WP0137C-ORD
02/26/93

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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4506

AN ORDINANCE relating to transportation; adopting the City's Commute Trip Reduction (CTR) Plan as required by state law; adopting measures to implement the CTR Plan; imposing transportation demand management requirements on certain employers; and amending the Bellevue City Code by adding a new chapter designated Chapter 14.40, Commute Trip Reduction, consisting of fourteen sections, numbered 14.40.010 through 14.40.140.

WHEREAS, motor vehicle traffic is a major source of emissions which pollute the air, cause significant harm to public health and degrade the quality of the environment; and

WHEREAS, increasing motor vehicle traffic aggravates traffic congestion in the City of Bellevue; and

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

WHEREAS, capital and environmental costs to accommodate fully the existing and projected motor vehicle traffic on roads and highways within the City are prohibitive whereas decreasing the demand for vehicle trips is significantly less costly and is at least as effective in reducing traffic congestion and its impacts as constructing new transportation facilities; and

WHEREAS, while employers have made notable contributions to the economic vitality and environmental and cultural qualities of this City, both by providing employment and by engaging in various community oriented efforts, they, at the same time, have significant opportunities to encourage and facilitate the reduction of single-occupant vehicle commuting by employees; and

WHEREAS, RCW 70.94.521-551 and the CTR Task Force Guidelines require the City of Bellevue to develop and implement a plan to reduce single-occupant vehicle commute trips; and

WHEREAS, the plan must require affected employers to implement programs to reduce vehicle-miles traveled per employee and the number of single-occupant vehicles used for commuting purposes by their employees; and

WHEREAS, transportation demand management strategies must be included as part of the mandatory Transportation Element of the Comprehensive Plan required by the Washington State Growth Management Act (RCW 36.70A.070

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(6)(e)) and the City must adopt ordinances to implement such strategies; 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. Title 14 of the Bellevue City Code is hereby amended by the addition of a new Chapter 14.40, Commute Trip Reduction, consisting of fourteen sections, numbered 14.40.010 through 14.40.140, as follows:

14.40.010. Definitions.

The following definitions shall apply throughout this chapter.

A. "Affected Employee" means an employee, as defined in subsection M of 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.

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

C. "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 work weeks if they result in reducing commute trips.

D. "Alternative Work Schedules" means programs such as compressed work weeks, as defined in subsection K of this section, that eliminate commute trips for affected employees.

E. "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.

F. "City" means the City of Bellevue.

G. "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.

H. "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.

I. "CTR (Commute Trip Reduction) Program" means an affected employer's strategies to reduce affected employees' SOV use and VMT per employee.

J. "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.

K. "Compressed Work Week" means an alternative work schedule, in accordance with employer policy, that regularly allows an affected employee to eliminate at least one work day 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 bi-weekly arrangements, the most typical being four 10-hour days per week or 80 hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.

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

M. "Employee" means anyone, other than an independent contractor or seasonal agricultural employee, 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.

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

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

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P. "Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521-551 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.

Q. "Legislative Rules" are substantive rules and directives issued by the City Council to implement the provisions of this chapter.

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

S. "Proportion of Single-Occupant Vehicle Trips" 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 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.

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

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

V. "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.

W. "Transportation Management Association (TMA)" 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.

X. "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.

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

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

AA. "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.

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14.40.020 Commute Trip Reduction Goals.

The commute trip reduction goals for employers subject to this chapter 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. 15 percent by January 1, 1995

2. 25 percent by January 1, 1997

3. 35 percent by January 1, 1999

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:

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

Where:

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

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

Vehicle commute trips shall be calculated as follows:

A. Single-occupant vehicle commute trips count as one trip per person.

B. Carpool commute trips count as the inverse of the number of occupants in the vehicle:

1. Commute trips made in two-person carpools count as 1/2 trip per occupant.

2. Commute trips made in three-person carpools count as 1/3 trip per occupant.

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3. Commute trips made in four-person carpools count as 1/4 trip per occupant.

4. Commute trips made in five-person carpools count as 1/5 trip per occupant.

5. Commute trips made in six-person carpools count as 1/6 trip per occupant.

C. Commute Trips made in vanpools of seven or more occupants and transit commute trips count as zero trips.

D. Each vehicle commute trip eliminated due to telecommuting, alternative work schedules, bicycling, or walking counts as 1.2 trips eliminated.

14.40.030 Designation of CTR Zones and Base Year Values.

Employers in the City fall within either of two CTR zones. Employers within the Bellevue Central Business District (CBD) 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 Attachments A and 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.

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.

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.

The City shall review and may modify the base year values for proportion of SOV trips and VMT per employee once 1990 census data becomes available.

14.40.040 City of Bellevue CTR Plan.

The 1993 City of Bellevue CTR Plan, given Clerk's Receiving No. 19273 and incorporated by reference as if fully set forth herein, is hereby adopted. This Plan may be amended by further action of the City Council.

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

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chapter and the City's CTR program for City employees. The City Council may issue Legislative Rules on substantive matters as may be necessary to implement this chapter.

14.40.060 Applicability.

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. 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.

A. 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 this ordinance.

2. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of this ordinance must identify themselves to the City within 180 days of the passage of this ordinance. Such employers will be granted 150 days from the date they identify themselves within which to develop and submit a CTR program.

B. 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 150 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 Section 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 Section 14.40.030 (Designation of CTR Zone and Base Year Values): two years to meet the first CTR goal of 15 percent; two additional years to meet the second CTR goal of 25 percent; and two additional years to meet the third CTR goal of 35 percent.

C. 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 expects not to employ 100 or more affected employees for the next 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 C(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 C(1) of this section returns to the level of 100 or more affected employees 12 or more 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.

14.40.070 Requirements for Affected Employers.

An affected employer is required 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 associations 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.

A. 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 Section 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 B of this section); and

4. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to carry out the CTR program.

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

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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 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 as described in the Legislative Rules, shall be required only in the 1995, 1997 and 1999 Annual Progress Reports.

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, provision of financial incentives for HOV use, provision of preferential HOV parking, charging for SOV parking, participation in a TMA, provision of telecommuting or compressed work week programs, or other elements as described in the Legislative Rules.

14.40.080 Record Keeping.

Affected employers shall maintain all records required by this chapter or by any applicable Legislative Rules and shall retain such records for two years.

14.40.090 Schedule and Process for CTR Reports, Program Review and Implementation.

A. Initial Program Description. Not more than six months after passage of this chapter, or within six months 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 three months 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.

Initial Program Descriptions shall be deemed acceptable if all required information on the program description form, including the information described in Section 14.40.070(A), is provided.

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 Section 14.40.100(D), 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. Employers shall submit an Annual Progress Report, as described in Section 14.40.070(B)(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 Section 14.40.120.

Annual reports in goal years and in non-goal years shall be deemed acceptable if the annual report form is complete and contains all information as required by Section 14.40.070(B), including information

about implementation of the prior year's program elements, progress toward goals, and any proposed new program elements and implementation schedule.

In the goal years of 1995, 1997, and 1999, 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 neither goal has been met, the employer may propose modification(s) to its CTR Program designed to make progress toward the applicable goal in the coming year. The City in its review of each employer's CTR program shall seek evidence of good faith efforts toward continued incremental improvements. If such good faith efforts toward incremental improvements are deemed by the City to be lacking, the City shall propose modifications to the program and direct the employer to revise its program to incorporate those modifications or such other modifications that may be proposed by the employer and which the City determines to be equivalent to the modifications the City has proposed.

Implementation of programs that have been modified based on non-attainment of CTR goals must occur within 30 days following City approval of such modifications.

14.40.100 Modification of CTR Requirements.

A. Exemptions. An affected employer may request that the City grant an exemption from all CTR program requirements 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 during the review process for Initial Program Descriptions or for Annual Progress Reports. The City shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

In the initial program year of 1993, 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 Section 14.40.120.

B. Goal Modification. Any affected employer may request a modification of program goals. The City will provide the employer with a preliminary administrative decision of the goal 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 Section 14.40.120. Grounds for granting modification are limited to the following:

1. An affected employer can demonstrate it requires significant numbers of its employees to use the vehicles they drive to work during the work day for work purposes. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode exists for these employees and that the vehicles cannot reasonably be used for carpools or vanpools. Under this condition, the applicable goals will not be changed but those employees who need daily access to the vehicles they drive to work will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

2. An affected employer can demonstrate that it requires employees to work varying shifts during the year, so that these employees sometimes begin their shifts within the 6:00 a.m. to 9:00 a.m. time period and at other times begin their shifts outside that time period. The employer shall provide documentation indicating how many employees meet this condition. Under this condition, the applicable goals will not be changed, but those employees working varying shifts will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals. Program goal modifications may not be granted if there is a significant number of employees, as detailed in the Legislative Rules, who work an identical shift rotation (i.e., groups of employees who rotate in and out of positions scheduled to begin between 6:00 a.m. and 9:00 a.m.). Under this condition, those employees would be expected to be part of the employer's CTR program measurement while their shift is on a rotation that begins between 6:00 a.m. and 9:00 a.m., as they form enough of a consistent pool to maintain ridesharing arrangements and thus this condition should not be considered grounds for goal modification.

3. An affected employer demonstrates that its worksite is contiguous to a CTR zone boundary and that the worksite conditions affecting alternative commute mode options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's worksite may be made subject to the same goals for VMT per employee and proportion of SOV trips as employers in the adjoining CTR zone.

4. Unanticipated conditions, such as unavailability of alternative commute modes due to factors related to the worksite, an employer's work force, or characteristics of the business that are beyond the employer's control. In order to receive goal modification for a particular goal year based on this condition, a request must be made prior to the employer's assigned annual reporting date in that year.

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5. Relocation of a worksite to another CTR zone.

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 Section 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 Section 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.

14.40.110 Credit for Transportation Demand Management Efforts.

Employers with successful transportation demand management (TDM) programs implemented during or prior to the 1992 base year may apply to the City for program credit. 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 Section 14.40.120.

A. Employers whose VMT per employee or 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 Section 14.40.070(B); and (2) submittal of all Annual Progress Reports except those in the goal years of 1995, 1997, and 1999. 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 credit in their 1993 Initial Program Descriptions shall be considered to have met the 1995 CTR 15 percent reduction goals if their VMT per employee or proportion of SOV

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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 1995 CTR goals. In 1997 and 1999, such employers must meet the 25 and 35 percent reduction goals, respectively, in order to continue to receive program credit.

Application for a program credit shall include an Initial Program Description as described in Section 14.40.090(A); 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 or proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in the Legislative Rules for implementation of this chapter.

14.40.120 Peer Review Committee.

A Peer Review Committee may be designated or appointed by the City Council for the purpose of providing informal review, discussion and recommendations to the City, upon the request of an employer, of certain preliminary administrative decisions. The Committee shall include a representative number of private sector affected employers.

Peer review shall be advisory only and shall not be binding on the City or the employer requesting peer review. Peer review shall be limited solely to review of the following preliminary administrative decisions:

A. Rejection of an employer's proposed CTR program.

B. Denial of an employer's request for an exemption pursuant to Section 14.40.100(A).

C. Denial of an employer's request for modification of its CTR program goals pursuant to Section 14.40.100(B).

D. Denial of an employer's request for modification of its CTR program elements pursuant to Section 14.40.100(C).

E. Denial of an employer's request for credits for transportation demand management efforts pursuant to Section 14.40.110.

To obtain peer review, it must be requested by the employer within 30 calendar days of the receipt of a preliminary administrative decision. Following peer review, the City shall issue a final administrative decision sustaining, modifying or vacating its preliminary administrative decision. Such final administrative decision is subject to appeal pursuant to Section 14.40.130. A preliminary administrative decision shall be deemed final 30

days after receipt in the event an affected employer does not file a timely request for peer review pursuant to this section.

An affected employer may appeal a preliminary administrative decision for which peer review has not been sought by filing a notice of appeal with the City Clerk, pursuant to Section 14.40.130, within 30 calendar days of receipt of the preliminary administrative decision.

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 Section 14.40.120, whether or not peer review is requested by said 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 Section 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 Section 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 the 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.

C. Appeal Process. Any appeal of an administrative decision filed pursuant to this section shall be processed pursuant to Process VI of the Land Use Code (LUC 20.35.600).

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 CTR ordinance, the Legislative Rules adopted hereunder, the state CTR law, and the Peer Review Committee recommendations, if any.

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14.40.140 Civil Violations and Monetary Penalties.

The violation of or failure to comply with any provision of this chapter, any Legislative Rule issued to implement this chapter, or any decision issued by the Hearing Examiner pursuant to Section 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 of the Bellevue City Code for any civil violation committed by an employer; provided, that any monetary penalty imposed shall not exceed $250 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.

A. 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 Section 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 Section 14.40.060; and

b. Failure of any affected employer to submit an Initial Program Description within the deadlines specified in Section 14.40.090; and

c. Failure to submit required documentation for Annual Progress Reports as required by Section 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 Section 14.40.090(C).

3. Any violation or failure to comply with any applicable provision of this chapter.

4. Any violation or failure to comply with any applicable provision of a Legislative Rule issued to implement this chapter.

5. Any failure to comply with a decision issued by the Hearing Examiner pursuant to Section 14.40.130.

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B. Limitation on Monetary Penalties.

1. Collective Bargaining Agreements. No employer shall be liable for monetary penalties under this section 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 of the CTR program approved by the City; and

(c) advise the union that the proposal being made is necessary 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.

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WP0137C-ORD
02/26/93

Section 2. This ordinance shall take effect and be in force thirty days after its passage.

PASSED by the City Council this 22nd day of March, 1993, and signed in authentication of its passage this 22nd day of March, 1993.

(SEAL)

~~Gary Bozeman~~ Terry Lukens, Mayor pro tem

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Kirkby, Assistant City Attorney

Attest:

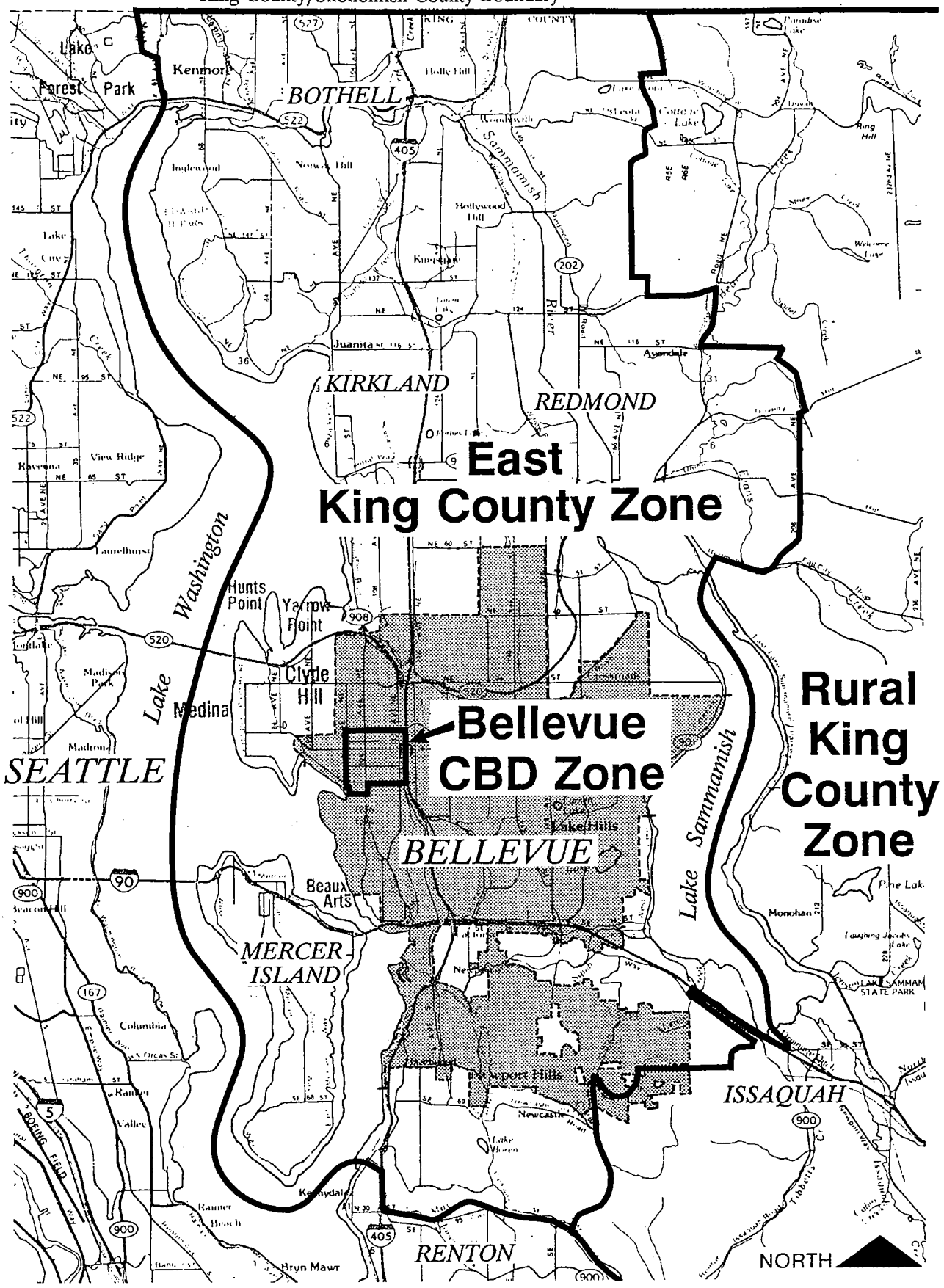
Myrna L. Basich, City Clerk

Published March 26, 1993

ORIGINAL

ATTACHMENT A

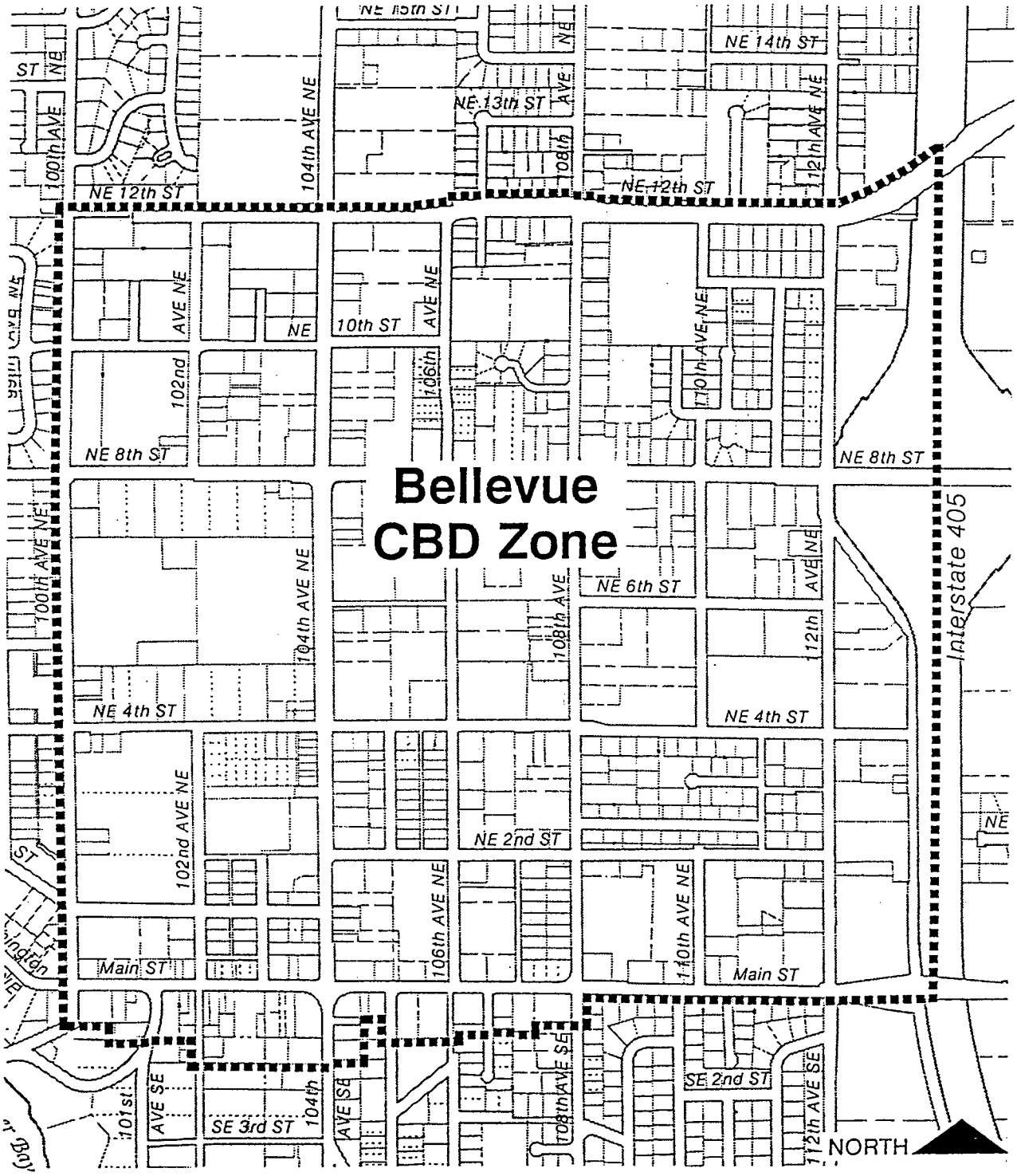
King County/Snohomish County Boundary



East King County CTR Zone

ORIGINAL

ATTACHMENT B



Bellevue Central Business District (CBD)
CTR Zone