AM No. 13-144

TO: City Council

FROM: John Marchione, Mayor

DATE: August 20, 2013

SUBJECT: **ORDINANCE APPROVING AMENDMENTS TO THE GROUNDWATER PROTECTION INCENTIVE PROGRAM, THE WELLHEAD PROTECTION ZONE PERFORMANCE STANDARDS, AND REIMBURSEMENT AMOUNT AND SCHEDULE FOR PILOT PROGRAM MEMBERS**

I. RECOMMENDED ACTION

Approve the attached ordinance which amends the Groundwater Protection Incentive Program for existing stormwater infiltration systems in RMC 13.07.100, approve amendments to the Wellhead Protection Zone Performance Standards in RZC 21.64.050(D), and approve adjusted reimbursement schedule for the Groundwater Protection Incentive Pilot Program members.

II. DEPARTMENT CONTACT PERSONS

Rob Odle, Director, Planning and Community Development, 425-556-2417
Jon Spangler, Engineering Manager, Public Works, Natural Resources, 425-556-2823
Kelsey Johnson, Assistant Planner, 425-556-2409

III. DESCRIPTION/BACKGROUND

Ordinance

The attached ordinance (Attachment A) will adopt the Groundwater Protection Incentive Program which outlines the program and establishes new compliance timelines, reimbursement rates and requirements, and adopts amendments to the Wellhead Protection Zone Performance Standards allowing flexibility to alter, expand, or intensify an existing legal nonconforming use and/or structure when stormwater improvements are required through the Groundwater Protection Incentive Program. Additionally, this ordinance will adopt an adjusted reimbursement schedule for Pilot Program members (Olympian Precast, IDD Aerospace, Bear Creek Village, and Redmond Office Center).

Since this ordinance will be amending a portion of the City's Critical Areas regulations, and these regulations are incorporated by reference in the Shoreline Master Program, this ordinance will be included in the City's Limited Shoreline Master Program Amendment application filed with the Washington State Department of Ecology.

Background

In 2008 the City modified the Wellhead Protection Program ordinance language to better coordinate regulation of stormwater infiltration systems with State of Washington code. The 2008 Ordinance Amendment required registration and development of an assessment process and schedule that businesses and owners could uniformly apply to their systems. In 2009, the City coordinated with a group of 10 businesses and the Greater Redmond Chamber of Commerce to form a Technical Advisory Group (TAG) to develop an Assessment procedure, documents, and schedule. In a February 2010 Ordinance Amendment, the City adopted the Assessment Form, Assessment Instructions, modifications to the Code, and Resolution No. 1321 which eliminated permit fees for required work and established a Groundwater Protection Incentive Program to provide limited matching funds for work required by the City as an incentive for owners to complete their assessments early.

In the fall of 2011, staff resumed meetings with the TAG regarding concerns over implementation of the program and costs of required improvements to businesses. On April 25, 2012, City staff presented a new approach to the TAG which included substantial contributions by the City of Redmond to funding the requested on-site improvements, as well as procedural changes to the administration of the Wellhead Protection Program. In order to work through concerns regarding program changes, a pilot program with four businesses began in the summer of 2012. Through the TAG meetings and pilot program, revised program processes were developed to provide additional City reimbursement of eligible costs, and to base schedule and reimbursement rates on risk to the aquifer as reflected by the assessment score. Additionally, modifications to code language regarding appeals, vested rights, and nonconformance were developed.

Background – Pilot Program Members

The City and TAG selected Olympian Precast, IDD Aerospace, Bear Creek Village, and Redmond Office Center (Pilot Program Members) to undertake development of sample improvement projects on their respective sites as part of a pilot project with the goal of learning from these projects to inform the development and refining the process

The Pilot Program members incurred expenses over an extended time.

In recognition of their efforts, the City will reimburse the Pilot Program members in two payments:

1) For pilot project expenses authorized by the City and incurred from May 22, 2012, to permit approval(s). This initial reimbursement will be in accordance with Section 5 of the attached ordinance.

2) At the completion of all required authorized improvements, the final payment will be based on authorized expenses incurred from permit approval until project completion.

If work is not completed before the Authorized Work letter deadline, no further reimbursement will be paid.

IV. IMPACT

A. Fiscal. The Groundwater Protection Incentive Program will reimburse Group One, owners for 75 percent of the authorized costs of stormwater improvements completed within two-and-one-half years from the effective date of the Authorized Work Letter. For improvements completed from two-and-one-half years and up to three-and-one-half years from the effective date of the Authorized Work Letter, the owner will be reimbursed for 50 percent of the cost of authorized improvements. For all parcels identified as Group Two, owners will be reimbursed for 60 percent of the authorized cost of improvements if completed four years from the effective date of the Authorized Work Letter. City funding for this program will be from the Water Utility. Preliminary estimates are total cost of City reimbursements to be between $4 million and $6 million.

B. Service Delivery. This ordinance will impact owners or operators of stormwater infiltration systems that are physically located within Wellhead Protection Zones 1 and 2.

V. ALTERNATIVES

The Council could choose not to adopt the ordinance and continue administration of the ordinance adopted in 2010; however, business interests have expressed significant concern with the private costs of the required updates and were not supportive of the program.

VI. LIST OF ATTACHMENTS

Attachment A: Ordinance

/s/ _____ 8/13/2013
Robert G. Odle, Director, Planning and Community Development Date

Approved for Council Agenda: /s/ _____ 8/14/2013
John Marchione, Mayor Date

ATTACHMENT A

CODE

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADDING RMC 13.07.115 ADOPTING THE GROUNDWATER PROTECTION INCENTIVE PROGRAM; AMENDING RMC 13.07.140 TO PROVIDE FOR MEDIATION OF DISPUTES REGARDING DECISIONS UNDER THE GROUNDWATER PROTECTION INCENTIVE PROGRAM; AMENDING RZC 21.64.050(D)(5) IN ORDER TO ADD PROVISIONS REGARDING THE CONSTRUCTION OR LOCATION OF INCREMENTAL IMPROVEMENTS TO SYSTEMS PROTECTIVE OF GROUNDWATER; PROVIDING FOR THE REIMBURSEMENT OF PILOT PROGRAM PARTICIPANTS IN TWO INSTALLMENTS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, protection of groundwater in the City of Redmond is of vital importance in ensuring a safe supply of drinking water for the City's utility customers; and

WHEREAS, existing systems that infiltrate stormwater into the ground can introduce contaminants that pose a threat to the safety of the City's drinking water supply; and

WHEREAS, in order to protect the City's groundwater and drinking water supply, the City has adopted a wellhead protection program and associated regulations as RMC 13.07; and

WHEREAS, the wellhead protection program requires that the owners of stormwater infiltration systems conduct an assessment of the risks to groundwater from such systems and that such owners make improvements to the systems to mitigate the identified risks; and

WHEREAS, in order to provide an incentive for the owners of stormwater infiltration systems to make improvements to those existing systems, the Redmond City Council adopted Resolution 1321, establishing a Groundwater Protection Incentive Program under which the City has reimbursed the owners of existing stormwater infiltration systems for some or all of the costs associated with making improvements to mitigate risks to groundwater; and

WHEREAS, the City staff has worked with the owners of stormwater infiltration systems to develop certain modifications to the Groundwater Protection Incentive Program and has presented the modified program to the Redmond City Council with a recommendation that it be codified in RMC 13.07; and

WHEREAS, under the proposed Groundwater Protection Incentive Program the City and the owners share in the cost of design and construction of the improvements to existing stormwater infiltration systems and the owners maintain the systems after improvement; and

WHEREAS, the greater the threat to groundwater posed by the existing stormwater infiltration system the greater the City's share and the greater the urgency to implement improvements and protections; and

WHEREAS, because groundwater is a major source of the community's drinking water, the City's investment in the

Groundwater Protection Incentive Program is an appropriate expense of the City's water utility; and

WHEREAS, the City staff has also worked with the owners of stormwater infiltration systems to develop amendments to RZC 21.64.050(D)(5) in order to recognize the vested private property rights of such owners and to ensure that the making of incremental environmental improvements to systems protective of groundwater will not cause the property owners to forfeit their rights to maintain legal nonconforming uses and structures; and

WHEREAS, the Redmond Planning Commission held a public hearing on the proposed amendments to RZC 21.64.050(D)(5) and, after considering all public testimony received, determined to recommend the same to the Redmond City Council in the form provided herein; and

WHEREAS, after considering the recommendations of the City staff and the Planning Commission, and after considering the input of the public and the owners of stormwater infiltration systems, the Redmond City Council has determined to adopt the regulations set forth in this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature. The amendments to the RMC and RZC set forth in

Sections 2, 3, and 4 of this ordinance shall become a part of the City Code. The remainder of this ordinance shall not be codified.

Section 2. Adoption of Section. RMC 13.07.115, Groundwater Protection Incentive Program, is hereby adopted to read as follows:

13.07.115 Groundwater Protection Incentive Program for Existing Infiltration System Modifications.

(A) Goal of Groundwater Protection Incentive Program.

(1) The goal of the groundwater protection incentive program is to encourage the early and timely modification of existing stormwater infiltration systems in order to benefit the public through early implementation of groundwater pollution prevention measures, facilitation of proper permitting and construction, and minimization of enforcement actions. Through the program the city will reimburse owners for a portion of the cost of design, engineering, permitting and construction of city-required improvements to protect the groundwater and the city's drinking water resource. The city will reimburse all property owners who have completed or who hereafter complete improvements under the groundwater incentive protection program codified in this section or as

provided in Resolution No. 1321 of the city to the full extent authorized by this section.

(2) As city ratepayer funds are proposed to be expended on private property the city has an obligation to strive for the most cost effective, protective upgrades that address the risks to the public, identified by the city, and also balance the property owner's operational needs and ongoing maintenance costs.

(B) Groundwater Protection Incentive Program Process.

(1) Parcels with infiltration systems installed before November 1, 2003, which have not already registered with the city, are required to submit a complete registration form. Upon notification from the city, the owner will have three months to submit the complete registration and to be eligible for reimbursement.

(2) After registration forms are reviewed, the city will provide notification that the owner must complete an assessment of their stormwater infiltration system.

(3) The owner will have six months from that notification date to submit a complete *Existing*

Stormwater Infiltration System Assessment Form (assessment) to the city to be eligible for reimbursement.

(4) The city will evaluate the assessment and meet with the owner to discuss site risks, appropriate best management practices, and potential mitigation or modifications specific to each facility to reduce each systems risk level.

(5) After joint review of the assessment, the city will issue a draft authorized work letter identifying the risk score. Owners will have ten (10) calendar days to file a written request for a meeting with city staff to reconsider the risk score. If discussion with city staff does not result in a consensus, either party may request mediation and a meeting with the mayor as provided in RMC 13.07.140 by filing written requests as provided therein. After ten (10) calendar days, if the owners have not filed a written request with city staff as provided in this subsection, or if a request does not result in consensus and no request for mediation or a meeting with the mayor is filed, the city will issue the final authorized work letter.

(6) The authorized work letter will identify the final assessment risk score, required operational best management practices, and the schedule for completion, as well as provide options for meeting structural best management practices and/or system modification requirements to reduce the risk score.

(7) Owners and their engineer(s) will work with the city to develop and review design concepts for modifications, evaluate alternatives appropriate for the site, and select a cost effective alternative. The city will issue a draft authorized alternative letter identifying the selected alternative and approving the owner to prepare a complete cost estimate detailing the cost of all design work, permitting and construction. Owners will have ten (10) calendar days to file a written request for a meeting with city staff to reconsider the selected alternative. If discussion with city staff does not result in a consensus, either party may request mediation and a meeting with the mayor as provided in RMC 13.07.140 by filing written requests as provided therein. After ten (10) calendar days, if the owners have not filed a written request with city staff as

provided in this subsection, or if a request does not result in consensus and no request for mediation or a meeting with the mayor is filed, the city will issue the authorized alternative letter.

(8) Owners will submit a proposed cost estimate detailing the costs of all design work (incurred and future), permitting, and construction of the selected improvements. After this submittal, the city will issue a draft authorized notice to proceed letter identifying the selected alternative and directing the owner to prepare a complete design and cost estimate. Owners will have ten (10) calendar days to file a written request for a meeting with city staff to reconsider the selected alternative. If discussion with city staff does not result in a consensus, either party may request mediation and a meeting with the mayor as provided in RMC 13.07.140 by filing written requests as provided therein. After ten (10) calendar days, if the owners have not filed a written request with city staff, as provided in this subsection, or if a request does not result in consensus and no request for mediation or a meeting with the mayor is filed, the city will issue the final authorized notice to proceed.

(9) All improvements must receive all appropriate city, county, regional, state, and federal permits prior to beginning construction.

(10) During construction changes to the scope of work authorized in the notice to proceed must be documented in a change order request and submitted to the city before out of scope work is completed. The city will issue an authorized change order for approved out of scope work. Every effort will be made to authorize change orders in the field. If additional review time is necessary, it will not extend more than seven days.

(11) When all authorized improvements are complete, and accurate record drawings, stormwater pollution prevention plans and operation and maintenance manuals, if applicable, are received and accepted as complete, the city will issue an acceptance letter within 30 days.

(12) The acceptance letter will identify the date of completion for the purposes of reimbursement.

(13) After receipt of the acceptance letter, the owner can submit to the city verifiable, itemized and detailed receipts for all authorized improvements and proof of payment for all invoices and lien

releases in accordance with the reimbursement submittal checklist.

(14) Upon review of receipts and proof of payment for all authorized improvements, a draft authorized reimbursement of cost letter will be issued to the owner within 30 days.

(15) Owners will have ten (10) calendar days to file a written request for a meeting with city staff to reconsider the reimbursement amount. If discussion with city staff does not result in a consensus, either party may request mediation and a meeting with the mayor, as provided in RMC 13.07.140 by filing written requests as provided therein. After ten (10) calendar days, if the owners have not filed a written request with city staff as provided in this subsection, or if a request does not result in consensus and no request for mediation or a meeting with the mayor is filed, the city will issue the final authorized reimbursement of cost letter.

(16) Upon owners' acceptance of the authorized reimbursement of cost letter, the city will process the reimbursement.

(C) Authorized Work Letter and Reimbursement Schedule.

(1) This schedule replaces the schedule in the assessment criteria referenced in city of Redmond Resolution No. 1321. Parcels will be divided into three groups based on the assessment scores:

(a) Group one parcels will be identified by scores of 19 or higher;

(b) Group two parcels will be identified by scores of eight to 18; and

(c) Group three parcels with scores of seven and below will not be required to modify their systems but will be required to meet appropriate stormwater best management practices. Operational and structural best management practices are defined in the 2005 Stormwater Management Manual for Western Washington, Volume IV - Source Control BMPs.

(D) Group One Authorized Work Letters

(1) Group one parcels will be divided into three subgroups: 1A, 1B, and 1C, to facilitate scheduling:

(a) 1A parcels will be issued authorized work letters effective October 1, 2013;

(b) 1B parcels will be issued authorized work letters effective April 1, 2014;

(c) 1C parcels will be issued authorized work letters effective October 1, 2014.

(E) Group One Reimbursement.

(1) For authorized improvements completed by the owner and accepted by the city within two and one-half years from the effective date of the authorized work letter owners will be reimbursed for 75 percent of the costs approved in the notice to proceed and authorized change order(s).

(2) For authorized improvements completed by the owner and accepted by the city in more than two and one-half years and up to three and one-half years from the effective date of the authorized work letter, owners will be reimbursed for 50 percent of the costs approved in the notice to proceed and authorized change order(s).

(3) There will be no reimbursement if all authorized improvements are not completed and accepted by the city within three and one-half years from the effective date of the authorized work letter.

(4) The owner will be in violation of this code if authorized improvements are not completed within four and one-half years from the effective date of the authorized work letter.

(F) Group Two Authorized Work Letters.

(1) Group two parcels will be issued authorized work letters effective January 1, 2018, or a later date as determined by the director. One consideration for extending the effective date may be completion of groundwater modeling and aquifer delineation by the city.

(G) Group Two Reimbursement.

(1) For authorized improvements completed by the owner and accepted by the city within four years from the effective date of the authorized work letter owners will be reimbursed for 60 percent of the costs approved in the notice to proceed and authorized change order(s).

(2) There will be no reimbursement if authorized improvements are not completed and accepted by the city within four years from the effective date of the authorized work letter.

(3) The owner will be in violation of this code if authorized improvements are not completed within five years from the effective date of the authorized work letter.

(H) General Notes.

(1) Parcels that are identified to be in a different wellhead protection zone as a result of aquifer delineation will be re-assessed based on their new risk score.

(2) Parcels that have changes to operations or processes that increase or decrease risk will be re-assessed (ie, if the score is lower than 8, no modification will be required, if the risk score is increased to 19 or above the parcel will be required to meet the Group one schedule and will be reimbursed at the Group one rate, etc.).

(I) Schedule Extensions.

(1) City review of submittals exceeding 30 calendar days will cause the extension of the authorized work letter effective date by one day for each day exceeding 30 days of review time.

(2) Permit review by other agencies exceeding 30 calendar days will cause the extension of the authorized work letter effective date by one day for each day exceeding 30 days of review time. To receive a time extension, the owner must submit materials for review in a timeframe that would allow for issuance of permits assuming a typical permit review cycle and completion of construction within the required timeframe.

(3) Unless the appellant prevails, appeals will not extend the deadline for completion of improvements or eligibility for reimbursement.

(4) The technical committee may grant an extension for extenuating circumstances that result in significant unanticipated delays during construction.

(5) Except as noted above, reimbursement dates will not be extended; however, the technical committee may grant an additional one-year extension for owners that have shown proper justification towards compliance but are unable to reach full completion by the violation date. Demonstration of proper justification effort may include but is not limited to:

(a) Demonstrated economic hardship;

(b) Change of ownership;

(c) Unanticipated construction and/or site design problems; or

(d) Other circumstances beyond the control of the applicant determined acceptable by the technical committee.

(J) Reimbursement Requirements.

(1) To be eligible for reimbursement of authorized costs, the owner must:

(a) Complete registration and assessment submittals within the specified schedule.

(b) Comply with the terms and schedule in the authorized work letter and authorized notice to proceed.

(c) Complete and maintain the required operational[i] best management practices (BMPs) for stormwater and groundwater protection as required in the authorized work letter and authorized notice to proceed.

(d) Complete the requirements in the authorized work letter, authorized notice to proceed and approved permits.

(e) Authorized improvements and authorized change orders eligible for reimbursement may include:

(i) Conduct engineering feasibility studies, designs and drawings of stormwater improvements.

(ii) Construct and install structural [ii]stormwater best management practices.

(iii) Replace stormwater system components and associated permitting requirements.

(iv) Purchase equipment or materials to treat stormwater.

(v) Construct, replace, or decommission stormwater infiltration systems.

(vi) Install groundwater monitoring wells.

(vii) Work agreed upon, documented and conducted by qualified employees to design and/or install authorized improvements at rates appropriate for the tasks performed.

(viii) Prepare stormwater reports, pollution prevention reports, operations manuals, and record drawings of modifications.

(ix) Permit fees that were not waived (fire, state, county, etc.).

(f) Submit record drawings, stormwater pollution prevention plans, and operation and maintenance manuals.

(g) Submit receipts and proof of payment for all authorized improvements in accordance with the reimbursement submittal checklist.

(2) The following are not eligible for reimbursement:

(a) Routine and/ or annual maintenance of stormwater best management practices or stormwater treatment systems.

(b) Cost of irrigation meters or water meters, installation costs and connection fees for: sanitary sewer, storm water, electricity, water, gas, phone or other utilities.

(c) Design, installation, construction, engineering, or other costs associated with unauthorized work, unauthorized modifications, work to rectify unauthorized modifications, or work not required by the city.

(d) Costs associated with investigation, characterization, analysis, remediation, removal, disposal or any other activities associated with contaminated soil, sediments, surface water, or groundwater.

(e) Modifications made to any stormwater system after February 1, 2008, not authorized by the city.

(f) Any modifications made in violation of city, county, state, or federal codes, rules, laws.

(g) Staff time, unless identified in the authorized notice to proceed, lost productivity, impacts to business, lost rents, vacancies, etc.

(h) Any other site improvements not required as part of this program.

(i) Costs not identified in the authorized notice to proceed or authorized change orders.

Section 3. Amendment of Section. RMC 13.07.140, Appeals, is hereby amended to read as follows:

13.07.140 Appeals.

(A) Appeals concerning the application and administration of this chapter shall be processed according to the administrative procedures provided in Redmond Zoning Code Chapter 21.76, Review Procedures, unless associated with another permit, in which case the appeal procedures in Redmond Zoning Code Chapter 21.76 for the associated permit will apply.

(B) Groundwater Protection Incentive Program Decisions. The following additional procedures apply to decisions made under the groundwater protection incentive program:

(a) Any property owner who disagrees with any final decision of the public works director under the groundwater incentive program may appeal that decision by following the appeal procedures for type I decisions under the Redmond Zoning Code. The appeal

shall proceed to hearing and final decision by the hearing examiner in the same manner as other type I appeals under the city's zoning code.

(b) Draft authorized work, notice to proceed, and reimbursement of cost letters will be issued prior to final decision by the public works director. As provided in RMC 13.07.115, if a property owner disagrees with the terms of a draft authorized work, notice to proceed, or reimbursement of cost letter, the property owner may file a written request that the city staff reconsider such terms within ten (10) calendar days of the issuance of the draft letter. If a timely request for reconsideration is filed, the property owner and the city will meet within ten (10) calendar days of the city having received the request in a good faith attempt to resolve the issues. If the meeting is not successful, either party may elect to submit any remaining issues to a neutral mediator by filing a mediation request within ten (10) calendar days of the unsuccessful meeting. Any required time period for the public works director to make a final decision is tolled pending completion of the reconsideration and mediation process and the submittal of a

reconsideration request by a property owner constitutes the property owner's consent to such tolling.

(c) Notwithstanding the provisions of RMC 13.07.140(2)(b), either party may request that a neutral mediator be agreed upon at any time after the property owner submits its issues in writing, even though the obligatory meeting to resolve disputes has not yet taken place.

(d) If the parties cannot agree upon a neutral mediator within five (5) business days of a request by either party that a mediator be named, either party may, on the shortest notice authorized by court rule, petition the presiding judge of the King County Superior Court to immediately appoint a neutral mediator with substantial land use, environmental, or civil engineering experience in addition to substantial mediation experience.

(e) Each party shall pay an equal share of the mediator's fees.

(f) Mediation shall be completed within thirty (30) calendar days from the date the request for mediation is filed. If mediation does not result in an agreement, either party may, within five (5)

calendar days after mediation is completed, request that the owners and the city staff meet with the mayor in a good faith attempt to reach a resolution. The meeting will be scheduled as expeditiously as possible given the mayor's schedule.

(g) If a request for reconsideration, mediation, or a meeting with the mayor results in agreement on the terms of an authorized work, notice to proceed, or reimbursement of cost letter, the public works director shall issue a final authorized work, notice to proceed, or reimbursement of cost letter containing the agreed-upon terms. If no agreement is reached as the result of a request for reconsideration, mediation, or meeting with the mayor, or if no timely request for reconsideration, mediation, or meeting with the mayor is made, the public works director shall issue a final authorized work, notice to proceed, or reimbursement of cost letter setting forth the city's final position and the period for appealing the public works director's decision shall commence.

Section 4. Amendment of Paragraph. RZC 21.64.050(D)(5), Wellhead Protection Zone Performance Standards, is amended to read as follows:

(5) **An incremental environmental improvement to a system protective of groundwater may proceed as follows:**

(a) Except as provided in subsection (b) below, the construction or location of [~~A~~]**a**n incremental improvement to a system protective of groundwater shall not **be permitted to** alter, expand, or intensify an**y** [~~EXISTING~~] **legal** [~~NONCONFORMANCE BUT MAY PROCEED~~] **nonconforming use or structure in a manner that increases the degree of nonconformity. However, upon the technical committee's approval of an incremental improvement to a system protective of groundwater, the improvement may be constructed** without **the property owner** having to meet the following City codes [~~WITH PRIOR APPROVAL FROM THE DIRECTOR OF PUBLIC WORKS~~]:

(i) [~~RESTRICTIONS ASSOCIATED WITH CRITICAL AREAS AND~~] **The provisions of RZC 21.64 regarding** critical area**s** buffers, if the footprint of the original system protective of groundwater is located with the same critical area buffer, and it can be demonstrated through the best available science that there will be no significant adverse impacts to the critical area and its buffer;

(ii) [~~ANY REQUIREMENT TO BRING A PORTION OF THE FACILITY UP TO~~] **The provisions of RCZ 21.76.100(F)(9)(b) and (c) requiring nonconforming structures, landscaping, and pedestrian system areas to be brought into compliance with** current building, fire, or land use codes**, to the extent** that **the requirement** is triggered by the value or design of the incremental environmental improvement to a system protective of groundwater; **and**

(iii) [~~THE INCREMENTAL IMPROVEMENT SHALL NOT QUALIFY AS A REDEVELOPMNENT THAT WOULD OTHERWISE BE PROHIBITED BY~~] **The provisions of** RZC 21.64.050(C)(1) **prohibiting the redevelopment of certain land uses and activities in wellhead protection zones 1 and 2**.

(b) Improvements required through the groundwater protection incentive program in order to mitigate potential stormwater impacts to groundwater may alter, expand, or intensify existing legal nonconforming uses and structures in a way that increases the degree of nonconformity where the technical committee determines that no economically, technologically, and environmentally reasonable alternative exists that meets the requirement to

protect groundwater and fulfills the operational needs of the existing development served by the improvements. By way of example and not by way of limitation, groundwater protection incentive program improvements may alter, expand, or intensify the degree of nonconformity of existing landscaping, parking, and covered storage structures that are legally nonconforming, as long as the requirements of this subsection are met.

Section 5. Reimbursement of Pilot Program Participants. The City recognizes the invaluable assistance of certain private property owners who have participated in a pilot program for the development and implementation of the Groundwater Incentive Protection Program. Because these pilot program participants have expended substantial funds to date in assisting the City, the City will reimburse these participants in two installments rather than the single installment provided in RMC 13.07.115: (1) up to one-half of the total reimbursement amount provided for under the Groundwater Incentive Protection program will be reimbursed upon issuance of construction permits for the system improvements; and (2) the remainder of the total reimbursement amount shall be reimbursed upon issuance of the Authorized Reimbursement of Cost Letter.

Section 6. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary consisting of the title, or as otherwise provided by law.

ADOPTED by the Redmond City Council this _____ day of _____, 2013.

CITY OF REDMOND

_____
JOHN MARCHIONE, MAYOR

ATTEST:

_____ (SEAL)
MICHELLE M. MCGEHEE, MMC, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

_____
JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

_____