

Consolidation of By-Law No. 1433 Concerning the Fight Against the Propagation of the Emerald Ash Borer Within the Town of Mount Royal

Modified by: By-law 1433-1

1. The objective of this by-law is to fight against the spread of the emerald ash borer within Town of Mount Royal through measures to counter the spread of infestations. These measures concern felling, pruning, and treatment of ash trees and management of ash wood.
2. In this by-law, the following terms shall mean:
 - (1) "competent authority": Technical Services, the Urban Planning and Inspection Division and any other person authorized by Town Council;
 - (2) "ash residues": pieces of ash such as branches or logs, excluding woodchips, that do not exceed 2.5 cm on at least two of their sides, resulting from the chipping operation;
 - (3) "acceptable method": any transformation technique for ash residues that completely destroys the emerald ash borer or parts of the wood that can house this insect, e.g. heat treatment, fumigation with methyl bromide, removal and chipping of the part of the ash wood that can contain the emerald ash borer, etc.;
 - (4) "dangerous tree": a tree that poses an imminent danger.

PLANTING

3. It is prohibited to plant an ash tree.

FELLING

4. The owner of any ash tree that is dead or of which 30% of the branches are dead shall fell his ash tree or have it felled before December 31 of the year this is determined.

5. No person may fell an ash tree without having previously obtained a tree cutting permit.

The owner of an ash tree that must be felled may have to submit with his application a report signed by a forest engineer or any other arboriculture specialist if required by the competent authority.

Notwithstanding the first paragraph, a permit shall not be required when the trunk of ash tree to be felled has a diameter of less than 10 cm measured 1.3 m above the ground.

6. A tree cutting permit shall be delivered free of charge in one of the following situations:
- (1) The ash tree is dead or 30% or more of its branches are dead;
 - (2) The ash tree is affected by an irreversible disease or an insect pest that is impossible to control;
 - (3) The ash meets the requirements of Zoning By-law No. 1310.
7. Notwithstanding the issuing of a permit under section 6, it is forbidden to proceed with the authorized cutting between April 15 and September 15 unless:
- (1) the ash tree is dangerous for human health or safety;
 - (2) the ash tree is likely to cause serious damage to property;
 - (3) the ash tree prevents the execution of a construction project authorized under the applicable urban planning regulations, except in the case of some form or other of advertising sign.

(2018) By-law 1433-1, s. 1

8. The tree owner shall provide to the competent authority the name, address and telephone number of the contractor who is to carry out the felling.
9. Any ash tree that is felled must necessarily be replaced by another tree that meets the requirements of Town by-laws.

PRUNING

10. It is forbidden to prune or to have pruned an ash tree between April 15 and September 15 unless:

- (1) the ash tree is dangerous for human health or safety;
- (2) the ash tree is likely to cause serious damage to property;
- (3) the ash tree prevents the execution of a construction project authorized under the applicable urban planning regulations, except in the case of some form or other of advertising sign.

(2018) By-law 1433-1, s. 2

TREATMENT

11. The competent authority shall inform the owner of any ash tree located within 100 m of an infested tree known by the competent authority. The owner of any ash tree that is 20 cm or more in diameter, measured 1.3 m above the ground, must proceed to treat against emerald ash borer before August 31 of the current year. The owner must be able to demonstrate, by means of a recognized document, that his ash tree was treated within the prescribed period.

The owner is not required to treat his ash tree in the following situations:

- (1) If it is covered by section 4 of this by-law;
- (2) If he can demonstrate, by means of a recognized document, that his ash tree was treated against emerald ash borer during the previous calendar year with a pesticide which has an effective duration of two years against emerald ash borer.

Recognized documents considered under this section are invoices for ash tree treatment work using a pesticide certified in Canada against emerald ash borer under the *Pest Control Products Act* (L.C. 2002, chapter 28), carried out by a company which holds the license certificates required to carry out this work under the Regulation respecting permits and certificates for the sale and use of pesticides (Q.R.S., c. P-9.2, r.2).

ASH WASTE MANAGEMENT

12. Any person who fells or prunes an ash tree must dispose of ash wood residues as follows:

- (1) Branches or parts of the trunk with a diameter not exceeding 20 cm must be immediately shredded on site into wood chips of less than 2.5 cm on at least two sides;

(2) Branches or parts of the trunk with a diameter exceeding 20 cm must be:

(a) Between September 15 and April 15

transported to a treatment site authorized for the purpose by the competent authority within 15 days following the felling or pruning;

(b) Between April 15 and September 15

processed on site using a method in accordance with this by-law, or preserved until September 15 and then transported within 15 days to one of the locations authorized in paragraphs (2)(a).

The invoice from the company that carried out the work for transformation of ash wood, using a method in accordance with this by-Law, must be retained and presented on request to the competent authority.

(2018) By-law 1433-1, s. 3

13. It is forbidden, between September 15 and April 15, to store for more than 15 days ash residues that have not been processed using a method in accordance with this by-law.

(2018) By-law 1433-1, s. 4

14. It is forbidden, between April 15 and September 15, to transport ash residues that have not been processed using a method in accordance with this by-law.

(2018) By-law 1433-1, s. 5

PROVISIONS CONCERNING PROPERTIES WITH SEVERAL ASH TREES

15. The owner of a property with four ash trees or more shall be authorized to space over time the felling or treatment of the ash trees on his property on the following conditions:

The owner shall submit a one to three year management plan for the ash trees on his property signed by a forest engineer and in accordance with the objectives of the Town and the emerald ash borer program. This plan shall include:

- i. The inventory and location of the ash trees on his property;
- ii. A one to three year ash tree felling or treatment plan;
- iii. A plan for felling or neutralizing the ash trees without delay.

DECLARATION

16. The owner of an ash tree who notices that one or more of his trees is infected by the emerald ash borer shall declare it to the competent authority. The competent authority shall hold a register of infected ash trees.

INSPECTION POWERS

17. Any officer or employee of the competent authority responsible for the application of this by-law may come onto private property to inspect an ash tree or ash wood found on this property to verify information or to determine the application of this by-law, and to conduct sampling of ash branches. When the competent authority notices the presence of an ash tree on a private property, it shall notify the owner.

FAILURE BY THE OWNER

18. The competent authority may by notice require from the owner of a property to comply with section 4,11 or 12 of this by-law advise him to cut down an ash tree, treat it, or to manage ash waste in a manner consistent with this by-law.

Should the owner not comply with these sections, the competent authority may proceed with felling the ash trees concerned or managing the ash wood at the owner's expense.

OFFENCES AND PENALTIES

19. Any person who hinders in any way implementing interventions described in sections 17 and 18 of this by-law is in violation
20. Any person who contravenes this by-law commits an offence and shall be liable:
 - (1) In the case of a first offence, to a fine of one thousand dollars (\$1000) in the case of a physical person, or two thousand dollars (\$2000) in the case of a legal person, a company or an association;
 - (2) For a repeat offence, to a fine of two thousand dollars (\$2000) in the case of a physical person, or four thousand dollars (\$4000) in the case of a legal person, a company or an association.

A penalty imposed for any contravention shall not free the person concerned from the obligation of complying with this division.

21. This by-law shall come into effect according to law.