qualifies as an affected employer. Document Review. CTR program reports must be approved by the City. The City shall provide the employer with written notification if a CTR program does not meet the minimum program requirements (Section 6.12.060). The City may extend the review period up to 90 days. The implementation date for the employer’s CTR program will be extended on equivalent number of days.
B. **CTR annual progress reports.** Upon review of an affected employer’s initial CTR program, the city shall establish that employer’s annual reporting date, which shall not be less than twelve (12) months from the day the program is submitted. Each year on that employer’s annual reporting date, the employer shall submit its annual CTR report to the city.

**Schedule.** Upon review of an employer’s initial CTR program, the City shall establish the employer’s regular reporting date. This report will be provided in a form provided by the City consistent with (Section 6.12.060 (C)).

C. **Modification of CTR program elements.** Any affected employer may submit a request to the City for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

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.

The City may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer’s request.

**CTR program review.** The city shall provide the employer with written notification if the city determines that a CTR program is unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program; or receives no comment on the CTR program or annual report within ninety (90) days of the employer’s submission, the affected employer’s program or annual report is deemed accepted. The city of Kent may
extend review periods up to an additional ninety (90) days. The implementation date for the employer’s CTR program will be extended an equivalent number of days.

D. Extensions. An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least thirty (30) days before the due date for which the extension is being requested. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. The City shall grant or deny the employer’s extension request by written notice within ten (10) working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for thirty (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 regular 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 City. Modifications shall be made in accordance with section 6.12.080(C).

E. Implementation of Employer’s CTR Program. Unless extensions are granted, the employer shall implement its approved CTR Program, including approved program modifications, not more than ninety (90) days after receiving written notice from the City that the program has been approved.

Sec. 6.12.090 Compliance. For purposes of this Chapter, compliance shall mean:
1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;

2. Providing a complete CTR Program Description and Report on the regular reporting date; and

3. Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

Sec. 6.12.100 Modifications of CTR requirements

Modification Criteria. — Any affected employer may submit a request to the city for modification of its CTR program elements, other than the mandatory elements, including record keeping requirements. The city may, at its option, grant this modification request if one (1) of the following conditions exists:

A. 1. Exemptions. Affected employers may request an exemption from any or all CTR program elements 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 portion 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.

   2. Employee Exemptions. The city may exempt specific employees or groups of employees who are required to drive alone to work as a condition of employment from a worksite’s CTR program. The city may also grant exemptions for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR task force guidelines to assess the validity of employee exemption requests. The city of Kent shall

26 Commute Trip Reduction
Amend KCC 6.12
review annually all employee exemption requests and shall determine whether the exemption will be in effect during the following program year.

B. **Goal modification.** An affected employer may request a modification of its CTR program goals. These requests shall be filed in writing at least sixty (60) days prior to the date the worksite is required to submit its program description or annual report. The modification request must clearly explain why the affected employer is unable to achieve the applicable goal. The affected employer should also demonstrate that it has implemented all of the elements contained in its approved CTR program. The city will review, grant, or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR task force guidelines. An affected employer may not request a modification of the applicable goals until one (1) year after the city approves its initial program description or annual report.

C. **Program modification.** The following criteria for achieving goals for VMT per employee and proportion of SOV drive alone trips shall be applied in determining requirements for CTR program modifications:

1A. If an affected 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;

2B. If an employer makes a good faith effort as defined in RCW 70.94.534(2) and this ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required, but has not met or is not likely to meet the applicable SOV or VMT goal, the city shall
work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the city for approval within thirty (30) days of reaching agreement.

3C. 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 SOVdrive alone or VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty (30) days to come into compliance with the measures defined by RCW 70.94.534(2), incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including specified recommended the requested program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within thirty (30) days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the modified/revised program. If a modified/revised program is not accepted, the City will send written notice to the employer within thirty (30) days and, if necessary, require the employer to attend a conference meet with City program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within fourteen (140) working calendar days after the conference.

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

Commute Trip Reduction
Amend KCC 6.12
1. The affected employer demonstrates that it is unable to implement one (1) or more program-element(s) for reasons beyond its control;

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

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

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. The employer must submit its request in writing before the due date of the program, modification or annual report. Extensions not to exceed ninety (90) days shall be considered for reasonable causes. Employers will be limited to a total of ninety (90) extension days per year. Extensions shall not exempt an employer from any responsibility to meet 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. However, 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 city.

**Sec. 6.12.110 Credits.**

A. **Credit for programs implemented prior to the base year.** Affected employers with successful transportation demand management (TDM) programs in effect prior to the employer's worksite base year may be eligible to apply for program exemption credit, which may exempt them from most program requirements. Affected employers wishing to receive credit for existing TDM efforts may do so by applying to the city's public works director. Application for credit should 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 by 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 twelve (12) percent or greater reduction from the final base year South King County CTR Zone values. This three (3) percentage point credit (twelve (12) percent, rather than fifteen (15) percent goal) applies only to the first measurement goals.

B. Credit 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 in good faith all provisions in an accepted CTR program or otherwise meeting or exceeding VMT and SOV goals of this chapter.

B. Civil violations. The following shall constitute a civil violation of this chapter:

1. Failure to submit a complete CTR program within the specified deadlines;
2. Failure to implement an approved CTR program;
3. Failure to submit an annual CTR report;
4. Failure to make a good faith effort;
5. Submission of fraudulent data;
6. Failure to revise or modify a CTR program found to be unacceptable by the city.
Sec. 6.12.110 Violations. Any one or more of the following constitute violations of this Chapter:

E. 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 SOV or VMT goal.
2. The penalty for violations in subsection (B) of this section shall be assessed by the public works director in an amount not to exceed two hundred fifty dollars ($250) per day and shall be considered a Class 1 civil infraction pursuant to RCW 7.80.120.
3. 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 unit under applicable laws, if the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith 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 Kent and advise the union that the proposal being made is necessary for compliance with state law.
A. Failure to self identify as an affected employer and/or to provide the baseline measurement as required by Sections 6.12.040 (A) and (B).
B. Failure to develop and/or submit, on time, a complete CTR program.
C. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence
to meet or exceed VMT and drive alone goals as specified in this Ordinance.

D. Submission of false or fraudulent data in response to survey requirements.

E. Failure to make a good faith effort, as defined in RCW 70.94.534 and this ordinance.

F. Failure to revise a CTR program as required by RCW 70.94.534(4) and this Chapter.

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

Sec. 6.12.120 Penalties.

A. 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 goals;

B. Each day of violation shall constitute a separate violation and shall be subject to penalties in the amount assessed for Class 1 Civil Infractions set forth in RCW 7.80.120 (1)(a).

C. An affected employer shall not be liable for penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:
1. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

2. Advise the union of the existence of the statute and the mandates of the CTR program approved by the City and advise the union that the proposal being made is necessary for compliance with state law RCW 70.94.531.

Sec. 6.12.130 Exemptions and Goal Modifications.

A. Worksite Exemptions. An affected employer may request the City to grant an extension 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 extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by the City at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The City shall grant or deny the request within thirty (30) days of receipt of the request. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be
granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. The City shall grant or deny the request within 30 days of receipt of the request. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Modification of CTR Program Goals.

1. An affected employer may request that the City modify its CTR program goals. Such requests shall be filed in writing at least sixty (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. The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines.

3. An employer may not request a modification of the applicable goals until one year after City approval of its initial program description or annual report.

Sec. 6.12.1340 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.

Commute Trip Reduction
Amend KCC 6.12
B. Employers shall have thirty (30) days following notification by the eCity 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 Ch. 2.32 KCC. The hearing examiner’s decision shall represent final action by the eCity, unless an appeal is made to the superior court of King County within ten (10) working days after issuance of such decisions.

SECTION 3. - Savings. The existing chapter 6.12 of the Kent City Code, which is repealed and replaced by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

SECTION 4. - Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 5. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

35 Commute Trip Reduction Amend KCC 6.12
PASSED:  2 day of June, 2009.
APPROVED:  2 day of June, 2009.

I hereby certify that this is a true copy of Ordinance No. 3917 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

Commute Trip Reduction
Amend KCC 6.12