

Exhibit A to Ordinance Bill No. 9-24

SRC CHAPTER 70 (UTILITIES)

Sec. 70.005. Definitions.

The following words, terms, and phrases, when used in SRC chapters 70 through 73, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 Code.

Building drain means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes within or adjoining the building or structure and conveys ~~the same~~ the discharge to the building sanitary or storm sewer. The building drain is considered to end at a point five feet outside the established line of the building or structure.

Construction activity. See Project.

Contaminant. See Pollutant.

Cooling water means water other than sewage or industrial waste which is used as a medium for carrying away excess heat from any apparatus, appliance, mechanism, device, or thing, and which, in the course of such cooling process, is not mixed or commingled with any other substance or used as a means of carrying off any other substance, in suspension or in solution, thereby exiting such cooling process in substantially the same condition, save for temperature as when it entered.

Defective sewer is any private or building wastewater collection system that:

- (1) Fails a tightness test as described in SRC 73.080; or,
- (2) Is built in such a way that existing pipe material, condition or installation is found unacceptable by the ~~the~~ Director;
- (3) Fails to pass low air pressure test or hydrostatically. The test shall last 15 minutes; minimum test pressure shall be 3.5 pounds per square inch in either method. A new sewer shall have no loss when tested by either method. When tested, existing building sanitary sewers shall be tested for water tightness in the same manner as new building sanitary sewers except that a 50 percent loss of pressure will be allowed in the 15-minute test;
- (4) Exceeds a maximum allowable infiltration/inflow rate of more than 300 gallons per day per single detached living unit or 1,200 gallons per acre per day; or
- (5) Is connected to any plumbing device which introduces stormwater into the sewer system.

Design storm event means ~~the size of the storm event with specific characteristics, such as recurrence interval, duration, intensity, and volume, that is used to calculate runoff volumes and peak rates of discharge when designing design 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.~~ the size of the storm event with specific characteristics, such as recurrence interval, duration, intensity, and volume, that is used to calculate runoff volumes and peak rates of discharge when designing design stormwater facilities.

Development. See SRC 111.

Drainage waste water means stormwater, groundwater, surface drainage, subsurface drainage, spring water, well overflow, roof drainage, or other like drainage other than sewage or industrial waste.

Earth material. See SRC 82.

Erosion. See SRC 82.

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Extraneous water means water entering a building wastewater system from any source except that domestic sewage is not considered extraneous water.

Fire protection service means an unmetered connection to the public water mains intended only for the extinguishment of fires and the flushing necessary for its proper maintenance.

Flow Control Exemption Area means the area determined by the Director to have sufficient capacity to receive discharges of drainage water such that a site discharging to the area is not required to meet the flow control performance standards of SRC 71.095(c).

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

Green stormwater infrastructure, GSI, means a stormwater facility that ~~mimics~~ uses vegetation, soils, or natural processes to promote natural surface hydrologic functions through infiltration or evapotranspiration, ~~or that involves stormwater reuse.~~ Stormwater facilities designed for full infiltration (no underdrain) or partial infiltration (with underdrain) of drainage water are considered GSI.

Ground disturbing activity means any activity that exposes earth material through the use of mechanical equipment.

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.

Impervious surface means ~~any surface exposed to rainwater from which most water runs off~~ an area or surface that prohibits or delays infiltration of rainfall or otherwise causes drainage water to run off the land surface at an increased rate of flow from that present under predeveloped conditions. By way of illustration but not limitation, impervious surfaces may include building roofs, concrete or asphalt paving on walkways, driveways, parking lots, gravel subject to vehicular traffic, roads, compacted soil, and compacted fill.

Improved premises means a unit or units of land containing improvements, such as a parking lot, building or structure, that is connected to a City utility, including stormwater, sewer, or water utilities. Improved premises does not include a unit of land that has no improvements and is connected only to the City water utility for irrigation purposes only.

Large project means a project including ~~105,000~~ 105,000 square feet or more of new ~~pervious surface, new~~ impervious surface, ~~or~~ replaced impervious surface, or new pervious pavement, individually or combined, on private property; or, a project including ~~105,000~~ 105,000 square feet or more of new ~~pervious surface, new~~ impervious surface, ~~or~~ replaced impervious surface, or new pervious pavement, individually or combined, in public right-of-way.

Line means a pipe connecting a meter to a building's plumbing system.

Maximum extent feasible, MEF, means the extent to which a requirement or performance standard must be complied with as constrained by the physical limitations of the site, practical considerations of engineering design, and while providing reasonable considerations of ~~to engineering design~~, financial costs, and environmental impacts. For compliance with SRC 71.100, MEF means using green stormwater infrastructure to meet performance standards for treatment (SRC 71.100(c)) by infiltrating and treating the water quality design storm.

New impervious surface means any impervious surface resulting from a project that: (1) is placed over a previously pervious surface; (2) is placed over a surface that was previously in a predeveloped state; or (3) is placed over an existing impervious surface that does not have a stormwater system.

New pervious surface means any pervious surface ~~that is exposed to ground disturbing activity~~ resulting from a project and is neither made impervious nor returned to its predevelopment condition through soil amendment, landscaping, or other surface that mimics natural hydrologic functions.

Numeric Stormwater Retention Requirement, NSRR. See water quality design storm.

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Pervious pavement means pervious concrete, porous asphalt, or permeable paver blocks that infiltrate drainage water.

Pervious surface means a surface that does not meet the definition of impervious surface. By way of illustration but not limitation, pervious surfaces include landscaping, amended soils, uncompacted gravel not subject to vehicular traffic, lawns, sand, and pervious pavement.

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. Pollutant includes but is not limited to: dredged spoil; solid waste; incinerator residue; sewage; garbage; sewerage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into water.

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.

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

Predeveloped means the conditions on a site in its natural or 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.

Private stormwater facility means any stormwater facility that is not owned or operated by the City that has been installed or constructed for the purpose of removing pollutants from stormwater, or for controlling the discharge flow rate, flow duration, or flow quantity of stormwater.

Private wastewater collection system means a privately owned wastewater collection system installed on ~~private~~ private property that is not controlled by or under the jurisdiction of the City.

Project means ground disturbing activity; the addition of new impervious surface; the addition of new pervious pavement; or the replacement of impervious surface.

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

Replaced impervious surface means the removal of ~~an existing impervious surface down to earth material~~ and replacement with new impervious surface. ~~Replacement~~ Replaced impervious surface does not include repair or maintenance activities on structures, paved surfaces, or stormwater 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. By way of illustration but not limitation, hydrologic impacts can include changes in the routing of drainage water flows, changes in drainage water points of discharge, in drainage water flow rates, changes in the duration of drainage water flows, or changes in drainage water flow volumes.

Residential project means any residential development, to include single family dwellings; two-family uses; three- and four-family uses, and/or accessory dwelling units, in which the total new pervious pavement, new impervious surface, and replaced impervious surface is 1,300 square feet or more, but less than 5,000 square feet.

Service lateral means a pipe connecting a water, wastewater, or stormwater main to a facility's water, wastewater, or stormwater system.

Sewage means the wastewater derived from human habitation and use of buildings for domestic, commercial, institutional, or industrial purpose and free from drainage waste.

Single family residential project. See 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.~~

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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.

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.

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.

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.

Streetlight system means a system of streetlights, poles, fixtures, ancillary equipment, located within the City, and the provision of electricity therefor, owned or operated by the City, and the City's provision of electricity for streetlight systems owned for private utilities.

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.

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

User means any person using the City public water, wastewater, streetlight, or stormwater system.

Utility Code means SRC chapters 70 through 75.

Utility service means water service, wastewater service, stormwater service, streetlight service or any combination of services, provided by the City to customers of the City's water, wastewater, streetlight, and stormwater systems.

Utility system means the City's public water, wastewater, stormwater, and streetlight systems.

Wastewater means all sewage and industrial wastes, treated or untreated, discharged to a collection system.

Water main means a pipe two inches or larger inside the diameter, installed in a public right-of-way or an easement, to which a service lateral is connected.

Water quality design storm means a design storm event representative of 80 percent of the average annual runoff and used to size stormwater facilities for water quality treatment.

Water, wastewater, and stormwater main means a pipe installed in a public right-of-way or an easement, to which a service lateral is connected.

Sec. 70.070. Construction permits.

Any person constructing a water, wastewater, or stormwater facility located in a public street or easement, or which will attach to the water, wastewater, or stormwater systems, shall obtain a permit pursuant to SRC 77.090—~~77.130~~ 77.140.

Sec. 70.310. Stormwater credits.

The Director is authorized to implement and administer a program to allow customers to reduce their stormwater charges through the installation of approved stormwater ~~management~~ facilities.

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SRC CHAPTER 71 (STORMWATER)

Sec. 71.025. Fee-in-lieu of construction.

- (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 NPDES ~~or~~ Municipal ~~or~~ Stormwater ~~or~~ 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 or retrofit of an existing public stormwater facility ~~and~~ which has been determined by the Director to have excess or additional 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 or additional capacity in a new future public stormwater facility or future retrofit of 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 Finance Officer 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.

Sec. 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) ~~W~~Uncontaminated water line flushing;
 - (2) Landscape irrigation;
 - (3) Diverted stream flows;
 - (4) Rising groundwater;
 - (5) ~~Unpolluted~~Uncontaminated groundwater infiltration;
 - (6) ~~Unpolluted~~Uncontaminated pumped groundwater;

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- (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) Uncontaminated A-air conditioning or compressor 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 (provided that steam and heated water are not used and that washing is restricted to the outside of the vehicle with no rinsing or washing of engines, transmissions, or undercarriage);
 - (20) Flows from riparian habitats and wetlands;
 - (21) Dechlorinated swimming pool or hot tub water;
 - (22) Street, building, and pavement washwater (provided chemicals, soaps, detergents, steam, or heated waters are not used);
 - (23) Water associated with D-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 ORS ch. 465;
 - (25) Flows from fire hydrant flushing or emergency firefighting 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.

Sec. 71.080. Requirements for land divisions.

- (a) Except as provided in SRC 71.080(c), all land divisions shall be provided with stormwater flow control facilities and treatment facilities that are sized to serve the entire land division under fully developed conditions in accordance with SRC 71.085 and SRC 71.090.
- (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 ~~January 1, 2014~~ November 1, 2024, may comply with the requirements of this chapter or with the regulations in effect at the time of the tentative plan application.

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Sec. 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~~ using 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 ~~January 1, 2014~~ November 1, 2024 may comply with the requirements of this chapter or with the regulations in effect at the time of the tentative plan application.

Sec. 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 71.095~~:

- (a) The project begins ground disturbing activity within two years of ~~January 1, 2014;~~ November 1, 2024;
- (b) The project conforms with the stormwater facility requirements in effect immediately prior to ~~January 1, 2014;~~ November 1, 2024; 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~~ 2025-2029;
 - (2) Project funding was appropriated in the fiscal year ~~2013-2014~~ 2025-2026 Capital Construction Budget;
 - (3) Project received, or will receive, voter approval of financing before ~~January 1, 2014;~~ November 1, 2024;
 - (4) Project received, or will receive, funds based on a grant application submitted before ~~January 1, 2014;~~ November 1, 2024; or
 - (5) Project was approved for funding by Council action prior to ~~January 1, 2014;~~ November 1, 2024.

Sec. 71.090. Requirements for large projects.

All persons ~~conducting~~ constructing 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 flow control facilities as required by this chapter;
- (c) Provide stormwater treatment facilities as required by this chapter using green stormwater infrastructure to the maximum extent feasible. Other treatment facilities may be provided where infiltration is deemed infeasible pursuant to rules promulgated by the Director.

Sec. 71.095. Flow control facilities.

- (a) *Applicability.*

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- (1) Except as provided in subsection (a)(2) of this section, all large projects not discharging directly into a flow control exemption area 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~~ drainage water from that portion of the site being developed and for the drainage water flows discharging to the flow control facility from other areas, including existing impervious surfaces and off-site areas, when the other ~~flows~~ drainage water 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 of 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

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(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 two-year, 24-hour design storm event shall not exceed the predevelopment peak~~ must be equal to or less than the predevelopment peak runoff rate for one-half the two-year, 24-hour design storm event;
- (2) The post-development peak runoff rates from ~~design storm events equal to or less than the ten-year, 24-hour design storm event shall not exceed~~ must be equal to or less than the predevelopment peak runoff rate ~~for from~~ the ten-year, 24-hour design storm event; and
- (3) The post-development peak runoff rates from ~~design storm events equal to or less than the 25-year, 24-hour design storm event shall not exceed~~ must be equal to or less than the predevelopment peak runoff rate ~~for from~~ the 25-year, 24-hour design storm event; and
- (4) The post-development peak runoff rates from ~~design storm events equal to or less than the 100-year, 24-hour design storm event shall not exceed~~ must be equal to or less than the predevelopment peak runoff rate ~~for from~~ the 100-year, 24-hour design storm event.

Sec. 71.100. Treatment facilities.

(a) *Applicability.*

- (1) Except as provided in subsection (a)(2) of this section, all residential and 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 drainage water from that portion of the site being developed and for the flows drainage water discharging to the treatment facility from other areas, including existing impervious surfaces and off-site areas, when the other flows drainage water cannot be separated or bypassed. By way of illustration,

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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 to meet the treatment facility performance standard.
 - (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~~ retain and minimize offsite discharge by utilizing infiltration and evapotranspiration of at least 80 percent of the average runoff volume as predicted by the design storm event for that portion of the site requiring treatment. Other treatment facilities may be provided where infiltration is deemed infeasible pursuant to rules promulgated by the Director.