

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5157

AN ORDINANCE relating to Commute Trip Reduction (CTR); adopting a new CTR Plan; amending Sections 14.40.010, 14.40.020, 14.40.030, 14.40.040, 14.40.050, 14.40.060, 14.40.070, 14.40.080, 14.40.090, 14.40.100, 14.14.110, 14.14.130 and 14.40.140 of the Bellevue City Code; and establishing an effective date.

WHEREAS, the City adopted a Commute Trip Reduction Plan in 1993 and also added Chapter 14.40, Commute Trip Reduction, to the Bellevue City Code by Ordinance No. 4506; and

WHEREAS, changes to state law governing Commute Trip Reduction (CTR) require the City to amend the CTR Plan and Chapter 14.40 of the City Code in order to be consistent with state law; and

WHEREAS, adoption of this ordinance will promote the public health, safety, and general welfare within the City of Bellevue and the region; and

WHEREAS, the City has complied with the State Environmental Policy Act and the City's Environmental Procedures Code; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Section 14.40.010 is amended to read as follows:

14.40.010. Definitions.

The following definitions shall apply throughout this chapter:

"Affected employee" means an employee, as defined in this section, who is employed in a position scheduled to begin a regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week, for an average of at least 35 hours per week for at least 12 continuous months at a single worksite. The identity of the individual employees in positions with these schedules may vary throughout the year.

"Affected employer" means a private or public employer that employs 100 or more affected employees, as defined in this section at a single worksite. Construction worksites, when the expected duration of construction is less than two years, are excluded from this definition.

"Alternative commute mode" means any type of commute transportation other than that in which the single-occupant vehicle is the dominant commute mode, including telecommuting and compressed workweeks if they result in reducing commute trips.

"Alternative work schedules" means programs such as compressed workweeks, as defined in this section, that eliminate commute trips for affected employees.

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

"Carpool" means a motor vehicle occupied by two (2) to six (6) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

"City" means the City of Bellevue.

"Commute trips" means trips made from a worker's home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.

"CTR (commute trip reduction) plan" means the city's plan adopted as required by RCW 70.94.527 to achieve reductions in the proportion of single-occupant vehicle commute trips and vehicle-miles traveled per employee for affected employers.

"CTR (commute trip reduction) program" means an affected employer's strategies to reduce affected employees' SOV use and VMT per employee.

"CTR (commute trip reduction) zone" means an area, such as a census tract or combination of census tracts, within Bellevue 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.

"Commute Matching Service" means a system that assists in matching commuters for the purpose of commuting together.

"Compressed workweek" means an alternative work schedule, in accordance with employer policy, that regularly allows an affected employee to eliminate at least one workday every two weeks by working longer hours during the remaining days, including Saturday and/or Sunday, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four 10-hour days per week or 80 hours in nine days, but may also include other arrangements. Compressed workweeks are understood to be an ongoing arrangement.

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

"Employee" means anyone, other than an independent contractor or seasonal agricultural employee, including seasonal employees of processors of agricultural products, who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer. For the purposes of this chapter, shareholders, principals and associates in a corporation, partners (general or limited) in a partnership and participants in a joint venture are to be considered employees.

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

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

"Flex-Time" means an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.

"Full-Time Employee" means a person, other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

"Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this ordinance and is working collaboratively with the City to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed upon length of time.

"Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521 through 70.94.551 and this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to that employer's CTR program and schedule.

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

"Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

"Proportion of single-occupant vehicle trips or SOV Rate " means the number of commute trips in SOVs over a set period made by affected employees of an affected employer divided by the number of potential trips taken by affected employees working during that period. For base year values only, all employee commute trips within a zone were used to calculate the proportion of SOV trips.

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

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

"Telecommuting" means the use of telephones, computers or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

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

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

"Transportation management Organization (TMO)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

“Vanpool means a vehicle occupied by from seven (7) to fifteen (15) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero (0) vehicle trips.

"Vehicle-miles traveled (VMT) per employee" means the average commute trip length in miles of an affected employer's affected employees multiplied by the number of vehicle commute trips per affected employee.

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

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

"Worksite" means a building or group of buildings occupied by one or more affected employers on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.

“Writing,” “Written,” or “In Writing” means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

Section 2. Bellevue City Code Section 14.40.020 is amended to read as follows:

14.40.020 Commute trip reduction goals.

A. The commute trip reduction goals for employers subject to this chapter who have participated in the CTR Program from its inception are to achieve the following reductions in vehicle-miles traveled per employee and proportion of single-occupant vehicles from the 1992 base year values for each of Bellevue's two CTR zones:

1. Fifteen percent by January 1, 1995;
2. Twenty percent by January 1, 1997;
3. Twenty-five percent by January 1, 1999;
4. Thirty-five percent by January 1, 2005.

B. For calculation purposes, an employer's VMT per employee shall be the average commute trip length of affected employees multiplied by the number of vehicle commute trips per affected employee, calculated as follows:

$$VMT = Average\ Commute\ Trip\ Length \times Vehicle\ Commute\ Trips\ per\ Employee$$

or:

$$VMT = \frac{\text{Miles}}{\text{Trip}} \times \frac{\text{Trips}}{\text{Employee}} = \frac{\text{Miles}}{\text{Employee}}$$

$\frac{\text{Miles}}{\text{Trip}}$ is the average commute trip length of affected employees

$\frac{\text{Trips}}{\text{Employee}}$ is the number of vehicle commute trips per affected employee

Where:

- C. Vehicle commute trips shall be calculated as follows:
 - 1. Single-occupant vehicle commute trips count as one trip per person.
 - 2. Carpool commute trips count as in the inverse of the number of occupants in the vehicle.
 - a. Commute trips made in two-person carpools count as one-half trip per occupant.
 - b. Commute trips made in three-person carpools count as one-third trip per occupant.
 - c. Commute trips made in four-person carpools count as one-fourth trip per occupant.
 - d. Commute trips made in five-person carpools count as one-fifth trip per occupant.
 - e. Commute trips made in six-person carpools count as one-sixth trip per occupant.
 - 3. Commute trips made in vanpools of seven or more occupants and transit commute trips count as zero trips.
 - 4. Each vehicle commute trip eliminated due to telecommuting, alternative work schedules, bicycling, or walking counts as 1.2 trips eliminated.

Section 3. Bellevue City Code Section 14.40.030 is amended to read as follows:

14.40.030 Designation of CTR zones and base year values.

A. Employers in the city fall within either of two CTR zones. Employers within the Bellevue downtown district (DNTN) are located in the Bellevue CBD zone. Employers outside the CBD are located in the East King County zone. Maps indicating zone boundaries are contained in Exhibits 14.40.030 A and B (see end of this chapter).

B. Base year values for proportion of SOV trips and VMT per employee have been established for each CTR zone. Commute trip reduction goals for affected employers shall be calculated based on these values.

C. The base year value of the Bellevue CBD zone for proportion of SOV trips shall be 81 percent of total commute trips within the zone. The base year value for vehicle-miles traveled per employee in this zone shall be 9.2 miles.

D. The base year value of the East King County zone for proportion of SOV trips shall be 85 percent of total commute trips within the zone. The base year value for VMT per employee in this zone shall be 9.3 miles.

E. Affected employers may choose to do a baseline survey to determine site-specific baseline values as opposed to using the values established by the designated CTR zone. Sites affected after January 1, 1999 wishing to use site-specific baseline values shall complete a baseline survey within one year of notifications.

Section 4. Bellevue City Code Section 14.40.040 is amended to read as follows:

14.40.040 City of Bellevue CTR plan.

The 1999 City of Bellevue CTR plan, given clerk's receiving No. _____ and incorporated by reference as if fully set forth herein, is hereby adopted. This plan replaces the 1993 plan and may be amended by further action of the city council.

Section 5. Bellevue City Code Section 14.40.050 is amended to read as follows:

14.40.050 Responsible department.

The city manager, or his or her designee, shall designate the city department and officials who shall be responsible for administering this chapter and the city's CTR program for city employees.

Section 6. Bellevue City Code Section 14.40.060 is amended to read as follows:

14.40.060 Applicability.

A. The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the city. Each employee will be counted only at a single worksite.

B. The following classifications of employees are excluded from the counts of employees:

1. Seasonal agricultural employees, including seasonal employees of processors of agricultural products; and

2. Employees employed at construction worksites when the expected duration of the construction is less than two years.

C. Notification of Applicability.

1. Known affected employers located in Bellevue will receive formal written notification that they are subject to this chapter within 30 days after passage of the ordinance codified in this chapter.

2. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance codified in this chapter must identify themselves to the city within 180 days of the passage of the ordinance codified in this chapter. Such employers will be granted 180 days from the date they identify themselves within which to develop and submit a CTR program.

D. New Affected Employers. Employers that meet the definition of "affected employer" in this chapter must identify themselves to the city within 180 days of either moving into the corporate limits of the city or growing in employment at a single worksite to 100 or more affected employees. Such employers shall be granted 180 days from the date they identify themselves to develop and submit a CTR program. Employers that do not identify themselves within such 180-day period shall be in violation of this section and are subject to the penalty provisions of BCC 14.40.140 (Civil violations and monetary penalties). New affected employers shall have the following number of years from the time they begin their CTR program to meet the indicated percent reduction from the base year values of BCC 14.40.030 (Designation of CTR zone and base year values):

1. Two years to meet the first CTR goal of 15 percent reduction;
2. Four years to meet the second CTR goal of 20 percent reduction;
3. Six years to meet the third CTR goal of 25 percent reduction; and
4. Twelve years to meet the fourth CTR goal of 35 percent reduction.

E. Change in Status of an Employer. Changes in an employer's status may change the employer's CTR program requirements as follows:

1. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and has not employed 100 or more affected employees for the past 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the city that it is no longer an affected employer.

2. If an employer whose status has changed pursuant to subsection (1) of this section returns to the level of 100 or more affected employees within the same 12-month period, that employer shall be considered an affected employer for the entire 12 months and shall be subject to the same program requirements that the employer was subject to as an affected employer.

3. If an employer whose status has changed pursuant to subsection (E)(1) of this section returns to the level of 100 or more affected employees 12 months after its change in status to an "unaffected" employer, that employer shall be treated as a new affected employer and shall be subject to the same program requirements as other new affected employers.

Section 7. Bellevue City Code Section 14.40.070 is amended to read as follows:

14.40.070 Requirements for affected employers.

A. An affected employer is required to make a good faith effort as defined in RCW 70.94.534(2) and this ordinance to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips. The CTR

program must include the mandatory elements described below, as well as submittal of a CTR initial program description and annual progress report. Transportation Management Organization (TMO) may submit CTR initial program, descriptions and annual progress reports on behalf of employers; however, each employer shall remain responsible and accountable for the success of its program.

An affected employer may join a TMO that submits a single program or annual report on behalf of its members. If a single report is submitted, the regular reporting form shall be used unless the City authorizes another form. In addition to describing program measures which are common to its members, the CTR program and annual report shall describe specific program measures that are unique to individual member's work sites. It shall include data and all program elements at each worksite. The TMO, as an agent for its members, shall provide performance data for each employer, as well as data aggregated from all TMO members to the City. Each employer is responsible for meeting the requirements of the ordinance, regardless of participation in a TMO. If an affected employer chooses to satisfy its CTR program requirements through a TMO, it must notify the City in writing, designating the TMO as agent at the time of program submittal.

If a temporary employment agency has 100 employees employed with a host employer (which could also be an affected employer) that meet the definition of affected employees, the temporary agency will be considered affected, and will be required to fulfill the requirements of this ordinance. The City will consider any special circumstances resulting from this type of situation on a case-by-case basis. The temporary agency may work together with the host employer to develop a program that applies to each of the affected employer's employees, however, each affected employer, the host and the temporary agency, will individually be responsible for surveying and reporting on their own employees for CTR purposes. The temporary agency may have a timeline for goal achievement that differs from the host employer, depending on when they reach the threshold to become affected. The temporary agency will be treated as a newly affected employer and subject to all provisions in this ordinance.

B. Description of Employer's CTR Program. Each affected employer is required to submit a description of its CTR program to the city, according to the schedule described in BCC 14.40.090, on the official form available from the administering department. At a minimum, the employer's description must include:

1. General description of the location of each single worksite within the Bellevue city limits, including transportation facilities and services, surrounding business and retail services, and unique conditions experienced by the employer or its employees;
2. Number of affected employees;
3. Documentation of compliance with the mandatory CTR program elements (as described in subsection C of this section); and
4. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to carry out the CTR program.

C. Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

1. Transportation Coordinator. The employer shall designate a transportation coordinator, whether or not an employee of the affected employer, to administer the CTR program. The coordinator's and/or designee's name, location, and

telephone number must be displayed prominently at each single worksite of an affected employer. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. An affected employer with more than one single worksite may have one transportation coordinator for all single worksites.

2. Information Distribution. Employers shall provide information about alternatives to SOV commuting to employees at least once a year. Employers shall also provide a summary of their program to all new employees at the time of hire. Each employer's initial program description and annual report shall describe what information is to be distributed by the employer and the method of distribution.

3. Annual Progress Report. The CTR program must include an annual review of employee commuting and of progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file a progress report annually with the city, herein referred to as the annual progress report. The annual progress report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, the number of employees participating in CTR programs, and any proposed new elements and implementation schedule. The annual progress report shall also contain a description of employee commuting modes and a description of progress toward meeting SOV goals. Survey information, or alternative information, shall be required only in the second, fourth, sixth, eighth, tenth, and twelfth years after program implementation begins.

For employers who have been affected since the law was first enacted, surveys will be required for the years of 1995, 1997, 1999, 2001, 2003 and 2005, and will be the primary tool for gathering information about employer's progress toward meeting CTR goals. Surveys shall be conducted according to the following process:

a. Employers will use the survey form provided by the Washington State Department of Transportation.

b. A minimum response rate of 70 percent is required. If a worksite obtains less, all non-responses up to 70 percent will be considered SOV trips. The response rate is calculated by dividing the number of surveys distributed by the number of surveys returned. The difference between the actual response rate and the required 70 percent will be considered drive alone trips, which are referred to as "fill-in".

c. If the response rate is below 70 percent, both the SOV rate without fill-in and the SOV rate with fill-in will be reported on the survey report.

d. If a 70 percent response rate is not obtained, the SOV rate with fill-in will be used for goal measurement.

e. If a worksite obtains less than a 70 percent response rate and has supplemental data that demonstrates that the SOV rate without fill-in accurately reflects the commute patterns at the worksite, they may request that the SOV rate without fill-in be used for goal measurement.

f. Affected employers must work with the City to develop an approved submittal of alternative information (equivalent data) other than the official CTR survey. Equivalent data stands alone as a substitute for data collected using the official CTR Employee survey. Requirements for submittal of equivalent data are as follows:

g. Data to be considered equivalent for measurement of SOV and VMT reductions must provide information on the actual commute mode usage for employees during the “measurement” week, and must be linked to employee status and work schedules.

h. The data must have been collected within the 12 months before the time that the survey would have been conducted. The employer must demonstrate to the City that the information is equivalent, based on criteria that: employees are verified as regular, full-time employees, who begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive), two or more weekdays, for 12 consecutive months; telecommuting and alternative work schedules are documented and categorized by type and frequency; commute mode choice is identified for the dominant mode for each trip; the number of people in carpool and vanpool vehicles.

i. An employer’s request to provide equivalent data must be made in writing to the City at least six (6) months prior to the worksite’s scheduled survey date. The City will notify the Washington State Department of Transportation when the request is received. The method of gathering data, differences in format or use of additional questions or alternative sources of information, and processing methods must be preapproved by the City. The raw data must be available to the City for analysis, and information from at least 70 percent of the affected employees must be provided. The request must detail: the employer’s expense and burden of surveying all or a sample of employees at the worksite; a detailed description of the information to be provided; the methodology used to collect the information; the period (week) during which the equivalent data will be collected; a plan for archival of the equivalent data; a letter from the CEO or CEO designee indicating that the information provided is accurate and is the result of a good faith effort by the employer to collect complete and accurate information; and the date by which the equivalent data will be submitted to the City, which must be no later than the scheduled survey completion date for the City.

j. Data must be provided for affected employees at the worksite. If information is not available to differentiate affected employees from full-time employees, the employer must be able to demonstrate to the City’s satisfaction that the data for all employees is representative of the data for affected employees only.

k. Data must be collected for a one week period or the employer must be able to demonstrate that the typical data collected is representative of actual weekly commuting behavior.

l. Supporting data does not stand alone, but can supplement survey data if a worksite’s survey response rate falls below 70 percent. Unacceptable data is any information which cannot be validated by the employer and/or the City. If an employer provides basic mode choice data, but not specific daily travel mode data, the City will use minimum default values.

m. If a worksite has at least 500 affected employees, an employer may conduct a survey based on a sample of its affected employees. If a sample is done it must conform to all guidelines recommended by the CTR Task Force, it must be random, stratification should be done to ensure that all major work groups are represented in the sample. The employer must demonstrate to the City that the sampling method is in accordance with accepted research sampling methods prior to beginning sampling, and the plan must be approved by the City in advance.

4. Additional Program Elements. In addition to the specific program elements described above, the employer's CTR program shall include a set of measures designed to achieve CTR goals. A minimum of one additional element shall be included in the Initial Program Description. Examples of program elements 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;
- 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; and
- p. Participation in a Transportation Management Organization.

Section 8. Bellevue City Code Section 14.40.080 is amended to read as follows:

14.40.080 Record keeping.

Affected employers shall retain any required records for two years.

Section 9. Bellevue City Code Section 14.40.090 is amended to read as follows:

14.40.090 Schedule and process for CTR reports, program review and implementation.

A. Initial Program Description.

1. Not more than 180 days after passage of this chapter, or within 180 days after an employer first becomes subject to the provisions of this chapter, that employer shall develop a CTR program and shall submit to the city a description of that program, herein referred to as the initial program description, for review. The city shall provide each employer with written notification indicating whether a CTR program described in the initial program description is approved or is deemed unacceptable within 90 days of receipt of a complete initial program description, unless the city notifies the employer in writing of an extension of this deadline of no more than 30 days.

2. Initial program descriptions shall be deemed acceptable if all required information on the program description form, including the information described in BCC 14.40.070A, is provided.

3. The employer shall implement the approved CTR program not more than 180 days after the initial program description was first submitted to the city unless extensions, as allowed in BCC 14.40.100D, allow for later implementation.

B. CTR Annual Reporting Date. Upon review of an employer's initial program description, the city shall establish the employer's annual reporting date, which shall not be less than 12 months from the day the program is submitted to the city. Each year on the employer's annual reporting date, the employer shall submit to the city the annual progress report.

C. Annual Progress Report.

1. Employers shall submit an annual progress report, as described in BCC 14.40.070B.3, to the city beginning with the first annual reporting date assigned by the city. The city shall provide each employer with written notification indicating whether a CTR program described in the annual progress report is approved or is deemed unacceptable within three months of receipt of the annual progress report, unless the city notifies the employer in writing of an extension of this deadline of no more than 30 days. The city will provide the employer with a preliminary administrative decision on the approval of the CTR program. This preliminary administrative decision shall be deemed final 30 days after receipt by the employer in the event the employer does not file a timely request for peer review pursuant to BCC 14.40.120.

2. Annual reports in goal years and in nongoal years shall be deemed acceptable if the annual report form is complete and contains all information as required by BCC 14.40.070B, including information about implementation of the prior year's program elements, progress toward goals, and any proposed new program elements and implementation schedule.

3. In the goal years of 1995, 1997, 1999, 2001, and 2005, the programs described in the annual progress reports shall be deemed acceptable if either the proportion

of SOV trip goal or the VMT per employee goal has been met. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this ordinance and meets either or both the applicable SOV or VMT goal, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program.

If an employer makes a good faith effort as defined in RCW 70.94.534(2) and this ordinance but has not met or is not likely to meet the applicable SOV or VMT goal, the City shall work collaboratively with the employer to make modifications to its CTR program. After agreeing to modifications, the employer shall submit a revised CTR program description to the City for approval within 30 days of reaching an agreement.

If an employer fails to make a good faith effort, as defined in this ordinance, and fails to meet either the applicable SOV or VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus of the required program. A final decision on the required program will be issued in writing by the City within 10 working days of the conference.

Section 10. Bellevue City Code Section 14.40.100 is amended to read as follows:

14.40.100 Modification of CTR requirements.

A. Exemptions.

1. An affected employer may submit a request that the city grant an exemption from all CTR program requirements or penalties for a particular worksite. An exemption may be granted if and only if the affected employer demonstrates that it faces an extraordinary circumstance as a result of the characteristics of its business, its work force, or its location(s) and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by the city at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The city shall review annually all employers receiving exemption, and shall determine whether the exemption will be in effect during the following program year.

2. In the initial program year, exemptions must be applied for 30 days prior to the date the initial program description is due, in order to be granted by the city. The city will provide the employer with a preliminary administrative decision of the exemption request. This preliminary administrative decision shall be deemed final 30 days after receipt by the employer in the event the employer does not file a timely request for peer review pursuant to BCC 14.40.120.

B. Goal Modification. Any affected employer may request that the City 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 and 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 the elements contained in its approved CTR program. The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines. An employer may not request a modification of the applicable goals until one year after the City approves its initial program description or annual report. This preliminary administrative decision shall be deemed final 30 days after receipt by the employer in the event the employer does not file a timely request for peer review pursuant to BCC 14.40.120.

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

C. Modification of CTR Program Elements. Any affected employer may request that the city approve a modification of CTR program elements, other than the mandatory elements specified in BCC 14.40.070. The city will provide the employer with a preliminary administrative decision of the program element modification request. This preliminary administrative decision shall be deemed final 30 days after receipt by the employer in the event the employer does not file a timely request for peer review pursuant to BCC 14.40.120.

D. Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing prior to the due date anytime a program submission is going to be more than one week late. Extensions not to exceed 90 days may be considered for good cause. Employers shall be limited to a total of 90 allowed extension days per year. Extensions shall not exempt an employer from any responsibility in meeting program goals. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended for good cause at the discretion of the director of the administering department.

Section 11. Bellevue City Code Section 14.40.110 is amended to read as follows:

14.40.110 Credit for transportation demand management efforts.

Employers with successful transportation demand management (TDM) programs implemented during or prior to the base year may apply to the city for program exemption credit, which exempts them from most program requirements. The city will provide the employer with a preliminary administrative decision of the credit request. This preliminary administrative decision shall be deemed final 30 days after receipt by the employer in the event the employer does not file a timely request for peer review pursuant to BCC 14.40.120.

A. Employers whose VMT per employee and proportion of SOV trips are already equal to or less than the goals for one or more future goal years, and who commit in writing to continue their current level of effort, may be exempted from the following CTR requirements: (1) all mandatory program elements and additional program elements as established in BCC 14.40.070B; and (2) submittal of all annual progress reports except those in the measurement years. If any of the annual progress reports indicate that the

employer does not satisfy the next applicable goal(s), the employer shall immediately become subject to all requirements of this chapter and shall be so notified by the city.

B. Employers applying for program exemption credit for the results of the past or current TDM efforts in their initial program descriptions shall be considered to have met the first measurement goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year zone values. This three percentage point credit applies only to the first measurement goals. In subsequent years, such employers must meet the 20, 25 and 35 percent reduction goals in order to continue to receive program credit. Application for a program credit shall include an initial program description as described in BCC 14.40.090A; a written commitment on an official report form to maintain program elements; and results from a survey of employees, or equivalent information, that establishes the applicant's VMT per employee and proportion of SOV trips

Section 12. Bellevue City Code Section 14.40.130 is amended to read as follows:

14.40.130 Appeal of administrative decisions.

A. Filing Notice of Appeal. An affected employer may appeal an administrative decision which is subject to peer committee review pursuant to BCC 14.40.120, whether or not peer review is requested by such affected employer, as follows:

1. When Peer Committee Review Requested. An affected employer may appeal any final administrative decision issued following peer review pursuant to BCC 14.40.120 by filing a notice of appeal with the city clerk within 30 calendar days of receipt of such final administrative decision.

2. When Peer Committee Review Not Requested. An affected employer may appeal any preliminary administrative decision that is subject to peer review, but for which peer review is not requested by the employer pursuant to BCC 14.40.120, by filing a notice of appeal with the city clerk within 30 calendar days of receipt of the preliminary administrative decision.

B. Content of Notice of Appeal. Any notice of appeal filed with city clerk pursuant to subsection A of this section shall reference the administrative decision which is being appealed and shall contain a brief statement identifying exceptions or objections to the administrative decision and describing the requested relief, modification or alternative sought by the appealing employer. The written appeal must be filed together with an appeal notification form available from the office of the city clerk.

C. Appeal Process. Any appeal of an administrative decision filed pursuant to this section shall be processed pursuant to the Process II appeal procedures, LUC 20.35.250.

D. Hearing Body. The hearing examiner shall serve as the hearing body on all appeals filed pursuant to this section.

E. Review Guidelines. The hearing examiner shall be guided in his/her decision on the appeal by this chapter, the state CTR law, and the peer review committee recommendations, if any.

Section 13. Bellevue City Code Section 14.40.140 is amended to read as follows:

14.40.140 Civil violations and monetary penalties.

A. The violation of or failure to comply with any provision of this chapter or any decision issued by the hearing examiner pursuant to BCC 14.40.130 is a civil violation. The city may issue a notice of civil violation and may impose monetary penalties in the manner set forth in Chapter 1.18 BCC for any civil violation committed by an employer; provided, that any monetary penalty imposed shall not exceed \$250.00 per day for each separate violation and that no monetary penalties shall accrue subsequent to the filing of an appeal by an employer of such notice of civil violation.

B. Civil Violations. The following actions or inactions shall constitute a civil violation of this chapter:

1. Failure to implement an approved CTR program as required by BCC 14.40.070 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 this chapter. Failure to implement a CTR program includes but is not limited to:

a. Failure of existing or new affected employers to identify themselves to the city within the time period required by BCC 14.40.060, and

b. Failure of any affected employer to submit an initial program description within the deadlines specified in BCC 14.40.090, and

c. Failure to submit required documentation for annual progress reports as required by BCC 14.40.070, and

d. Submission of data which an employer knows or should know is false, inaccurate or misleading;

2. Failure to modify a CTR program found to be unacceptable by the city pursuant to BCC 14.40.090C;

3. Any violation or failure to comply with any applicable provision of this chapter (except failure to meet CRT program goals);

4. Any failure to comply with a decision issued by the hearing examiner pursuant to BCC 14.40.130;-

5. Failure to make a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, or to comply with any of the provisions of this chapter.

C. Limitation on Monetary Penalties.

1. No affected employer with an approved CTR program which has made a good faith effort may be held liable for monetary penalties under this section for failure to reach the applicable SOV or VMT goals if its failure to achieve a CTR program goal was the result of an inability to reach agreement with a certified collective bargaining representative where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to have acted in good faith if they:

a. Propose to a certified collective bargaining representative adoption of any provision of the employer's CTR program that is subject to collective

bargaining pursuant to the National Labor Relations Act, the Public Employee's Collective Bargaining Act (Chapter 41.56 RCW), or any other applicable federal or state collective bargaining law; and

b. Advise the union of the existence of the CTR statute and the mandates for compliance with state law.

2. Hearing Examiner Decision. Monetary penalties proposed by the city for failure of an employer to revise its CTR program as directed by the city may be reduced or vacated by the hearing examiner if the employer can demonstrate to the satisfaction of the hearing examiner that measures or elements the city directed the employer to incorporate in its CTR program are unreasonable or are demonstrably unlikely to reduce the proportion of SOV trips and/or VMT per employee.

Section 14. This ordinance shall take effect and be in force thirty days after its passage.

Passed by the City Council this 26th day of July, 1999, and signed in authentication of its passage this 26th day of July, 1999.

(SEAL)

Mike Creighton, Mayor

Approved as to form:
Richard L. Andrews, City Attorney

Richard L. Kirkby, Assistant City Attorney
Attest:

Myrna L. Basich, City Clerk
Published July 30, 1999