

CHAPTER 71 STORMWATER

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71.001. Objectives.

- (a) To establish requirements for discharges into stormwater systems, receiving waters, and the environment;
- (b) To protect, to the greatest extent practicable, life, property, receiving waters, aquatic life, and the environment from loss, injury, degradation, or damage by pollution, erosion, low flows, excessive flows, flooding, landslides, and other potential hazards, whether from natural causes or from human activity;
- (c) To protect the public stormwater system from damage;
- (d) To meet the requirements of state and federal law and the City's National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit;
- (e) To implement site-specific practices, including using green stormwater infrastructure, to mimic natural hydrologic functions as much as practicable. (Ord No. 28-13)

71.005. Definitions; Rules of Construction.

- (a) Unless the context specifically indicates otherwise, as used in this Chapter the following mean:
 - (1) Best management practice (BMP) means activities, prohibitions of practices, operational and maintenance procedures, structural facilities, or managerial practices or devices that, when used singly or in combination, prevent, reduce, or treat contamination in drainage water,

prevent or reduce soil erosion, or prevent or reduce other adverse effects of drainage water on receiving waters. BMPs prescribed by the Director, whether or not adopted by ordinance, shall be the BMPs required for compliance with this Chapter.

(2) Design storm event means the size of the storm event used to calculate runoff volumes and peak rates of discharge when designing stormwater facilities. The design storm event is the total inches of rainfall, distributed during a 24-hour period using a standard synthetic rainfall distribution identified as Type I-A by the Natural Resources Conservation Service.

(3) Director means the Director of Public Works, or the Director's designee.

(4) Drainage water means stormwater and all other discharges that are not prohibited by this Chapter.

(5) Earth material means all naturally occurring rock and soil, or combination thereof, including clay, silt, sand, gravel-size particles, and naturally occurring and naturally formed aggregates. The term does not include manmade materials such as fill, concrete, or asphalt.

(6) Flow control facility means a stormwater facility designed to control the flow rate, flow volume, or flow duration of drainage water.

(7) Green stormwater infrastructure means a stormwater facility that mimics natural surface hydrologic functions through infiltration or evapotranspiration, or that involves stormwater reuse.

(8) Ground disturbing activity means any activity that exposes earth material through the use of mechanical equipment. By way of illustration, but not of limitation, ground disturbing activity includes: grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent, such as gravel mining, farming, gardening, sports fields; or short-term duration, such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.

(9) Illicit connection means any drain or conveyance system that results in a discharge to a stormwater system or receiving water that is not entirely drainage water.

(10) Impervious surface means any surface exposed to rainwater from which most water runs off. By way of illustration, but not of limitation, impervious surfaces include: rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel surfaces subjected to vehicular traffic, compact gravel, packed earth material, oiled macadam, or other surfaces that similarly impede the natural infiltration of stormwater.

(11) Large project means a project including 10,000 square feet or more of new impervious surface or replaced impervious surface, individually or combined, or 10,000 square feet or more of ground disturbing activity.

(12) Maximum extent feasible means the extent to which a requirement or standard must be complied with as constrained by the physical limitations of the site, practical considerations of engineering design, and reasonable considerations of financial costs and environmental impacts.

(13) NPDES municipal stormwater permit means the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System discharge permit issued to the City by the Oregon Department of Environmental Quality under the federal Clean Water Act.

(14) Pollutant means any substance that affects, or has the potential to affect, water quality in a manner that is detrimental to human health or safety or to the environment. By way of illustration, but not of limitation, pollutants include:

- (A)** Acids or bases;
- (B)** Ammunition and explosives;
- (C)** Animal carcasses;
- (D)** Antifreeze;

- (E) Bark and other fibrous materials, compost, collected lawn clippings, leaves, or branches;
- (F) Batteries;
- (G) Chemicals not normally found in unpolluted stormwater;
- (H) Chlorine and bromine based disinfectants;
- (I) Construction or excavation materials and spoils;
- (J) Degreasers and solvents;
- (K) Dirt, soil, silt, sand, sediment, sod, gravel, or rock;
- (L) Domestic animal wastes;
- (M) Drain cleaners;
- (N) Dyes;
- (O) Flammable or explosive materials;
- (P) Feces;
- (Q) Food waste;
- (R) Hazardous materials, as defined by ORS 466.605;
- (S) Metals in either particulate or dissolved form;
- (T) Paints, stains, resins, lacquers, or varnishes;
- (U) Pesticides, herbicides, or fertilizers;
- (V) Petroleum products, including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
- (W) Radioactive material;
- (X) Recreational vehicle waste;
- (Y) Sewage or sludge;
- (Z) Soaps, detergents, or ammonia;
- (AA) Steam cleaning wastes;
- (BB) Swimming pool backwash; and
- (CC) Trash, garbage, or debris.

(15) Pollution generating activity means any activity conducted outside with the potential of releasing pollutants into the public stormwater system, a private stormwater system, or receiving waters, and for which source controls may be prescribed. By way of illustration, but not of limitation, pollution generating activities include:

- (A) Transferring fuel from bulk storage tanks to vehicles, equipment, or mobile containers;
- (B) Storing fuel above ground in bulk containers;
- (C) Storing solid or liquid chemicals, food products, waste oils, solvents, process wastewaters, or petroleum products other than fuel in above ground containers;
- (D) Storing solid wastes in compactors, dumpsters, and garbage cans;
- (E) Storing material that is soluble or can be mobilized in water and that is known to contain pollutants;
- (F) Operating equipment and vehicle washing facilities; and
- (G) Conducting ground disturbing activity on property with known or suspected contamination from hazardous substances.

(16) Post-development means the conditions that reasonably may be expected or anticipated to exist after completion of development activity on a site.

(17) Predevelopment means the conditions on a site in its natural, undeveloped state, generally characterized by a mixture of trees, brush, weeds, and grass, and which is used to determine the allowable post-development discharge peak rates and flow volumes.

(18) Private stormwater system means a stormwater system that is not owned or operated by the City of Salem.

(19) Project means ground disturbing activity, or the addition or replacement of impervious surface.

(20) Public stormwater system means a stormwater system owned or operated by the City of Salem.

(21) Receiving water means the surface water, groundwater, or wetland receiving any discharge of drainage water or pollutants.

(22) Replaced impervious surface means the removal of impervious surface down to earth material and replacement with new impervious surface. Replacement does not include repair or maintenance activities on structures, paved surfaces, or facilities taken to prevent decline, lapse, or cessation in the use of the existing impervious surfaces as long as no additional hydrologic impact results from the repair or maintenance activity.

(23) Single family residential project means the construction of one single family dwelling or two attached single family dwellings on a single existing unit of land that is zoned Single Family Residential (RS) where the total new and replaced impervious surface is 1,300 square feet or more, but less than 10,000 square feet.

(24) Site means a unit of land, or portions of street, highway, or other right-of-way, or contiguous combination thereof, where a project is proposed or performed.

(25) Source controls means structures or operations that minimize or prevent pollutants from coming in contact with drainage water through physical separation or management of activities.

(26) Stormwater means that portion of precipitation and snowmelt that does not naturally percolate into the ground or evaporate, but flows into receiving water by overland flow, interflow, pipes, and other features of a stormwater system.

(27) Stormwater facility means a facility designed to control the flow rate, flow volume, or flow duration of drainage water, or a facility designed to remove pollutants from drainage water.

(28) Stormwater system means all stormwater facilities and improvements such as catch basins, curbs, gutters, ditches, manmade channels, and storm drains, that collect, convey, or control the flow of drainage water or remove pollutants from drainage water.

(29) Treatment facility means a stormwater facility designed to remove pollutants from drainage water.

(b) Words and phrases not defined in this section shall be construed according to their customary and usual meaning unless the context indicates a special or technical meaning. Words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not discretionary. (Ord No. 28-13)

71.010. Authority of Director.

(a) The Director shall administer and enforce the provisions of this Chapter, and may adopt administrative rules for the implementation hereof. By way of illustration, but not limitation, the Director's authority includes the authority to:

- (1) Establish and conduct inspection and monitoring programs to evaluate and enforce compliance with this Chapter;
- (2) Take enforcement actions;
- (3) Abate nuisances;
- (4) Issue written and oral interpretations of this Chapter, and rules promulgated hereunder;
- (5) Review, approve, condition, revoke, or disapprove submittals, applications, plans, and permits;
- (6) Set and collect fees as prescribed by resolution of the City Council.

(7) Sample and analyze a discharge to the public stormwater system or receiving water. If a prohibited discharge is determined to occur on a recurring basis, the Director is authorized to conduct ongoing monitoring, and is authorized to require the responsible party to conduct ongoing monitoring at the responsible party's expense. (Ord No. 28-13)

71.015. More Stringent or Additional Best Management Practices Required.

(a) The Director is authorized to issue an order requiring more stringent or additional best management practices if:

(1) A discharge to a public stormwater system, a private stormwater system, or a receiving water cannot be adequately addressed by the required best management practices, and the discharge:

(A) Exceeded, exceeds, or will exceed water quality standards, or

(B) Caused or contributed, is causing or contributing, or will cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's NPDES municipal stormwater permit.

(b) An order issued by the Director may be appealed to the Hearings Officer pursuant to SRC Chapter 20J. (Ord No. 28-13)

71.020. Approval of Plans and Conformance to Standards.

(a) Plans for all public and private stormwater systems shall be reviewed and approved by the Director prior to construction. Such plans shall conform to the Stormwater Master Plan and standards prescribed by the Director. Such approval shall be required in addition to any other approvals required by state law.

(b) All public or private stormwater systems, whether publicly or privately constructed, shall conform to standards of design, material, and workmanship prescribed by the Director. (Ord No. 28-13)

71.025. Fee-In-Lieu of Construction Authorized.

(a) The Director may allow a developer to enter into a voluntary agreement with the City for the payment of a fee-in-lieu of constructing a stormwater facility as required by this Chapter if the Director has determined that such an agreement is in the public interest. This determination shall consider the feasibility of constructing the stormwater facility on the site; the costs associated with construction, operations, and maintenance of the stormwater facility; and the benefits provided by the stormwater facility in terms of accomplishing the purposes of this Chapter. In no event shall the Director allow a developer to enter into a fee-in-lieu agreement with the City if the resulting post-development conditions could result in a violation of the City's NPDS municipal stormwater permit.

(b) The payment can be used to fund all or a portion of the cost of planning, designing, acquiring land for, or constructing:

(1) An existing public stormwater facility that has been determined by the Director to have excess capacity available to meet the applicable performance standards for the drainage water from the site; or

(2) A new public stormwater facility that will be constructed in the future and which has been determined by the Director to have excess capacity available to meet the applicable performance standard for the drainage water from the site.

(c) The Director may require the developer to complete an engineering analysis to evaluate the available excess capacity in an existing public stormwater facility.

(d) No building permits for any structures within the site subject to the condition of development approval will be issued until the fee-in-lieu is paid.

- (e) The Director of Finance shall deposit the fee-in-lieu into a trust and agency account.
- (f) An agreement to pay a fee-in-lieu of construction shall be in a form approved by the City Attorney and recorded in the deed records of the appropriate county. The agreement to pay a fee-in-lieu of construction shall not result in an assessment upon or lien against real property, and the

fee-in-lieu collected by the City from an applicant are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution. (Ord No. 28-13)

71.030. Fee-in-Lieu Amount. The fee-in-lieu amount shall be in accordance with a fee schedule approved by City Council and will be based on 100 percent of the average cost of constructing an equivalent stormwater facility. (Ord No. 28-13)

71.035. Compliance with Other Laws.

(a) The requirements of this Chapter, and any rules adopted pursuant hereto, do not replace, repeal, abrogate, supersede, or affect other more stringent law, requirements, rules, regulations, covenants, standards, or restrictions. Where this Chapter imposes requirements that are more protective of human health or the environment than those established elsewhere, the provisions of this Chapter shall prevail. When this Chapter imposes requirements that are less protective of human health or the environment than those established elsewhere, the provisions of the more protective requirements shall prevail.

(b) Approvals and permits granted under this Chapter are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations, including rules promulgated under authority of this Chapter. (Ord No. 28-13)

71.040. City Not Liable.

(a) Nothing contained in this Chapter is intended to be nor shall be construed to create or form the basis for any claim, action, or liability against officers, employees or agents of the City for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this Chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement of this Chapter, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this Chapter by its officers, employees, or agents.

(b) Nothing in this Chapter shall impose any liability on the City or any of its officers or employees for cleanup or any harm relating to sites containing hazardous materials, wastes, or polluted soil. (Ord No. 28-13)

71.045. Applicability.

(a) All projects, whether or not a permit is required;

(b) All discharges directly or indirectly to the public stormwater system or to a private stormwater system;

(c) All discharges directly or indirectly into receiving waters within or contiguous to the City's corporate limits;

(d) All new and existing land uses;

(e) All real property; and

(f) All persons owning, engaging in any activity on, or occupying property even where no project is occurring. (Ord No. 28-13)

71.050. Prohibited Discharges.

(a) Except as provided in SRC 71.055, no person shall discharge, directly or indirectly, any pollutant into the public stormwater system, a private stormwater system, or receiving water located within or contiguous to the City's corporate limits.

(b) A violation of this section is an infraction. (Ord No. 28-13)

71.055. Permissible Discharges.

(a) Discharges from the following sources and activities are allowed unless the discharge, singly or in combination with other discharges, causes or contributes to a violation of the NPDES municipal stormwater permit; to a violation of a waste load allocation contained in a Total Maximum Daily Load approved by the EPA; or to a violation of a city, state, or federal regulation; or to endangerment of public health, safety or welfare, the environment, or public or private property:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising groundwater;
- (5) Unpolluted groundwater infiltration;
- (6) Unpolluted pumped groundwater;
- (7) Potable water sources;
- (8) Start-up flushing of groundwater wells;
- (9) Potable groundwater monitoring wells;
- (10) Draining and flushing of municipal potable water storage reservoirs;
- (11) Foundation drains;
- (12) Air conditioning condensate;
- (13) Irrigation water;
- (14) Springs;
- (15) Water from crawl space pumps;
- (16) Footing drains;
- (17) Lawn watering;
- (18) Individual residential car washing;
- (19) Charity car washing;
- (20) Flows from riparian habitats and wetlands;
- (21) Dechlorinated swimming pool water;
- (22) Street washwater;
- (23) Dye testing of water, wastewater, or stormwater systems;
- (24) Treated water from investigation, removal, and remedial actions selected or approved by the DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465;
- (25) Flows from emergency fire fighting activities;
- (26) Flows from a private stormwater system conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit;
- (27) Flows conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit, and which are in compliance with all applicable City permits and approvals.

(b) Notwithstanding subsection (a) of this section, permissible discharges may be subject to additional controls, best management practices, or other conditions as established in Administrative Rules. (Ord No. 28-13)

71.060. Report of Discharges of Pollutants Required.

(a) Any person owning, engaging in any activity on, or occupying real property shall report the discharge of any pollutant from that property to the City if the discharge has introduced, or is likely to introduce, a pollutant into the public stormwater system, a private stormwater system, or receiving water. The report shall be made at the earliest possible time, but in no case later than 24 hours after discovery of the discharge. Reporting pursuant to this section is in addition to, and not in lieu of, any other reporting requirements imposed by federal, state, or local laws.

(b) A failure to report a discharge under subsection (a) of this section is an infraction. (Ord No. 28-13)

71.065. Requirements for All Property. Any person owning, engaging in any activity on, or occupying property shall implement and maintain best management practices to prevent pollutants from leaving the property and entering into a stormwater system or receiving water. Best management practices include, but are not limited to:

(a) Identifying and eliminating illicit connections to the public stormwater system or a private stormwater system;

(b) Disposing of fluids and wastes in a manner that minimizes the risk of contaminating stormwater;

(c) Storing solid wastes in a manner that minimizes the risk of contaminating stormwater; and

(d) Undertaking measures to prevent spills of pollutants and to properly cleanup spills that may occur. (Ord No. 28-13)

71.070. Additional Source Controls Required. Sites at which pollution generating activity is conducted shall comply with source control best management practices. (Ord No. 28-13)

71.075. Requirements for All Projects

(a) Any person conducting a project shall:

(1) Safely convey drainage water to the approved point of discharge;

(2) Prevent erosion and sediment transport from the site throughout all phases of construction and including landscaping;

(3) Maintain the project's stormwater facilities to keep the facilities in continuous working order;

(4) Preserve existing trees to the maximum extent feasible to minimize site-specific post-development stormwater runoff volumes and rates of discharge;

(5) Where vegetation exists in the predevelopment condition, preserve the vegetation to the maximum extent feasible.

(6) Provide landscaping and plant new trees to the maximum extent feasible to minimize site specific post-development stormwater runoff volumes and rates of discharge;

(7) In areas to remain pervious following development, protect soil from compaction and ground disturbing activities to the maximum extent feasible;

(8) Identify and eliminate illicit connections to the stormwater system;

(9) Implement required source controls if the project will result in a pollution generating activity;

(10) If the site discharges to a known wetland as designated on the Local Wetland Inventory or otherwise as delineated by the City or developer:

(A) Protect the hydrologic conditions, vegetative community, and substrate characteristics of the wetlands to prevent adverse impacts to the affected wetlands; and

(B) Select, design, install, and maintain temporary and permanent stormwater facilities to prevent the introduction of pollutants into the wetland. (Ord No. 28-13)

71.080. Requirements for Land Divisions.

- (a) Except as provided in SRC 71.080(c), all land divisions shall be provided with stormwater facilities that are sized to serve the entire land division under fully developed conditions.
- (b) Construction of stormwater facilities that serve only one lot or parcel may be delayed until the time of building construction on that lot or parcel.
- (c) A lot or parcel created through an approved tentative plan submitted to the City prior to the effective date of this ordinance may comply with the requirements of this Chapter or with the regulations in effect at the time of the tentative plan application. (Ord No. 28-13)

71.085. Requirements for Single Family Residential Projects.

- (a) Except as provided in SRC 71.085(b), all single family residential projects shall be designed and constructed with green stormwater infrastructure to the maximum extent feasible except where flow control facilities and treatment facilities have already been constructed per SRC 71.080 to serve the lot or parcel.
- (b) Single family residential projects on lots or parcels created through an approved land division tentative plan submitted to the City prior to the effective date of this ordinance may comply with the requirements of this Chapter or with the regulations in effect at the time of the tentative plan application. (Ord No. 28-13)

71.087. Requirements for City Projects. A City project that is not required to obtain land use approval or a building permit, and that meets all the conditions set forth below, is not required to comply with SRC 71.090 and SRC 71.095:

- (a) The project begins ground disturbing activity within two years of the effective date of this ordinance; and
- (b) The project conforms with the stormwater facility requirements in effect immediately prior to the effective date of this ordinance; and
- (c) The project meets one or more of the following criteria:
 - (1) Project funding was identified in “The Adopted Capital Improvement Plan for Fiscal Years 2013-2014 through 2017-2018;” or
 - (2) Project funding was appropriated in the fiscal year 2013-2014 Capital Construction Budget; or
 - (3) Project received, or will receive, voter approval of financing before January 1, 2014; or
 - (4) Project received, or will receive, funds based on a grant application submitted before January 1, 2014; or
 - (5) Project was approved for funding by City Council action prior to January 1, 2014. (Ord No. 28-13)

71.090. Requirements for Large Projects. All persons conducting large projects shall:

- (a) Phase the project to the maximum extent feasible in order to minimize the amount of simultaneous ground disturbing activity;
- (b) Provide additional stormwater facilities or improve the public stormwater system to adequately accommodate the stormwater flows from the site if insufficient capacity exists in the public stormwater system to carry existing and anticipated discharge flows, including any flows from dewatering activities. The Director may require the developer to conduct analyses to ensure sufficient capacity exists downstream from the location where the drainage water is discharged from the site;
- (c) Provide flow control facilities as required by this Chapter; and
- (d) Provide treatment facilities as required by this Chapter. (Ord No. 28-13)

71.095. Flow Control Facilities.

(a) Applicability.

- (1) Except as provided in subsection (2) of this section, all large projects shall be provided with flow control facilities that comply with this section.
- (2) The following projects are exempt from the requirements of this section:
 - (A) Maintenance, repair, or installation of underground or overhead utility facilities that includes replacing the ground surface with in-kind material or materials with similar runoff characteristics. By way of illustration, but not of limitation, this includes maintenance, repair, and installation of pipes, conduits, and vaults.
 - (B) The following road maintenance practices:
 - (i) Pothole and square cut patching;
 - (ii) Overlaying existing asphalt or concrete or brick pavement with asphalt or concrete without expanding the area of coverage;
 - (iii) Shoulder grading;
 - (iv) Reshaping or re-grading drainage ditches;
 - (v) Crack sealing;
 - (vi) Replacing existing impervious surface down to earth material; and
 - (vii) Vegetation maintenance.
 - (C) Projects in the right-of-way under the control of another governmental body, if:
 - (i) The governmental body uses best management practices consistent with that government body's own Stormwater Management Program and NPDES Permit; and
 - (ii) The best management practices are at least as stringent as those required by this Chapter and rules pursuant thereto.

(b) Design.

- (1) Flow control facilities shall be designed and installed to receive all flows from that portion of the site being developed and for the flows discharging to the flow control facility from other areas, including existing impervious surfaces and offsite areas, when the other flows cannot be separated or bypassed. By way of illustration, but not of limitation, as used in this section, development includes: all new impervious surfaces, all replaced impervious surfaces, all disturbed land areas, and any associated flows from dewatering.
- (2) Green stormwater infrastructure as a flow control facility shall be used to the maximum extent feasible.
- (3) The Director may reduce the total area of the site requiring flow control upon a consideration of the following:
 - (A) Areas retained in a natural, undisturbed state.
 - (B) Disturbed land areas within the site that have had soils amended.
 - (C) Disturbed land areas that have been replaced with permeable pavement or green roofs.
 - (D) The total number existing trees that are preserved or new trees that are planted.
- (4) The Director may allow construction of a flow control facility at a location other than the site if:
 - (A) The Director has determined that it is in the public interest to construct a flow control facility at a location other than the site. This determination shall consider the feasibility of constructing the flow control facility on the site; the costs associated with construction, operations, and maintenance of the flow control facility; and the benefits provided by the flow control facility in terms of accomplishing the purposes of this Chapter; and
 - (B) The flow control facility constructed at a location other than the site will mitigate similar impacts that have been identified as a consequence of the project.

(c) Flow Control Facility Performance Standard.

(1) The post-development peak runoff rates from design storm events equal to or less than one-half the 2-year, 24-hour design storm event shall not exceed the predevelopment peak runoff rate for one-half the 2-year, 24-hour design storm event; and

(2) The post-development peak runoff rates from design storm events equal to or less than the 10-year, 24-hour design storm event shall not exceed the predevelopment peak runoff rate for the 10-year, 24-hour design storm event; and

(3) If a volume-based stormwater flow control facility is used, the detention volume shall be sufficient to detain a 100-year design storm event without overflow. (Ord No. 28-13)

71.100. Treatment Facilities.

(a) Applicability.

(1) Except as provided in subsection (2) of this section, all large projects shall be provided with stormwater treatment facilities that comply with this section.

(2) The following projects are exempt from the requirements of this section:

(A) Maintenance, repair, or installation of underground or overhead utility facilities that includes replacing the ground surface with in-kind material or materials with similar runoff characteristics. By way of illustration, but not of limitation, this includes maintenance, repair, and installation of pipes, conduits, and vaults.

(B) The following road maintenance practices:

(i) Pothole and square cut patching;

(ii) Overlaying existing asphalt or concrete or brick pavement with asphalt or concrete without expanding the area of coverage;

(iii) Shoulder grading;

(iv) Reshaping or re-grading drainage ditches;

(v) Crack sealing;

(vi) Replacing existing impervious surface down to earth material; and

(vii) Vegetation maintenance.

(C) Projects in the right-of-way under the control of another governmental body, if:

(i) The governmental body uses best management practices consistent with that government body's own Stormwater Management Program and NPDES municipal stormwater permit; and

(ii) The best management practices are at least as stringent as those required by this Chapter and rules pursuant thereto.

(b) Design.

(1) Treatment facilities shall be designed and installed to receive all flows from that portion of the site being developed and for the flows discharging to the treatment facility from other areas, including existing impervious surfaces and offsite areas, when the other flows cannot be separated or bypassed. By way of illustration, but not of limitation, as used in this section, development includes: all new impervious surfaces, all replaced impervious surfaces, all disturbed land areas, and any associated flows from dewatering.

(2) Green stormwater infrastructure as a treatment facility shall be used to the maximum extent feasible.

(3) The Director may reduce the total area of the site requiring treatment upon a consideration of the following:

(A) Areas retained in a natural, undisturbed state.

(B) Disturbed land areas within the site that have had soils amended.

(C) Disturbed land areas that have been replaced with permeable pavement or green roofs.

(D) The total number existing trees that are preserved or new trees that are planted.

- (4) The Director may allow construction of a treatment facility at a location other than the site if:
- (A) The Director has determined that it is in the best public interest to construct a treatment facility at a location other than the site. This determination shall consider the feasibility of constructing the treatment facility on the site; the costs associated with construction, operations, and maintenance of the treatment facility; and the benefits provided by the treatment facility in terms of accomplishing the purposes of this Chapter; and
 - (B) The treatment facility constructed at a location other than the site will mitigate similar impacts that have been identified as a consequence of the project.
- (c) **Treatment Facility Performance Standard.** Treatment facilities shall be designed and installed to capture and treat at least 80 percent of the average runoff volume predicted by the design storm event for that portion of the site requiring treatment. (Ord No. 28-13)

71.105. Harmful Discharges.

- (a) The Director may suspend the stormwater service when, in the opinion of the Director, such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial threat to the health or welfare of persons, or to the environment.
- (b) Any person notified of a suspension of the service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary to prevent or minimize damage to the stormwater system or endangerment to any individual or the environment. The Director shall reinstate the service upon proof of the elimination of the noncomplying discharge.
- (c) A detailed written statement submitted by the user describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Director within five days of the date of occurrence. (Ord No. 28-13)

71.110. Appeals. Any person adversely affected by any decision, action, determination, or order, made by the Director interpreting or implementing the provisions of this Chapter may appeal to the Hearings Officer as set forth in SRC Chapter 20J, and such appeal shall be initiated by filing a notice of intent to appeal with the City Recorder within fifteen business days after notice of the Director's final decision has been sent. The notice of appeal shall satisfy the requirements of SRC 20J.110, and the appeal shall proceed as a contested case under the procedures established in SRC 20J.240-20J.430. Unless otherwise stayed by order of the Hearings Officer, the Director's decision, action determination or order, shall remain in effect during the pendency of the appeal to the Hearings Officer. (Ord No. 28-13)

71.115. Falsifying Information. No person shall knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Chapter, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Chapter. (Ord No. 28-13)

71.120. Civil Penalties. Any person who is found to have violated an order of the Director, or who willfully or negligently failed to comply with any provision of this Chapter, and the orders, rules, and regulations issued hereunder, shall forfeit and pay not more than \$1,000 for each offense as determined by the Hearings Officer. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. (Ord No. 28-13)

71.125. Violations. Violation of any provision of this Chapter, in addition to any civil forfeitures, shall be an infraction. (Ord No. 28-13)

