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ORIGINAL

ORDINANCE NO. 1429

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON,  
ESTABLISHING PROCEDURES AND REGULATIONS FOR  
ENTERING INTO REIMBURSEMENT AGREEMENTS FOR  
UTILITY IMPROVEMENTS AND APPROVING AN ORDINANCE  
SUMMARY FOR PUBLICATION.

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WHEREAS, pursuant to RCW Chapter 35.91, the City of Redmond is authorized to contract with property owners for the construction of storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances, hereinafter "water or sewer facilities" which contract may provide for the partial reimbursement to the property owners of a portion of the cost of said water or sewer facilities, and

WHEREAS, the City Council has determined that, under appropriate circumstances, it will promote the health, safety and general welfare of the citizens of Redmond to enter into such agreements and that rules and procedures should be specified for doing so, now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON,  
ORDAINS AS FOLLOWS:

Section 1. A new Chapter 13.12 is hereby added to the Redmond Municipal Code to read as follows:

Chapter 13.12  
REIMBURSEMENT AGREEMENTS FOR UTILITY IMPROVEMENTS

13.12.010 Purpose. The purpose of this Chapter is to prescribe rules and regulations for exercise of the authority to enter into Utility Reimbursement Agreements granted to the City by RCW Chapter 35.91.

13.12.020 Definitions. As used in this Chapter, the terms listed below shall be defined as follows:

- A. "Reimbursement Agreement" means a written contract between the City and one or more property owners providing for construction of "water or sewer facilities" and for partial reimbursement to the party causing such improvements to be made of a portion of the costs of such improvements by owners of property benefited by the improvements, as more

specifically described in RCW Chapter 35.91.

- B. "Water or Sewer Facilities" shall have the meaning specified in RCW 35.91.020 as it now reads, or as hereafter amended.
- C. "Cost of Construction" shall mean those costs incurred for design, acquisition of right-of-way and/or easements, construction, materials and installation required in order to create an improvement which complies with City standards. Until such time as RCW Chapter 35.91 is amended to expressly authorize inclusion of interest charges or other financing costs, such expenses shall not be included in the calculation of construction costs. In the event of a disagreement between the City and the applicant concerning the cost of the improvement, the City Director's determination shall be final.
- D. "Director" shall mean the director of Public Works or his/her designated representative.

13.12.030 Minimum Project Size. In order to be eligible for a Reimbursement Agreement, the estimated cost of the proposed improvement must not be less than \$5,000.00. The estimated cost of the improvement shall be determined by the Director, based upon a construction contract for the project, bids, engineering or architectural estimates or other information deemed by the Director to be a reliable basis for estimating costs. The determination of the Director shall be final.

13.12.040 Application. An application for Reimbursement Agreement shall be made on a form provided by the City. The application fee for a Reimbursement Agreement shall be \$500.00 which shall be submitted to the City with the written application and shall be accompanied by:

- A. Preliminary utility design drawings;
- B. Itemized estimate of construction costs prepared and signed by a licensed civil engineer or in the form of a bid submitted by a qualified contractor (if more than one bid has been obtained, all bids must be submitted to the City);
- C. A scaled vicinity drawing on 8-1/2" X 11" mylar, stamped by a licensed civil engineer or licensed land surveyor depicting the improvements and their location and the proposed benefited area, including dimensions and County Assessor's numbers for each tax parcel, size of parcels, and evaluations where necessary for determining benefit;
- D. A separate legal description for each tax parcel within the benefited area; and
- E. Such other information as the Director determines is necessary to properly review the application.

13.12.050 Length of Reimbursement Provision. No Reimbursement Agreement shall provide for reimbursement for a period of longer than 10 years from the date of final acceptance of the improvement by the City.

13.12.060 Director's Determination - Review by City Council. 1. The Director shall review all applications and shall approve the application only if the following requirements

are met:

- a. The project satisfies the minimum size requirement, RMC 13.12.030; and
- b. The proposed improvements fall within the description of "water or sewer facilities" as those terms are described in RCW Chapter 35.91.

2. In the event all of the above criteria are not satisfied, the Director may condition approval as necessary in order for the application to conform to such criteria, or shall deny the application. The final determination of the Director shall be in writing. The applicant may obtain a review of the final determination by filing a request therefor with the City Clerk no later than ten (10) days after mailing a copy of the final determination to the applicant at the address listed on the application.

3. In reviewing a final determination, the City Council shall apply the criteria set forth above, and shall uphold the decision of the Director unless evidence presented by the applicant clearly demonstrates that the criteria have been satisfied.

13.12.070 Determination of Reimbursement Area Boundary and Reimbursement Fee. In the case of all applications which are approved, the Director shall define the Reimbursement Area based upon a determination of which parcels did not contribute to the original cost of the water or sewer facility for which the Reimbursement Agreement applies and which may subsequently tap into or use the same, including not only those which may connect directly thereto, but also those who may connect to laterals or branches connecting thereto. An estimated amount of the reimbursement fee shall be established so that each property will pay a share of the costs of the improvements, which is proportional to the benefits which accrue to the property.

13.12.090 Reimbursement Agreement Must be Recorded. In order to become effective, a Reimbursement Agreement must be recorded with the office of the King County department of Records and Elections. It shall be the sole responsibility of the beneficiary of the Reimbursement Agreement to verify said agreement has been recorded.

13.12.100 Written Agreement--Payment of City Costs in Excess of Application Fee. 1. Upon approval of the application, determination of the estimated costs of construction, the reimbursement area and estimated fees by the Director, the applicant shall sign a Reimbursement Agreement in the form supplied by the City. The signed agreement, the application and supporting documents, together with the Director's estimate of cost of construction, and determination of reimbursement area and estimated fees shall be presented to the City Council with a request that the City Council authorize the Mayor to sign the Reimbursement Agreement on behalf of the City.

2. In the event that costs incurred by the City for engineering or other professional consultant services required in processing the application exceed the amount of the application fee, the Director shall so advise the City Council and Council approval shall be conditioned upon receipt of payment by the applicant of an additional amount sufficient to compensate the City for its costs in excess of the application fee.

13.12.110 Construction and Acceptance of Improvements/Recording of Final Fees. 1. After the Reimbursement Agreement has been signed by both parties, and all necessary

permits and approvals have been obtained, the applicant shall construct the improvements, and upon completion, request final inspection and acceptance of the improvements by the City, subject to any required obligation to repair defects. An appropriate bill of sale, easement and any other document needed to convey the improvements to the City and to insure right of access for maintenance and replacement shall be provided, along with documentation of the actual costs of the improvement and a certification by the applicant that all of such costs have been paid.

2. In the event that actual costs are less than the Director's estimate used in calculating the estimated fees by 10% or more, the Director shall recalculate the fees, reducing them accordingly, and shall cause a revised list of fees to be recorded with the County Auditor.

13.12.120 Collection of Reimbursement Fees/No Liability for Failure to Collect. 1. Subsequent to the recording of a Reimbursement Agreement, the City shall not permit connection of any property within the reimbursement area to any sewer or water facility constructed pursuant to the Reimbursement Agreement, unless the share of the costs of such facilities required by the recorded agreement is first paid to the City.

2. Upon receipt of any reimbursement fees, the city shall deduct a six (6) percent administrative fee and remit the balance of the reimbursement fees to the party entitled to the fees pursuant to the agreement. In the event that through error, the City fails to collect a required reimbursement fee prior to approval of connection to a sewer or water facility, the City shall make diligent efforts to collect such fee, but shall under no circumstances be obligated to make payment to the party entitled to reimbursement, or in any other way be liable to such party, unless such reimbursement fee has actually been paid to the City.

13.12.130 Disposition of Undeliverable Reimbursement Fees. In the event that, after reasonable effort, the party to which reimbursement fees are to be paid pursuant to a Reimbursement Agreement cannot be located, and upon the expiration of 180 days from the date the fees were collected by the City, the fees shall become the property of the City and shall be revenue to the City sewer and water utility.

13.12.140 Severability. If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

Section 2. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after

passage and publication of the attached summary which is hereby approved.

APPROVED:

*Doreen Marchione*  
MAYOR, DOREEN MARCHIONE

ATTEST/AUTHENTICATED:

*Doris A. Schaible*  
CITY CLERK, DORIS A. SCHAIBLE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY *James E. [Signature]*

FILED WITH THE CITY CLERK: 6-2-88  
PASSED BY THE CITY COUNCIL: 6-7-88  
PUBLISHED: 6-12-88  
EFFECTIVE DATE: 6-17-88  
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