

ORDINANCE NO. 195

AN ORDINANCE OF THE CITY OF WOODINVILLE REPEALING ORDINANCE NO. 73 RELATING TO TRANSPORTATION DEMAND MANAGEMENT, ADOPTING A COMMUTE TRIP REDUCTION ("CTR") PLAN, IMPLEMENTING MEASURES REQUIRED BY CHAPTER 70.94 RCW.

WHEREAS, motor vehicle traffic is a major source of emissions that pollute the air, and air pollution causes significant harm to public health and degrades the quality of the environment; and

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

WHEREAS, traffic congestion imposes significant cost on City business, 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 to live, work, visit, and do business; and

WHEREAS, capital and environmental costs of fully accommodating the existing and projected motor vehicle traffic on roads and highways are prohibitive while 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, employers have significant opportunities to encourage and facilitate the reduction of single-occupant vehicle commuting by employees; and

WHEREAS, State policy, as set forth in RCW 70.94.521-551 and the CTR Task Force Guidelines, requires the City of Woodinville 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, a transportation demand management element such as this ordinance is required pursuant to RCW 36.70A.070(6)(e), the Washington State Growth Management Act; and

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

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

WHEREAS, City Council repeals Ordinance No. 73; and

WHEREAS, this ordinance is consistent with the CTR Task Force Guidelines; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Definitions.

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

A. **"Affected Employee"** means a full-time employee who begins his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week for at least twelve continuous months. 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. Seasonal agricultural employees including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

B. **"Affected Employer"** means a employer that employs one hundred (100) or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays for at least twelve continuous months. The individual employees may vary during the year. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

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

D. **"Alternative Work Schedules"** mean programs such as compressed work weeks that eliminate work trips for affected employees.

E. **"Base Year"** means the period on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

F. **"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.

G. **"City"** means the City of Woodinville.

H. **"Commute Trips"** mean 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.

I. **"CTR Plan"** means the City of Woodinville's plan as set forth in this ordinance to regulate and administer the CTR programs of affected employers within its jurisdiction.

J. **"CTR Program"** means an employer's strategies to reduce affected employees' SOV use and VMT per employee.

K. **"CTR Zone"** means an area, such as a census tract or combination of census tracts, within the City of Woodinville 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.

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

M. **"Compressed Work Week"** means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements.

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

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

P. **"Employee"** means any person who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer, provided however, an independent contractor shall not constitute an employee.

Q. **"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 workers.

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

S. **"Flex-Time"** is 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.

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

U. **"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 of Woodinville 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.

V. **"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 their CTR program and schedule.

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

X. **"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.

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

Z. **"Peak Period Trip"** means any employee trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

AA. **"Proportion of Single-Occupant Vehicle Trips" or "SOV Rate"** means the number of commute trips over a set period made by affected employees in SOVs divided by the number of potential trips taken by affected employees working during that period.

BB. **"Single-Occupant Vehicle (SOV)"** means a motor vehicle occupied by one (1) employee for commute purposes, including a motorcycle.

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

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

EE. **"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.

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

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

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

II. **"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 counts as zero (0) vehicle trips.

JJ. **"Vehicle Miles Traveled (VMT) Per Employee"** means the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

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

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

MM. **"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. Commute Trip Reduction Goals

The commute trip reduction goals for employers affected by this ordinance are to achieve the following reductions in vehicle miles traveled per employee and single-occupant vehicle rates from the worksite base year value or the base year value of the CTR zone in which the worksite is located:

- A. 15 percent reduction after two (2) years
- B. 20 percent reduction after four (4) years
- C. 25 percent reduction after six (6) years
- D. 35 percent reduction after twelve (12) years

Section 3. Designation of CTR Zone and Base Year Values

Employers in the City of Woodinville fall within the East King County CTR zone designated by the boundaries shown on Map A attached hereto and incorporated by reference herein.



The base year value of this zone for proportion of SOV trips shall be 85 percent. The base year value for vehicle miles traveled (VMT) per employee shall be set at 9.3 miles. Commute trip reduction goals for major employers shall be calculated from these values. Therefore, affected employers in the City of Woodinville shall establish programs designed to result in SOV rates of not more than 72.3 percent in 1995, 68 percent in 1997, and 63.8 percent in 1999 and 55.3 in 2005; and VMT per employee of not more than 7.9 miles in 1995, 7.4 miles in 1997, and 6.9 miles in 1999 and 6.0 miles in 2005.

Section 4. Responsible Agency

The City of Woodinville Executive Department shall be responsible for implementing this ordinance, the CTR Plan and the City's CTR program for its own employees. The City Manager shall have the authority to issue such rules and administrative procedures and delegate authority to other City departments as may be necessary to implement this ordinance.

Section 5. Applicability

The provisions of this ordinance shall apply to any affected employer at any single worksite within the corporate limits of the City of Woodinville.

A. Notification of Applicability

1. In addition to the City of Woodinville's established public notification for adoption of an ordinance, a notice of availability of a summary of this ordinance, a notice of the requirements and criteria for affected employers to comply with this ordinance, and subsequent revisions shall be published at least once in the City's official newspaper not more than 30 days after adoption of this ordinance or revisions.
2. Within 30 days after adoption of this ordinance, the City Manager will issue to known affected employers located in Woodinville a formal written notification by certified mail that they are subject to this ordinance.
3. Affected employers that do not receive notice within 30 days of adoption of this ordinance must identify themselves to the City Manager within 180 days of the passage adoption of this ordinance. Upon identifying themselves within said 180 day period, such employers will be granted 180 days from the date of self-identification within which to develop and submit a CTR program.
4. Affected employers that have not been identified or do not identify themselves within 180 days of the passage of this ordinance and do not submit a CTR program within 180 days from the passage of the ordinance are in violation of this ordinance.

B. New Affected Employers

Employers that meet the definition of "affected employer" must identify themselves to the City's Executive Department within 180 days of either moving into the boundaries of the City of Woodinville or growing in employment at a worksite to one hundred (100) or more affected employees. Such employers shall be given 180 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days are in violation of this ordinance.

Newly affected employers are required to conduct a base year survey or provide approved equivalent information on employee commuting within twelve months of attaining affected employer status.

Newly affected employers shall have two years to meet the first CTR goal of a 15 percent reduction in proportion of single-occupant vehicle trips or vehicles miles traveled per person; four years to meet the second goal of a 20 percent reduction; six years to meet the third goal of a 25 percent reduction; and twelve years to meet the fourth goal of a 35 percent reduction, from the time they begin their program.

C. Change in Status as an Affected Employer Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs one hundred (100) or more affected employees and expects not to employ one hundred (100) or more affected employees for the next twelve (12) months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the City Manager that it is no longer an affected employer. The City Manager shall review such documentation to determine whether the employer is no longer an affected employer.

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

3. If the same employer returns to the level of one hundred (100) or more affected employees twelve (12) or more months after its change in status to an "unaffected" employer, that employer shall be treated as a new affected employer, and will be subject to the same CTR program requirements as other new affected employers.

Section 6. Requirements for Employers

An affected employer is required to make a good faith effort, as defined in 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 employer shall submit a description of its program to the City of Woodinville on an official form available from the Executive Department and provide an annual progress report to the City of Woodinville on employee commuting and progress toward meeting the SOV goals.

The CTR program must include the mandatory elements described below:

A. Description of Employer's CTR Program

At a minimum, the employer's description must include:

1. General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees;
2. Number of employees affected by the CTR program;
3. Documentation of compliance with the mandatory CTR program elements (as described in subsection B of this section);
4. Description of the additional elements included in the CTR program (as described in subsection B of this section); and

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

B. Mandatory Program Elements

Each employer's CTR program shall include the following mandatory elements:

1. **Transportation Coordinator.** The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the City of Woodinville. The objective is to have an effective transportation coordinator presence at each worksite; an affected employer with multiple sites may have one Transportation Coordinator for all sites.

2. **Information Distribution.** Information about alternatives to SOV commuting shall be provided to employees at least once a year. This shall consist of, at a minimum, a summary of the employer's program, including the transportation coordinator's name and phone number. Employers must also provide a summary of their program to all new employees at the time of hire. Each employer's program description and annual report must describe what information is to be distributed by the employer and the method of distribution.

3. **Annual Progress Report** The employer's CTR program must include an annual review of employee commuting and progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file an annual progress report with the City in accordance with the format established by this ordinance and consistent with the CTR Task Force Guidelines. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Within the report, the employer should evaluate the effectiveness of the CTR program and, if necessary, proposed modifications to achieve the CTR goals.. Survey information or approved alternative information must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth and twelfth years after program implementation begins.-The employer shall contact the City's Executive Department for the format of the report.

4. **Additional Program Elements.** In addition to the specific program elements described above, the employer's CTR program shall include additional elements as needed to meet CTR goals.

Affected employers shall be required to select two or more measures, which may be from the following list:

- a. Promotional events
- b. Transportation fairs
- c. Commuter information center
- d. Ridematching services
- e. Bicycle training program
- f. Provision of preferential parking for carpools and vanpools
- g. Guaranteed ride home program
- h. Compressed work week
- i. Alternative work schedules
- j. Telecommuting programs
- k. Secure bicycle parking facilities, lockers, changing areas, and showers
- l. Pedestrian facilities or improvements
- m. Signage for residential parking zone
- n. Reduction of SOV parking supply
- o. Discounted HOV parking price
- p. Increase or institution of SOV parking price
- q. Transportation allowance/voucher
- r. Transportation subsidy or discount
- s. Rideshare bonuses
- t. Carpool subsidy
- u. Carpool fuel incentives
- v. Vanpool sponsorship and subsidies
- w. Fleetpool
- x. Vanpool program
- y. On-site child care services
- z. Shuttle services
- aa. Alternative measures approved by the City Manager designed to facilitate the use of high-occupancy vehicles.

Section 7 Record Keeping

Affected employers shall maintain all records they will keep as part of the CTR program they submit to the City of Woodinville. Employers will maintain all records listed in their CTR program for a minimum of 24 months. The City of Woodinville and the employer shall agree on the record keeping requirements as part of the accepted CTR program.

Section 8 Schedule and Process for CTR Reports

A. CTR Program Not more than 6 months after the adoption of this ordinance, or within 6 months after an employer becomes subject to the provisions of this ordinance, the employer shall develop a CTR program and shall submit to the City Manager a description of that program for review.

B. Annual Reporting Date Employers will be required to submit an annual CTR report to the City Manager beginning with the first annual reporting date assigned during the initial program submittal. The annual reporting date shall be assigned by the City Manager and be no less than 12 months from the day the initial program description is submitted. Subsequent years' reports will be due on the same date each year.

C. Content of Annual 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, and the number of employees participating in CTR programs. Survey information or alternative information approved by the City Manager must be provided in reports submitted in the second, fourth, sixth, eighth, tenth and twelfth years after program implementation.

D. Program Review The City Manager shall notify the employer in writing indicating whether a CTR program was approved or deemed unacceptable.

1. Initial program descriptions will be deemed acceptable if: 1) all required information on the program description form is provided, and, 2) the program description includes the following information:

- a. Name, location and telephone number of the Employee Transportation Coordinator for each worksite;
- b. The employer's plan for documenting regular distribution of information to employees about the employer's CTR program at the worksite, including alternatives to driving alone to work; and
- c. The employer's plan for implementation of additional measures designed to achieve the applicable goal. The employer must describe with particularity all implementation measures.

2. Beginning in 1995, the programs described in the annual reports will be deemed acceptable in accordance with the following criteria:

a. 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.

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

c. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this ordinance, and fails to meet 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 within program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten (10) working days of the conference.

E. Implementation of Employer's CTR Program Unless extensions are granted, the employer shall implement its approved CTR program not more than 180 days months after the program was first submitted to the City of Woodinville. Implementation of approved programs modifications shall begin within 30 days of the final decision or 180 days from submission of the CTR program or CTR annual report, whichever is greater.

Section 9. Exemptions and Goal Modifications

A. Worksite Exemptions

1. An affected employer may request the City of Woodinville to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of this ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of SOV trips and VMT per employee. Exemptions may be granted by the City of Woodinville 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 of Woodinville shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

2. An affected employer demonstrates that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affective alternative commute 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.

B. Employee Exemptions

1. 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 of Woodinville will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The City of Woodinville shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Goal Modification.

1. Any affected employer may request a modification of program goals. Such request shall be filed in writing at least 60 days prior to the date which 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 of the elements contained in its approved CTR program. The City will review and deny or grant 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 goal until one year after the date of City approval of its initial program and annual report.

2. All requests for modification of CTR program goals must be made in writing to the City Manager by certified mail or delivery, return receipt.

D. Modification of CTR Program Elements. If an employer wants to change a particular element of its CTR program during the period of time between annual reporting dates, the employer must make a written request for modification to the City Manager. The City Manager shall review and notify the employer in writing whether the request is approved or denied.

E. Modification of CTR Program Goals

1. An affected employer may request that the City of Woodinville modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The City of Woodinville will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines.

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

F. **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 to the City Manager before the due date for which the extension is being requested. Requests for extensions must be made prior to the due date anytime a program submission is going to be more than one week late. Extensions not to exceed 90 days shall be considered for reasonable causes. Employers will be limited to a total of 90 allowed extension days per year. Extensions shall not exempt an employer from any responsibility for meeting program goals. Extensions granted due to delays or difficulties with any program elements shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the City Manager.

Section 10. Credit For Transportation Demand Management Efforts

A. **Credit for Programs Implemented Prior to the Base Year.** Employers with successful TDM programs implemented prior to the 1992 base year may apply to the City for program credit.

1. Employers whose VMT per employee and proportion of SOV trips satisfy the goals for one or more future goal years, and who commit in writing to continue their current level of effort, shall be exempt from the following year's annual report.
2. Employers applying for the program credit in their initial 1994 program description shall be considered to have met the 1995 CTR 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 1995 CTR goals.

For the initial year, employer requests for program credit are due within three months after notification that the employer is subject to this ordinance. Requests for program credit must be received by the employer's assigned reporting dates in 1995 and 1997 for succeeding years.

Application for a program credit shall include an initial program description, 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. The survey or equivalent information shall conform to all applicable standards established in the Director's Rules for implementation of this Chapter.

B. **Credit for Alternative Work Schedules, Telecommuting, Bicycling and Walking, by Affected Employees.** When calculating the SOV and VMT rates of affected employers, the City will count commute trips eliminated through alternative work schedules, telecommuting options, bicycling and walking as 1.2 vehicle trips eliminated. This assumption applies to both the proportion of SOV trips and VMT per employee.

Section 11. Employer Peer Review Group

A. Purpose and Appointment of Representatives. The City Manager shall appoint representative(s) from affected employers to regional or subregional employer peer review groups as may be created through interlocal agreement with other jurisdictions. The specific functions of the peer review group shall be determined by the interlocal agreement.

B. Limitations of Peer Review Group. Any peer review group shall be advisory in nature. The City shall not be bound by any comments or recommendations of any peer review group.

Section 12. Appeals of Administrative Decisions

A. Appeal of Final Decisions. Employers may file a written appeal to the City's Hearing Examiner of the City's final decisions regarding the following actions:

1. Rejection of an employer's proposed program.
2. Denial of an employer's request for an exemption or modification of any of the requirements under this ordinance or a modification of the employer's program.
3. Denial of credits requested under Section 10 of this Chapter.

B. Appeals filed under this section must be filed with the City within twenty (20) days after the employer receives notice of a final decision. Timely appeals shall be heard by the City's Hearing Examiner. Determinations on appeals shall be based on whether the decision being appealed was consistent with the state law.

Section 13. Enforcement

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

B. Violations. Violation of a provision of this ordinance is a civil infraction for which a monetary penalty may be imposed. The following actions shall constitute a violation of this ordinance:

1. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and SOV goals as specified in this Ordinance. Failure to implement a CTR program includes but is not limited to any of the following:
 - a. Failure of any affected employer to submit a complete CTR program within the deadlines specified in Section 8 of this Ordinance;
 - b. Failure to submit required documentation for annual reports;
 - c. Submission of fraudulent data.
2. Failure to modify a CTR program found to be unacceptable by the City under Section 8 of this Ordinance.

3. Failure to perform any activity required by this Chapter relating to implementation of or required modification to a CTR program.

C. Penalties.

1. No affected employer with an approved CTR program which has made a good faith effort may be held liable for failure to reach the applicable SOV or VMT goal;

2. Each day of failure by an employer to (a) implement a commute trip reduction program, or (b) modify an unacceptable commute trip reduction program, or (c) fail to perform any activity required by this ordinance relating to implementation of or required modification to a CTR program shall constitute a separate violation and shall be considered a civil infraction. The penalty for a violation shall be \$250 per day.

3. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Employers having unionized employees shall be presumed to act in good faith compliance if they:

(a) propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

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

4. Payment of a monetary penalty pursuant to this ordinance does not relieve an affected employer of the duty to comply with the activities required by this ordinance.

5. Nothing in this ordinance limits the right of the City to pursue other civil or equitable remedies it may have to obtain compliance with the activities required by this ordinance.

6. A notice of violation and imposition of monetary penalties represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this ordinance.

7. A notice of violation and imposition of monetary penalties shall be served on the affected employer, either personally or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested to the affected employer at his/her last known address. The person who effected personal service or service by mail shall make proof of service at the time of service by a written declaration under penalty of perjury declaring the time and date and the manner in which service was made.

D. Appeals of Penalties.

1. An affected employer to whom a notice of violation and imposition of monetary penalties is directed may appeal the notice including the determination that a violation exists or may appeal the amount of any monetary penalty imposed to the City Hearing Examiner.
2. An affected employer may appeal a notice of violation by filing a written notice of appeal with the Department of Planning and Community Development within seven calendar days from the date of service of the notice of violation and imposition of monetary penalties.
3. The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the Notice of Civil Infraction if he finds that the appeal is frivolous or intended solely to delay compliance.
4. The hearing before the Hearing Examiner shall be conducted as follows:
 - a. The Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant at least seventeen calendar days before such hearing.
 - b. The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure as provided by the Administrative Procedure Act, Chapter 34.05 RCW. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.
5. The Hearing Examiner shall determine whether the City has proved by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend or modify the amount of any monetary penalty imposed by the notice of civil violation with or without written conditions.
6. The Hearing Examiner shall consider the following in making his/her determination:
 - a. Whether the intent of the appeal was to delay compliance, or
 - b. Whether the appeal is frivolous, or
 - c. Whether the appellant exercised reasonable and timely effort to comply with applicable requirements, or
 - d. Any other relevant factors.
7. The Hearing Examiner shall mail a copy of his decision to the appellant by certified mail, postage prepaid, return receipt requested.
8. The decision of the Hearing Examiner may be reviewed for illegal, corrupt or arbitrary or capricious action in King County Superior Court. The petition for review must be filed within thirty (30) calendar days of the final decision of the hearing examiner.
9. The collection of the monetary penalty shall be as follows:

a. The monetary penalty constitutes a personal obligation of the person to whom the civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven (7) calendar days from the date of service of notice of violation and imposition of monetary penalties or, if an appeal was filed pursuant to this Chapter, within seven (7) calendar days of the Hearing Examiner's decision.

b. The City Attorney, on behalf of the City, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

c. In the event of failure to appear at a hearing provided herein, the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of twenty-five (\$25) dollars.

d. In the event of a conflict between this Chapter and any other city ordinance providing for a civil penalty, this Chapter shall control.

10. A person who willfully fails to pay a monetary penalty as required by provisions of this Chapter may be found in civil contempt of court after notice and hearing.

Section 14. Repealer

Ordinance No. 73 is hereby repealed.

Section 15. Severability

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

Section 16. Effective Date

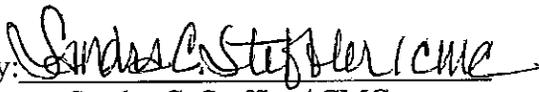
This Ordinance shall be in force and effect five days from and after its passage by the Woodinville City Council and publication, as required by law.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
27th DAY OF July, 1998.



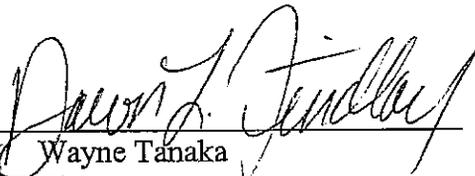
Donald J. Brocha
Mayor, City of Woodinville

ATTEST/AUTHENTICATED:

By: 

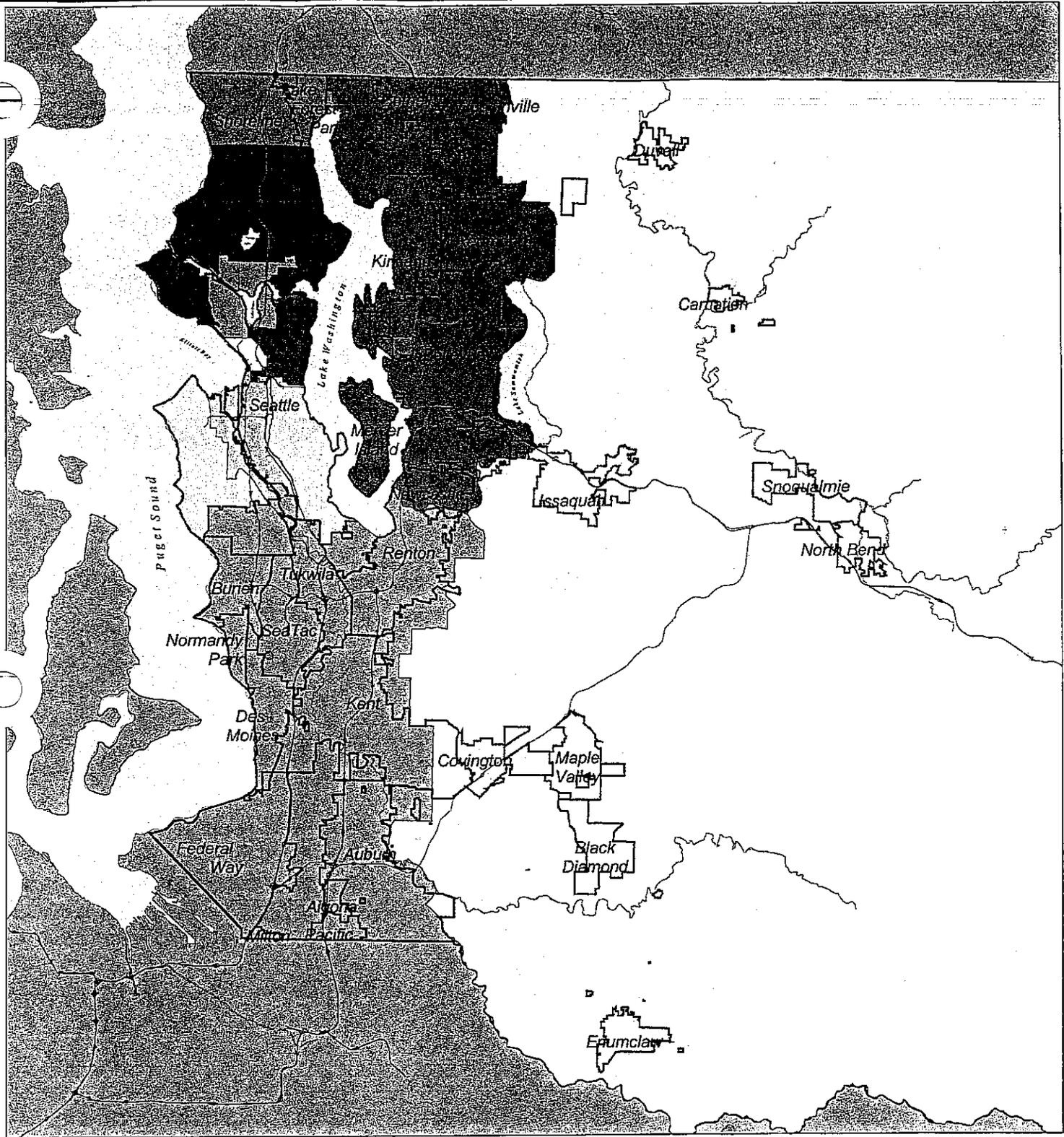
Sandra C. Steffler / CMC
City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: 

Wayne Tanaka
City Attorney
for 

FILED WITH THE CITY CLERK: 7-27-98
PASSED BY THE CITY COUNCIL: 7-27-98
PUBLISHED: 8-3-98
EFFECTIVE DATE: 8-8-98
ORDINANCE NO. 195



Commute Trip Reduction Zones

Legend

| | | | |
|--|--------------------------|--|--------------------|
| | Bellevue CBD | | Streets - Freeways |
| | Central Seattle Duwamish | | Incorporated Areas |
| | East King | | |
| | North Central | | |
| | North King | | |
| | North Seattle | | |
| | Rural King | | |
| | Seattle CBD | | |
| | South King | | |
| | South Seattle | | |

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King County
Department of Transportation

March 18, 1998