



Emerald Ash Borer Policy

Purpose

The purpose of the Emerald Ash Borer Policy is to provide the Village with a general scope of guidelines related to the Emerald Ash Borer (*Agrilus planipennis*, EAB) infestation impacting the community. These guidelines are the result of the research, planning, and program evaluation performed by the Public Works Department.

Goal

The goal of the Village and more specifically the Public Works Department, is to eradicate the EAB infestation in its entirety. Unfortunately, this will obligate the Village to remove the majority of our Ash Tree population on Village owned public property.

Definitions

Village Trees: Village Trees are defined as trees that exist on Village owned property. Some examples of Village owned properties that commonly contain trees include road rights-of-way, parks, Village owned land, and Village owned buildings.

Private Trees: Private Trees are defined as trees that are located on privately owned property. Some of these property areas include homes, businesses, rental properties, schools, and park district properties.

Management of Public Trees

Due to tight financial constraints, the Public Works Department is pursuing efficient methods in dealing with the EAB infestation. The Public Works Department has determined that the most cost effective, economic, and practical way to deal with the EAB infestation is to implement a three-step program. The first step includes an Ash

Tree survey program conducted internally by the Public Works Department to identify EAB infestations. This survey is ongoing and conducted on a rolling basis. The next step will be to remove trees with a confirmed infestation as time and financial resources are allotted. The final step is to replant a variety of tree species. The steps of the 'Management of Public Trees Program' are outlined in detail below.

1. *Survey:* Conduct a survey of Ash Trees on a rolling basis. This survey is conducted internally by our Public Works Department. Trees suspected of having an infestation are subjected to the rating system designed by the Public Works Department. The rating system allows for a prioritized system that determines what trees need to be removed first. The rating system is separated into three distinct categories:

Level 1 – Tree is showing some signs of EAB infestation but cannot be determined with reasonable certainty. Tree will be monitored on a quarterly to bi-annual basis.

Level 3 – Tree is showing obvious signs of EAB infestation and will be monitored very closely. Tree will almost certainly die off completely within 1-2 years.

Level 5 – Tree is almost or completely dead due to EAB infestation. Tree shows more than two obvious signs of EAB infestation and needs to be removed and/or replaced.

2. *Removal:* Trees will be removed when time and financial resources are made available to the Public Works Department. Trees may be removed through private contractual agreements or internally by the employees of the Public Works Department – which ever option is financially practical. Trees that are given a higher rating from the initial survey are to be prioritized for removal. Trees with a lower rating from the initial survey will be monitored and removed at a later date.
3. *Replacement:* Trees that have been removed can be replaced by the homeowner through a Village sponsored Cost Share Program. Trees located at addresses where homeowners choose not to participate in the Cost Share Program will be replaced when time and financial resources are made available to the Public Works Department. The Village and the Public Works Department value the impact that the tree canopy has on the image of the community, however, our main goal is to eradicate the EAB infestation. Removal is to be prioritized over replacement. Trees will be replaced with a diverse population of trees that are in compliance with Village codes.

Management of Private Trees

Village Code 15.50.020 - 302.14 Trees: states that "No dead or diseased trees shall be allowed on any real property within the Village". The Public Works Department strongly

encourages property owners to remove and properly dispose of all diseased or dead trees located on private property.

When time is allotted, the Public Works Department can be contacted by residents seeking further consultation in dealing with their private trees that are impacted by the EAB infestation.

Tree Replacement Cost Sharing Program

As a result of the devastation caused by Emerald Ash Borer to the Village's tree population, the Village Board has approved funding for a Tree Replacement Cost Sharing Program that reimburses property owners and Home Owners Associations \$50.00 for tree replacement within the Village owned right of way. Planting of new trees improves air quality, enhances the visual aesthetics of the community, and improves the quality of life for residents. The following parameters pertain to the participation in the Tree Replacement Cost Sharing Program:

1. The program is offered on a first-come, first-serve basis subject to available annual funding amounts.
2. Carpentersville Public Works Department will remove all infected, dead or dying trees within the right of way. Removal includes stumping and site restoration.
3. Prior to the purchase and installation of a tree(s) a permit must be applied and approved by the Director of Public Works or his/her's designee.
4. Residents will select a tree(s) from a permitted tree list (Village Code 16.80.080) provided by the Public Works Department.
5. Residents will purchase and install the tree(s) at their own expense.
6. Tree(s) purchased by the resident will be a minimum of two and one-half-inch caliper measured at six inches above grade level.
7. Tree contractors will be paid Prevailing Wage
8. In an effort to maintain proper spacing, all efforts should be taken to plant trees within the area that the original tree was removed from. The following should be used as a guide when planting:
 - a. Trees shall be planted every forty (40) lineal feet of right-of-way.
 - b. Trees shall be planted in the right-of-way not less than four (4) feet from any curb or sidewalk, not less than ten (10) feet from driveways, not less than ten (10) feet from fire hydrants, and not less than fifteen (15) feet from light poles.
 - c. Contact JULIE at 811 to locate buried utilities prior to excavation
9. Once the tree(s) have been planted it then becomes the responsibility of the Village to maintain. Maintenance includes pruning and removal as required based on the authority of the Director of Public Work or his/her's designee. Watering of the tree(s) will be the responsibility of the resident. To help you with proper watering techniques, a set of written instructions will be given to each resident.
10. Residents will be reimbursed after the purchase and installation of the new tree(s). Residents wishing to participate in this partnership program must submit a

paid receipt itemizing the cost of the tree(s). Receipts can be mailed or dropped off to:

Carpentersville Public Works Department
1075 Tamarac Drive
Carpentersville , IL 60110

Please allow thirty (30) days for reimbursement

Non participate in Cost Sharing Program:

The cost share program is a volunteer program. Resident may elect not to participate.

LICENSE AGREEMENT FOR USE OF VILLAGE PARKWAY

This LICENSE AGREEMENT FOR USE OF VILLAGE PARKWAY (the "**Agreement**"), dated as of the Effective Date, is made and entered into between the VILLAGE OF CARPENTERSVILLE, an Illinois Municipal Corporation (the "**Village**") and the individual or entity executing this agreement below as licensee (the "**Licensee**"). The Village and the Licensee are hereinafter sometimes referred to individually as a "**Party**" and together as the "**Parties**". Certain capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in **Section 13** of this Agreement.

RECITALS

- A. The Village owns, operates, and controls, throughout the Village of Carpentersville, Illinois, a network of Parkways.
- B. The Village has removed from its Parkways a substantial number of trees that (a) have died from infestation of the Emerald Ash Borer and other diseases or (b) are susceptible to infestation of the Emerald Ash Borer and other diseases and, therefore, needed to be removed to prevent further infestation, death, or decay.
- C. The Licensee desires a license for the use of certain Parkways owned by the Village for the limited purpose of planting trees on said Parkways to replace those trees that the Village has removed.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Grant of License.** The Village hereby grants to the Licensee a non-exclusive license (the "License") to use the Parkway described in Section 1 of Exhibit A, attached hereto and incorporated by reference herein, for the limited and sole purpose of planting trees in said Parkway according to the terms and limitations of this Agreement and Exhibit A.

2. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) months thereafter, at which time this Agreement shall terminate and the Licensee's right to plant trees shall cease to exist. The Village reserves the right to terminate this Agreement and the License granted hereunder for any reason in its sole and absolute discretion at any time.

3. **Fee.** The Village shall pay to the Licensee a fee of fifty dollars and no cents (\$50.00) for each tree the Licensee plants in accordance with the terms herein, to be paid upon completion of the planting.

4. **Permitted Tree Species.** The Licensee shall select a tree(s) from a permitted tree list identified within Village Code 16.80.080 – Permitted Tree Species. The list will be provided by the Director of Public Works or his/her's designee.

5. **Prohibited Tree.** All trees identified within Village Code 16.80.090 are prohibited.

6. **Location of Planting.** The Licensee shall plant trees only in those Parkways described in Section 1 of Exhibit A and only at such locations that are approved and marked by the Director of Public Works or his designee. Every attempt shall be made to plant trees according to the spacing requirements set forth within Village Code 16.80.070 - Right of Way Landscaping.

7. **Manner of Planting.** The Licensee shall take all reasonable steps to keep the Parkway and Right of Way reasonably clear from obstacles or obstructions during planting activities. The Licensee shall only alter the Parkway to the extent necessary to plant a tree. The Licensee shall not remove or change the location of any existing Facility, tree, or shrubbery. The Licensee shall take all reasonable steps to ensure the Parkway, Right of Way, or any Facilities are not damaged, destroyed, removed, or disconnected in the course of planting, including, but not limited to, (a) contacting JULIE, (b) refraining from all digging until JULIE has located all Facilities in the intended planting area, and (c) refraining from digging where JULIE indicated the existence of Facilities. In the event the Parkway, Right of Way, or any Facilities are damaged, destroyed, removed, or disconnected, the Licensee will cause the affected Parkway, Right of Way, or Facility to be repaired and restored to a condition fully equal to that existing before planting activities were commenced. The Licensee shall take all reasonable efforts to return the Parkway and Right of Way to a neat and presentable condition, including, but not limited to, removing and disposing excess soil, dirt, and debris and removing all Equipment or other articles. Upon completion of the planting, licensee shall be responsible for the watering of the trees.

8. **Title to Trees.** Upon completion, inspection and approval of the tree planting by the Village, the tree shall become part of the parkway and the Village shall assume ownership of the planted tree. Nothing set forth herein shall require the Village to replace any tree planted pursuant to this License Agreement that is not properly planted, may become diseased, dies or constitutes a dangerous condition, and is removed. The Village shall have the sole right to determine, in its discretion, when and if any tree located in the parkway shall be removed.

9. **Assumption of Risk.** The Licensee hereby understands and acknowledges that using Parkways and planting trees are activities that involve risks,

including, but not limited to, risk of property damage and bodily injury, including, but not limited to, permanent disability, paralysis, and death. The Licensee hereby fully assumes full responsibility for all risks that may arise out of or result from using the Village's Parkways and planting trees.

10. **Prerequisite Ability.** The Licensee hereby represents to have the requisite skills, qualifications, physical ability, and training necessary to properly and safely plant a tree.

11. **Release from Liability.** The Licensee hereby agrees to release, waive, discharge, and covenant not to sue the Village and its elected and appointed officials and officers, employees, agents, and representatives from all liability to the Licensee for any loss, liability, damage, or cost, whether to person or property, that may occur due to the presence of any person on a Parkway pursuant to the terms of this Agreement, whether caused by the negligence of the Village or otherwise. The Licensee agrees that this release and waiver is intended to be as broad and inclusive as permitted by the laws of Illinois and that if any portion of the agreement is held invalid, it is agreed that the balance will, notwithstanding, continue in full legal force and effect.

12. **Indemnification.** The Licensee hereby agrees to defend, indemnify, and hold harmless the Village and its elected and appointed officials and officers, employees, agents and representatives from and against any and all injuries, claims, demands, judgments, liabilities, settlements, taxes, damages, losses, costs, and expenses, including attorney's fees and costs of suit or defense, arising out of, related to, resulting from, or alleged to arise out of or result from the Licensee's use of the Village's Parkway under the terms of this Agreement, including, but not limited to, any negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the Village or the Village's affiliates, officers, employees, agents, contractors, or subcontractors. Notwithstanding the expiration of the Term or the termination of this Agreement by the Village pursuant to Section 2 of this Agreement, this Section 0 shall survive and remain in full force and effect until the date that is five (5) years after the Effective Date.

13. **Definitions.** For the purposes of this Agreement, the following terms shall have the meaning set forth below:

- a. **"Equipment"** means materials, tools, implements, supplies, and/or other items used to facilitate the planting of trees.
- b. **"Effective Date"** means the date this Agreement is signed by the Licensee.
- c. **"Facility"** means all structures, devices, objects, and materials that do not qualify as Equipment, as defined above, including, but not limited to, track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, antennas, vaults, boxes, equipment

enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, electrical equipment, sidewalks, curbs, drains, and appurtenances thereto, located on, over, above, along, upon, under, across, or within rights-of-way.

- d. "**JULIE**" means the Joint Utility Locating Information for Excavators utility notification program.
- e. "**Right-of-Way**" means any street, alley, other land or waterway, dedicated or commonly used for utility, pedestrian, or vehicular traffic or other similar purposes, including utility easements, in which the Village has the right and authority to authorize, regulate, or permit the location of Facilities other than those of the Village. "Right-of-way" or "Rights-of-way" shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the Right-of-Way.
- f. "**Parkway**" means any portion of the Right-of-Way not improved by street or sidewalk.

14. **Miscellaneous.**

- a. This Agreement contains the entire agreement between the Parties with respect to the subject matter contained herein and cannot be modified except by a written instrument subsequently executed by both Parties.
- b. This Agreement does not convey to, or create in favor of, the Licensee, any legal or equitable title or property interest, in whole or in part, to or in the Village's Parkway or any other real property. The Licensee further acknowledges that this Agreement is not a lease and merely grants permission to the Licensee to use those parts of the Village's Parkway licensed hereunder, on the terms and conditions herein contained.
- c. This Agreement is not assignable by any Party.
- d. The Licensee acknowledges and agrees that nothing in this Agreement impairs the Village's right to perform any public services on its Parkways, including, but not limited to, the subsequent removal of any and all trees planted by the Licensee, and the Licensee hereby releases the Village from any and all damage, loss, cost, or liability that may result from such public service.

- e. The Parties both represent that each has full right, power, capacity, and authority to execute and deliver this Agreement and to comply with the terms, conditions, and provisions hereof.
- f. No failure of any Party to exercise any right or remedy given to such Party under this Agreement or otherwise available to such Party or to insist upon strict compliance by any other Party shall constitute a waiver of any Party's right to demand exact compliance with the terms hereof, unless such waiver is set forth in writing and executed by such Party.
- g. This Agreement shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation, and performance of this Agreement shall be governed by, the laws of the State of Illinois. Any proceeding initiated over any dispute arising out of or relating to this Agreement shall be initiated in any federal or state court located within the County of Kane in the State of Illinois, and the Parties hereby agree that venue for all such matters shall lie exclusively in those courts.
- h. The subject headings of this Agreement are included for purposes of convenience and reference only and shall not affect the construction or interpretation of any of this Agreement's provisions.
- i. Unless the context otherwise requires, (a) words in the singular or plural include the singular and plural; (b) the feminine or neuter gender shall include the masculine, feminine, and neuter; (c) whenever the words "include," "includes," or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation;" and (d) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not simply mean "if."
- j. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement will remain in full force and effect, and (d) in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

**THE VILLAGE OF
CARPENTERSVILLE**

By: _____

Name: _____

Title: _____

Date: _____

LICENSEE

By: _____

Name: _____

Title: _____

Organization: _____

Date: _____

16.80.080 - Permitted tree species.

- A. Permitted general and right-of-way trees include, but are not limited to the following species. Additional species may be considered by the engineering department. Trees shall be nursery grown and will comply with the standards of the American Association of Nurserymen (ANSI Z260.1-2004).

<u>Scientific Names</u>	<u>Common Names</u>
* Acer campestre	Hedge Maple
Acer ginnala	Amur maple
Acer platanoides	Norway maple
Acer rubrum	Red maple
Acer saccharum	Sugar maple
Acer freemanii	Autumn blaze maple
Acer platanoides emerald queen	Emerald queen maple
Acer platanoides superform	Superform maple
Acer miyabei	Miyabe Maple
* Acer truncatum Norwegian Sunset™	Norwegian Sunset Shantung Maple
Aesculus x arnoldiana 'Autumn Splendor'	Autumn Splendor Buckeye
* Aesculus x carnea 'Briotii'	Briotti Red Horsechestnut
* Aesculus x carnea 'Fort McNair'	Fort McNair Red Horsechestnut
Aesculus flava	Yellow Buckeye
Aesculus hippocastanum 'Baumannii'	Baumann Common Horsechestnut
Alnus glutinosa	European Black Alder
Alnus hirsuta 'Harbin'	Prairie Horizon Manchurian Alder
* Amelanchier sp.	Serviceberry
Betula nigra Heritage®	Heritage River Birch
* Carpinus caroliniana	American Hornbeam / Ironwood
Catalpa speciosa	Northern Catalpa
Celtis laevigata	Sugar Hackberry
Celtis occidentalis	Common Hackberry
Cercidiphyllum japonicum	Katsuratree
* Cercis canadensis	Eastern Redbud
Cladrastis kentukea	American Yellowwood
* Cornus mas 'Golden Glory'	Golden Glory Corneliancherry
	Dogwood
Corylus colurna	Turkish Filbert
* Crataegus crusgalli inermis	Thornless cockspur hawthorn
Fagus sylvatica 'Riversii'	Rivers European Beech
Ginkgo biloba	Ginkgo / Maidenhair tree

Gleditsia triacanthos inermis (thornless)	Thornless honeylocust
Gleditsia triacanthos skyline	Skyline honeylocust
* Halesia tetraptera	Carolina Silverbell
Pyrus calleryana aristocrat	Aristocrat pear
Pyrus calleryana chanticleer	Chanticleer pear
* Pyrus calleryana x betulaefolia	Edgewood Pear
Gymnocladus dioicus	Kentucky coffeetree
Liquidambar styraciflua 'Brotzman #2'	Brotzman American Sweetgum
Liquidambar styraciflua Grandmaster™	Grandmaster American Sweetgum
Liquidambar styraciflua 'Worplesdon'	Worplesdon American Sweetgum
Liriodendron tulipifera	Tulip Tree
Magnolia acuminata	Cucumbertree Magnolia
Malus beverly	Crabapple "beverly"
Malus spring snow	Crabapple "spring snow"
Malus red jewel	Crabapple "red jewel"
Ostrya virginiana	American Hophornbeam
Phellodendron amurense	Amur Corktree
Platanus acerifolia	London planetree
Platanus occidentalis	American sycamore
Quercus elipsoidales	Northern pin oak
Quercus robur	English oak
Quercus rubra	Red oak
Quercus bicolor	Swamp white oak
Quercus imbricaria	Single Oak
Quercus michauxii	Swamp Chestnut Oak
Quercus muehlenbergii	Chinkapin Oak
Tilia americana	American linden
Tilia cordata	Littleleaf linden
Tilia cordata greenspire	Greenspire linden
Tilia cordata redmond	Redmond linden
Ulmus 'Homestead'	Homestead elm
Ulmus x 'Morton Glossy'	Triumph™ Elm
Ulmus 'Patriot'	Patriot elm
Ulmus 'Frontier'	Frontier Elm
* Syringa reticulata ivory silk	Ivory silk Japanese tree lilac

- B. Some of the species listed above in subsection A may have limitations in their application. The above list is for newly installed street and shade trees. Existing trees on tree surveys may include an expanded list of acceptable species. Certain varieties of plants may be discouraged such as those that have: (1) disease or pest problems, i.e., white birch except for whitespire birch, (2) thorns or conditions that would pose other potential dangers, i.e., Washington hawthorn, (3) other potential problems in certain situations, i.e., winter-burn on white pine in open areas.
- C. Trees planted directly under overhead utility lines shall be sized to not interfere with the lines, and shall be limited to those trees marked with an asterisk (*) in subsection A above.

16.80.090 - Prohibited trees.

- A. It is unlawful to plant anywhere in the village any trees with the following growth habits: soft brittle wood, harbor insects, malodorous vegetation, water-seeking root system, wide and/or low branching, suckering habit, pendulous, deciduous thorns, and domestic fruit trees. Examples of such trees are:

<u>Genus</u>	<u>Species</u>	<u>Common Name</u>
Fraxinus	All	Ash
Populus	All	Poplar, cottonwood, aspen
Salix	All	Willow
Maclura	All	Osage orange or boxwood
Ailanthus	Altissana	Tree of heaven
Juglans	Nigra	Black walnut
Ulmus	Parvifolia	Chinese elm
Ulmus	Pumila	Siberian elm
Ulmus	Racemosa Thomasi	Rock or cork elm
Ulmus	Fuvla	Slippery or red elm
Robinia	Pseudoacacia	Black, common or yellow locust, false or black acacia ash

- B. It is unlawful to plant in the public right-of-way in any property owned by the village conifers of any species.