



BY-LAW NO. 875-107 | FINAL

By-law no. 875-107 amending Zoning By-law no. 875, as already amended, in order to implement an Emerald Ash Borer management strategy.

Regular meeting of the Municipal Council of the Town of Baie-D'Urfé, held according to the law at the Town Hall, ordinary place of meetings, on Tuesday, March 10, 2015, at 7:30 p.m.

WERE PRESENT:

Mayor: Maria Tutino

Councillors: Michel Beauchamp
Charles Colomb
Peter Fletcher
Brian Manning
Lynda Phelps
Janet Ryan

ALSO PRESENT: Nathalie Hadida, Director General
Marie-Hélène Bourque, Town Clerk
Stéphane Patenaude, Director of Public Works

WHEREAS since the appearance of the emerald ash borer in North America in 2002, 80 million ash trees have been destroyed;

WHEREAS the emerald ash borer was first spotted on the island of Montreal in 2011;

WHEREAS several major infestation sites were identified in various areas within the Town of Baie-D'Urfé at the end of 2014;

WHEREAS the emerald ash borer is difficult to detect in the early stages of infestation because it first appears in the higher branches and often shows no symptoms visible from a distance until the advanced stages of infestation;

WHEREAS the spread of insects during an infestation may be confined to trees within a one hundred meter radius or stretch to trees within a one kilometer radius;

WHEREAS the infested trees discovered in Baie-D'Urfé at the end of 2014 were sufficiently damaged so that it may be presumed that they had been infested for more than a year, and that, consequently, there has been a spread of adult insects;

WHEREAS municipalities currently affected by the emerald ash borer, including Baie-D'Urfé, have chosen to build their strategy based on the presumption that their entire territory is infested;

WHEREAS it has been shown that ash trees infested by the emerald ash borer perish within a five to seven year period;

WHEREAS a small portion of ash trees can survive an infestation (less than 10%);

WHEREAS a massive and swift loss of ash trees would entail:

- A significant loss of quality of life for residents;
- Damage to the esthetics of the neighbourhoods;
- A reduction of the canopy and a de facto increase in heat islands;
- A decrease in air quality;
- A decrease in rainwater retention capacity;

WHEREAS notice of motion for the presentation of this by-law was given at a regular meeting of Council held on December 9, 2014 at 7:30 p.m.;

WHEREAS draft by-law no. 875-107 was adopted at a regular meeting of Council held on February 10, 2015 at 7:30 p.m. and submitted to a public consultation on March 10, 2015 at 7 p.m.; and

WHEREAS Council declares having read by-law no. 875-107 and hereby dispenses with the reading of said by-law;

THEREFORE, it is moved by Mayor Maria Tutino, seconded by Councillor Charles Colomb and RESOLVED:

THAT by-law no. 875-107 be, and is hereby adopted; and

THAT it be enacted and decreed as follows:

SECTION 1 Appendix 1 – DEFINITIONS – is modified by the addition of two definitions to be inserted in the correct alphabetical order as follows:

ASH TREE RESIDUE:

Pieces of ash trees such as branches and logs, excluding shavings not exceeding 2.5 cm in size on at least two (2) sides, resulting from a chipping operation.

APPROVED PROCESS:

Processing techniques for ash tree residue which completely destroy the emerald ash borer or the parts of the wood where the insect can dwell. Ex: torrefaction, methyl bromide fumigation, the removal and chipping of the part of the ash tree wood that can contain the emerald ash borer (*Agrilus planipennis*), etc.

SECTION 2 Section 5.5 – PRESERVATION AND REPLACEMENT OF TREES – is modified by the addition of the following sections and articles:

5.5.3 FELLING OF ASH TREES

5.5.3.1 No fee is required in order to obtain a certificate of authorization for the felling of an ash tree.

5.5.3.2 In the case of an authorized felling, the property owner must, in all cases, provide the Town, within two (2) business days following the felling of the tree, two (2) distinct branches, 3 cm to 10 cm in diameter (circumference of 9.42 cm to 31.4 cm) and 45 cm to 60 cm in length, cut from the highest part of the felled tree, preferably from the south side of the tree.

5.5.3.3 The owner of a dead ash tree, or of an ash tree of which 30% or more of the branches are dead, must proceed with, or see to the felling of the ash tree before the 31st of December of the year during which the state of the tree is determined.

The owner is not required to fell an ash tree on his property if he can demonstrate, by way of the recognized document, that the ash tree has been treated against the emerald ash borer over the current or previous calendar year with a pesticide which has an effective life span of two (2) years. In the case where such a treatment has been used, the property owner must provide the municipality with a recognized document attesting to the treatment of the trees in question in the fifteen (15) days following the request of the Town.

For the purpose of the present section, invoices for the treatment of ash trees through the use of a pesticide registered in Canada against the emerald ash borer in accordance with the Pest Control Products Act (S.C. 2002, c. 28) by a business having the required permits and certificates to carry out this work, in accordance with the Regulation respecting permits and certificates for the sale and use of pesticides (L.R.Q. c. P-9.2, r.2), are considered to be recognized documents.

5.5.3.4 No ash tree may be cut down during the period from March 15th to October 1st, inclusively, of each year, unless:

- 1° the ash tree presents a threat to public security;
- 2° the ash tree might cause serious damage to property;
- 3° the ash tree is preventing the realization of a construction project authorized by applicable Town Planning regulation, excluding an advertising sign.

5.5.4 PRUNING OF ASH TREES

5.5.4.1 No ash tree may be pruned during the period from March 15th to October 1st, inclusively, of each year, unless

- 1° the ash tree presents a threat to public security;
- 2° the ash tree might cause serious damage to property;

- 3° the ash tree is preventing the realization of a construction project authorized by applicable Town Planning regulation, excluding an advertising sign.

5.5.5 MANAGEMENT OF ASH TREE RESIDUE

5.5.5.1 All residues resulting from the felling of ash trees are the sole responsibility of the property owner. The disposal of these residues must be carried out according to the Town's instructions, including:

- 1° Branches measuring less than 20 cm in diameter (circumference of 62.8 cm) must be chipped on location by the contractor carrying out the work. The residues resulting from the chipping process must not exceed 2.5 cm in size on at least two (2) sides;
- 2° Branches or pieces of trunk measuring 20 cm or more in diameter (circumference of 62.8 cm) must be:
 - a) From October 2nd to March 14th inclusively :
 - I. brought to a treatment site approved for this purpose by the municipality within the fifteen (15) days following the felling or pruning work; or
 - II. brought to a wood processing company or preserved on location in order to be processed with an approved process which completely destroy the emerald ash borer or the parts of the wood where the insect can dwell within the fifteen (15) days following the felling or pruning work.
 - b) From March 15th to October 1st inclusively :
 - I. treated on location in order to be treated with an approved process, as defined in the present by-law, or preserved until October 2nd in order to then be transported, within the following fifteen (15) days, in a way and to a location authorized by paragraphs 2a) I) and 2 a) II). The invoice from the business which treated the wood with an approved process as defined in the present by-law must be kept and presented, upon request, to the competent authority.

5.5.5.2 It is not permitted, from October 2nd to March 14th inclusively, to store for more than fifteen (15) days, ash tree residue which has not been treated with an approved process, as defined in the present by-law, without the written permission of a designated municipal employee.

5.5.5.3 It is not permitted, from March 15th to October 1st inclusively, to transport ash tree residue which has not been treated with an approved process, as defined in the present by-law, without the written permission of a designated municipal employee.

5.5.6 TREATMENT OF ASH TREES

5.5.6.1 Notwithstanding the provisions of By-law no. 958 regulating the use of pesticides in the Town of Baie-D'Urfé, the use of a product approved or registered by an agency of the Government of Canada and applied according to the manufacturer's instructions is permitted within the municipality of Baie-D'Urfé, provided it is used exclusively for the purpose of combatting the emerald ash borer (*Agilus planipennis*).

5.5.6.2 A citizen making use of a product approved or registered by an agency of the Government of Canada and applied according to the manufacturer's instructions for the purpose of combatting the emerald ash borer must provide a copy of the receipt relating to the treatment to the municipality within thirty (30) days following the treatment.

5.5.7 PRESENTATION OF AN ASH TREE MANAGEMENT PLAN FOR ASH TREES LOCATED ON PRIVATE PROPERTY

A property owner whose property contains ten (10) or more ash trees must present the Town with an ash tree management plan for ash trees located on private property, spanning five (5) years, within ninety (90) days following the request of the municipality. The plan must include the following information:

- 1° The number of ash trees on the property;
- 2° The plan of the property;
- 3° The five (5)-year biopesticide treatment strategy;
- 4° The five (5)-year felling strategy;
- 5° The five (5)-year planting strategy; and
- 6° A proposed plan of the property thereafter.

5.5.8 PLANTING AND CULTIVATION OF ASH TREES

It is not permitted to grow, cultivate or produce ash trees from seeds, by way of transplanting or by any other method.

5.5.9 POWER TO INSPECT

Any civil servant or employee of the Town responsible for the application of the present by-law may enter onto private land in order to carry out an inspection of an ash tree or of wood coming from an ash tree located on the land in order to verify any information or to verify that the present by-law is being respected.

SECTION 3

Section 1.5 – VIOLATION, PENALTIES AND OTHER RECOURSES – the second paragraph of paragraph a) is modified as follows:

Replace: In the case of the felling of any species of tree on the territory of the Town without the prior issuance of a valid certificate of authorization, anyone contravening a provision of this by-law, or tolerating or permitting such a contravention, commits an infraction and is liable to a fine, and such fine shall be of a minimum of six hundred dollars (\$600) or a maximum of twelve hundred dollars (\$1200).

With: In the case of the felling of any species of tree on the territory of the Town without the prior issuance of a valid certificate of authorization, **as well as in the case of pruning or trimming of ash trees during the period of March 15th and October 1st inclusively**, anyone contravening a provision of this by-law, or tolerating or permitting such a contravention, commits an infraction and is liable to a fine of a minimum of six hundred dollars (\$600) or a maximum of twelve hundred dollars (\$1200).

SECTION 4

Section 1.5 – VIOLATION, PENALTIES AND OTHER RECOURSES – paragraph a) is modified by the addition of a third paragraph to read as follows:

An owner of an ash tree identified as dead or as having 30% or more dead branches will be found to have committed an infraction and is liable to a fine of a minimum of six hundred dollars (\$600) or a maximum of one thousand two hundred dollars (\$1200) if he refuses to cut down the ash tree or to have it cut down before December 31st of the year during which the state of the ash tree was determined. Furthermore, failure to provide recognized documents attesting that an ash tree was treated against the emerald ash borer over the current or previous calendar year with a pesticide which has an effective life span of two (2) years, constitutes an infraction subject to a fine of a minimum of six hundred dollars (\$600) or a maximum of one thousand two hundred dollars (\$1200).

Notice of motion: December 9, 2014
Adoption of draft: February 10, 2015
Public consultation meeting: March 10, 2015
Adoption of by-law: March 10, 2015
Coming into force: March 18, 2015

TRUE CERTIFIED COPY

Mayor

Town Clerk