

Emerald Ash Borer (EAB) Policy

City of Mequon

1) General

- A. EAB is an invasive beetle that infiltrates Ash trees and cuts off the trees nutrient moving capabilities. EAB is responsible for the destruction of tens of millions of Ash trees in 27 states. Native to Asia, it likely arrived in the United States hidden in wood packing materials. The beetle effectively kills the tree from within, boring just under the outer bark layer girdling the tree. EAB can be present in an Ash tree long before the tree shows signs of infestation or eventual death of the tree.
- B. In 2014, the City confirmed the presence of EAB in several Ash trees on the west side of the City. Since that time, Staff confirmed the presence in additional locations and upon further evaluation, confirmed that the infestation is well established. Many Ash trees are effectively dying or showing severe outward signs of infestation, including lack of leaves, suckering, and woodpecker damage.
- C. The structural integrity, or strength, of ash branches and tree trunks begins to decline as soon as the tree becomes infested and the wood begins to dry. Lower moisture content increases the risk of branch and trunk breakage, and the timing of breakage is usually unpredictable. Breakage is more likely in places where bark has split and at branch junctions where a smaller branch connects to a larger one. Infested trees may also have total trunk failure soon after death, further increasing the chance of dangerous impacts to public health and property.
- D. It is the intent of the City of Mequon to remove all Ash trees along city owned property regardless of size, health, or historical significance. Removal of Ash trees is the only effective way to manage an infestation of this level. Any Ash tree that is not showing signs of infestation could still be infested or at a minimum is at risk for infestation if left in place. Removal of the source for the infestation is the only long term way to eradicate EAB.
- E. The City will not enter onto private lands for the purpose of removal of Ash trees. If a tree is present on private property it will be the property owner's responsibility to remove.

- F. It is the intent of the City of Mequon to replace removed city owned Ash along the designated tree terrace, whenever necessary.

2) Classification

For the purpose of this policy, Ash trees shall be classified as follows:

1. Hazard Tree – An Ash tree that has been found to be in either of the two locations listed below, but presents a danger to public health or safety if not immediately addressed. Hazard trees would result in immediate removal and are not subject to timing considerations of other city operations. Verification of the hazard tree will be assessed by the City Forester on a case-by-case basis. No notification of removal is necessary from the City.
2. Street Tree – An Ash tree that exists in the City right-of-way (tree terrace) along a City main or subdivision road. Street trees would be considered priority given their location and proximity to homes, or businesses.
3. Secondary Tree – An Ash tree that exists in the City right- of- way, but is present in an area with limited maintenance and outside of a City subdivision. This would also include, but is not limited to: natural roadside areas, City easements, natural park areas, or out lots.

3) Procedures

- A. Ash Tree Marking - Ash trees that are being considered for removal will be marked with either pink or green marking paint. First, City staff will identify and confirm the tree is within the right-of-way (see Section 5). Once established to be within the right-of-way, pink marking paint will be used to identify ash trees to be removed by City staff. Green marking paint will identify a tree for removal as part of contracted service hired by the city. Marking will be limited to designated time frames and completed as work load allows.
- B. Ash Tree Removal - Ash trees may be removed by the City of Mequon Department of Public Works, or by a contractor hired by the City. The removal process consists of any conventional (ANSI) standard approved arboriculture technique necessary to remove each tree. All forms of biomass generated with the removal will be disposed of by the City of Mequon. Tree debris generated in the removal process is not available for the adjacent property owner. All generated spoils are removed

from site. The spoils are taken to the City brush site, where residents are allowed access, or other alternative locations approved by the City.

- C. Ash Tree Stump Removal – Stump removal is a part of the removal process. Stump removal is completed subsequent to the initial removal. Stump removal shall be completed by grinding the existing stump to a depth of 3-4 inches below existing grade. As a secondary function to the removal, stump grinding may take place on a date later than the actual removal.
- D. Stump Grinding Removal —after the stump has been removed, the grinding debris that is generated from the stump removal is also removed, to allow for restoration to take place.
- E. Post Stump Removal Restoration – After the debris from stump grinding is removed, the area shall be restored with screened topsoil. A minimum of 3-4 inches of topsoil will be required for the restoration, the topsoil is graded out to match the existing topography of the area and subsequently seeded. Maintenance of the restored area shall be the responsibility of the owner/s of the adjacent property owner.
- F. Street Tree Replacement – Replacement of the removed Ash street tree is offered the subsequent year following the removal. Notification letters confirming interest in a replacement street tree are sent out to each resident that had an Ash street tree removed within the City right-of-way. Along with the confirmation of interest the property owner is required to provide payment in accordance with the City's Fee Schedule. The fee is intended to defray the then-current cost of a species from the City-approved street tree list. The notification letter will offer an opportunity to select from a pre-determined tree list indicated in each notification letter. The City Forester will establish the pre-determined list annually to provide diversification in the City's tree canopy. The number of each species of tree will be limited by the City Forester, per the diversification standards. As a matter of controlling inventory tree choices will be awarded on a first come first serve basis. A returned letter with the necessary fee included will be the only way of guaranteeing a selection. The fees collected shall be placed in a non-lapsing account for the future replacement of street trees. The City will provide the installation service at no additional cost. ***This policy shall not be applicable wherein the provisions of a development agreement or a street tree preservation easement or agreement require that the developer or homeowners association shall be responsible for the removal and replacement of Ash trees.***

4) Prioritization of Work Schedule, Review and Response

- A. The prioritization of Ash tree removal shall provide emphasis on public health and safety. It shall also consider efficient use of City resources and location of the Ash trees and/or any adjacent public projects.
1. Removal of hazard trees that pose an immediate potential for a threat to personal safety. Threat to personal health or safety is deemed to be of the utmost importance to resolve. If it has been determined that a tree is preventing safe passage for residents, City involvement will be immediate with no prior notification, if deemed necessary.
 2. Removal of hazard trees that pose an immediate potential threat of substantial damage to property, i.e., buildings, structures, and land. Tree failure is regarded as natural occurrence. The City assumes no responsibility for tree issues on private property, as it pertains to management, damage, or removal. The City of Mequon can identify and require removal of tree/s deemed a hazard under the City's Nuisance Tree Ordinance (Chapter 50 Article II of the City of Mequon Code of Ordinances).
 3. Removal of street trees or secondary trees associated with the City's annual road program, projects of the Department of Public Works, water utility projects or sanitary sewer projects.
 4. Removal of street trees or secondary trees in locations where there is a large massing of dead or dying ash trees with a concentrated likelihood of failure.
 5. Removal of street trees that pose an elevated public sensitivity due to their location in neighborhoods or business areas along more densely populated City corridors.
 6. Removal of secondary trees on City owned property, such as parks, bike path, or the civic campus.

7. The removals of secondary trees which include trees located in and among existing easements or on informally maintained roadside locations pose less risk to the public given their more remote locations.
- B. **Removal:** The City will remove any Ash tree along the right-of-way that is found to be infested with Emerald Ash Borer. It will be the decision of the Parks and Forestry Superintendent as to the level of priority associated with each tree. The City will also utilize other staff members under the direction of the Parks and Forestry Superintendent to determine the need and timing of removal. Every effort will be made to efficiently and safely remove trees in a time frame established by staff that promotes public health and safety. Routine tree removal for the City occurs between January to May depending on weather, work load, and other operations of the Department of Public Works. An additional opportunity for Ash removal is completed prior to the annual road reconstruction program. As part of these annual efforts, residents on the associated roads are notified that the City or private contractor will be removing all of the Ash in the right-of-way as part of the impending reconstruction project. Residents may also be given the opportunity to hire (at their own expense) the same contractor the City is utilizing. Notification will be sent prior to work taking place.
 - C. **Ash Tree Stump Removal:** Following the tree removal a secondary crew will be scheduled to stump grind the stump. The City assumes no responsibility for damage that occurs to private lines in the right-of-way. This includes but is not limited to dog fence, downspouts, sump pumps, or lighting. This operation typically takes place within a month of the completion of the removal. As with the removal unforeseen interruptions to this time frame are possible. The stump is ground to a depth of 3-4 inches below grade to make room for the necessary topsoil to complete the restoration
 - D. **Grinding Removal and Restoration:** Following the stump removal process, clean-up and restoration of the area will be completed from May to June depending on work load, and unforeseen interruptions to this time frame.
 - E. **Planting:** Planting is completed by city crews or the use of city hired contractors. Locations are predetermined according to the location of the previously removed tree (no tree will be planted in the exact location as a tree that was removed). Trees will be shifted within the right-of way to effectively avoid any conflict from the previous root systems of the removed Ash tree/s. Digger's hotline is contacted by

the city or contractor. A wooden stake marking the intended future location is installed as a reference for utility markings as well as informing the home owner/s of the new tree location. The tree is planted, mulched, watered once and staked if needed. Maintenance of the tree shall be the responsibility of the owner/s of the property.

5) **Determination of Ownership/Maintenance Responsibility**

This policy shall only apply to those trees which are the City of Mequon's owned or legally maintained trees. In some cases, disputes arise between City staff and property owners regarding who originally planted the trees, or who has maintained the trees over its lifespan. This section of the policy is intended to outline the process used by City Staff as the basis of determination of whether the ash tree is the City's responsibility to remove.

- A. Use of the City's geographic information system (GIS): City staff utilizes the City's GIS system in the field to determine whether a tree is the City's responsibility to maintain. The GIS system relies on cadastral information maintained by the Ozaukee County Register of Deeds as it relates to property lines. A combination of the cadastral information, aerial photography obtained through a light detection and ranging (LIDAR) photography flyover, and field verification are utilized for marking ash trees for removal.
- B. Definition of tree within the City's right-of-way: City staff defines a tree within the right-of-way when any portion of the trunk, as measured at the diameter breast height (DBH) of the tree, is located within the City's right-of-way. DBH refers to the tree diameter measured at 4.5 feet above the ground.
- C. Trees within the City's right-of-way: If the right-of-way is legally described through a recorded document, or otherwise dedicated and recorded, City staff utilizes the right-of-way lines for determining whether an ash tree is the City's responsibility. All ash trees that meet the requirements of Section 5.A. and B. subsequently apply.
- D. Trees within the City's statutorily described right-of-way: Wis. Stat. § 82.31(2)(a), and further support from Village of Brown Deer v. Leland P, defines any unrecorded highway that has been worked as a public highway for 10 years or more is a public

highway and is presumed to be 66 feet wide. All ash trees that meet the requirements of Section 5.A. and B. subsequently apply.

E. Trees within the City's prescriptive right-of-way: In any circumstance where the City's right-of-way cannot otherwise be determined by Sections 5.C. or 5.D., Wis. Stat. § 893.28(1) provides prescriptive rights to that portion of land which the City has maintained as a part of the road system. Generally, that includes the road, shoulder and ditch through the back/top of slope of the ditch. All ash trees that meet the requirements of Section 5.A. and B. subsequently apply.

F. Appeal process for property owners

City staff is using the best available information to determine whether a specific ash tree is the City's responsibility. At times, the definition of legal ownership is not clear. If a property owner determines that an ash tree is the City's legal responsibility, he/she should proceed as follows:

1. Provide an updated property survey, signed and sealed by a professional land surveyor, showing the legally described property line and the location of the ash tree. Property lines shall also be marked in the field by a professional land surveyor. If the ash tree lies within the City owned land, or City right-of-way, staff will follow Section 4 of this policy to address the tree's removal.
2. Under no circumstances will City staff remove trees on private property. If the removal of a tree is otherwise directed by the Tree Board, Public Works Committee and/or Common Council, the tree shall be removed through a contracted tree service.