

City Council Meeting: June 25, 2024

Santa Monica, California

ORDINANCE NUMBER 2782 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA  
AMENDING SANTA MONICA MUNICIPAL CHAPTER 9.53 TRANSPORTATION  
DEMAND MANAGEMENT TO ALIGN THE CITY'S TRANSPORTATION DEMAND  
MANAGEMENT ORDINANCE WITH SOUTH COAST AIR QUALITY MANAGEMENT  
DISTRICT'S (AQMD) RULE 2202

WHEREAS, vehicle transportation is the greatest contributor to Santa Monica's carbon emissions (accounting for 69 percent of emissions in 2022), and between 2019 and 2020, emissions plummeted, largely due to restricted mobility and economic activity resulting from the COVID-19 pandemic;

WHEREAS, although overall transportation emissions in 2022 were 19 percent lower than in 2019, in order to reduce emissions enough to meet the City of Santa Monica's goals, broader programmatic efforts focused on mode shifting and transportation behaviors are necessary;

WHEREAS, the Department of Transportation's Mobility Division regulates employers per a Memorandum of Understanding (MOU) with the South Coast Air Quality Management District (AQMD), the regional air pollution control agency with jurisdiction over Santa Monica and the greater Los Angeles area;

WHEREAS, per the MOU with AQMD, the City is required to align with AQMD's rules and regulations; and in August 2023, AQMD updated Rule 2202 to require employers to collect and report on additional data on employee commute activity which will be analyzed to inform potential future rule amendments; and

WHEREAS, the amendments below align the City's Transportation Demand Ordinance with AQMD's updates to Rule 2202, and attempt to further reduce overall transportation emissions in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.53 of the Santa Monica Municipal Code is hereby amended as follows:

**9.53.010 Purpose**

The purpose and objective of this Chapter is to implement the goals and policies of the City's General Plan by proactively managing congestion, reducing automobile dependence, and enhancing transportation choices by requiring trip reduction plans for all types of trips—work, shopping, leisure, school, and appointments—that will:

- A. Ensure City compliance with the applicable requirements of the South Coast Air Quality Management District (SCAQMD) Rule 2202 and implement air quality control measures required of local governments by the District's 1991 Air Quality Management Plan and subsequent updates and the Los Angeles County Metropolitan Transportation Authority's (LACMTA) Congestion Management Program (CMP);
- B. Accommodate land use changes allowed under the General Plan's Land Use and Circulation Element ("LUCE") while reducing peak-hour automobile trips from new and existing destinations to achieve the LUCE's goal of no net increase in PM peak hour vehicle trips by 2030;
- C. Improve the mobility and general efficiency of circulation and transportation systems by increasing reliance on non-single-occupant vehicle (SOV) travel

such as public transit, ridesharing, active transportation, carsharing, and focusing development in areas close to transit and employment;

- D. Reduce traffic impacts within the community and region, vehicular air pollutant emissions, energy usage, and ambient noise levels through a reduction in the number of per capita vehicle miles traveled (VMT) and management of traffic congestion;
- E. Minimize the percentage of Employees traveling in SOVs to and from work, especially during peak-hour periods;
- F. Promote and increase work-related transit use, ridesharing, walking, and bicycling to minimize parking needs, manage congestion, and protect the quality of life in Santa Monica's neighborhoods and districts;
- G. Improve the quality and level of access for residents, Employees, customers, and visitors by improving transportation choices and managing congestion;
- H. Decrease the City's need for additional parking facility construction;
- I. Coordinate transportation system management, transportation demand management (TDM), and transportation facility development strategies Citywide; and
- J. Coordinate transportation system management, transportation demand management, and transportation facility development strategies with other cities and counties in the region and through regional agencies. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

### **9.53.020 Definitions**

The following words and phrases shall have the following meanings when used in this Chapter. Words and phrases not specifically defined below shall be aligned with the meanings identified in SCAQMD's Rule 2202.

**Audit.** A selective inspection by the City of an Employer or Developer's activities related to the fulfillment of ongoing implementation and monitoring of an approved Emission Reduction Plan or Developer TDM Plan.

**Average Vehicle Ridership (AVR).** The total number of Employees who report to or leave work during the Peak Windows divided by the number of vehicles driven by these Employees over that 5-day survey period. The AVR calculation requires that the 5-day period must represent the 5 days during which the majority of Employees are scheduled to arrive at the Worksite. The hours and days chosen must be consecutive. The 5-day survey period cannot contain a holiday and shall represent typical operations so that a projection of the average vehicle ridership during the year is obtained.

An example of morning AVR using the survey week for an Employer with 300 Employees all reporting to work weekdays between 6:00 a.m. and 10:00 a.m. is:

	<b>EMPLOYEES REPORTING TO/ DEPARTING WORK</b>	<b>NUMBER OF VEHICLES DRIVEN TO THE WORKSITE BY THESE EMPLOYEES</b>
MONDAY	300	200
TUESDAY	300	190
WEDNESDAY	300	210
THURSDAY	300	200
FRIDAY	300	200
TOTAL	1,500	1,000

In this example, AVR is arrived at by dividing the number of Employees reporting to work between 6:00 a.m. and 10:00 a.m. during the survey week (1,500) by the number of vehicles driven to the Worksite between the same hours during the week (1,000):

$$1,500/1,000 = 1.5 \text{ AVR}$$

A similar calculation is required for obtaining the afternoon Peak Window AVR for commute trips to and from the Worksite between 3:00 p.m. and 7:00 p.m.

**AVR Target.** The AVR established by this Chapter that an Employer Emission Reduction Plan (ERP) or Developer Transportation Demand Management (TDM) plan is expected to achieve for a particular Worksite or project.

**AVR Verification Method.** A method approved by the City for determining an Employer's current AVR, or approved by the City or SCAQMD for Employers of 250 Employees or more.

**AVR Window.** The period of time comprised of both hours and days used to calculate AVR (i.e., 6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 7:00 p.m.).

**Business Type/Classification.** The activity type that classifies the primary nature of work conducted by the Employer located at the Worksite.

**Carpool.** A motor vehicle occupied by 2 to 6 persons traveling together to and from the Worksite for the majority (at least 51%) of the total commute. For-hire vehicles must include 2 or more passengers (in addition to any driver) to be classified as a carpool.

**Commute Trip.** The means of transportation used for the greatest distance of an Employee's commute to or from work during the Peak Window. Each commute trip to the Worksite shall be calculated as follows:

Single-occupant vehicle = 1

Carpool = 1 divided by the number of people in the carpool

Vanpool = 1 divided by the number of people in the van  
Motorcycle, moped, motorized scooter, motorbike = 1 divided by the number of people on the vehicle  
Zero Emission Vehicle= 0\*  
(\*Zero Emission Vehicle = 1 for Developer TDM Plans. See Section 9.53.140)  
Public transit = 0  
Bicycle = 0  
Walking and other nonmotorized transportation modes = 0  
Non-commuting = 0

**Compressed Work Week.** This applies to Employee(s) who, as an alternative to completing the basic work requirements in five 8-hour workdays in one week, are scheduled in a manner which reduces vehicle trips to the Worksite. The recognized compressed work week schedules for purposes of this Chapter are 36 hours in 3 days (3/36), 40 hours in 4 days (4/40), or 80 hours in 9 days (9/80).

**Consultant Employee Transportation Coordinator (ETC).** A person that meets the requirements of and that serves as an ETC at a Worksite for an Employer other than the consultant ETC's Employer.

**Developer.** Any person or entity that is responsible for development of a project that will result in the new construction of 7,500 square feet of nonresidential floor area or more, 16 residential units or more, or mixed-use projects of 16 residential units or more with any associated nonresidential components. The person or entity responsible for development of a project shall be the Developer and property owner. Upon transfer of title from a property owner to a Developer, the term "Developer" shall mean the property owner.

**Developer TDM Plan.** A trip reduction plan intended to result in a Developer achieving the applicable AVR targets specified in this Chapter.

**Director of Transportation.** The Director of Transportation of the City of Santa Monica or designee.

**Disabled Employee.** An individual with a physical impairment which prevents the individual from traveling to and from the Worksite by means other than a single-occupant vehicle.

**Emission Reduction Plan (ERP).** A plan intended to reduce emissions related to Employee commutes and to meet a worksite specific emission reduction target for the subsequent year.

**Emission Reduction Target (ERT).** The annual VOC, NOx and CO emissions required to be reduced based on the number of Employees per Worksite and the Employee Emission Reduction Factors as specified in SCAQMD Rule 2202-On-Road Motor Vehicle Mitigation Options Implementation Guidelines.

**Employee.** Any person employed full or part-time by a person(s), firm, business, educational institution, nonprofit agency or corporation, government agency or other entity. This term excludes the following: temporary Employees, Field Construction Workers, Independent Contractors, Volunteers, seasonal Employees and Field Personnel.

**Employee Transportation Coordinator (ETC).** The designated person, with appropriate training as required by the City, who is responsible for the development, administration, implementation, and monitoring of the Emission Reduction Plan. The ETC must be active during normal business hours when the majority of Employees are at the Worksite, either in person or teleworking. Employers of 250 Employees or more must attend an SCAQMD ETC certification course. Employee Transportation Coordinators shall participate in City-sponsored workshops and roundtables.

**Employee Trip Reduction Plan (ETRP).** A plan for implementation of strategies that are designed to reduce Employee vehicle commute trips during the AVR Window.

**Employer.** Any person(s), firm, business, educational institution, nonprofit agency, or corporation, government agency, or other entity that employes 30 or more Employees and has a permanent place of business in the City of Santa Monica.

**Field Construction Worker.** An Employee who reports directly to work at a construction site outside the City of Santa Monica for the entire day, an average of at least 6 months out of the year.

**Field Personnel.** An Employee who spends 20% or less of their work time, per week, at the Worksite and who does not report to the Worksite during Peak Windows for pick up and dispatch of an Employer provided vehicle.

**Holiday.** Those days designated as national or State holidays, in which the Worksite is closed in observance of the holiday. An AVR survey shall not be undertaken in any week where the following holidays occur:

<b>New Year's Day</b>	January 1
<b>Martin Luther King Jr. Birthday</b>	January (Third Monday)
<b>Presidents' Day</b>	February (Third Monday)
<b>Cesar Chavez Day</b>	March 31
<b>Bike to Work Day</b>	May (Third Thursday or Friday)
<b>Memorial Day</b>	May (Last Monday)
<b>Juneteenth</b>	June 19
<b>Independence Day</b>	July 4
<b>Labor Day</b>	September (First Monday)
<b>Indigenous Peoples' Day</b>	October (Second Monday)
<b>California Rideshare Week</b>	October (First Week)
<b>Veteran's Day</b>	November 11
<b>Thanksgiving Day</b>	November (Fourth Thursday plus the Friday after)
<b>Christmas Eve</b>	December 24
<b>Christmas Day</b>	December 25



The days these holidays are observed may vary from year to year; therefore, it shall be the responsibility of the Employer to obtain these specific holiday dates to ensure exclusion of these weeks from their AVR survey week. Additionally, the Employer may not survey on any week in which a religious or other holiday not listed above is observed by the Employer, resulting in closing the place of employment for one day or more in observance of said holiday.

**Independent Contractor.** A person who enters into a direct written contract or agreement with an Employer to perform certain services and is not on the Employer's payroll. An Independent Contractor providing services to an Employer for a consecutive period of more than 6 months shall count as an Employee of the Employer and shall be counted in the AVR. The Independent Contractor shall also be considered an Employee when figuring the Employer annual transportation fee.

**Low-Income Employee.** An individual whose salary is equal to or less than the current individual income level set in California Code of Regulations, Title 25, Section 6932, as lower income for Los Angeles County. Higher income employees may be considered to be "low-income" if the employee demonstrates that the plan disincentive would create a substantial economic burden.

**Mobile Source Mission Reduction Credits (MSERCs).** Emission credits issued pursuant to Regulation XVI – Mobile Source Offset Programs.

**Motor Vehicle.** A self-propelled vehicle, consistent with California Vehicle Code 415.

**Monitoring.** The techniques used to assess progress towards complying with the transportation management plan.

**Multi-Site Employer.** Any Employer which has more than one Worksite within the City of Santa Monica, or more than one Worksite in the South Coast Air Basin with one or more of those sites located in the City of Santa Monica.

**Non-Commuting AVR Credit.** This credit applies to Employees who are at the Worksite during the window for calculating AVR and remain at the Worksite or out of the SCAQMD jurisdiction for a full 24-hour period or more to complete work assignments.

**Nitrogen Oxides (NOx).** Nitric oxides and nitrogen dioxides, collectively expressed as nitrogen dioxide.

**On-Site Coordinator.** An Employee who serves as on-site coordinator at a Worksite served by a consultant ETC or for an Employer with more than one Worksite located in the City of Santa Monica and has knowledge of the Employer's ERP and marketing. On-site coordinators for Employers with more than 250 Employees must attend a one-time SCAQMD certified training course. The on-site coordinator is limited to program implementation rather than program development.

**Parking Cash Out.** Health and Safety Section 43845 that requires Employers with 50 or more Employees who lease their parking and subsidize all or part of that parking to implement a Parking Cash Out program. Employers who fall under the purview of Parking Cash Out must offer their Employees the option to give up their parking spaces and receive a cash subsidy in an amount equal to the cost of the parking space. Employers who are subject to Parking Cash Out requirements must implement a Parking Cash Out plan. Employers who do not implement a Parking Cash Out plan will have their emission reduction plans disapproved.

**Part-Time Employee.** Any Employee who reports to a Worksite on a part-time basis fewer than 32 hours per week but more than 4 hours per week. These Employees shall be included in the AVR calculations of the Employer provided the Employees report to or leave the Worksite during the AVR window.

**Peak Window.** In the morning, the Peak Window includes the hours from 6:00 a.m. to 10:00 a.m. In the evening, the Peak Window includes the hours from 3:00 p.m. to 7:00 p.m.

**Peak Window Trip.** An Employee's commute trip that begins or ends at the Worksite or a work-related trip within the Peak Window.

**Project Commute Survey.** A survey of all tenant Employees of a project site to determine property-wide AVR as part of the annual monitoring report on a Developer TDM Plan.

**Project Transportation Coordinator (PTC).** The designated person, with appropriate training as required by the City, who is responsible for the development, administration, implementation, and monitoring of the Developer TDM Plan. The PTC must be at the project site during normal business hours when the majority of Employees are at the project unless alternative arrangements have been made pursuant to Section 9.53.150. PTCs shall participate in City-sponsored workshops and roundtables.

**Property Owner.** Any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

**Remote Employee.** Any Employee who is employed by an Employer at a regulated Worksite, however, primarily lives and works at locations outside of the South Coast

AQMD, and physically commutes to the Worksite fewer than five days per either the ERP or Developer TDM plan year.

**Residential TDM.** Means any strategies that are designed to reduce Single Occupancy Vehicle trips to and from residential properties.

**Rideshare** Mode of transportation other than a single occupancy vehicle that reduces emissions associated with travel.

**Seasonal Employee.** Any person who is employed for less than a continuous 90-day period.

**Single Occupancy Vehicle.** A privately operated motor vehicle whose only occupant is the driver, including for hire vehicles with one passenger.

**South Coast Air Quality Management District (SCAQMD).** The air quality control agency that monitors and enforces air quality regulations in Orange County and non-desert portions of Los Angeles, Riverside and San Bernardino Counties.

**Student Worker.** A student who is enrolled and gainfully employed (on the payroll) by an educational institution. Student workers who work more than 4 hours per week are counted for ordinance applicability and if they report to or leave work during the AVR Window(s) are counted for AVR calculation. Student workers are Employees within the meaning of this Chapter.

**Telecommuting.** Occurs when an Employee works from home, off site, a satellite office, or a telecommuting center which eliminates a commute trip to the Worksite or reduces the commute travel distance by more than 50%.

**Temporary Employee.** Any person employed by an employment service or a “leased” Employee that reports to a Worksite other than the employment service’s Worksite, under a contractual arrangement with a temporary Employer. Temporary Employees are counted as Employees of the employment service for purposes of calculating AVR. Temporary Employees reporting to the Worksite of a temporary Employer for a consecutive period of more than 6 months shall count as an Employee of the temporary Employer and shall be counted in the AVR. The Temporary Employee shall also be considered an Employee when figuring the Employer annual transportation fee.

**Transit.** A shared passenger transportation service which is available for use by the general public, as distinct from modes such as taxicabs, carpools, or vanpools which are not shared by strangers without a private arrangement. Transit includes buses, ferries, trams, trains, rail, or other conveyance which provides to the general public a service on a regular and continuing basis. Also known as public transportation, public transit, or mass transit.

**Transportation Allowance.** A financial incentive offered to Employees or residents instead of a parking subsidy to provide Employees flexibility in mode choice. Employees and residents are typically required to execute an agreement that they do not commute in a single-occupant vehicle, or for residents, own a vehicle, in order to be eligible to receive the benefit.

**Transportation Demand Management (TDM).** The implementation of strategies that will encourage individuals to either change their mode of travel to other than a single occupancy vehicle, reduce trip length, eliminate the trip altogether, or commute at other than Peak Windows.

**Transportation Facility Development (TFD).** Construction of capital improvements to a transportation or transit system and/or installation of related operating equipment.

**Transportation Management Organization (TMO).** Transportation Management Organizations (TMOs) are City-certified organizations that provide transportation services in a particular area or Citywide. They are generally public-private partnerships, consisting primarily of area businesses with local government support. TMOs provide an institutional framework for TDM programs and services.

**Transportation System Management (TSM).** Strategies designed to improve traffic flow through modifications in, or coordination of, the operation of existing facilities.

**Trip Reduction.** The reduction in single occupant vehicle trips by private or public sector programs used during Peak Windows of commuting.

**Vehicle Miles Traveled (VMT).** The number of miles traveled one-way by a motor vehicle for a Worksite commute trip.

**Volatile Organic Compound (VOC).** Means any volatile compound of carbon, excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and exempt compounds as defined by SCAQMD Rule 102.

**Volunteer.** Any person at a Worksite who, of their own free will, provides goods or services, without any financial gain.

**Workplace or Worksite.** A building, part of a building, or grouping of buildings located within the City which are in actual physical contact or separated solely by a private or public roadway and are owned or operated by the same Employer.

**Zero Emission Vehicle (ZEV).** A motor vehicle, as certified by the California Air Resources Board (CARB), which emits no tailpipe pollutants. Employees arriving to work in a Plug-In Hybrid Electric Vehicle (PHEV) meet the definition of a zero-emission vehicle provided that the entire trip to work is made exclusively under electric power. This applies to plug-in vehicles with all electric range that can travel exclusively under electric power without use of the gasoline engine or cogeneration system. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2520CCS § 47, adopted June 14, 2016; Ord. No. 2646CCS § 4, adopted September 8, 2020)

#### **9.53.030 Applicability**

This Chapter shall apply to Employers and Developers as defined above. The City shall not be exempt from the requirements of this Chapter. In accordance with the Memorandum of Understanding between the City and the SCAQMD, County, State and Federal agencies located in Santa Monica shall comply with South Coast AQMD's Rule 2202 and will be exempt from this Chapter. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

#### **9.53.040 AVR Targets**

Employers shall strive to achieve, and Developers shall achieve the applicable AVR Targets in this Chapter. This Section shall not apply to residential units but shall apply to nonresidential components of mixed-use projects. For nonresidential uses in residential designations not represented in this Chapter, all Employers shall achieve the lowest AVR Targets established by this Chapter unless located in a land use designation with a higher AVR Target.

<b>LAND USE DESIGNATION</b>	<b>EMPLOYER AND DEVELOPER AVR TARGET</b>
Bergamot Transit Village; Mixed Use Creative; Conservation: Art Center; Conservation: Creative Sector	2.0
Downtown Core	2.2
General Commercial: Pico Boulevard from Lincoln Boulevard to 11th Street, Lincoln Boulevard from Santa Monica Freeway to Bay Street	1.75
General Commercial: Santa Monica Boulevard from Lincoln Court to 20th Street	2.0
Healthcare Mixed Use	2.0
Industrial Conservation: Euclid Court to Stewart Street	2.0
Institutional/Public Lands: bounded by Santa Monica Freeway, Lincoln Boulevard, Pico Boulevard and Ocean Avenue	2.2
Mixed Use Boulevard: 4th Street from Olympic Drive to Pico Boulevard and area bounded by Cloverfield Boulevard, Olympic Boulevard, 20th Street and Colorado Avenue	2.0
Mixed Use Boulevard: Wilshire Boulevard from 2nd Court to 7th Street, and Lincoln Boulevard from Wilshire Boulevard to Olympic Boulevard	2.2
Mixed Use Boulevard: northside of Wilshire Boulevard from Lincoln Boulevard to eastern City Limits, and southside of Wilshire Boulevard from Lincoln Court to eastern City Limits	1.75
Mixed Use Boulevard Low: Pico Boulevard from Main Court to Centinela Avenue, Lincoln Boulevard from Santa Monica Freeway to Bay Street, Main Street from Pico Boulevard to southern City Limits	1.75
Mixed Use Boulevard Low: Santa Monica Boulevard from 23rd Street to Centinela Avenue, Broadway from Lincoln Court to 26th Street, Colorado Avenue from Lincoln Court to Cloverfield Boulevard, Olympic Boulevard from Euclid Court to 17th Street	2.0
Neighborhood Commercial: Olympic Boulevard from 14th Street to 16th Street	2.0
Neighborhood Commercial: Pico Boulevard from Main Court to Centinela Avenue	1.75
Office Campus: east of Cloverfield Boulevard, north of Olympic Boulevard	2.0
Office Campus: south of Ocean Park Boulevard	1.75
Ocean Front District, north of Santa Monica Pier	1.75
Ocean Front District, Santa Monica Pier and south	2.0
Institutional/Public Lands: other than specified above	1.6
All remaining districts	1.6

(Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)



### **9.53.50 Employer Transportation Fee.**

A. **Employer Annual Transportation Fee.** There shall be an Employer annual transportation fee. All Employer annual transportation fees collected pursuant to this Chapter shall be deposited in an account separate from the General Fund. The purpose of the Employer annual transportation fee is to pay for the costs of administration, including TDM outreach and support and City TMO formation activities, implementation, investigation, inspection, audit, and enforcement of this Chapter.

1. Employers filing Emission Reduction Plans (ERPs) shall pay an annual transportation fee calculated using the following formula:  $\text{Fee} = (\text{number of Employees}) \times (\text{Employee Cost Factor})$ . The Employee Cost Factor shall be established by resolution of the City Council and amended each July according to the Consumer Price Index or COLA, whichever is higher or by the resolution of the City Council.
2. For purposes of calculating an Employer's annual transportation fee, the definition of Employee shall include full-time and part-time Employees. For purposes of calculating an Employer's annual transportation fee, the definition of an Employee working at a Worksite for an average of 6 months or more shall be used.
3. Employers shall be notified of the Employer annual transportation fee when they receive written notice to submit an ERP in accordance with this

Chapter. Employer annual transportation fees shall be due and paid in full with the submittal of the ERP.

4. Once the employer annual transportation fee required pursuant to this Chapter has been paid, there shall be no refunds.
5. Employers of 30 or more Employees, who implement an Employee Trip Reduction Plan and demonstrate attainment of the applicable AVR Target shall receive the following reductions in their Employer annual transportation fees:
  - a. Attainment of the applicable AVR Target for one year shall result in a 40% reduction of Employer annual transportation fees.
  - b. Attainment of the applicable AVR Target for 2 consecutive years shall result in a 50% reduction of Employer annual transportation fees.
  - c. Attainment of the applicable AVR Target for a period of 3 or more consecutive years shall result in a 60% reduction of Employer annual transportation fees.
6. Employers of 30 or more employees who join a TMO certified by the City, through the procedures specified in this Chapter, shall receive a 25% reduction in the annual Employer transportation fee. This reduction shall be in addition to any fee reduction the Employer is awarded for attainment of the applicable AVR Target. Fees charged by the TMO to Employers for its operation and administrative costs shall be separate from the City's Employer transportation fee. (Added by Ord. No. 2486CCS §§ 1, 2,

adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

### **9.53.60 Contents of Emission Reduction Plans**

- A. Employers of 30 or more employees are required to submit to the City, within 90 calendar days of written notification, an Emission Reduction Plan (ERP) designed to reduce emissions related to Employee commute trips and to meet specific emissions reduction targets specified for the subsequent year. For employers opting to implement their Emission Reduction Plan via the purchase of mobile source emissions credits (MSERCs), the annual Emission Reduction Target (ERT) shall be the equivalent of the highest AVR Target in the City and shall be determined according to the SCAQMD's equation for VOC, NO<sub>x</sub>, and CO, based on Employee emission reduction factors specified in Chapter V of the SCAQMD Rule 2202 Implementation Guidelines. Any Employer subject to Health and Safety Section 43845 shall implement a Parking Cash Out program. Failure to do so will result in the disapproval of an Employer's ERP.

**[Emission Reduction Target] = [Employees x Employee Emission Reduction Factor]**

For purposes of this calculation:

**Employee** = Average daily number of employees reporting to work in the AVR window for a typical 5-day work period which does not include those days defined as holidays.

**Employee emission reduction factor** = Determined by the year of the plan submittal as defined in Chapter V of the SCQAMD Rule 2202 Implementation Guidelines.

1. Each Employer shall choose one or more of the following options in implementing their Emissions Reduction Plan:
  - a. Purchase of Mobile Source Emission Reduction Credits (MSERCs).
  - b. Implementation of an Employee Trip Reduction Plan.

**B. Options for Implementing Emissions Reduction Plan.**

1. **Mobile Source Emission Reduction Credits (MSERCs).** In order to meet their Emission Reduction Target, any Employer required to submit an ERP may purchase MSERCs from a vendor based on emission reduction factors as determined by Section 9.53.060(H). A list of credit vendors can be found on the SCAQMD's website.
  - a. An annual plan indicating the amount of credits purchased and the amount of emissions reduced must be submitted to the City each year.
  - b. MSERCs must be transferred to the City MSERC account no later than 180 calendar days after the approval of the ERP by the City.
  - c. Includes a Parking Cash Out plan if required by Health and Safety Code Section 43845;
2. **Employee Trip Reduction Plan.** Employers who choose this option shall prepare, implement, and monitor Employee Trip Reduction Plan (ETRP) for transportation demand management, transportation system management and

transportation facility development which will be reasonably likely to result in the attainment of the applicable AVR Target in this Chapter. The ETRP shall be submitted in a form approved by the City and shall be reviewed and approved by the Director of Transportation before it is effective.

- a. The ETRP shall include strategies designed to decrease single-occupant vehicle use rideshare during the morning and evening AVR windows and shall be made available to all employees upon hire and every year thereafter along with the Employer's most recent ETRP annual report.
- b. The ETRP shall consist of a report that:
  - i. Calculates and documents AVR levels for morning and evening Peak Windows;
  - ii. Lists plan incentives and a schedule for their implementation, including a mandatory guaranteed ride home program which provides an Employee who rideshares a ride home in the event of an emergency or unplanned overtime with no cost to the Employee;
  - iii. Determines a marketing strategy for the plan year, including mandatory new hire orientation which informs Employees of the Employer's ERP strategies at the time of hire, or new Employee orientation;

- iv. Determines the use of Worksite parking facilities to achieve ETRP objectives (i.e., number of reserved spaces for carpools, vanpool, etc.);
- v. Lists the bicycle paths, routes, and facilities within one-half mile of the Worksite;
- vi. Lists the public transit services within one-half mile of the Worksite;
- vii. Provides a general description of the business type/ classification;
- viii. Includes a sample of the Employee AVR survey, or other mechanism approved by the City. This survey must not be more than 6 months old. For Employers with 250 or more employees, the survey must conform with SCAQMD requirements. The survey must be taken over 5 consecutive days during which the majority of employees are scheduled to arrive at or leave the Worksite. The survey week cannot contain a holiday and cannot occur during “Rideshare Week” or other “event” weeks (i.e., Bicycle Week, Walk to Work Week, Transit Week, Bike it, Walk it Week, etc.). This survey must have a minimum response rate of 60% of employees who report to or leave work between 6:00 a.m. and 10:00 a.m., inclusive, and 60% response rate for employees who report to or leave work between 3:00 p.m. and 7:00 p.m.,

inclusive. Employers that achieve a 90% or better survey response rate for the a.m. or p.m. window may count the “no survey responses” as “other” when calculating their AVR. Employers that receive a survey response rate between 60% and 89% shall calculate the “no survey response” as “drive alone” when calculating their AVR;

- ix. Provides the contact information including name, e-mail address and proof of certification of the Employee Transportation Coordinator who is responsible for implementation and monitoring of the plan;
- x. Provides the contact information including name and e-mail address of the on-site coordinator (if different from the ETC) for each site who is responsible for implementation and monitoring of the plan;
- xi. Identifies the objectives of the plan and provides an explanation of why the plan is likely to achieve the applicable AVR target;
- xii. Includes a Parking Cash Out plan if required by Health and Safety Code Section 43845;
- xiii. Includes a management commitment cover letter signed by the highest-ranking official on site, or the executive responsible for allocating the resources necessary to implement the plan. This letter shall include a commitment to

fully implement the program and state that all data is accurate to the best of the Employer's knowledge.

- c. The ETRP shall be updated every 12 months with an annual report submitted on the anniversary date of the initial plan approval date.

The annual ETRP shall include the following:

- i. AVR calculations and documentation for the plan year;
- ii. Lists plan strategies, changes to plan strategies, and a schedule for their implementation, including a mandatory guaranteed ride home program which provides an Employee who rideshares a ride home in the event of an emergency or unplanned overtime with no cost to the Employee;
- iii. Determines a marketing strategy, indicating changes from the previous plan year, and includes mandatory new hire orientation which informs employees of the Employer's Emission Reduction Plan strategies at the time of hire, or new Employee orientation;
- iv. Determines the use of Worksite parking facilities to achieve rideshare and transit objectives (i.e., number of reserved spaces for carpools and vanpool, etc.);
- v. Lists the bicycle paths, routes, and facilities within one-half mile of the Worksite;
- vi. Lists public transit services within one-half mile of the Worksite;



- vii. Provides a general description of the type of business;
  - viii. Includes a sample of the Employee survey for the plan year as described in subdivision (2)(b)(viii) of this subsection B;
  - ix. Provides the contact information including name, e-mail address and proof of certification of the Employee Transportation Coordinator who is responsible for the preparation, implementation, and monitoring of the plan;
  - x. Provides the contact information including name and e-mail address of the on-site coordinator (if different from the ETC) for each site who is responsible for the implementation and monitoring of the plan;
  - xi. Identifies the objectives of the plan and provides an explanation of why the plan is likely to achieve the applicable AVR target;
  - xii. Includes a Parking Cash Out plan if required by Health and Safety Code Section 43485;
  - xiii. Includes a management commitment letter as defined in subdivision (2)(b)(xiii) of this subsection B; and
  - xiv. Includes updates and revisions to the ETRP as the Director of Transportation deems appropriate, if the annual report indicates that the goals of the previously approved ETRP have not been met.
- d. The procedure for calculating AVR at a Worksite shall be as follows:

- i. The AVR calculation shall be based on data obtained from an Employee survey as defined in subdivision (2)(b)(viii) of this subsection B.
- ii. AVR shall be calculated by dividing the number of employees who report to or leave the Worksite by the number of vehicles arriving at or leaving the Worksite during the Peak Windows. If an Employee uses more than one commute mode per trip, the mode that is used for the majority of the trip shall be the mode that is used in calculating the number of vehicles. All employees who report to or leave the Worksite that are not accounted for by the Employee survey shall be calculated as one Employee per vehicle arriving at or leaving the Worksite during the Peak Windows. Employees walking, bicycling, telecommuting, using public transit, arriving at the Worksite in a zero-emission vehicle, or on their day off under a recognized compressed work week schedule shall be counted as arriving at or leaving the Worksite without vehicles. Motorcycles shall be counted as vehicles. AVR survey reporting errors resulting from missing or incorrect information must be calculated as one Employee per vehicle arriving at the Worksite. Reporting errors that do not include the time when an Employee arrives at or leaves the Worksite must be assumed to occur in the Peak Window.

- iii. A child or student may be calculated for the AVR as an additional passenger in the carpool/vanpool if the child or student travels in the car/van to a Worksite or school/childcare facility for the majority (at least 51%) of the total commute.
  - iv. If 2 or more Employees from different Employers commute in the same vehicle, each Employer must account for a proportional share of the vehicle consistent with the number of Employees that Employer has in the vehicle.
  - v. Any Employee dropped off at a Worksite shall count as arriving in a carpool only if the driver of the carpool is continuing on to the driver's Worksite.
  - vi. Any Employee telecommuting at home, off site, or at a telecommuting center for a full work day, eliminating the trip to work or reducing the total distance by at least 51% shall be calculated as if the Employee arrived at the Worksite in no vehicle.
  - vii. Zero Emission Vehicles (electric vehicles) shall be counted as zero vehicles arriving at the Worksite.
- e. Employers must keep detailed records of the documents which verify the average vehicle ridership calculation for a period of 3 years from plan approval date. Records which verify strategies in the ETRP have been marketed and implemented shall be kept for a period of at least 3 years from plan approval date. Approved ERPs must be

kept at the Worksite for a period of at least 5 years from plan approval date. For Employers who implement their plans using a centralized rideshare service center, records and documents may be kept at a centralized location. Failure to maintain records or falsification of records will be deemed a violation of this Chapter.

f. **AVR Performance Requirement for Employers Submitting an ETRP.** Employers who submit an ETRP to the City that does not meet the applicable AVR Target for the a.m. and p.m. Peak Window must implement a Good Faith Effort Plan in accordance with the following requirements:

- i. Employers shall maintain all currently approved good faith plan strategies during the plan compliance year until a new ETRP is approved.
- ii. Deletion or substitution of any plan strategies is not allowed unless approved by the Director of Transportation in writing.
- iii. Unless otherwise stated, strategies must be implemented in such a way that they are reasonably likely to improve AVR. Employers must continue to demonstrate a good faith effort towards achieving the applicable AVR target for the Peak Window. If a Worksite AVR decreases or does not improve from the previously submitted plan, the selection of strategies must be modified, and the number of strategies increased.

g. **Good Faith Effort Determination Elements.** Employers submitting an ETRP who do not attain their applicable AVR Targets in the a.m. and p.m. Peak Windows shall comply with the following requirements:

i. Employers must implement at least 5 of the following marketing strategies:

1. Attendance at a City-approved marketing class, at least annually.
2. Direct communication by the highest-ranking official at the site, at least annually.
3. Employer newsletter (hard copy or electronic) with rideshare content distributed at least quarterly.
4. Flyers, announcements, memos or e-mails sent to employees at least quarterly.
5. Company recognition of ridesharing at least annually.
6. Employer rideshare events, at least annually.
7. Rideshare bulletin board, kiosk, electronic exchange center, or information center, updated at least quarterly.
8. New hire orientation (mandatory).
9. Rideshare meetings or focus groups, at least semi-annually.
10. Rideshare website, updated at least quarterly.

11. Other marketing strategies that have been approved by the Director of Transportation and the SCAQMD as appropriate.

ii. Employers must implement at least 5 of the following basic support strategies:

1. Commuter Choice Program.
2. Flex time schedule.
3. Guaranteed Ride Home Program (mandatory).
4. Personalized commute assistance.
5. Transit Information Center, updated at least quarterly.
6. Free introductory transit pass.
7. Preferential parking for carpools and vanpools.
8. Ride matching, at least annually.
9. Other basic support strategies that have been approved by the Director of Transportation and the SCAQMD as appropriate.

iii. Employers must implement at least 5 of the following direct strategies:

1. Auto services (minimum dollar amount per Employee per year will be indicated in ETRP forms).
2. Bicycle program.
3. Vanpool program.
4. Compressed work week schedule.

5. Employee clean vehicle purchase program.
6. Off-peak rideshare program.
7. Telecommuting.
8. Discounted or free meals (minimum dollar amount per Employee per year will be indicated in ETRP forms).
9. Direct financial incentives.
10. Gift certificates (minimum dollar amount per Employee per year will be indicated in ETRP forms).
11. Parking charge or transportation allowance.
12. Parking Cash Out program.
13. Off-peak trip reduction program.
14. Points program.
15. Prize drawings, at least quarterly.
16. Start-up incentive.
17. Time off with pay.
18. Transit subsidy.
19. Other direct strategy programs that have been approved by the Director of Transportation and the SCAQMD.

C. **MSERCs Minimum Requirements.** Employers implementing Mobile Source Emission Reduction Credits as defined in this Chapter must meet the minimum plan requirements:

1. **AVR Survey.** Conduct an AVR survey in accordance with the requirements of this Chapter.

2. Employers must survey employees in both the a.m. and p.m. Peak Windows.
  3. Employers who do not meet their Peak Window targets for the a.m. and/or p.m. window must purchase the appropriate amount of MSERCs to bridge the gap in the applicable AVR Target shortfall.
2. **Outreach/Education Plan.** Employers shall include a plan to educate Employees about commute options by making information available to employees.
- a. Information shall be updated annually and include, at a minimum:
    - i. A rideshare bulletin board, kiosk or a rideshare page on a company website, updated quarterly;
    - ii. Rideshare options and information presented to employees as a part of new hire orientation;
    - iii. A Customer Incentive Plan that provides clients and visitors with information about how to access the site using green commute modes such as transit, walking, and biking. This information shall be placed in the lobby, reception area, cash register area and on the Employer's website and shall include, but not be limited to: bus and transit routes within one-half mile of the site, bicycle parking and bicycle facilities within one-half mile of the site, optional incentives to encourage customers to use green commute modes (discounts, drawings, etc.).



3. Employers who fall under the requirements of Parking Cash Out shall include a Parking Cash Out plan. If a Parking Cash Out plan is not included, the ERP shall be disapproved.

D. **Extensions.** In the event that an Employer reasonably needs more time to submit an emission reduction plan, a written request for extension may be filed with the Director of Transportation. All requests must be received by the City no later than 15 business days prior to the plan due date. Such requests must be made in writing and shall state why such extension is requested, what progress has been made toward developing the ERP, and for what length of time the extension is sought. The Director of Transportation shall notify the Employer in writing whether or not the extension has been granted within 15 business days of receipt of a written request for extension.

1. An Employer may request an extension of up to 60 calendar days for the initial submittal of a plan.
2. An Employer may request an extension of up to 30 calendar days to complete a revised plan.
3. The Director of Transportation may grant extensions beyond 60 calendar days for good cause. Each Employer's request shall be reviewed on an individual basis.

E. **Plan Revisions.** An approved ERP may be revised between plan submittal dates by submitting a plan revision in writing to the City. Any changes to an approved plan which is in effect must be submitted in writing to the Director of Transportation.

1. If the Director of Transportation determines that any ERP strategy is not being carried out to the fullest extent, the City may require the Employer to submit quarterly reports that include examples of the strategies implemented for each quarter.
2. If the Director of Transportation determines that the ERP strategy is not effective, the City may require the Employer to submit quarterly progress reports that demonstrate the effectiveness of such strategies.
3. If it is necessary for an Employer to amend an ERP before the plan can be approved, the Employer shall have 15 business days from the date of written notice in which to submit amendments to the Director of Transportation. Employers failing to submit the amendments shall have their ERP disapproved.
4. An ERP will be disapproved if the program demonstrates a disproportionate impact on minorities, women, low-income or disabled Employees.
5. If a final determination that an element of an approved ERP violates any provision of the law issued by any agency or court with jurisdiction to make such determinations, then the Employer shall, within 45 calendar days, submit a proposed plan revision to the Director of Transportation which shall be designed to achieve an AVR equivalent to the previously approved plan.

F. **Employee Transportation Coordinators.** Employers of 30 or more Employees, shall designate a certified Employee Transportation Coordinator (ETC) or an ETC and an on-site coordinator for each Worksite included in the emission reduction plan.

1. An Employer may elect to use a consultant ETC or TMO certified in accordance with this Chapter in lieu of an ETC; provided the consultant ETC or the TMO staff have received certified training and the site maintains an on-site coordinator.
2. If the absence of a certified ETC, consultant ETC, or on-site coordinator exceeds 8 consecutive weeks, a substitute ETC or on-site coordinator at the same level must be designated and trained. Written notice of such a change must be submitted to the Director of Transportation with proof of training no later than 12 weeks after the beginning of the absence.

**G. Emission Reduction Factors.** The Employee emission reduction factors (pounds per Employee per year) used in calculations pursuant to this ordinance and SCAQMD Rule 2202 are specified in Rule 2202-On-Road Motor Vehicle Mitigation Options Implementation Guidelines and shall be used in calculations pursuant to this rule. The Employee emission factors shall be revised upon EPA's final approval for use of the California Air Resources Board (CARB) approved on-road mobile source emission factor (EMFAC) model. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

#### **9.53.80 Procedures for Submission of Emission Reduction Plans**

- A. Any Employer who establishes a new Worksite in the City of Santa Monica, or whose Employee population increases to more than 30, will be required to submit an ERP to the City of Santa Monica. Employers are required to provide notice to the Director of Transportation within 30 calendar days of establishing a new

Worksite, or increasing Employee population. The notice shall be written, and include the Employer's name, the business and mailing address, the number of Employees reporting to the Worksite and the name of the highest-ranking official at the Worksite. Upon receipt of the notice, the City shall provide written notification to the Employer and 90 calendar days thereafter the Employer shall submit a plan and shall be subject to all provisions of this Chapter.

B. Any Employer who has submitted a plan pursuant to this Chapter and whose Employee population falls to fewer than 30 Employees for a 6-month period, calculated as a monthly average, may submit a written request to the Director of Transportation to be exempt from this Chapter. The Employer must submit documentation which demonstrates an Employee population of less than 30 Employees. Such demonstration could be made by payroll records or other appropriate documentation.

**C. Employers with 30 or More Employees.**

1. All Employers with 30 or more Employees, located within the City of Santa Monica and subject to this Chapter, shall submit to the City, within 90 calendar days of receipt of written notice to implement an ERP designed to reduce emissions related to Employee commutes and to meet a Worksite specific Emission Reduction Target (ERT) specifying pounds of emissions per Employee for the subsequent year.
2. Employers required to submit an ERP shall identify measures in their ERP that will result in attainment of their emission reduction targets through the

Emission Reduction Plan specified in this Chapter within 90 calendar days of written notification by the City.

**D. [Intentionally Left Blank]**

**E. Multi-Site Employers of 250 or More Employees.**

1. Multi-site Employers of 250 or more employees, with one or more sites located outside the City of Santa Monica, but within the South Coast Air Basin and subject to SCAQMD Rule 2202, have the option of filing a Rule 2202 plan with the SCAQMD, or filing an ERP with the City of Santa Monica. Employers choosing to file a Rule 2202 plan with the SCAQMD will be required to notify the Director of Transportation in writing no later than 15 business days prior to the plan due date.
  2. Multi-site Employers of 250 or more Employees, with Worksites owned or leased by the same Employer and located wholly within the City of Santa Monica, upon the Director of Transportation's approval of a written request, may submit a single ERP encompassing all Worksites.
- F. All Employer ERPs shall be consistent with any plans previously submitted by the Developer of the property at which the Worksite is located, provided however, that where requirements of this Chapter are more stringent, the requirements of this Chapter shall apply.
- G. If an Employer's ERP due date falls on a day City Hall is normally closed (i.e., weekend, holiday, 9/80 Friday off), the Employer may submit the ERP on the first business day after the plan due date.

H. If an ERP is mailed to the City, the plan must be submitted on or before the plan due date. If the plan is submitted after the plan due date, the plan shall be considered late and the Employer shall be charged a penalty of 25% of the total Employer Annual Transportation Fees and forfeit any discount given for attainment of the applicable AVR target in the a.m. and p.m. windows.

I. After an Employer submits a plan, the Director of Transportation must either approve or disapprove the plan within 90 calendar days.

1. Written notice of approval or disapproval shall be given. If the plan is disapproved, the reasons for disapproval shall be given in writing to the Employer.
2. Once the plan is approved, the Employer will have 60 calendar days from the date of approval to implement all aspects of the plan.
3. Any plan disapproved by the Director of Transportation must be revised by the Employer and resubmitted to the Director of Transportation within 30 calendar days of written notice of disapproval or the Employer shall be deemed in violation of this Chapter. The City has 90 calendar days to review the resubmitted plan.
4. Upon receipt of the second disapproval written notice, and until such time as a revised plan is submitted to the Director of Transportation, the Employer is in violation of this Chapter.

J. An approved ERP may be revised between plan submittal dates by submitting a plan revision in writing to the Director of Transportation. The revision shall not be effective until approved by the Director of Transportation.

- K. Employers who relocate to another worksite within the City of Santa Monica shall notify the City in writing of relocation within 30 calendar days. The City shall notify the Employers in writing to submit an updated version of the Employee profile and worksite analysis of the ERP.
- L. No Employer of 250 or more Employees shall be responsible for complying with this Chapter if the City and the SCAQMD have an agreement which provides an exception to those Employers from the requirements of filing a Rule 2202 plan with the SCAQMD. If at any time the City fails to meet its obligation under the executed agreement, Employers of 250 or more employees in the City shall be released from this Chapter and shall be subject to compliance with the SCAQMD Rule 2202 requirements. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

### **9.53.90 Employer Monitoring and Enforcement**

#### **A. Audits.**

1. **City Audits.** The City shall perform audits on a selective basis. Employers shall receive at least 5 days' written notice of such an audit. An audit may include, but shall not be limited to, an on-site inspection and demonstration that an Employer is performing the on-going monitoring required by this Chapter.
2. **Compliance Inspection.** Any Employer subject to this Chapter is subject to a compliance inspection. This inspection will require access to records that demonstrate implementation and monitoring of the Employer's Emission Reduction Plan.

#### **B. Violations of this Chapter.**

1. No business license shall be renewed if an Employer has not paid the fees required by this Chapter.
2. Failure to submit an initial plan when due, annual report and plan update when due, or mandatory plan revisions when due, or failure to implement provisions of an approved plan as set forth in the plan implementation schedule, failure to keep records, falsification of records, failure to have a certified ETC or designated on-site coordinator on site if required, or failure to submit proper fees in accordance with this Chapter is a violation of this Chapter. Additionally, upon receipt of a second disapproval notice and until such time as a revised plan is approved by the City, the Employer shall be deemed in violation of this Chapter.
3. If an Employer chooses the Employee Trip Reduction option and complies with all provisions of the approved plan but fails to meet the applicable AVR targets, that is not a violation of this Chapter, however, the City shall require the Employer to provide additional incentives and marketing strategies in the ETRP with the goal of increasing the Employer's AVR. Failure to obtain an approved updated plan shall be a violation of this Chapter.
4. If an Employer chooses any emission reduction option (excluding the Employee Trip Reduction option), the Employer must meet the required emission reduction targets for that plan year. Failure to do so will be considered a violation of this Chapter.
5. Each day an Employer violates the provisions of this Chapter or the terms and conditions of any approved ERP shall constitute a separate violation.



C. **Enforcement Actions.** In addition to any other remedy provided for by law, the City may take the following actions for violations of this Chapter or the terms and conditions of any approved ERP.

1. Require the addition of elements to an ERP submitted by an Employer.
2. Revoke any approval of an ERP.
3. Revoke the business license held by any violator.
4. Impose administrative remedies as provided for in Chapter 1.09 or 1.10.
5. Any person violating any provision of this Article of the Municipal Code shall be guilty of an infraction, which shall be punishable by a fine not exceeding \$250.00, or a misdemeanor, which shall be punishable by a fine not exceeding \$1,000.00 per violation, or by imprisonment in the County Jail for a period not exceeding 6 months, or by both such fine and imprisonment.
6. Any person convicted of violating any provision of this Chapter shall be ordered to reimburse the City its full investigative costs.
7. Notwithstanding any other provisions of this Chapter regarding penalties for enforcement actions or for violations, for violators with 250 or more Employees, the City, in addition to any other remedies under this Chapter, shall refer the matter to the SCAQMD for appropriate action in accordance with the Memorandum of Understanding executed between the City and the SCAQMD. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.100 Administrative Appeals**

- A. Disapproval of an ERP by the Director's designee, including a revision of such a plan, may be appealed to the City.

- B. An appeal of an action by the Director's designee shall be filed with the City within 10 calendar days following the date of the action from which an appeal is taken. If no appeal is timely filed, the action taken by the Director's designee shall be final.
- C. A hearing on an appeal shall be scheduled within 60 calendar days of the date of filing an appeal. Notice of an appeal hearing shall be mailed to the appellant not less than 10 calendar days prior to the hearing scheduled before the Director or Hearing Officer.
- D. A written decision on an appeal shall be issued 30 calendar days from the date of the hearing.
- E. An action by the Director's designee that is appealed to the Director or Hearing Officer shall not become effective unless and until approved by the Director or Hearing Officer.
- F. A decision of the Director or Hearing Officer shall be final except for judicial review and there shall be no appeal to the Commission or City Council. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2520CCS § 48, adopted June 14, 2016; Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.110 Developer TDM Fee**

- A. **Developer Annual TDM Fee.** An annual Developer TDM fee shall be required for Developers of projects that will result in the new construction of:
  - a. Nonresidential projects: 7,500 square feet or more.
  - b. Residential projects: 16 or more residential units.

- c. Mixed-use projects: 16 or more residential units with any associated nonresidential floor area or 7,500 sf or more of nonresidential floor area with any number of residential units.
- B. Developer TDM fees collected pursuant to this Chapter shall be deposited into an account separate from the General Fund. The purpose of the Developer TDM fee is to pay for the cost of administration, including TDM outreach and support and City TMO formation activities, implementation, investigation, inspection, audit, and enforcement of this Chapter. The fee shall be established by resolution of the City Council and amended from time to time and shall be payable prior to issuance of Certificate of Occupancy and annually thereafter. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.120 Procedures for Submission of Developer TDM Plan**

- A. **Preliminary TDM Plan Required.** Developers shall be required to submit a Preliminary Developer TDM Plan meeting the requirements of Section 9.53.130(A), with the exception of paragraphs (3), (4), and (7), at the time of application for the project's planning entitlement for new construction applications.
- B. **Time Limits for Review.** The Director of Transportation shall provide initial comments to the Developer on the Preliminary Developer TDM Plan within 30 calendar days of application submittal.
- C. **Approval Required.** The Director of Transportation shall approve or disapprove the Preliminary Developer TDM Plan prior to project approval by the Planning

Division, Planning Commission, or the City Council, based on the following findings:

1. Inclusion of all applicable components of a Developer TDM Plan in this Chapter.
2. Whether the Developer TDM Plan clearly outlines site-specific strategies.
3. Likelihood of program measures to achieve applicable AVR Target.

D. **Notice.** Notice of approval or disapproval shall be given in writing to the Developer.

Any plan disapproved by the Director of Transportation must be revised by the Developer and resubmitted to the City within 30 calendar days of the notice of disapproval.

E. **Physical Components.** Prior to issuance of a building permit, physical components of the Plan must be shown on the construction drawings and be approved by the Director of Transportation.

F. **Final TDM Plan Required.** Prior to issuance of a Temporary Certificate of Occupancy or a Certificate of Occupancy, a Final Developer TDM Plan for new construction projects, in accordance with Section 9.53.130 shall be submitted for review and approval by the Director of Transportation. The Final Developer TDM Plan shall also be recorded against the property to ensure compliance with this Chapter. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.130 Content of the Final Developer TDM Plan**

A. **Final Developer TDM Plan Format.** The Final Developer TDM Plan shall result in the Developer achieving the applicable AVR Target in this Chapter and shall include:

1. Project description.
2. Site conditions that affect commute travel.
3. Statement of commitment from the property owner to:
  - a. Conduct annual surveys in conformance with this Chapter to determine commute trip behavior including collection of data on Employee means of travel, arrival time, and interest in information on ridesharing opportunities (this shall not be applicable to residential units);
  - b. Monitor Developer TDM Plan; and
  - c. Report annually in a manner required by this Chapter.
4. Annual budget to implement Developer TDM Plan.
5. Duties, responsibilities, and qualifications of a certified PTC.
6. Developer TDM Plan program measures.
7. Implementation strategy that specifies how the Developer TDM Plan will be implemented, monitored, and who will be responsible for submitting annual status reports to the City.

B. **Physical and Programmatic Elements.** The Developer TDM Plan program measures shall include the following:

1. ***Physical Elements.*** In addition to all physical facility improvements required by Chapter 9.28, Parking, Loading, and Circulation, the following

additional physical elements shall be required to be implemented by the Developer to the satisfaction of the City:

- a. *On-Site Transportation Information.* On-site transportation information located where the greatest number of Employees, visitors, and residents are likely to see it. Such transportation information may be provided in an on-site physical location, such as a bulletin board, digital screen, or kiosk, or through other media, such as on a website or other digital means. Information shall include, but is not limited to, the following:
  - i. Current maps, routes, and schedules for public transit routes within one-half mile of the project site.
  - ii. Transportation information including regional ridesharing agency, local transit operators, and certified TMO where available.
  - iii. Ridesharing promotions material supplied by commuter-oriented organizations.
  - iv. Bicycle route and facility information, including rental and sales locations, regional/local bicycle maps, and bicycle safety information within one-half mile of the project site.
  - v. Information about Shared Mobility providers operating within the City.
  - vi. A list of facilities available for carpoolers, vanpoolers, bicyclists, transit riders and pedestrians at the site.

- vii. Walking and biking maps for Employees and visitors, which shall include, but not be limited to, information about convenient local services and restaurants within walking distance of the project.
- viii. Information to commercial tenants and Employees of the project regarding local rental housing agencies.

2. ***Programmatic Elements.*** Additional programmatic elements shall also be included in the Developer TDM Plan program measures based on the type of development as follows:

- a. *Project Transportation Coordinator.* A designated Project Transportation Coordinator shall manage all aspects of the Developer TDM Plan and participate in City-sponsored workshops and information roundtables. The PTC shall be responsible for making available information materials on options for sustainable or active transportation modes and opportunities particularly programs that involve commuter subsidies such as Parking Cash Out and vanpool subsidies. In addition, transit fare media and day/month passes will be made available through the PTC to Employees, visitors, and residents during typical business hours. In the event that the project is sold or transferred, Developer shall notify the City of the new point of contact for the successor and/or new PTC for the project within 30 calendar days of such sale or transfer.

b. *Nonresidential Projects and Nonresidential Components of Mixed-Use Projects.* Nonresidential projects that result in the addition of 7,500 square feet of floor area or more and the nonresidential portion of mixed-use projects shall provide, at minimum, the following programmatic elements:

- i. New Employee orientation.
- ii. Parking Cash Out.
- iii. Incentives for Employees that live within one-half mile of workplaces.
- iv. Information regarding availability of bike commute training offered either on-site or by a third party.
- v. Free on-site shared bicycles intended for Employee use during the work day (e.g., Bike@Work program). This shall be optional if Citywide bikeshare is available within a 2-block radius of the project site.
- vi. Commuter matching services for all Employees on an annual basis, and for all new Employees upon hiring.
- vii. Information regarding benefits of: compressed work schedule, flex-time schedule, telecommuting, and guaranteed ride home.
- viii. Transportation allowance equal to at least 50% of the current cost of a monthly regional transit pass of the Employee's choice (e.g., Big Blue Bus 30-day Pass, Metro EZ Pass, Metro



TAP or equivalent). Within the Downtown Community Plan area, the transportation allowance shall equal at least 100% of the current cost of a monthly regional transit pass of the Employee's choice (e.g., Big Blue Bus 30-day Pass, Metro EZ Pass, Metro TAP or equivalent). An Employee accepting the transportation allowance shall be required to execute a contract agreeing said Employee will not utilize a single occupancy vehicle for the majority (at least 51%) of their daily commute distance more than 5 business days per month. The contract shall also specify the Employee's alternative commute mode (e.g., transit, bike, walk). Within the Downtown Community Plan area, daily transportation allowance, equal to the value of the applicable monthly transportation allowance divided by 20, shall be offered to all eligible Employees. To receive the daily transportation allowance eligible Employees shall not be receiving the monthly transportation allowance and shall be required to submit a daily commute tracking form agreed that said Employees utilized an eligible non-single occupancy vehicle mode for at least 51% of their daily commute. The Employee must demonstrate compliance as reasonably required by the property owner.

ix. Customer and visitor incentives for uses with significant numbers of customers and visitors such as retail, food service, hospitality, and medical office:

1. Customer incentive program.
2. Public directions prioritizing rideshare modes.
3. Special event rideshare services.
4. Shared ride service.

x. Any additional measures that would result in the Developer achieving the applicable AVR target.

a. *Residential Projects and Residential Components of Mixed-Use Projects.* Except as provided in subsection iv, projects that result in the addition of 16 residential units or more and the residential portion of mixed-used projects shall include the following programmatic elements:

- i. Transportation Welcome Package for Residents. Provide all new residents with residential component of the project site with a welcome package on a per-unit basis. The welcome package shall, at minimum, include the information required in subdivision (1)(a) of this subsection (B) (Physical Elements—On-Site Transportation Information).
- ii. Local Preference Marketing Plan. Prepare and implement a marketing and outreach program for the rental of units that targets:  
(A) Employees of businesses located within a one-half mile radius of the project; (B) Employees of the local hospitals; (C) Employees of

the Santa Monica Malibu Unified School District; (D) Employees of the City's police and fire departments; (E) Employees of businesses outside the one-half-mile radius but within the City of Santa Monica. In leasing units, the Developer shall give priority to applicants in the foregoing categories provided that all such applicants meet generally applicable leasing qualifications and criteria imposed by the Developer. Nothing in this Chapter shall require that any residential units be occupied by such persons.

- iii. TMO Participation. Active participation in the formation and ongoing activities of a certified TMO, if established and includes the project site, including payment of annual dues at a level so that trip reduction services are provided as set forth by the TMO, attendance at organizational meeting, providing travel and parking demand data to the TMO, and making available information to project tenants relative to the services provided by the TMO.
- iv. Transportation Allowance. Offer a monthly transportation allowance equal to at least 50% of the current cost of a monthly regional transit pass of the resident's choice (e.g., Big Blue Bus 30-Day Pass, Metro EZ Pass, Metro TAP Pass or equivalent). Within the Downtown Community Plan area, the transportation allowance shall equal at least 100% of the current cost of a monthly regional transit pass of the resident's choice (e.g. Big Blue Bus 30-Day Pass, Metro EZ Pass, Metro TAP Pass or equivalent). The transportation allowance

shall be offered to all residents listed on a lease and their immediate family living at the same address. Immediate family includes spouse, partner, children, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, sister-in-law, and brother-in-law. A resident accepting the transportation allowance shall not lease parking and shall be required to execute a contract agreeing that said resident does not own or long-term lease an automobile in association with a residential use in Santa Monica and will not own or long-term lease an automobile in association with a residential use in Santa Monica for so long as they are in receipt of the transportation allowance. The contract shall also specify the resident's non-single occupancy vehicle commute mode (e.g., transit, bike, walk). Children who reside full-time at the building shall be eligible for the transportation allowance if the parent that is primarily responsible for transporting the child is also eligible for the transportation allowance. The child's parent or guardian shall sign an affidavit stating that the child permanently resides at the building on a full-time basis, and the child is primarily transported by a parent or guardian on the lease that is eligible for the transportation allowance. Notwithstanding the foregoing, if a project is a 100% affordable housing project, as defined by Santa Monica Municipal Code Section 9.52.020.0050, and does not include any off-site affordable units that satisfy another

multiple-unit dwelling project's obligations under Santa Monica Municipal Code Chapter 9.64, then this subsection shall not apply to require the project to offer a transportation allowance.

C. **Developer TDM Plan Applicable to Project Occupants.** The Developer shall ensure that compliance with the Developer TDM Plan is included as a requirement in lease documents and any other agreements for occupancy in the project in order to inform and commit project occupants to applicable measures of the approved Developer TDM Plan.

1. **All Projects.** Allowing Employees and residents to participate in campaigns that promote use of carpools, vanpools, transit, walking, bicycling, carshare, bikeshare, and other trip reduction efforts.
2. **Nonresidential Projects.** For nonresidential projects and nonresidential components of mixed-use projects, participating in the annual project commute survey.

D. **Employer Worksite Plan Consistency.** Employer ERPs and submitted subsequent to the approval of a Developer TDM Plan shall be consistent with the approved Developer TDM Plan, at a minimum, unless the Director of Transportation approves alternative plan components.

E. **Recording Required.** Prior to Certificate of Occupancy, the Developer shall record an agreement, in a form acceptable to the City, that makes the Developer TDM Plan a condition of property ownership. The agreement shall include provisions to:

1. Guarantee adherence to the TDM objective and perpetual obligations of the Developer TDM Plan for all legal parcels within the site regardless of property ownership.
2. Inform all subsequent property owners of requirement of the Developer TDM Plan.
3. Inform the Director of Transportation of any change in ownership.
4. Identify consequences of noncompliant performance. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2552CCS § 1, adopted August 8, 2017; Ord. No. 2606CCS § 18, adopted April 9, 2019; Ord. No. 2638CCS § 1, adopted May 26, 2020; Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.140 Monitoring and Remedies for Violating Developer TDM Plan**

A. **Annual Monitoring Required.** Developer shall submit an annual monitoring report on the Developer TDM Plan (“Developer TDM Annual Status Report”) starting on the first anniversary of issuance of the project’s Certificate of Occupancy or Temporary Certificate of Occupancy, if applicable. The annual monitoring report shall include the following:

1. Confirmation of compliance with all Developer TDM Plan elements.
2. For nonresidential projects and nonresidential components of mixed-use projects, AVR calculations and documentation for the monitoring year based upon cumulative Employee surveys for the project undertaken for one consecutive week each year. The survey must be conducted in

accordance with Section 9.53.060(B) except that Zero Emission Vehicles shall be counted as vehicles.

3. Updated statement of commitment from property owner.
4. Updated annual budget to implement Developer TDM Plan.
5. Contact information including name, e-mail address, and proof of certification of the PTC who is responsible for the preparation, implementation, and monitoring of the Developer TDM Plan.
6. Effect of the Developer TDM Plan on on-site transportation choice, parking availability, and transit ridership.
7. Updated implementation strategy.

**B. Time Limits for Review.** The Director of Transportation shall provide the property owner written notification indicating whether the TDM Annual Status Report is approved or deemed unacceptable within 45 calendar days of its receipt. Alternatively, the Director of Transportation may notify the property owner in writing of an extension of this deadline of no more than 15 calendar days.

**C. Violations.** Violations of the Developer TDM Plan shall include but not be limited to failure to:

- i. Submit a TDM Annual Status Report.
- ii. Pay the Developer TDM Fee.
- iii. Implement strategies contained in the Developer TDM Plan.
- iv. Achieve the established AVR requirement.

**D. Remedies for Violation.**

1. If the Developer commits a violation other than not achieving the applicable AVR target, the City shall issue a written warning and the Developer shall have 30 calendar days from receipt of the notice to correct the violation. If the Developer continues to commit the violation 60 calendar days after receipt of the first written warning, the Developer shall be subject to a fine of \$5/residential unit/day and \$5/Employee in the project/day. The fine shall be deposited in accordance with Section 9.53.110. In the case of mixed-use projects that include both residential units and Employees, the fine shall be calculated separately for each use.
2. If the annual monitoring report shows that the applicable AVR Target has not been achieved for the project, then the Developer shall submit a list of modifications to the Developer TDM Plan to the Director of Transportation for approval within 60 calendar days of the report submittal. The Director of Transportation shall review the list of modifications and may also recommend modifications to the Developer TDM Plan, as appropriate, in order to ensure that the applicable AVR target is achieved. Upon approval of the requested changes, the Developer shall have 30 calendar days to implement the approved measures. Developer shall then submit a follow-up monitoring report within 6 months of implementation of the new measures. If the project continues to not achieve the applicable AVR Target, Developers have the option of:
  - a. Continuing to implement additional measures for approval by the Director of Transportation.



- b. Alternatively bring the project AVR into alternative compliance through the payment of an Alternative Compliance Fee pursuant to Section 9.53.140(E).
- 3. If the project continues to not be in substantial compliance with the Developer TDM Plan, the City shall have the option to:
  - a. Withhold the issuance of building permits, certificates of occupancy, and other City issued permits or licenses.
  - b. Issue a stop work order.
  - c. Request that the City Attorney take appropriate enforcement action. Referral to the City Attorney is not a condition precedent to any enforcement action by the City Attorney.

**E. Alternative Compliance if AVR Target Is Not Achieved.** If a project does not achieve the applicable AVR Target established for the project, Developer may choose to pay an Alternative Compliance Fee to off-set the AVR Target in order to achieve the AVR Target/work day. The fee shall only be applicable upon completion of a fee study and shall be established by resolution of the City Council.

The fee shall be based on the following calculation:

**Step 1:**

$$\frac{\text{Total Number of Employee Trips Per Week}}{\text{AVR}} = \frac{\text{Total Number of Vehicle Trips Produced by Project Per Week}}{\text{AVR}}$$

**Step 2:**

$$\frac{\text{Total Number of Employee Trips Per Week}}{\text{AVR}} = \text{Total Number of Vehicle Trips Allowed}$$

AVR Target

to Achieve Target AVR Per Week

**Step 3:**

$$\frac{\text{Total Number of Produced Trips} - \text{Total Number of Allowable Trips}}{\text{AVR Target}} = \frac{\text{Vehicle Trip Reduction Necessary to Achieve AVR Target}}{5} = \text{Daily Vehicle Reduction Needed to Achieve AVR Target}$$

**Step 4:**

Alternative Compliance Fee = Compliance Fee x Daily Vehicle Reduction Needed to Achieve AVR Target x work days per year (based on 22 work days per month)

- F. Procedures for Modification of Developer TDM Plan.** Developer may submit a request to modify the Developer TDM Plan with such request to be approved by the Director of Transportation. Approval to modify the Developer TDM Plan may be granted if the modifications are: (1) likely to result in the project achieving its applicable AVR Target; and (2) are equally or more effective as the measures that are being modified. Developer shall provide quantifiable evidence, analysis, or consultant report that demonstrates the requested changes will not cause the project AVR to decrease.
- G. Combined TDM Annual Status Report for Multiple Projects.** Upon the Director of Transportation's approval of a written request, a Developer may submit a single TDM Annual Status Report encompassing multiple projects to the requirements of this Chapter if the projects are owned by the same Developer and located wholly within the City of Santa Monica.
- H. Maintenance of Detailed Records Required.** Developers must keep detailed records of the documents which verify the average vehicle ridership calculation for a period of 3 years from plan approval date. Monitoring mechanisms which verify

that the Developer TDM Plan has been implemented shall be kept for a period of at least 3 years from plan approval date. Monitoring mechanisms may include, but not be limited to:

1. Printed documentation of site features (e.g., location of carpool and vanpool parking spaces).
2. Photographs of TDM program facilities (e.g., vanpool and carpool parking spaces).
3. Field site inspections by the City.
4. Other building site reports and surveys that the City may deem appropriate.
5. Approved Developer TDM Plans must be kept at the project site by the PTC.

Failure to maintain records or falsification of records will be deemed a violation of this Chapter. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

**9.53.150 Transportation Management Organizations (TMOs)**

- A. Employers and Developers may propose to use the services of a City-certified TMO to implement their Employer Trip Reduction Plans or Developer TDM Plans provided that membership in a City-certified TMO includes payment of annual dues at a level so that trip reduction services are provided, as set forth by the TMO.
- B. The City may certify TMOs that submit a first-year work plan which outlines the following:

1. A mission statement which describes the reasons for the organization's existence and the overriding goals of the TMO, including how the TMO will implement the goals of the LUCE and No Net New p.m. Peak Trips.
2. Goals and objectives for the first year which target achievement of the mission statement. Specific activities and tasks shall be listed to show how the members will be served by the TMO and how the TMO will help meet the area and regional transportation and air quality goals.
3. A plan for a baseline survey of commuters and Employers in the area to establish existing commuter characteristics and attitudes of commuters towards traffic and the use of commute options. The Employer survey shall obtain a descriptive profile of existing programs and Employer attitudes toward developing new programs.
4. The services to be provided by the TMO to its members, including the commute options to be provided and promoted, the advocacy and marketing activities planned including in-person outreach to Employees, and the role of the TMO staff in providing the services.
5. A marketing plan which creates an identity for the TMO and which describes how the TMO's planned services will be marketed to member Employers and their Employees.
6. A monitoring and evaluation plan which will be used to measure progress against goals and objectives, including results of the TMO's activities with each member. This plan will be used to provide annual reporting information to the City.

7. A budget which details how the work of the TMO will be accomplished, including details of public and private financing and expenditures.
- C. The TMO must provide an annual report to the City to become recertified yearly. The annual report shall include the same elements as the first year plan with the following exceptions:
1. The mission statement shall be revised based on changes in the goals and objectives of the TMO, if any.
  2. The goals and objectives shall be updated to reflect progress and changes in the TMO services.
  3. The baseline survey need not be repeated; however, the annual report shall include follow-up monitoring and evaluation activities related to the baseline survey.
  4. The evaluation and results shall be discussed and used to describe the next year's planned activities. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2646CCS § 4, adopted September 8, 2020)

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining

portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of the Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty days after adoption.

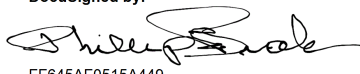
APPROVED AS TO FORM:

DocuSigned by:  
  
61C02D0CAE84432...

---

Douglas Sloan, City Attorney

Approved and adopted this 25<sup>th</sup> day of June, 2024.

DocuSigned by:  
  
 FF645AF0515A449...  
 \_\_\_\_\_  
 Phil Brock, Mayor

State of California            )  
 County of Los Angeles        ) ss.  
 City of Santa Monica         )


I, Nikima S. Newsome, Interim City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2782 (CCS) had its introduction on June 11, 2024, and was adopted at the Santa Monica City Council meeting held on June 25, 2024, by the following vote:

AYES:       Councilmembers Zwick, Parra, Davis, Torosis, de la Torre,  
                   Mayor Brock, Mayor Pro Tem Negrete

NOES:       None

ABSENT:   None

ATTEST:

DocuSigned by:  
  
 7032651F371E430...  
 \_\_\_\_\_  
 Nikima S. Newsome, Interim City Clerk

6/26/2024  
 \_\_\_\_\_  
 Date

A summary of Ordinance No. 2782 (CCS) was duly published pursuant to California Government Code Section 40806.