

ORDINANCE 1153

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, ADOPTING A NEW COMMUTE TRIP REDUCTION PLAN FOR THURSTON COUNTY (THE COUNTY-WIDE CTR PLAN) AND IMPLEMENTING MEASURES AS REQUIRED BY THE WASHINGTON STATE COMMUTE TRIP REDUCTION LAW (RCW 70.94.527), REPEALING ORDINANCE NO. 955 WHICH ADOPTED THE CURRENT TRIP REDUCTION PLAN AND ADOPTING A SUMMARY FOR PUBLICATION.

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

WHEREAS, the Washington State Legislature passed the Commute Trip Reduction (CTR) Law in 1991 as part of the Washington Clean Air Act and in response to the federal Clean Air Act; and

WHEREAS, the Law requires local governments and county governments within Clark, King, Kitsap, Pierce, Snohomish, Spokane, Thurston and Yakima Counties to adopt ordinances that define CTR requirements for affected employers within their jurisdiction; and

WHEREAS, in 1997 the Washington State Legislature amended the CTR Law thereby requiring the County to adopt a new County-wide CTR Plan Ordinance, and

WHEREAS, this Ordinance is deemed to be consistent with the requirements of the CTR Law and the CTR Guidelines.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, AS FOLLOWS:

SECTION 1 PURPOSE

The purpose of this Ordinance is to establish CTR program requirements for affected employers within the City of Lacey. These requirements will promote alternative commute modes and reduce the Vehicle Miles Traveled (VMT) per employee and the proportion of single occupant vehicle (SOV) trips, decreasing traffic congestion, automobile-related air pollution and energy use within the City of Lacey.

## SECTION 2 DEFINITIONS

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

1. "Affected Employee" - a full time employee who begins his/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, and employees required to work rotating shifts are excluded from the count of affected employees
2. "Affected Employer" -a public or private employer that employs one hundred or more affected employees at a single work site 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 work sites, when the expected duration of the construction is less than two years, are excluded from this definition
3. "Alternative Commute Mode" - 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.
4. "Alternative Work Schedules" - programs such as compressed work weeks that eliminate work trips for affected employees.
5. "Base Year" – the period on which goals for vehicle miles traveled (VMT) per employee and the proportion of single occupant vehicle (SOV) trips shall be based.
6. "Carpool" - a motor vehicle occupied by two to six people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.
7. "Commute Trips" - trips made from a worker's home to a worksite for a regularly scheduled work day beginning between 6:00 a.m. and 9:00 a.m (inclusive) on weekdays
8. "CTR Guidelines" - the official guidelines to the CTR Law (RCW 70.94.527) developed by the Washington State CTR Task Force.
9. "CTR Plan" - the commute trip reduction plan for Thurston County that describes how affected employers are to achieve reductions in the commute trip vehicle miles traveled (VMT) and the proportion of single occupant vehicle (SOV) commute trips per employee within the Cities of Lacey, Olympia, Tumwater, Yelm and unincorporated Thurston County.
10. "CTR Program" - an affected employer's strategies to reduce SOV use and VMT per affected employee.
11. "CTR Zone" - an area within Thurston County 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.

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

13. "Compliance" - fully implementing all provisions in an accepted CTR program or meeting or exceeding the VMT and SOV goals of this CTR Plan and CTR Ordinance.

14. "Computer Matching Service" - a system that assists in matching commuters for the purpose of commuting together

15. "Compressed Work Week" - 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. Compressed work weeks are understood to be an on-going arrangement

16. "Custom Bus/Buspool/Subscription Bus" - a commuter bus service arranged specifically to transport employees to work, generally bus service with limited origins and destinations, guaranteed seats and advance fare purchase.

17. "Day(s)" - calendar day(s).

18. "Dominant Commute Mode" - the mode of travel used for the greatest distance of a commute trip.

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

20. "Employee Transportation Coordinator" or "ETC" - a designated person who is typically an employee of the affected employer and who is accessible to a worksite's employees in order to carry out the CTR requirements of the CTR Law and this Ordinance. The ETC also acts as the affected employer's liaison with local jurisdictions or the agency that administers and implements the CTR Ordinance.

21. "Employer" - 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.

22. "Exemption" - a waiver from CTR program requirements granted to an affected employer by Thurston County or its designee based on unique conditions that apply to the employer or employment site.

23. "Flex Time" - 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 commute modes.
24. "Full Time Employee" - a person other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of 35 hours per week
25. "Good Faith Effort" – an affected employer has met the minimum requirements identified in RCW 70.94.531 and this Ordinance, and is working collaboratively with Thurston County or its designee 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.
26. "Implementation" - the active pursuit by an affected employer of the CTR goals of RCW 70.94.521-551 and of this Plan and accompanying Ordinance as evidenced by the appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and the commencement of other measures according to their CTR program and schedule
27. "Notice" – 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.
28. "Peak Commute Period" - the hours between 6.00 a.m. and 9:00 a m (inclusive), Monday through Friday, except legal holidays.
29. "Peak Commute Period Trip" - any employee trip that delivers the employee to begin his/her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.
30. "Proportion of Single Occupant Vehicle Trips" or "SOV Rate" - 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.
31. "Single Occupant Vehicle" or "SOV" - a motor vehicle occupied by one employee for commute purposes, including a motorcycle.
32. "Single Occupant Vehicle (SOV)Trips" - trips made by affected employees in SOVs.
33. "Single Worksite" - a building or group of buildings on physically contiguous parcels of land or on parcels of land separated solely by private or public roadways or rights-of-way occupied by one or more affected employers.

34. "Telecommuting" - 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 site closer to home, reducing the distance traveled in a commute trip by at least half.

35. "Transit" - a multiple occupant vehicle operated on a for hire, shared ride basis, including bus, ferry, shared ride taxi, shuttle bus, or vanpool. A transit trip counts as zero (0) vehicle trips.

36. "Transportation Demand Management" or "TDM" – a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system

37. "Transportation System Management" or "TSM" - the use of low cost capital improvements to increase the efficiency of road transportation and transit services.

38. "Transportation Management Organization" or "TMO" - a group of employers or an association representing a group of employers in a defined geographical area organized for the purpose of cooperatively carrying out the requirements of the CTR Law and this Ordinance

39. "Vanpool" - a vehicle occupied by seven to fifteen people traveling together for their commute trip that results in the elimination of at least one motor vehicle trip. A vanpool trip counts as zero (0) vehicle trips.

40. "Vehicle Miles Traveled (VMT) per Employee" - the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period of time divided by the number of affected employees working during that period.

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

42. "Weekday" - any day of the week except Saturday or Sunday

43. "Writing/Written/In Writing" - 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.

## SECTION 3 CTR PLAN ADMINISTRATION

### 3.1 CTR Plan

The CTR Plan for Thurston County is set forth in Attachment 1 and is wholly incorporated herein by reference.

### 3.2 Interlocal Agreement/Responsible Agency

In order to ensure consistency and flexibility, Thurston County and the Cities of Lacey, Olympia, Tumwater, and Yelm (hereinafter referred to as "the local jurisdictions") have determined that it is within the best interest of the public to enter into an Interlocal Agreement (pursuant to RCW 39.34 and RCW 70.94.527) with a lead agency that will be responsible for implementing and administering the CTR Plan and CTR Ordinance.

### 3.3 Administrative Procedures

Thurston County or its designee is hereby authorized to develop and adopt, in consultation with the local jurisdictions, such administrative rules and procedures as necessary to implement the provisions of this Ordinance.

## SECTION 4 CTR GOALS

### 4.1 Commute Trip Reduction Goals

The CTR goals for affected employers in the Cities of Lacey, Olympia, Tumwater, Yelm and in unincorporated Thurston County are consistent with the CTR Law and the CTR Guidelines.

All affected employers shall be required to develop and implement CTR programs designed to reduce VMT per affected employee and SOV use per affected employee. The goals for miles traveled per employee shall not be less than a fifteen (15) percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, twenty (20) percent reduction by January 1, 1997, twenty-five (25) percent reduction by January 1, 1999, and a thirty-five (35) percent reduction by January 1, 2005.

### 4.2 Base Year Values

	CTR Zone 1	CTR Zone 2
VMT per employee	11.5 miles	11.5 miles
SOV rate per employee	78%	84%

### 4.3 Commute Trip Reduction Zones

CTR zones are consistent with the CTR Law and the CTR Task Force Guidelines. Thurston County is divided into two CTR zones. (See Attachment 1)

## SECTION 5 APPLICABILITY

### 5.1 Applicability

The requirements of this Ordinance shall apply to any affected employer at a single worksite within the City of Lacey.

### 5.2 Notification of Applicability

(a) In addition to the City of Lacey's established public notification for adoption of an ordinance, a notice of availability of a summary of this Ordinance and a notice of the requirements for affected employers to comply with the Ordinance shall be published at least once in Thurston County's official newspaper not more than 30 days after passage of this Ordinance.

(b) Affected employers located in Thurston 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.

(c) Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the Ordinance are either notified or identify themselves to Thurston County or its designee 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

### 5.3 New Affected Employers

(a) Employers that meet the definition of an affected employer in this Ordinance must identify themselves to Thurston County or its designee within 180 days of either moving into the boundaries of unincorporated Thurston County, or growing in employment at a worksite to 100 or more affected employees.

(b) Newly affected employers shall be given 180 days from the official notification by Thurston County or its designee to develop and submit a CTR program

(c) From the time newly affected employers begin their program, they shall have two years to meet the first CTR goal of a 15 percent reduction in proportion of single occupant vehicle trips or vehicle 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.

### 5.4 Change in Status as an Affected Employer

Any of the following changes in an affected employer's status shall will change the employer's CTR program requirements:

(a) If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more employees for the next 12 months, that employer is no longer be considered an affected employer. It is the responsibility of the employer to notify Thurston County or its designee that it is no longer an affected employer.

(b) If the same employer returns to the level of 100 or more affected employees within the same 12 month period, that employer will be considered an affected employer for the entire 12 month period, and will be subject to the same program requirements as other affected employers.

(c) If the same employer returns to the level of 100 or more affected employees 12 months or more after the change in status to an unaffected employer, that employer shall be considered a newly affected employer and will be subject to the same requirements as other newly affected employers.

## SECTION 6 AFFECTED EMPLOYER REQUIREMENTS

### 6.1 Affected Employer CTR Program

The requirements of this Ordinance shall apply to any affected employer at a single worksite within the City of Lacey. 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 his/her employees to reduce VMT per employee and SOV commute trips. The CTR program shall include the mandatory elements described below that are required to achieve the CTR goals of the CTR Plan and this Ordinance. The affected employer shall submit a description of its program and provide an annual progress report on its program and progress toward meeting the CTR goals to Thurston County or its designee in the time prescribed by this Ordinance.

### 6.2 Program Description

(a) The CTR program description presents the strategies to be undertaken by an affected employer to achieve the commute trip reduction goals for each goal year. Affected 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. Affected employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR programs.

(b) At a minimum, the affected employer's description must include:

1) general description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the affected employer or its employees;

2) number of employees affected by the CTR program;



3) documentation of compliance with the mandatory CTR program elements;

4) description of the additional elements included in the CTR program, and

5) schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

#### 6.3.1 Employee Transportation Coordinator

The affected employer shall designate an employee transportation coordinator (ETC) to administer the CTR program. The coordinator's name, location and telephone number must be prominently displayed at each of the affected employer's affected work sites. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple worksites in Thurston County is not required to have an ETC at each worksite. The ETC is responsible for administering and implementing the CTR program. The ETC is the primary CTR program contact person for the employees as well as between the employer and Thurston County or its designee. ETCs are required to attend the ETC Basic Training course provided by Thurston County or its designee within one year of appointment to the position of ETC.

#### 6.3.2 Information Distribution

Information about alternatives to driving to work alone shall be provided to employees at least once a year. Each affected employer's program description and subsequent annual progress reports must indicate the information distributed and the method of distribution

#### 6.3.3 Annual Progress Report

The CTR program must include an annual review of employee's commuting habits and of progress and good faith efforts toward meeting the CTR goals. Affected employers shall file an annual progress report with Thurston County or its designee, updating the initial Program Description Thurston County or its designee. The affected employer's reporting date will be established by Thurston County or its designee in consultation with the affected employer, after a review of the initial Program Description. Thurston County or its designee will distribute a standardized annual report form developed by the Washington State Department of Transportation to all affected employers.

The annual progress report shall describe each of the CTR measures undertaken in the past year, the results of any commuter surveys, and the number of employees participating in the program. Within the report, the affected employer shall evaluate the effectiveness of the CTR program, and if necessary, propose modifications to achieve the CTR goals. An affected employer may include other information as deemed appropriate.

#### 6.3.4 Employee Survey

Employee survey information or approved alternative information (as defined by the CTR Task Force Guidelines) must be provided in the annual progress reports submitted in the second, fourth, sixth, eighth, tenth, and twelfth years after implementation begins. The affected employer should contact Thurston County or its designee for the format of the report

### 6.3.5 Record Keeping

Affected employers are required to maintain certain information which documents the CTR program and progress towards meeting the CTR goals. Thurston County or its designee will assist affected employers in identifying the essential information to be maintained. These records shall be maintained for a minimum period of 24 months.

### 6.3.6 Additional Program Elements

In addition to the specific program elements described above, the affected 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;
- (b) Instituting or increasing parking charges for SOVs,
- (c) Provision of commuter ride matching services to facilitate employee ride sharing for commute trips;
- (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;
- (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 on-site day care facilities and emergency taxi services.

## SECTION 7 SCHEDULE FOR SUBMITTALS AND REVIEWS

### 7.1 CTR Program Description Submittal and Implementation

Not more than 180 days after the effective date of this Ordinance, or within 180 days after an employer becomes an affected employer, the affected employer shall develop a CTR program and submit a description of the program to Thurston County or its designee. Unless an extension is

granted, the employer shall implement the program not more than 180 days after the program description was first submitted.

Implementations of approved program modifications shall occur within 30 days of the final administrative decision, or 180 days after submission of the program description or annual report, whichever is greater.

## 7.2 Affected Employer Annual Reporting Date

Upon receipt of an affected employer's initial CTR program description, Thurston County or its designee shall establish, in consultation with the employer, the annual reporting date. The annual reporting date is the date that the employer's annual progress report is due.

## 7.3 Document Review

Thurston County or its designee shall provide the affected employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the affected 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 affected employer's program or annual report is deemed accepted. Thurston County or its designee may extend the review period up to 90 days. The implementation date for the affected employer's CTR program will be extended an equivalent number of days.

## 7.4 Modification of CTR Program Elements

Any affected employer may submit a request to Thurston County or its designee 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:

(a) The affected employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer; or

(b) The affected 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 affected employer's own base year values of VMP per employee and SOV rates were higher than the CTR zone average, and/or secondly, in the goal measurement year(s), showing that the affected employer has achieved reductions from its own base values that are comparable to the reduction goals established for the affected employer's CTR zone.

## SECTION 8 CREDIT FOR TRANSPORTATION DEMAND MANAGEMENT EFFORTS

### 8.1 Leadership Certificate

As public recognition for their efforts, affected employers with VMT per employee and proportion of SOV trips lower than the zone average will receive a Commute Trip Reduction Certificate of Leadership from Thurston County or its designee

### 8.2 Credit for Programs Implemented Prior to the Base Year

Affected 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. Affected employers wishing to receive credit for the results of existing TDM efforts may do so by applying to Thurston County or its designee 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 affected 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 final base year CTR zone values. This three percentage point credit applies only to the first measurement goals.

### 8.3 Program Exemption Credit

Affected employers may apply for program exemption credit for the results of past or current TDM efforts by applying to Thurston County or its designee within 90 days of adoption of the applicable CTR Ordinance, or as part of any annual report. Application shall include 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 Task Force Guidelines.

Affected employers that apply for credit and whose VMT per employee and proportion of SOV trips are equal to or less than goals for one or more future goal years, and commit in writing to continue their current level of effort, shall be exempt from the requirements of the Ordinance except for the requirements to report performance in the measurement years. If any of these reports indicate the affected employer does not satisfy the next applicable goal(s), the affected employer shall immediately become subject to all requirements of the CTR Ordinance

## SECTION 9 COMPLIANCE AND ENFORCEMENT

For purposes of this section, compliance shall mean fully implementing in good faith all provisions in an approved CTR program

## 9.1 Program Review Criteria

Thurston County or its designee shall apply the following criteria in 1995 or after for achieving goals for VMT per employee and proportion of SOV trips in determining whether to require modifications of an affected employer's CTR program:

(a) If an affected employer meets either or both goals, the employer shall be deemed to have satisfied the objectives of the CTR Plan and this Ordinance, and will not be required to modify its CTR program.

(b) If an affected 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, Thurston County or its designee shall work collaboratively with the affected employer to make modifications to its CTR program. After agreeing on modifications, the affected 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. Thurston County or its designee shall review the revisions and notify the affected employer of acceptance or rejection of the revised program. If a revised program is not accepted, Thurston County or its designee will send written notice to that effect to the affected employer within 30 days and, if necessary, require the affected employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision of the required program will be issued in writing by Thurston County or its designee within 10 working days of the conference. The affected employer shall have 30 days to resubmit a revised program in accordance with the outcome of the conference. Failure to resubmit a revised program within 30 days shall be deemed a violation of this Ordinance.

## 9.2 Violations

Any of the following constitute violations:

(a) An affected employer's failure to develop a complete CTR program and/or to submit a complete CTR Program Description by the applicable deadlines as specified in this Ordinance. This includes:

1) Affected employers notified or that have identified themselves to Thurston County or its designee within 180 days of the effective date of this Ordinance and that do not submit a CTR Program Description within 180 days from the notification or self-identification, or

(2) Affected employers not identified or self-identified within 180 days of the effective date of this Ordinance and that do not submit or implement a CTR program within 180 days of the effective date of this Ordinance

(3) Employers who become affected employers and fail to identify themselves within 180 days of this change in status.

(b) An affected employer's failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and SOV goals as specified in the CTR Plan and this Ordinance.

(c) Failure to make a good faith effort, as defined in RCW 70.94.534 and this Ordinance, or

(d) Failure to revise a CTR program as defined in RCW 70.94.534(4) and this Ordinance.

### 9.3 Penalties

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. Any affected employer violating any provision of this section shall be guilty of a civil infraction and subject to the imposition of civil penalties pursuant to RCW Chapter 7.80.

(a) Whenever Thurston County or its designee makes a determination that an affected employer is in violation of this Ordinance, Thurston County or its designee shall issue a notice of civil infraction in accordance with RCW Chapter 7.80 as adopted or hereinafter amended. For purposes of RCW Chapter 7.80, Thurston County or its designee's enforcement officer shall be its General Manager or designee.

(b) Each infraction shall constitute a separate violation.

(c) Each day that an affected employer is in violation shall constitute a separate violation.

(d) Penalties will begin to accrue 15 days following the notice of civil infraction. In the event that an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the appeal be decided in favor of the appellant, all of the monetary penalties will be dismissed.

(e) 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 affected employer and pursued in good faith. Unionized affected employers shall be presumed to act in good faith compliance if they:

Propose to a recognized union any provision of the affected employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act, and

Advise the union of the existence of the statute and the mandates of the CTR program approved by Thurston County or its designee and advise the union that the proposal being made is necessary to compliance with state law (RCW 70.94.531)

## 9.4 Schedule of Penalties

The violation of any provision of this Ordinance is designated as a Class 2 Civil Infraction pursuant to RCW Chapter 7.80. Additional assessments may be imposed in accordance with RCW 3.62.090 and other applicable statutory requirements

## SECTION 10 EXEMPTIONS AND GOAL MODIFICATIONS

### 10.1 Worksite Exemptions

An affected employer may request Thurston County or its designee to grant an exemption from all CTR program requirements or penalties for a particular worksite. The affected 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 SOV trips and VMT per employee. Exemptions may be granted by Thurston County or its designee 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. Thurston County or its designee shall review annually all affected employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

### 10.2 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. Thurston County or its designee will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. Thurston County or its designee shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

### 10.3 Modification of CTR Program Goals

(a) An affected employer may request that Thurston County or its designee modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description 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.

(b) Thurston County or its designee will review and 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 year after Thurston County or its designee approval of its initial program description or annual report.

## SECTION 11 APPEALS PROCESS

### 11.1 CTR Appeals Board

Thurston County or its designee is hereby authorized to develop procedures implementing an appeals process and establish a CTR Appeals Board to review appeals designated in Section 11.2. Such a board should be composed of both representatives of appropriate local jurisdictions and selected affected employers.

### 11.2 Appeals Process

Any affected employer may appeal administrative decisions regarding exemptions, goal modifications, program element modifications, and violations to a CTR Appeals Board. In the event of a violation, the affected employer shall be notified of the intent to impose penalties and the manner in which penalties may be appealed. The appeal should be addressed to Thurston County or its designee which will refer the matter to the CTR Appeals Board.

## SECTION 12 VALIDITY

### 12.1 Validity

If any section, subsection, paragraph, sentence, clause, phrase, or other portion of this Ordinance or its application to any person is, for any reason, declared unconstitutional, illegal, or invalid in whole or in part by any court or agency of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

## SECTION 13 REPEAL

### 13.1 Repeal

Ordinance No. 955 of the City of Lacey passed on January 28, 1993, is hereby repealed.

## SECTION 14 SUMMARY

### 14.1 Summary

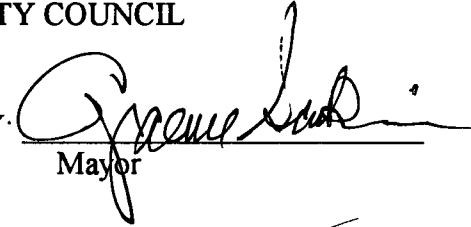
The Summary for Publication attached hereto is hereby approved for publication.



PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 22nd  
day of February, 2000.

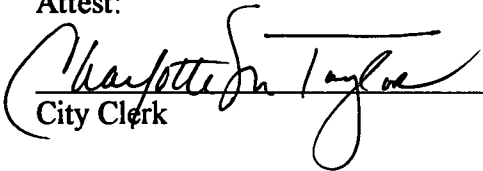
CITY COUNCIL

BY



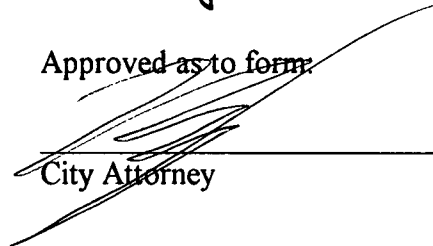
\_\_\_\_\_  
Mayor

Attest:



\_\_\_\_\_  
City Clerk

Approved as to form:



\_\_\_\_\_  
City Attorney

Published: February 26, 2001

ATTACHMENTS

ATTACHMENT 1

CTR PLAN FOR THURSTON COUNTY

SUMMARY FOR PUBLICATION

ORDINANCE 1153

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on February 22, 2001, Ordinance No. 1153, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, ADOPTING A NEW COMMUTE TRIP REDUCTION PLAN FOR THURSTON COUNTY (THE COUNTY-WIDE CTR PLAN) AND IMPLEMENTING MEASURES AS REQUIRED BY THE WASHINGTON STATE COMMUTE TRIP REDUCTION LAW (RCW 70.94.527), REPEALING ORDINANCE NO. 955 WHICH ADOPTED THE CURRENT TRIP REDUCTION PLAN AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance constitutes a New Commute Trip Reduction Ordinance for the City which Ordinance is consistent with provisions proposed throughout Thurston County and is in compliance with State amendments to the Commute Trip Reduction laws.
2. The Ordinance adopts a New Commute Trip Reduction Plan for Thurston County.
3. The prior Commute Trip Reduction Ordinance of the City, being Ordinance No. 955, is repealed.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: February 26, 2001.