

EXHIBIT A

ARTICLE VI. Tree Protection and Planting

Sec. 50-150. - Title

This ordinance shall be known and may be cited as the “City of Petersburg Tree Protection and Planting Ordinance.”

Section 50-151. – Purpose, objectives, and benefits

The purpose of this ordinance is to establish policies, regulations, and standards for the management and planting of trees within the City of Petersburg. Tree management shall include, but not be limited to, tree establishment, maintenance, protection, and removal.

Section 50-152. – Objectives:

The objectives of public tree management shall be to maximize the functional benefits of trees while minimizing the costs of management. The objectives of this ordinance shall be as listed below.

- a) Maintain the City’s functional tree canopy at or above its current level.
- b) Maintain and improve community character and aesthetic value of the landscape.
- c) Support environmental functions such as wildlife habitat.
- d) Provide shade to reduce urban heating and energy costs.
- e) Provide direction and support for city tree management.
- f) Reduce risk to people and property.
- g) Improve public health with outdoor green spaces.

Section 50-153. - Applicability

The provisions of this ordinance shall apply to all public trees, as described herein; and to ROW encroachments of private trees.

Section 50-154. - Definitions.

As used in this Article, the following words and phrases shall have the meanings indicated:

ANSI/ANAB	American National Standards Institute, ANSI National Accreditation Board
Air spading	The use of a compressed air power tool to excavate soil within a trees critical root zone (CRZ).
Arborist/City Arborist	An employee of the City of Petersburg serving as arborist.
Bulb out/Curb Extension	Curb extension protruding into a parking lane to provide additional pedestrian or planting space and enhance traffic safety.
Bole	The trunk of a tree.
Caliper	Diameter measurement of a tree trunk, taken about six inches above grade or from the first root at the base of the tree for very young trees.
Canopy	The combined crown mass of a group of trees.

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Certified Arborist	An individual who achieves and maintains the designation of Certified Arborist under requirements established by the International Society of Arboriculture (ISA).
Critical Root Zone	(CRZ) A circular expanse of ground surrounding a tree, having a radius equivalent to 1 foot for every 1 inch in DBH.
Crown	The upper portion of a tree containing its leader(s), limbs, branches, twigs, and leaves.
DBH/DSH	Diameter breast height / diameter standard height: trunk diameter as measured 4.5 feet above grade.
Damage	Any injury to or destruction of a tree, in whole or in part, above or below ground.
Dripline	The greatest extent of a tree crown spread.
Establishment	The amount of time typically allotted for a tree to become self-sustaining.
Hazard Tree	A tree at high or imminent risk for failure, either whole or in part, in proximity to a target.
Heritage tree	Trees growing on public land that meet at least one (1) of the following criteria: a. DBH/DSH of twenty-four (24) inches or greater. Also known as an historic tree. b. Of a landmark character, associated with a place, individual, or event important to the city or neighborhood or its history, or located such that it is a widely known and appreciated tree within the city. c. A rare or unusual species, or an unusually large size for the species.
Maintenance	Tree care activities to preserve or improve safety.
Nuisance	Any tree or limb that is dead, dying, or presents an imminent risk to public safety.
Protection	The active or passive defense of tree roots, trunk, and crown to prevent damage and preserve tree health and safety.
Protected Trees	Public trees protected by ordinance from removal, or trees indicated to remain on site during development.
Pruning	The deliberate cutting of live branches according to published industry standards.
Public Property	All grounds and rights-of-way (ROWS) owned or maintained by the City.
Public Tree	Any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.
Removal	Cutting a tree at or close to ground level to sever the trunk and crown, fully or partially. The stump may be removed or left intact.
Roots	The below ground portion of a tree, mostly within the top 18 inches of soil and extending out from the trunk two (2) to three (3) times the spread of its crown.
Root barrier	Any chemical or physical mechanism used to prevent roots from interfering with sidewalks, utilities, or other infrastructure.

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ROW	The public Right of Way.
Specimen tree	Any tree with a diameter of six inches (6") or greater.
Structural Cell	A synthetic skeletal matrix installed underground to support above-ground pavement loads that contain an appropriate volume of planting media within the structure for tree root growth.
Structural Soil	A mixture of gap-graded gravels, made mostly of crushed stone and soil, used as a growing media for trees.
Topping	The improper cutting of tree limbs using internodal heading cuts; also known as "tipping," "heading," and "shearing" to such a degree so as to remove the canopy and disfigure the tree.
Tree	A woody perennial plant, generally with a single trunk but sometimes with multiple trunks, with the potential to attain a mature size of at least 3 inches DBH and a height of at least 10 feet.
Tree Cover	AKA canopy, refers to the percentage of land or water covered by trees.
Tree Island	A planted area within a paved area, such as a parking lot.
Tree Lawn	Unpaved strip along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved street.
Tree Fund	A restricted fund established and maintained by the city to accept financial donations and to be used for tree planting or maintenance on public property.
Tree grate	Grating installed around a tree that allows water to enter while soil remains uncompacted by foot traffic.
Trunk	The main stem or bole of a tree, supporting the crown and functioning in the transport of water, nutrients, and carbohydrates between roots and crown.
Visibility Triangle	A triangle for a street intersection with 45-foot sides, starting at the corner where two curb lines intersect and extending out and away from this corner intersection, following curb lines.

Section 50-155. - Public trees, permits required

Public trees shall include all trees growing on city-owned property within the street rights-of-way and in parks, in cemeteries, around public facilities, and on all other city-maintained properties within the city limits. Permits are required for all tree planting, tree removal, or soil disturbance within the CRZ proposed to happen within the City ROW.

Section 50-156. - Administration

The City Arborist or their designee shall be responsible for the administration and enforcement of all provisions of this ordinance. The Planning Department, Recreation Department and other departments within the City shall support the Arborist in tree management activities.

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Section 50-157. Authority and power.

- (a) Delegation of authority and responsibility. The City Arborist, in concert with Public Works, shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property.
- (b) Coordination among city departments. All city departments will coordinate as necessary with the Arborist and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties.
- (c) Interference. No person shall hinder, prevent, delay, or interfere with the Arborist or their agents while engaged in carrying out the execution or enforcement of this Ordinance.

Section 50-158. - Tree advisory board.

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

- (a) Duties. The Board shall act in an advisory capacity to the City and shall:
 - (1) Coordinate and promote Arbor Day activities.
 - (2) Review and make recommendations for planting and maintaining trees on city property.
 - (3) Support public awareness and education programs relating to trees.
 - (4) Review by request any city department concerns, permits or appeals or questions relating to tree care, maintenance, or removals.
 - (5) Submit an annual report on its activities to the City Council.
 - (6) Assist with certification and annual application to be designated a Tree City USA.
 - (7) Assist in the preparation and maintenance of the City's annual Tree City USA Designation.

Membership. The Board shall consist of five members approved by the Arborist. Members of the Board will serve without compensation. At least one member shall be a landscape professional and one member shall be a Certified Arborist. The Certified Arborist does not need to be a resident of the city.

- a. Term of office. Board members shall be appointed for three-year staggered terms. If a vacancy occurs during the term of any member, City Council shall appoint a successor.
- b. Officers. The Board shall annually select a chair, a vice-chair, and a secretary.
- c. Meetings. The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed, with adequate public notice.

Section 50-159. - Tree planting: permits and care standards.

Standards: All tree planting and maintenance contracted by the city for city property must adhere to ANSI/ANAB standards and be done under supervision of the City Arborist. Private citizens may apply for planting or maintenance permits for proposed planting within the ROW.

Section 50-160. - Prohibition against harming public trees.

Except as otherwise provided in this section, it shall be unlawful for any person or entity to perform any of the following acts on city-owned property without first obtaining a permit from the relevant agency:

- (a) It shall be unlawful for any person or entity to damage, remove, or cause the damage or removal of a public tree without a permit.
- (b) If a tree removal permit is obtained from the city, the applicant shall prominently display the tree removal permit on the site for which the permit is issued, continuously while trees are being removed, replaced or having work done as authorized by the permit.

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- (c) It shall be unlawful for any person or entity to attach any cable, wire, sign, or any other object or paint to any street, park, or public tree.
- (d) It shall be unlawful to dig, trench, or excavate within the CRZ, except within the paved roadways from curb face to curb face.
- (e) It shall be unlawful to place or store any material of any sort within the critical root zone of any public tree, shrub or other vegetation on City property.
- (f) It shall be unlawful for any person or entity “top” any public tree.
- (g) Any person or entity performing construction near any public tree(s) shall consult with the City Arborist and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for “Managing Trees During Construction” published by the International Society of Arboriculture.
- (h) Each violation of this section as determined by the City Arborist shall constitute a separate violation, punishable by fines and penalties as described in this Chapter, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

Section 50-161. – Maintenance.

- (a) **Pruning street trees.** Tree pruning shall be done only as necessary to provide clearance, reduce infrastructure conflicts, and maintain public safety. Tree pruning shall be done in accordance with current ANSI/ANAB industry standards as mentioned in this ordinance. The following clearances shall be maintained through routine pruning:
 - 1) Seven (7) feet above sidewalks and walkways.
 - 2) Twelve (12) feet above residential streets.
 - 3) Sixteen (16) feet above major thoroughfares.

(b) Private trees.

The City of Petersburg shall have the right to ameliorate encroachments onto City property or ROW from private property trees and vegetation only as necessary to maintain public safety. Pruning shall comply with current ANSI/ANAB industry standards as mentioned in this ordinance.

(c) Utility line clearance pruning.

All pruning completed for the purpose of utility line clearance shall be done in accordance with current ANSI/ANAB industry standards and shall be supervised by a Certified Arborist.

(d) Topping.

The topping of any publicly owned tree is not permitted under any circumstances. The City may, at its discretion, require that any party topping public trees to pay a penalty equal to the appraised value of the tree prior to topping. If the appraised value is unknown, the City may require a caliper per caliper inch replacement. Any corrective actions deemed necessary by the City Arborist shall be the responsibility of the party or parties causing the damage.

(e) Tree Maintenance.

Watering shall be done for all newly planted trees. All city contractors must adhere to City Design Specifications for City Tree Care for watering, mulching and management.

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Section 50-162. - Adjacent owner responsibility.

- (a) The owner of land adjacent to any city street or right of way, when acting within the provisions of this Ordinance and in consultation with the City Arborist, may apply for a permit to plant and maintain trees within the public ROW.
- (b) No property owner shall allow a tree or other plant growing on their property to encroach, obstruct or interfere with pedestrian or vehicular traffic in any way. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice within 30 days, the City may undertake the necessary work and charge the cost to the property owner.

Section 50-163. - Trees declared a nuisance.

- (a) Any tree or limb encroaching on City property or ROW determined to be a risk to public safety by the Risk-Qualified City Arborist may be declared a nuisance, and the City may require its maintenance or removal.

Section 50-164. - Protection

(a) Root protection.

During any type of construction or any kind of land disturbance within the ROW, such as public events or gatherings, any person or entity in charge of such work or event shall protect public trees from harm above and below ground to prevent injury to such trees.

(b) Root protection zone.

The minimum radius of the root protection zone should be equal to the dripline of the tree or one and one-half (1.5) foot per inch DBH of the affected tree(s), whichever is greater.

(c) Activities harmful to trees

Activities harmful to trees shall include, but are not limited to, pruning, cutting, trenching, grading, grubbing, soil backfill or sedimentation, soil cuts, soil compaction from equipment, vehicle, or pedestrian traffic, soil compaction from materials storage, soil contamination from equipment maintenance and washouts, chemical leaks and spills, changes in water drainage, fire, trunk wounds, limb wounds, and improper pruning (including topping).

(d) Tree protection Fencing and Other Protection Measures

Except in the case of public events and gatherings, tree protection fencing, consisting of sturdy material at least four (4) feet high, shall be erected immediately outside of the critical root zone prior to the commencement of any harmful activity by the individual or entity in charge of that activity, and shall remain in place until the activity is completed.

- (1) Fencing location. Protection provided shall consist of fencing around the tree to encompass the root protection zone and enclosed areas shall be kept free of all additional soil, equipment, and construction material storage, which includes final grading and landscaping efforts and materials. Fencing materials shall consist of chain link, orange laminated plastic, wooden post and rail fencing or other equivalent restraining materials. In addition to fencing where active tree protection is required, each tree to be retained and preserved shall be marked at the base of the trunk with blue-colored water-based paint. For large heritage or specimen trees, more durable protection fencing (e.g., chain link) may be required at the discretion of the Director.

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- (2) Maintenance. Tree protection fencing shall be maintained by the contractor through the duration of construction. No alteration or relocation shall occur without prior approval by the Director or their designee.
- (3) Signage. The placement of tree protection signage stating "tree protection area -- keep out" shall be attached to the physical barrier on all sides and maintained until all construction activities are completed. The sign's wording should be with 4-inch lettering. If multi-ethnic workers or others are anticipated to be working on or near the site, signage shall include information in additional languages other than English. Signs shall be placed on all sides of the fence and convey the intent of the tree protection zone.
- (4) Drainage. It shall be at the discretion of the City to require proper drainage for protected trees where grade changes adjacent to the tree protection zone create poor drainage for the tree(s) (i.e., area adjacent is filled and tree protection zone is placed below grade, thereby, creating a well or ponding effect around the tree or within its dripline).
- (5) Mulching. Where compaction might occur due to construction traffic or materials delivery through a tree protection zone, the area must first be mulched with a minimum four-inch (4") layer of wood chips or other suitable anti-compaction technologies approved by the City Arborist.
- (6) Roots. The removal of trees adjacent to tree protection zones can cause inadvertent damage to the protected trees. Prior to clearing activities, trenches with a minimum width of one-and-one-half inches (1, 1/2") and a minimum depth of twelve (12") inches shall be cut along the limits of land disturbance, so as to cut, rather than tear tree roots.
- (7) Utility routing. Underground utilities shall be routed around tree protection zones. Necessary installation through protection zones shall be accomplished through tunneling rather than cutting open trenches. Air spading may also be used when approved by the Director and performed by trained Certified Arborists. This applies to any irrigation systems, drainage, electric, gas, telephone, communications cables, etc.
- (8) Watering. During periods of dry weather or drought, supplemental watering of tree protection zones shall be required during the land development process. The quantity and frequency shall be at the discretion of the City Arborist or their designee.
- (9) Cover credits. For a tree to count for canopy coverage credits, no more than 30% of any protected tree's critical root zone shall be impacted by construction activities.
- (10) Failure to adhere. Failure to adhere to requisite tree protection measures in this section may result in the issuance of a stop work order which shall remain in place until all respective protection measures have been installed, repaired or replaced. Such notice shall be in writing and shall be given to the owner of the property, the owner's authorized agent or person(s) in charge of the site and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required. A stop-work order shall be considered a suspension of the land disturbance permit. In the case in which protected trees have been damaged beyond repair and are not expected to survive, the Director may enact any and all penalties as specified and allowed by this chapter.
- (11) Withholding of certificate of occupancy. The building inspector may withhold the issuance of the required certificate of occupancy, or permits and inspections, for any development until the provisions of this article have been fully met.

Section 50-165. – Tree fund.

The city shall maintain a separate tree fund for revenues obtained from fines assessed for violations of Section 50, and Article 38, §12, revenues from the sale of public trees or wood products, or donations of funds for tree planting and care.

(a) Expenditures. Money in the Tree Fund may be used as follows:

1. To replace, establish, and maintain street or public trees illegally removed or damaged.

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2. To plant, establish, and maintain street or public trees to enhance the urban forest.
3. To provide education, outreach, and technical assistance to the community; and
4. Other desirable urban forest management-related actions or programs.

(b) Contributions. Contributions to the Tree Fund may occur through various means including:

1. Payment of restoration fees, compensatory payments, civil penalties, or civil remedies resulting from public tree enforcement actions.
2. Grant funds.
3. Sale of wood products from public trees; and
4. Voluntary contributions.

(c) Administration of the tree fund. The Tree Fund is administered by the Director of Planning and Community Development. Any balance in the Tree Fund will be carried forward into subsequent fiscal years to be used solely for the purposes enumerated in this ordinance, but shall be expended within the time period set forth in 15.2-961.3(G) of the Code of Virginia.

State law reference(s)—Va. Code §§ 15.2-961.3.

Section 50-166. - Disposal of surplus trees or urban forest products.

The Director of Recreation may initiate the sale or donation, in accordance with City Code and the Surplus Property provisions of the City's Purchasing Guidelines, of surplus nursery stock, wood, and other forest products generated through urban forestry and parks operations or remainders (debris) from storms which are not needed by the city. Monies generated from the sale of surplus trees, wood, or other forest products shall be used solely for the purpose of enhancing the urban forest and urban forestry programs and operations. Funds from this revenue source shall be allocated to the Tree Fund §50-164.

Section 50-167. - Newly planted trees.

It shall be the duty of any person who plants a tree within the public ROW to place such tree where it creates a hazard or infrastructure conflict. New trees shall be a minimum 2 inch caliper.

Newly planted trees shall be inspected by the City Arborist in summer at one (1), two (2), and three (3) years after planting. The City Arborist or trained designee shall prune the tree as necessary to improve its structure. Standards for proper tree planting, establishment and pruning shall follow ANSI A300.

Section 50-168. - Root cutting or soil disturbance permits for public trees.

Tree roots provide extensive structural support to enable mature trees to remain upright. Excessive removal of tree roots can destabilize a tree and compromise public safety.

- (a) No person shall sever, crush, or otherwise injure any tree root larger than three (3) inches in diameter within the CRZ of any public tree without a written permit from the Director of Public Works or their designee. A permit shall be applied for in advance of any construction work involving probable damage to tree roots.
- (b) Tree roots larger than three (3) inches in diameter from a public tree may be removed without a permit only during work done to alleviate an emergency situation. The City Arborist and the Director of Public Works must be notified within twenty-four (24) hours following emergency work where tree roots larger than three (3) inches were cut.
- (c) Any person who cuts tree roots larger than three (3) inches in diameter from a public tree without a permit, or who fails to notify the City Arborist and the Director of Public Works

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following emergency root cutting shall be liable for any damage that results from a public tree uprooting due to structural instability as a result of the tree root being cut and such person may be required to mitigate loss of tree(s) on a diameter inch basis.

Section 50-169. – Tree removal permits for public trees.

A permit is required to remove any public tree. The city may charge the cost of removal to the citizen requesting the removal.

- (a) **Permitted reasons:** Removal shall be permitted for the following reasons. Removal for other reasons may be permitted by referral to and recommendation of the Tree Board.
 - 1) Tree is in decline and at least 50% dead.
 - 2) Tree is a safety hazard.
 - 3) Tree blocks visibility and attenuation will result in crown reduction of more than 50%.
 - 4) Infrastructure conflict(s) that cannot be resolved.
- (b) **Utilities:** Removal of specimen trees during the construction or maintenance of easements or rights-of-way for water, sanitary sewer, electricity, telephone, natural gas, fiber optic cable, storm drainage, or other service lines, shall be exempt from the requirements of this Section provided that the applicable company or agency has executed an agreement with the City that:
 - 1) Recognizes the need to minimize removal and pruning of trees that do not significantly interfere with construction or maintenance.
 - 2) Establishes, to the extent practicable, design guidelines for construction and maintenance that prioritize tree preservation.
 - 3) Work meets aforementioned ANSI/ANAB industry standards.
 - 4) Provides notice to City prior to the removal of any public tree over 2" (two inches) caliper.
 - 5) Provides for advanced submittal of annual line clearance and herbicide application plans.
 - 6) Provides that a breach of such agreement constitutes a violation of this Section and thus a loss of exemption from the tree protection provisions of this Section; and
 - 7) Provides that appeals of administrative decisions made pursuant to such agreement shall be to the Tree Advisory Board.
- (c) **Replacement of trees removed.**
 - 1) All trees removed in the right-of-way shall be replaced within one (1) year. If the site where the tree was removed is not suitable for replanting, a tree shall be planted in a suitable location as close as possible to the removal location. The city shall assess a replacement fee for each tree removed to the individual or entity requesting the removal.
 - 2) Trees lost to development must be replaced by the developer inch for inch. For example, if a one 20-inch DBH tree is removed, 20 caliper inches must be planted on site. Replacement trees must be able to grow to maturity; if replacement trees die, they must be replaced again.
- (d) **Stump removal.**

ALL STUMPS MUST BE UTILITY MARKED PRIOR TO GRINDING. Stumps shall be removed to a depth of 30" below grade for replanting and 10" below grade in site retirement (as determined by the City Arborist). Stumps shall not be ground in cemeteries. The Tree Board may request to preserve stumps with historic significance.

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Section 50-170. – Street trees.

Standards in this section must also comply with Section 50-159 and Section 50-167. The minimum landscaping standards along streets are as follows:

- a) **Requirement for street trees.** Street trees shall be required along existing or proposed streets in any development subject to Section 32.
- b) **Street tree species.** Street trees shall be selected from the City's approved species list. All street trees must be approved by the City Arborist. Edible fruit-bearing trees shall not be approved for planting along streetscapes or within forty (40) feet of public hardscape.
- c) **Minimum caliper of street trees.** New street trees shall be 2 inches minimum caliper at planting.
- d) **Location and spacing of street trees.** Street trees shall be planted with even spacing in a row within the public right-of-way or adjacent to the right-of-way if not permitted therein by the Virginia Department of Transportation. One major (large) species tree is required for every 50 feet of street frontage, or portion thereof if 25 feet or more; or one intermediate (medium) species tree every 40 feet of road frontage, or portion thereof, if 20 feet or more. If required street trees cannot be planted within the parking setback or within ten feet of the street due to sight distance, utility easements or other conflicting requirements, then the planting strip shall be enlarged to accommodate the trees. If this requirement creates a hardship by causing the relocation of required parking spaces, then the additional planting area may be counted toward the interior landscaping requirement. Curb extensions that remove a parking space along the street in order to accommodate new trees and avoid utility conflicts are allowable by permission of the Director.
- e) **Shrubs along public streets.** When a parking area is located so that the parked cars will be visible from an off-site street, the Director may require additional planting of low street shrubs between the street and the parking area, subject to the following:
 - 1. Minimum size of shrubs. Shrubs shall be at least 12 inches in height when planted.
 - 2. Spacing of shrubs. Shrubs shall be in a single row and spaced so that they will touch the adjacent shrub at maturity but not be crowded.
 - 3. Alternatives: The City Arborist may authorize different landscaping to minimize the visual impact of the parking area.

State law reference(s)—Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6), 18.2-137.

Section 50-171. - Violations and penalties.

Removal, manipulation, or soil disturbance of or around a public tree without a permit or intentionally damaging public trees causing less than \$1,000.00 shall be a Class 1 Misdemeanor. Removal or intentionally damaging a public tree causing in excess of \$1000.00 damage shall be punished in accordance with 18.2-137 of the Code of Virginia or other applicable provision of State Code. Upon conviction, a court may order the defendant to pay restitution. The amount of loss caused by the destruction, defacing, damage, or removal may be established by proof of the fair market cost of repair or fair market replacement value.

Except as otherwise stated in this section, any person or entity violating any provision of this Ordinance shall be deemed guilty of a class three (3) misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense (per tree, per incident).

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Section 50-172. - Suspension, revocation, or modification of permits. Any permit issued may be suspended, revoked, or modified by the Director upon a finding that the holder is in violation of the terms of the permit or any portion of this article.