

PROVINCE OF QUÉBEC
CITY OF POINTE-CLAIRE

BY-LAW NUMBER PC-2918

BY-LAW REGARDING THE FIGHT
AGAINST THE SPREAD OF THE
EMERALD ASH BORER ON THE
TERRITORY OF THE CITY OF POINTE-
CLAIRE

In force on June 10, 2020

AT THE REGULAR MEETING OF THE COUNCIL OF THE CITY OF POINTE-CLAIRE,
HELD AT CITY HALL, 451 SAINT-JEAN BOULEVARD, POINTE-CLAIRE, QUÉBEC,
ON TUESDAY JUNE 2, 2020, AT 7:00 P.M.

PRESENT: Councillors C. Homan, T. Stainforth and K. Thorstad-Cullen, as well
as Councillors P. Bissonnette, C. Cousineau, B. Cowan, E. Stork and
D. Webb, chaired by His Worship Mayor John Belvedere forming a
quorum of council.

AMONGST OTHER BUSINESS TRANSACTED AT SAID MEETING
WAS THE FOLLOWING:

BY-LAW NUMBER: PC-2918

RESOLUTION NUMBER: 2020-261

PROPOSED BY COUNCILLOR HOMAN

SECONDED BY COUNCILLOR STAINFORTH

AND RESOLVED:

Considering sections 4, 19 and 85 of the *Municipal Powers Act* (CQLR, chapter C-47.1).

Considering sections 369 and 411 of the *Cities and Towns Act* (CQLR, chapter C-19).

THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

CHAPTER I

PRELIMINARY PROVISIONS

1. The objective of this by-law is to fight the spread of the emerald ash borer on the territory of the City of Pointe-Claire by establishing measures to prevent its dispersal to non-infested areas. These measures involve felling, ash tree residue management and the treatment of ash trees.
2. In this by-law, the following terms mean:
 - 1° “designated authority”: all City representatives;
 - 2° “ash residue”: pieces of ash such as branches or logs. Wood chips resulting from shredding that do not exceed 2.5 centimetres on at least two (2) sides, are not considered to be ash residue;
 - 3° “approved method”: any of the following ash residue transformation techniques, scientifically recognized as completely destroying the emerald ash borer or the pieces of wood that could be harbouring it:
 - a) thermo-treated; with written permission from the City;
 - b) methyl bromide fumigation; with written permission from the City;
 - c) shredding, with a shredder specially designed to shred trunks of 20 centimetres or more in diameter, with chips not exceeding 2.5 centimetres on at least two sides;
 - d) debarking down to the sapwood of the tree and shredding the portions removed in the form of chips, that do not exceed 2.5 centimetres on at least two sides; the remaining heartwood can be kept and used as lumber; with written permission from the City.
 - 4° “recognized document”: any invoice for ash treatment work done with an approved pesticide as described in Section 11 of the present by-law, performed by a company having the required permits and certificates to undertake such work in accordance with the Pesticides Management Code, (CQLR, chapter P-9.3, r.1) and the Regulation Respecting Permits and Certificates for the Sale and Use of Pesticides (CQLR, chapter P-9.2, r.2);

- 5° “contractor”: any private corporation, partnership, limited partnership, venture, association or physical person operating an individual company;
- 6° “Infested ash”: any ash tree having exit holes, larvae or galleries;
- 7° “wooded area”: a lot with an area greater than 1 ha (10,000 m²) and having many trees of which at least twenty-five (25) are ash trees with a diameter of 10 centimetres or more, measured 1.3 metres from the ground;
- 8° “authorized treatment site”: a site for the disposal and transformation of wood such as the City of Montréal’s ecocentres or lots belonging to companies or organizations that receive ash tree residue for the purpose of transforming it using a method approved by this regulation, or shipping it to companies or organizations that transform ash tree residue using a method approved by this regulation.

CHAPTER II

PLANTING

3. It is forbidden to plant an ash tree.

CHAPTER III

FELLING

4. No one may fell an ash tree without having first obtained a tree-felling certificate. A certificate is not required when the trunk of the ash tree to be felled has a diameter of less than 10 centimetres, measured 1.3 m from the ground.
5. An ash tree felling certificate is issued free of charge upon submission of the application form online or at the multiservice counter.

PC-2918-1, a. 2

6. The owner of a dead ash tree or an ash tree of which 30% of its branches are dead, must fell or have the tree felled.
7. The owner is not required to submit an application for a felling certificate or have their ash tree felled if they can provide a recognized document certifying that the ash tree was treated against the emerald ash borer during the current or previous calendar year.

This ash tree must not meet any of the conditions set out in Section 6 for the current calendar year.

PC-2918-1, a. 3

8. To obtain a felling authorization certificate, the ash tree must meet one of the following conditions:

- 1° The ash tree is described in Section 6 of this by-law.
- 2° The ash tree is affected by an irreversible disease or invasive pest.
- 3° The ash tree presents a risk of spreading a disease or an invasive exotic species.
- 4° The ash tree presents a structural deficiency affecting its solidity.
- 5° The ash tree presents a significant risk to people's safety or could cause serious damage to property, in the sole opinion of the designated authority.
- 6° The ash tree hinders the execution of a construction project authorized under the applicable planning by-law, unless such work involves advertisement signage.
- 7° The ash tree is subject to a felling notice issued by a designated authority.

An owner who obtains an authorization certificate must have the ash tree felled within 180 days of the date on which the certificate was obtained, or in accordance with the duration provided for in the *By-law on Permits and Certificates* in the case contemplated in Subsection 6 of the first paragraph of the present Section.

Notwithstanding the previous paragraph, the designated authority may require that the ash tree be felled within a shorter timeframe in the case contemplated in Subsection 5 of the first paragraph of the present section. If applicable, the date is determined by the designated authority.

PC-2918-1, a. 4

9. The designated authority can issue a felling notice in the case of an ash tree that meets any of the conditions set out in Subsections 1, 2, 3, 4, and 5 of Section 8 of the present by-law.

An owner who receives an ash tree felling notice from the designated authority is obligated to apply for an authorization certificate for the tree within 30 days of receipt of the notice and must have the tree felled within the delays set out in Section 8 of the present by-law, as the case may be.

In case of failure of the owner to comply with the felling notice, the designated authority may proceed with the felling of the ash tree in question at the owner's expense. These expenses constitute a prior claim on the immovable on which the designated authority has carried out the work, in the same way and with the same rank as claims described in Subsection 5 of Section 2651 of the Civil Code of Québec and are secured by a legal hypothec on the immovable.

PC-2918-1, a. 5

CHAPTER IV

ASH TREE RESIDUE MANAGEMENT

10. It is forbidden to store, for a period exceeding fifteen (15) days, ash tree residue that has not been transformed using an approved method as part of pruning or felling work. The residue must be sent to an authorized treatment site.

CHAPTER V

ASH TREE TREATMENT

11. Only the use of a registered pesticide containing the technical grade of active ingredient azadirachtin or a biopesticide *registered* by the Pest Management Regulatory Agency (PMRA) for the fight against the emerald ash borer is permitted on the territory of the City of Pointe-Claire:
 - a) *Anyone using or allowing the use on their property of a product containing azadirachtin registered by the Pest Management Regulatory Agency (PMRA), should do so according to the instructions shown on the manufacturer's label under the Pest Control Products Act (L. C. 2002, Chapter 28), and in accordance with the City of Pointe-Claire's municipal by-law on pesticides.*

CHAPTER VI

WOODED AREAS

12. *The owner of a wooded area must submit an ash tree management plan. This plan must be signed by a forest engineer and must be in accordance with the municipality's objectives in the fight against the emerald ash borer. This plan must be submitted to the City's representative within a reasonable timeframe, within 120 days of receipt of the letter to the property owner.* Property owners are permitted to stagger the felling or treatment of the ash trees on their lot over a period of five (5) years, by submitting an ash tree management plan for their property.

This plan must include the following:

- 1° The inventory and location of the ash trees on the property;
- 2° An ash tree felling and treatment plan over a period of five (5) years;
- 3° A plan to replace felled trees, by planting, within twelve (12) months of the felling, trees other than ash trees or trees that are prohibited under the municipal Zoning By-Law PC-2775 of the City of Pointe-Claire;
- 4° The new trees planted must, subject to subsection 3, belong to species adapted to the site to ensure the natural restoration of the site.

CHAPTER VII

FINAL PROVISIONS

POWERS OF INSPECTION

13. Any City public official or employee responsible for enforcing this by-law may enter private property to inspect an ash tree or ash wood located on said property, in order to verify any and all information and to ascertain that this by-law is being applied.

OFFENCE AND PENALTY

14. Anyone who interferes with the interventions described in Section 13 of this by-law is infringing it.

PC-2918-1, a. 6

15. Anyone who infringes this by-law is committing an offence and is liable:

1° as a natural person:

- a) for a first offence, to a fine ranging from \$500 to \$1,000;
b) for each subsequent offence, to a fine ranging from \$1,000 to \$2,000.

2° as a legal person:

- a) for a first offence, to a fine ranging from \$1,000 to \$2,000;
b) for each subsequent offence, to a fine ranging from \$2,000 to \$4,000.

Any continuing violation of any of the provisions of the present by-law shall constitute a separate and distinct offence, and the fines set out in the first paragraph of this section may be imposed for each day that the violation continues.

PC-2918-1, a. 7

16. This by-law repeals By-Law PC-2838 and all its amendments.

17. The present by-law will come into force according to the law.

John Belvedere, Mayor

Caroline Thibault, City Clerk