
From: Kyle Bentley
Director, City Development & CBO

Subject: Tree Protection By-law Update
- Status Update
- File: D-1100-104

Recommendation:

1. That Report PLN 19-23 providing an update on Phase 2 of the Tree Protection By-law Update be received;
 2. That the proposed new draft Tree Protection By-law included as Appendix I to this report be received, and that staff be authorized to circulate it for comment; and
 3. That Council authorize the Corporate Working Group, led by City Development staff, to proceed with Phase 3 of the Tree Protection By-law Update.
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Executive Summary: The City's existing Tree Protection By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, currently only applies to "environmentally sensitive lands", as identified in the screening area on the current By-law Schedule. Some of the "environmentally sensitive lands" are on private property, but the vast majority of privately owned lands are not identified as part of the screening area on the By-law Schedule.

In September 2020, Council directed staff to investigate the implementation of a by-law for the protection of trees on all private property, and report back to Council (Resolution #428/20). This direction was the result of one of the recommendations of the Infill & Replacement Housing in Established Neighbourhoods Study (Report PLN 18-20).

Staff undertook initial investigations and reported the Phase 1 findings to Council in May 2022 (Report PLN 23-22). Council authorized staff to undertake a process to amend the existing Tree Protection By-law to give greater protection to more trees within the City of Pickering, and to include a public engagement process, and report back to Council.

This report provides the results of Phase 2 of the project. A new draft Tree Protection By-law has been prepared for Council's information and authorization for the Corporate Working Group to undertake consultation on this draft By-law (see proposed new draft Tree Protection By-law, Appendix I). Phase 3, the next step, includes circulation of the proposed new draft Tree Protection By-law to agencies, interested stakeholders, and the public, for review and comment, and the preparation of a recommendation report to the Executive Committee in fall 2023.

Financial Implications: Although this report has no direct financial implications to the City, the outcome of this project may have financial implications to the City, which would be addressed in a future report.

Discussion:

1. Purpose

The purpose of this report is to provide Council with an update on the Tree Protection By-law amendment process (the TPB Project), and to present the proposed new draft Tree Protection By-law to the Executive Committee, prior to seeking the public's input on the proposed draft By-law.

The City's existing Tree Protection By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, currently only applies to "environmentally sensitive lands", as identified on the current By-law Schedule. There is also a regional tree protection cutting By-law in effect, but that is not within the City's jurisdiction, and is not part of this review. The purpose of the TPB Project, would be to extend tree regulation to all of Pickering, by capturing trees on private properties as well. A copy of the existing Tree Protection By-law, as amended, is contained in Attachment #2 to this report.

2. Background

2.1 Project Initiation

Following the consideration of Report PLN 18-20 in September 2020 (regarding the Infill and Replacement Housing in Established Neighbourhoods Study), Council directed staff to investigate and report back on the implementation of a By-law for the protection of trees on private property. This investigative work commenced in early 2022, and in May 2022, staff reported the results of their investigation to Council. With Council's authorization, staff undertook a process to update the existing Tree Protection By-law 6108/03, as amended, to give greater protection to more trees within the City of Pickering, and to include a public engagement process, and report back to Council. Public engagement was postponed to spring 2023 to accommodate for municipal elections in fall 2022, and to synergize the public launch of this initiative with Sustainability's Earth Month engagement activities in April 2023.

On March 27, 2023, Council passed a motion which, amongst other things, directed staff to prepare a draft By-law that would regulate tree removal of a defined diameter on private property, similar to the City of Toronto; and that would protect trees from injury on private property during construction (see Council Resolution #144/23, Attachment #1). This would include trees that may be impacted by infill development, replacement housing, additions to existing houses, construction of secondary structures, and draft plans of subdivision.

This motion reaffirmed Council's initial direction to staff in May 2022, and recognized the work that was already underway in relation to the creation of a new Tree Protection By-law.

2.2 Project Process

The TPB Project is composed of three phases:

- Phase 1: Investigation, consisting of background research, preliminary municipal scans, and a review of best practices;
- Phase 2: First Round of Public Engagement – Soft launch of this initiative and development of a draft new Tree Protection By-law, and status report to Council; and
- Phase 3: Second Round of Public Engagement to obtain feedback on draft new Tree Protection By-law for review, and preparation of final draft By-law for approval by Council.

At this time, we are concluding Phase 2 of the Project.

3. Project Status

Since the launch of the Project, City staff:

- conducted research and analysis through a preliminary municipal scan, reviewed best practices, and prepared a public engagement strategy (January to April 2022);
- reported results of initial investigation to Council, and obtained direction to prepare the Tree Protection By-law to include private properties, and undertake public engagement (May 2022);
- launched public engagement by teaming up with Sustainability initiatives during Earth Month (April 2023) to provide insight to the TPB Project;
- held a Virtual Stakeholder meeting on April 13, 2023, extending invitations to arborists, developers, landscape specialists or other tree-related business, organization or professional to obtain specialized perspectives;
- hosted a Public Information Centre on April 19, 2023, allowing the public to review the presentation boards and speak to staff about the TPB Project; and
- presented an update on the TPB Project at the Ward 1 Town Hall Meeting on April 20, 2023 (at the request of the Ward 1 Councillors).

A more detailed description of the results of the above public engagement initiatives is contained in Section 4 of this report.

4. Summary of Public Engagement

4.1 Teaming Up at Earth Month webinars and workshops

Working in tandem with Sustainability initiatives during April's Earth Month, the TPB Project built upon on a number of in-person seminars and webinars. The April 3, 2023, Build a Birdhouse seminar had approximately 50 participants, while the April 22, 2023, Community Tree Planting seminar had over 200 participants. A pop-up for the TBP Project was held at these events. Feedback was generally positive, and staff received many inquiries regarding the implications of an expanded regulatory area on private property owners.

The April 18, 2023 Invasive Species and their Environmental Impact webinar, and the April 25, 2023 Gardening for Climate Change webinar collectively had 53 participants. A short presentation was provided on the TPB Project, encouraging participants to attend the PIC, visit the project website, and fill out the online survey.

4.2 Virtual Stakeholder Meeting

A virtual stakeholder meeting was held on April 13, 2023. Notice of the event was given via email, to arborists, landscape specialists, developers, tree-related businesses, organizations or professionals. The purpose of the meeting was to inform participants of other engagement opportunities, to create greater awareness amongst their peers regarding the initiative, and to gain specialized feedback. Eight participants attended the virtual meeting. The staff presentation was also uploaded to the project website for those unable to attend the virtual meeting.

4.3 Public Information Centre (PIC)

A PIC was hosted at the Civic Centre Lobby, the evening of April 19, 2023 from 6:00 pm to 8:00 pm. The event was advertised on the Community Page of the News Advertiser on April 6, 2023 and April 13, 2023, the City's website, in Durham News and the NRU Publication. Eleven participants attended the event. Feedback received covered various matters, including the rights and responsibilities of property owners, questions of how to tend to pruning overhanging trees, and requests for tree planting programs, and guidelines for homeowners with smaller lots. Participants gained greater insight into the permitting process, and requirements if removal of trees was necessary. Participants were encouraged to fill out the survey, and they were also informed of future engagement opportunities, (e.g., the second upcoming PIC slated for June 28, 2023).

4.4 Ward 1 Town Hall Meeting

Upon request from Ward 1 Councillors, staff presented an update on the TPB Project at the April 20, 2023 Ward 1 Town Hall meeting, paired with a Q&A session. There were between 30 to 40 participants, garnering support for expanding the Tree Protection By-law onto private properties. Attendees were encouraged to fill out the online survey, visit the Project website, and to stay tuned for the second PIC later in June 2023.

4.5 The Online Survey

An online survey was posted on the Let's Talk Pickering project page from April 3, 2023 to April 30, 2023, yielding 247 responses.

- 43.5% of the respondents were not aware of a Tree Protection By-law, with 82.1% expressing support for the expansion of the Tree Protection By-law to include all lands within the City;
- in terms of the proposed minimum diameter of the trees to be regulated on private properties, 25% of the respondents selected 10 cm, 24.8% selected 15 cm, 18.7% selected 30 cm, 17.5% selected 20 cm, 6.5% selected 25 cm, and 8.5% expressed either greater than 30 cm or not to have any regulation altogether;

- 37.4% and 28% were not at all likely to remove trees within and beyond the next two years, respectively, with 32.9% and 29.3% not likely to remove trees within and beyond the next two years;
- 52.4% sought tree removal due to general maintenance, with 32.9% hoping to add a landscape feature or accessory structure to their property; and
- 92% of respondents live in Pickering, with 93% from L1V, L1W, L1X postal codes.

An overview of the quantitative data and summarized general comments received through the on-line survey is provided in Attachment #3 to this report.

5. Proposed New Draft Tree Protection By-law

In consideration of best practices, and given the age of the current By-law, staff recognized that a lot of the information in the current by-law is outdated, and consequently recommend that the existing By-law be repealed and replaced with a new By-law. The proposed new draft Tree Protection By-law would follow the same format and structure of the current By-law, containing revised definitions, exemptions, prohibitions, and provisions related to appeals, administration, and enforcement.

Updates to the proposed new draft Tree Protection By-law focus on two primary factors: the geographic scope of the regulated screening areas; and the appropriate minimum caliper to be protected (or diameter of the tree trunk measured at 1.5 metres above the ground; also known as DBH).

It is proposed to extend the regulatory area beyond “environmentally sensitive lands” to capture all of the City of Pickering. Accordingly, the proposed new by-law will have two screening areas distinguishing between Tree Protection Area ‘A’ (trees within “environmentally sensitive lands”) and Tree Protection ‘B’ (trees outside of “environmentally sensitive lands”) (see new draft Schedule “A” to proposed new draft Tree Protection By-law, see Appendix I).

The current Tree Protection By-law exempts trees with a caliper of less than 2.5 cm in the “environmentally sensitive areas” screening zone from the provisions of the By-law. The minimum DBH of trees within “environmentally sensitive lands” is proposed to be maintained at 2.5 cm.

For lands outside of the existing screening area (and now in the draft Tree Protection Area ‘B’), the minimum caliper of trees to be regulated must be established. At this time, staff proposes a minimum DBH of 30 cm for such trees. This dimension considers budget and staff resources associated the broader regulatory area, and ensures the administration and enforcement of the new by-law remains effective and manageable.

The proposed DBH of 30 cm for trees outside of “environmentally sensitive lands” is consistent with a number of other municipalities currently regulating trees ranging from 20 cm to 30 cm. Based on an Urban Forest Study the City conducted in 2012, along with an initial projection, approximately 25% of the trees within the City are estimated to be over 30 cm in DBH. Once staff have had an opportunity to assess the effectiveness of this DBH value further regulation of trees on private properties following a graduation process towards a lower DBH (e.g., 25 cm or lesser) may be considered.

6. Next Steps

Next steps in the TPB Project include initiating Phase 3 with the following tasks:

- circulating the proposed new draft Tree Protection By-law to stakeholders and agencies for comments;
 - holding a second Open House Public Information Centre to seek feedback on the proposed new By-law; and
 - providing a recommendation report to Executive Committee, complete with a final draft By-law, in the fall of 2023.
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Appendix

Appendix I The proposed new draft Tree Protection By-law

Attachments:

1. Council Resolution #144/23, dated March 27, 2023
 2. The current Tree Protection By-law 6108/03, as amended
 3. Quantitative Data and Summarized General Comments received through the On-Line Survey
-

Prepared By:

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Catherine Rose, MCIP, RPP
Chief Planner

Original Signed By

Kyle Bentley, P. Eng.
Director, City Development & CBO

Recommended for the consideration
of Pickering City Council

Original Signed By

Marisa Carpino, M.A.
Chief Administrative Officer

**Appendix I to
Report PLN 19-23**

Proposed New Draft Tree Protection By-law

The Corporation of the City of Pickering

Draft

By-law No. XXXX/XX

Being a by-law to prohibit and regulate the injuring, destruction or removal of trees in the City of Pickering

Whereas pursuant to Section 135(1) of the *Municipal Act*, 2001, S.O 2001, c. 25, as amended, a local municipality may prohibit or regulate the injuring, destruction, or removal of trees; and

Whereas the Council of The Corporation of the City of Pickering is desirous of repealing By-law 6108/03, as amended by By-laws 6191/03 and 7007/09 and enacting a by-law by increasing regulations with regards to the injuring, destruction or removal of trees in the City of Pickering.

Now therefore the Council of The Corporation of the City of Pickering hereby enacts as follows:

Part 1 – Interpretation

1.1 Short Title

This By-law may be cited as the “Tree Protection By-law”.

1.2 Interpretation

When reading and interpreting this By-law:

- (a) Unless otherwise specified, references in this By-law to parts, sections, clauses and schedules are references to parts, sections, clauses and schedules in the By-law;
- (b) References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted;
- (c) This By-law shall be read with all changes in gender or number as the context requires;
- (d) References in this By-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

1.3 Conflicts

This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the Region or Durham or the City of Pickering. In the event any other applicable law requires a higher standard than what this By-law requires, the higher standard shall apply.

1.4 Severability

Each and every one of the provisions of this By-law is severable and if any provision of this By-law should, for any reason, be declared invalid by any court, it is the intention and desire of this Council that each and every one of the remaining provisions hereof shall remain in full force and effect.

1.5 Scope

This By-law shall apply to all property in the City.

1.6 Schedule A

Schedule A attached hereto with notations and references shown thereon is hereby declared to be part of this By-law.

1.7 Definitions

In this By-law:

- (a) "City" shall mean the Corporation of the City of Pickering;
- (b) "Certified Arborist" shall mean an individual who holds a valid arborist certificate from the International Society of Arboriculture or similar qualifications as approved by the City.
- (c) "Clerk" shall mean the Clerk for the Corporation of the City of Pickering or his designate;
- (d) "Council" shall mean the Council of the Corporation of the City of Pickering;
- (e) "DBH" shall mean Diameter at Breast Height, being the diameter of the stem of a tree measured at a point that is 1.5 metres above ground;
- (f) "Declared Emergency" shall mean an event or situation, natural or otherwise that results in the declaration of an emergency by the federal, provincial or municipal government and requires the destruction, injury or removal of trees.
- (g) "Emergency Services" shall mean public organizations that respond to and deal with emergencies when they occur, especially those that provide police, ambulance, and firefighting services.
- (h) "Tree Protection Area A" includes areas identified as Significant Woodlands, Shorelines, Significant Valley Lands and Stream Corridors, and Wetlands, as set out in Schedule "A" attached hereto.

"Tree Protection Area B" include all areas not subject to "Tree Protection Area A".

- (i) "Good Arboricultural Practices" shall mean the proper planting and care of Trees in accordance with the most current version of the ANSI A300, American National Standards for Tree Care Operations.
- (j) "Good Forestry Practice" shall mean the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and which minimize detriments to forest values including significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health; and the aesthetics and recreational opportunities of the landscape. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;
- (k) "Officer" shall mean a municipal law enforcement officer employed by the City or a police officer pursuant to subsection 42(1)(h) of the *Police Services Act*.
- (l) "Order" shall mean an order issued pursuant to this by-law and may require actions such as stopping an activity or replanting trees as may be required.
- (m) "Owner" shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent;
- (n) "Property Review Committee" shall mean the committee appointed by Council for the purposes of hearing appeals related to various property related matters including but not limited to this By-law.
- (o) "Property Standards Order" shall mean an order issued under the City of Pickering Property Standards By-law 7887/21, as may be amended.
- (p) "Site" shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed

Part 2 – Regulations

2.1 General Prohibitions

- (a) Unless otherwise exempted by this By-law, no person shall injure, destroy, or remove a tree in the City of Pickering without a permit issued under this By-law.
- (b) Unless otherwise exempted by this By-law, no person shall cause or permit any injury, destruction, or removal of a tree measuring 2.5 centimetres DBH or larger in Tree Protection Area A.

- (c) Unless otherwise exempted by this By-law, no person shall cause or permit any injury, destruction, or removal of a tree measuring 30 centimetres DBH or larger in Tree Protection Area B.
- (d) Where a permit has been issued pursuant to this By-law, no person shall cause or permit any injury, destruction or removal of a tree, except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

2.2 Exemptions

The provisions of this By-law do not apply to:

- (a) any tree with a measurement less than 2.5 centimetres DBH located inside Tree Protection Area A, or is less than 30 centimetres DBH located within Tree Protection Area B.
- (b) activities or matters undertaken by a municipality or a local board of a municipality;
- (c) lands owned by, regulated by or to activities or matters undertaken by the Toronto and Region Conservation Authority or the Central Lake Ontario Conservation Authority;
- (d) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*, 1994;
- (e) the injuring, destruction, removal of trees by a person licensed under the *Surveyors Act*, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (f) the injuring, destruction, or removal of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (g) the injuring, destruction, or removal of trees imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- (h) the injuring, destruction, or removal of trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act*, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that Section;
- (i) the injuring, destruction, or removal of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;

- (j) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land, that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- (k) trees measuring less than 2.5 centimetres DBH;
- (l) to activities or matters prescribed by regulations pursuant to the *Municipal Act*, 2001;
- (m) pruning that is necessary to maintain the health and condition of the tree and is carried out in accordance with Good Arboricultural Practices;
- (n) to woodlots that are governed by By-law Number 148-91 of the Regional Municipality of Durham or its successor;
- (o) the injuring, destruction, or removal of trees that are a noxious weed as defined in the *Weed Control Act*, R.S.O. 1990, c. W.5;
- (p) the injuring, destruction, or removal of trees undertaken by a Conservation Authority on its own lands or in response to a Declared Emergency;
- (q) the injuring, destruction, or removal of trees at the direction of Emergency Services;
- (r) the injuring, destruction, or removal of a tree located within an actively managed cultivated orchard, tree farm or plant nursery;
- (s) the injuring, destruction or removal of a tree as identified by a Certified Arborist is threat to health or safety;
- (t) the removal of a tree that has been damaged by a storm or other natural act that is an immediate danger to health and safety;
- (u) the injuring, destruction or removal of a tree that is required by a Property Standards Order issued under the *Building Code Act*;
- (v) the injuring, destruction or removal of a tree that is a Normal Farm Practice as defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1.;

2.3 Requirements for an Application

- (a) A person applying for a permit under this By-law shall submit a completed application form, along with required plans, information, and a fee of:
 - i. \$100 for a permit requiring an inspection by the City's arborist, or
 - ii. \$50 for a permit accompanied by a Certified Arborist report, or
 - iii. \$0 for a permit for a dead tree.

- (b) Any permit issued under this By-law is valid for 6 months after the date of issuance.
- (c) A permit may be denied for the following reasons:
 - i. the application form is not complete;
 - ii. the tree is located on lands subject to an application for an official plan amendment, rezoning, consent to sever, a minor variance, a plan of subdivision, a plan of condominium a site plan, or a building permit, and the application has not yet received final approval, or the permit has not yet been issued;
 - iii. the removal of the tree is not consistent with an approved site plan, tree protection plan, or City-endorsed report of a Certified Arborist;
 - iv. the tree to be removed is an endangered species as defined by the *Endangered Species Act, 2007*;
 - v. the removal of the tree would be in contravention of the *Migratory Bird Convention Act, 1994*; or
 - vi. the tree to be removed is healthy, and meets the minimum size requirements as set out in this By-law.

2.4 Appeals

- (a) A person wishing to appeal an order made under this By-law may appeal to the Property Review Committee within 14 days of receiving an order.
- (b) Any applicant who is denied a permit under this By-law may appeal to the Property Review Committee within 14 days of receiving the denial.
- (c) The Property Review Committee shall be convened as soon as practicable after receiving an appeal. The decision of the Property Review Committee under this By-law is final and binding.
- (d) An appeal fee of \$100 is payable at the time of filing an appeal.

Part 3 – Enforcement

3.1 Enforcement and Administration

- (a) The administration and enforcement of this By-law shall be performed by the Manager, Municipal Law Enforcement Services and such persons tasked to administer the By-law.
- (b) If after an inspection, an Officer is satisfied that a contravention of this By-law has occurred, the Officer may order the person to discontinue the activity, and the order shall be served personally, by posting it in a conspicuous place on the subject property, or by prepaid registered mail to the last known address of the owner of the property.

- (c) An Officer alone, or in conjunction with a person possessing special or expert knowledge may, at any reasonable time, enter upon any property for the purpose of determining whether or not the provisions of this By-law have been complied with.
- (d) An Officer alone, or in conjunction with a person possessing special or expert knowledge, may conduct examinations, take photographs, or collect any evidence necessary for the purpose of determining if an offence of this By-law has occurred.
- (e) No person shall prevent, hinder or interfere, or attempt to prevent, hinder or interfere, with an Officer.
- (f) No person shall fail to provide any documents, or other relevant items related to a contravention of this By-law, to any Officer upon request. An Officer may remove and make copies of these documents and items.
- (g) Where an Officer has reasonable grounds to believe that an offence has been committed by any person, the Officer may require the name, address and proof of identity of that person, and no person shall fail to provide the requested information.
- (h) Unless authorized by a permit, no person shall cause or permit any injury, destruction or removal of a protected tree.
- (i) No person shall cause or permit any action contrary to an order issued under this By-law.
- (j) Where a permit has been issued pursuant to this By-law, no person shall cause or permit the injury, removal or destruction of any tree except in accordance with the conditions of the permit issued.

3.2 Offences and Penalties

- (a) Any person who contravenes any provision of this By-law, or any order pursuant to this By-law, is guilty of an offence and on conviction liable:
 - i. On first conviction, to a fine of not more than \$50,000 or \$2,000 per tree, whichever is greater.
 - ii. On any subsequent conviction, to a fine of not more than \$100,000 or \$5,000 per tree, whichever is greater.
- (b) Any business entity that contravenes any provision of this By-law, or any order pursuant to this By-law, is guilty of an offence and on conviction liable:
 - i. On first conviction, to a fine of not more than \$75,000 or \$3,000 per tree, whichever is greater.
 - ii. On any subsequent conviction, to a fine of not more than \$100,000 or \$7,500 per tree, whichever is greater.

- (c) A special fine may be imposed, in addition to any fine imposed under this By-law, in circumstances where there is an economic advantage or gain from the contravention of this By-law. The maximum amount of the special fine may exceed \$100,000. A special fine shall be calculated based on the number and significance of any trees injured, destroyed or removed.
- (d) If a person is convicted of an offence for contravening this By-law, or an order made under this By-law, the court of competent jurisdiction, may order the person to rehabilitate the land or to plant, or replant, trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

3.3 Fees

- (a) Tree Removal Application:
 - i. \$100 for a permit requiring an inspection by the City's arborist, or
 - ii. \$50 for a permit accompanied by a Certified Arborist report, or
 - iii. \$0 for a permit for a dead tree.
- (b) An appeal fee of \$100 is payable at the time of filing an appeal.

Part 4 – General

4.1 Repeal

By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, is repealed.

4.2 Effective Date

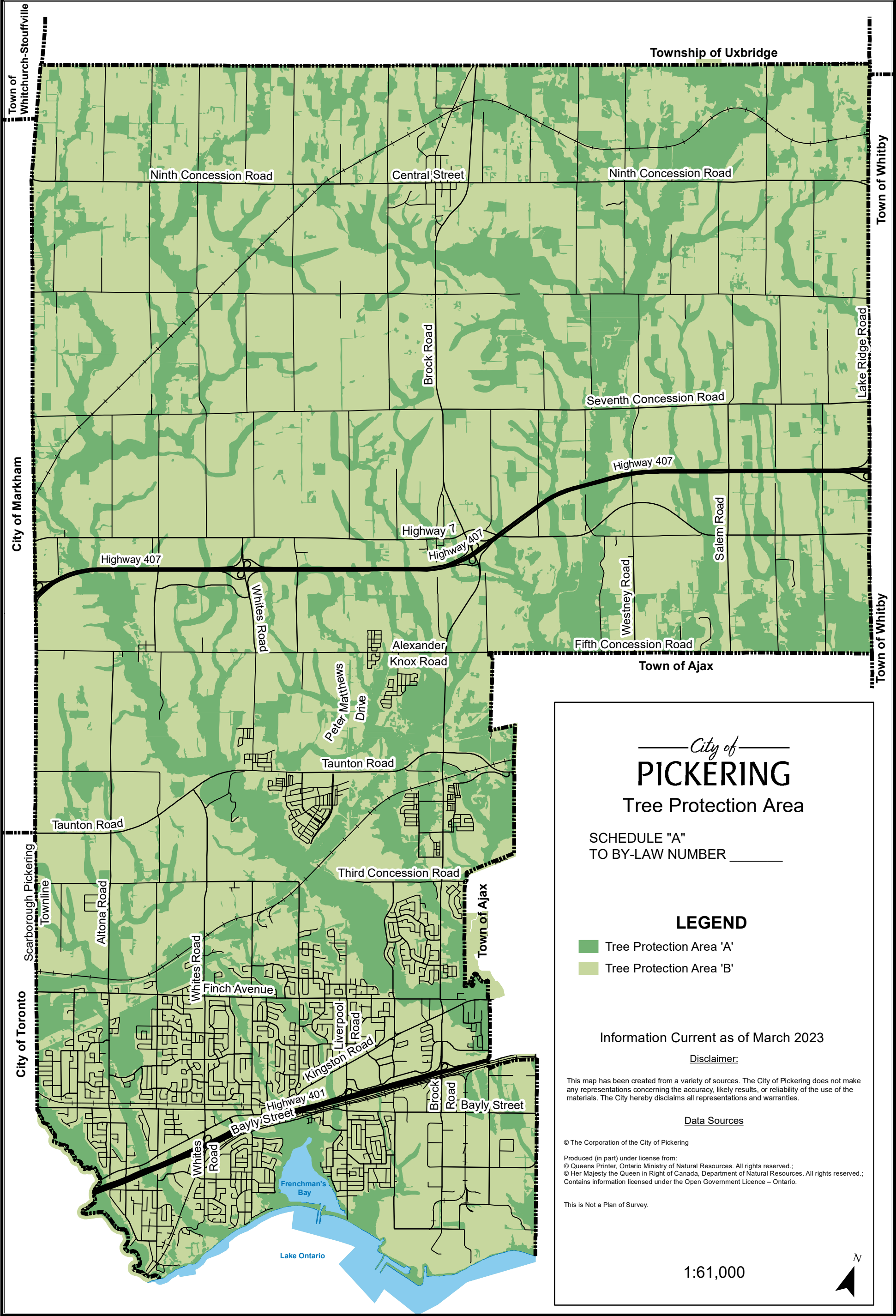
By-law passed this XX day of XXXX, 2023.

Draft

Kevin Ashe, Mayor**Draft**

Susan Cassel, City Clerk

Proposed Tree Protection By-law Screening Areas



City of PICKERING

Tree Protection Area

SCHEDULE "A"
TO BY-LAW NUMBER _____

LEGEND

- Tree Protection Area 'A'
- Tree Protection Area 'B'

Information Current as of March 2023

Disclaimer:

This map has been created from a variety of sources. The City of Pickering does not make any representations concerning the accuracy, likely results, or reliability of the use of the materials. The City hereby disclaims all representations and warranties.

Data Sources

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Legislative Services Division
Clerk's Office
Directive Memorandum

March 30, 2023

To: Kyle Bentley
Director, City Development & CBO

Richard Holborn
Director, Engineering Services

From: Susan Cassel
City Clerk

Subject: Direction as per Minutes of the Meeting of City Council held on
March 27, 2023

Tree Protection Private Property

Council Decision

Resolution #144/23, 145/23

That Item 12.5, Tree Protection Private Property, be referred to Staff to incorporate into the existing work plan.

A copy of the Notice of Motion is attached for reference.

Please take any action deemed necessary.

Susan Cassel

Copy: Chief Administrative Officer

Notice of Motion

Tree Protection Private Property

Date: March 27, 2023

Moved By: Lisa Robinson

Signature:



Seconded By: Maurice Brenner

Signature:



WHEREAS: The August 2020 SGL report “Infill and Replacement Housing In Established Neighbourhoods Study” identified the need for additional tools to manage change related to infill and replacement housing in established neighbourhoods;

And Whereas, The study identified as a major concern, loss of mature trees and landscaped open space;

And Whereas, The current tree protection by-law protects and regulates trees only to the extent that it applies to trees within certain identified “environmentally sensitive” areas of the City;

And Whereas, A tree by-law on private property would assist in addressing and protecting our tree canopy by implementing regulations to protect trees where possible and require the replacement of trees where appropriate to ensure a healthy and perpetual tree canopy within established neighbourhoods and can be applied to all communities;

And Whereas, This updated tool would provide the City with a more effective way to regulate tree removal and tree protection on private property during construction of either infill and replacement housing, additions to existing houses, construction of secondary structures, or new development or plans of subdivisions;

And Whereas, An updated tree protection by-law would affect all trees of a certain diameter on all private property;

And Whereas, A driveway width by-law would apply to the portion of the driveway on private property;

Now therefore be it resolved, that the Council for The Corporation of the City of Pickering directs through the Office of the CAO to:

1. Prepare a draft by-law that would regulate tree removal of a defined diameter on private property including infill development, replacement housing, additions to existing houses, construction of secondary structures, and draft plans of subdivision similar to the City of Toronto;
2. Prepare a draft by-law to protect trees from injury on private property during construction;
3. Develop a work plan to consult/engage community stakeholders, and includes the creation of an Urban Forest Master Plan modeled after the City of Brampton;
4. Prepare a draft by-law for the maximum driveway entrance/width and hard surfacing allowable on residential properties similar to the City of North York; and
5. Report back to The Executive Committee of Council with the draft by-law on the work plan no later than the June 2023 Executive Meeting.

Appendix E



OFFICE CONSOLIDATION

TREE PROTECTION BY-LAW

BY-LAW NUMBER 6108/03

Passed by Council on March 17, 2003

Amendments:

By-law 6191/03	October 14, 2003	Section 4(b) - Fees
By-law 7007/09	Dec. 21, 2009	Section 1(e) Schedule "A"

THE CORPORATION OF THE CITY OF PICKERING

BY-LAW NUMBER 6108/03

Being a by-law to prohibit and regulate the injuring, destruction or removal of trees in defined areas of the City of Pickering.

WHEREAS pursuant to Section 135(1) of the Municipal Act, 2001, S.O 2001, c. 25, as amended, a local municipality may prohibit or regulate the destruction or injuring of trees; and

WHEREAS the Council of the Corporation of the City of Pickering passed Resolution #125/02 on November 4, 2002 that directs staff to prepare a by-law that would require residents backing onto watercourse ravine areas to obtain a permit for felling healthy trees and that said by-law include a permit fee and fines for violation of the by-law and that the by-law clearly outline very limited circumstances where the felling of healthy trees would be permitted; and

WHEREAS Schedule III to the City of Pickering Official Plan has identified shoreline and stream corridors, wetlands and environmentally significant areas;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PICKERING HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law:

- a) “City” shall mean the Corporation of the City of Pickering;
- b) “Clerk” shall mean the Clerk for the Corporation of the City of Pickering or his designate;
- c) “Council” shall mean the Council of the Corporation of the City of Pickering;
- d) “dbh” shall mean the diameter of the stem of a tree measured at a point that is 1.5 metres above ground;
- e) “Tree Protection Area” includes areas designated as Shorelines and Stream Corridors, Wetlands and Environmentally Significant Areas and areas within 30 metres on lands adjacent thereto as set out in Schedule “A” attached hereto.
- f) “Good Forestry Practice” shall mean the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and which minimize detriments to forest values including significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health; and the aesthetics and recreational opportunities of the landscape. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;
- g) “Officer” shall mean a person assigned by the Clerk to enforce the provisions of this by-law;
- h) “Owner” shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent; and
- i) “Site” shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed.

EXEMPTIONS

2. The provisions of this by-law do not apply:

- a) to activities or matters undertaken by the City, the Regional Municipality of Durham, or a local board thereof;
- b) to lands owned by, regulated by or to activities or matters undertaken by the Toronto and Region Conservation Authority or the Central Lake Ontario Conservation Authority;
- c) to activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- d) to the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- e) to the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- f) to the injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- g) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that Section;
- h) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- i) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - ii) on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- j) trees measuring less than 25 millimetres dbh;

- k) in areas that are not defined as a “Tree Protection Area” by this by-law;
- l) to activities or matters prescribed by regulations pursuant to the *Municipal Act, 2001*;
- m) to the removal of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good forestry practice;
- n) to woodlots that are governed by By-law Number 148-91 of the Regional Municipality of Durham or its successor.

PROHIBITIONS

- 3.
 - a) Unless otherwise exempted by this by-law, no person shall injure or destroy a tree in a Tree Protection Area without a permit issued under this by-law.
 - b) Where a permit has been issued pursuant to this by-law, no person shall injure, destroy or remove a tree except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

REQUIREMENTS FOR AN APPLICATION

- 4.
 - a) Unless otherwise exempted by this by-law, every person who intends to injure, destroy or remove a tree within an Tree Protection Area by cutting, burning, bulldozing, lacerating, chemical application or any other means, shall apply for and obtain a permit.
 - b) A person applying for a permit to injure, destroy or remove a tree shall submit a completed application form, along with the required plans, information and fee of \$100.00 to the Clerk.
 - c) Applications shall be made on a form approved by the Clerk.

REQUIREMENTS FOR ISSUANCE OF PERMIT

- 5. The Clerk shall issue a permit where:
 - a) the applicant has fulfilled all requirements of this by-law;
 - b) the proposed activity is associated with an existing use of the property including ongoing silviculture practices and selective thinning or harvesting of plantations, in accordance with good forestry practice;
 - c) the Clerk is satisfied that the proposed activity:

- (i) will not interfere with natural drainage processes;
 - (ii) will not result in soil erosion, slope instability or siltation in a watercourse;
 - (iii) will not have a significant impact on any healthy vegetation community within, and adjacent to the subject site;
 - (iv) will not have a significant impact on any fish or wildlife habitat within, and adjacent to the subject site;
- d) the owner, if required, enters into an agreement which may be registered on title in the subject lands containing such conditions as the Clerk considers necessary to ensure that the proposed activity will be undertaken in accordance with the approved plans and information. Such an agreement may contain a provision requiring the applicant to post with the City security in an amount determined by the Clerk to ensure performance of the obligations under the agreement;
 - e) the Clerk may impose conditions to a permit as in the opinion of the Clerk are reasonable, to ensure that the proposed activity is consistent with the provisions of paragraphs 5(a) to 5(d) above;
 - f) where silviculture or harvesting activity is proposed within a woodlot, one permit may be issued to authorize activity for an extended or ongoing period of time, on the basis of an acceptable forestry management plan;
 - g) the Clerk may refer any application, associated plans and information to municipal staff, public agency, advisory body and/or other qualified professional for comment prior to making a decision; and
 - h) A permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Clerk.

APPEALS

- 6. An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
 - a) if the Clerk refuses to issue a permit, within thirty (30) days after the refusal;
 - b) if the Clerk fails to make a decision on an application, within forty-five (45) days after the application and required plans and information are received by the Clerk; or,
 - c) if the applicant objects to a condition in the permit, within thirty (30) days after the issuance of the permit.

ADMINISTRATION

7.
 - a) The administration and enforcement of this by-law shall be performed by the Clerk and by such persons assigned by the Clerk.
 - b) If after inspection, the Clerk or Officer is satisfied that a contravention of this by-law has occurred, the Clerk or Officer may make an order requiring the person to stop the injuring or destruction of trees and the order shall contain particulars of the contravention.
 - c) A person to whom an order has been made pursuant to this by-law may appeal the order to the Council by filing a notice of the appeal to the Clerk within thirty (30) days after the date of the order.
 - d) As soon as practicable after a notice of appeal is filed, the Council shall hear the appeal and may confirm, alter or revoke the order.
 - e) The decision of Council under subsection 7(d) of this by-law is final.

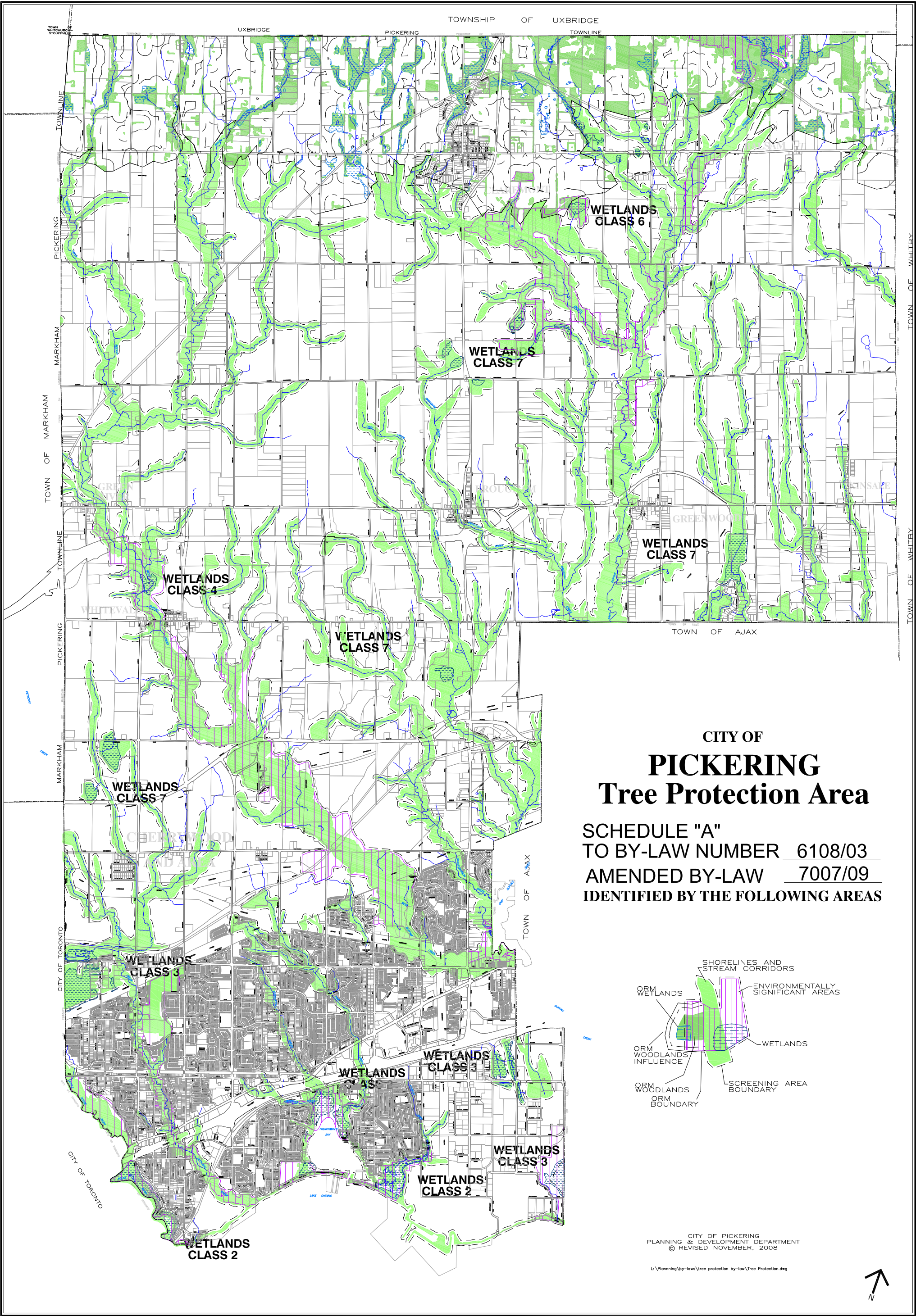
ENFORCEMENT

8.
 - a) Any person who contravenes any provision of this by-law or any order issued pursuant to this by-law is guilty of an offence and on conviction is liable:
 - (i) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
 - b) If a person is convicted of an offence for contravening this by-law or an order made under Section 7(b) of this by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

By-law read a first, second and third time and finally passed this 17th day of March, 2003.

(signed) Wayne Arthurs
Wayne Arthurs, Mayor

(signed) Bruce Taylor
Bruce Taylor, City Clerk





Tree Protection Survey

SURVEY RESPONSE REPORT

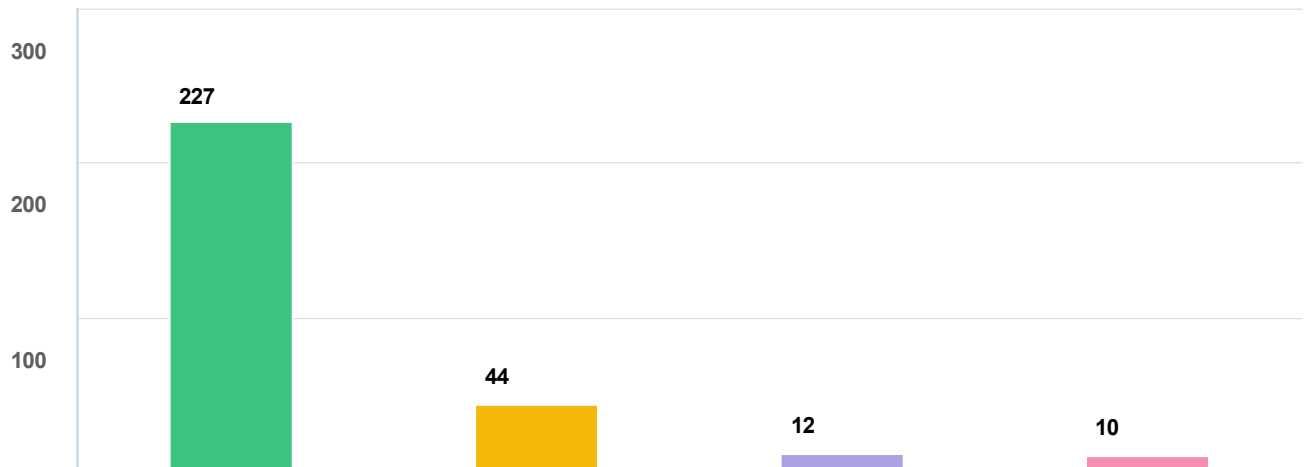
03 April 2023 - 30 April 2023

PROJECT NAME:

Tree Protection

SURVEY QUESTIONS

Q1 Do you live, work, or operate a business in Pickering? (Select all that apply)



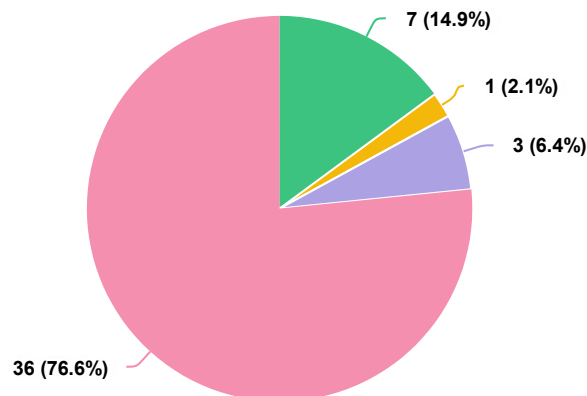
Question options

● Live
 ● Work
 ● Operate a business
 ● None of the above

Mandatory Question (246 response(s))

Question type: Checkbox Question

Q2 If you work or operate a business, are you an Arborist, Landscape Specialist, other Tree-related Business or Professional? (Select any one option)



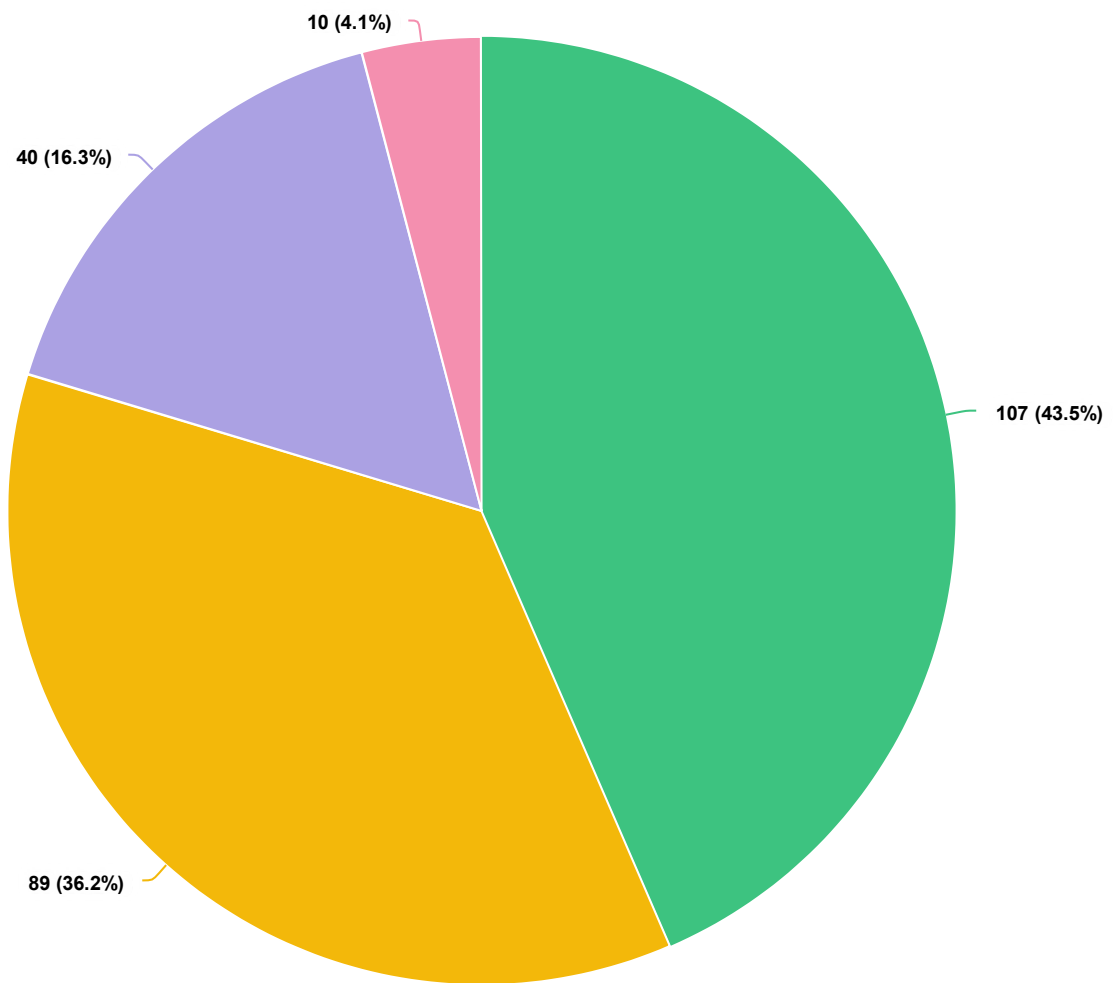
Question options

● Arborist
 ● Landscape Specialist
 ● Tree-related Business or Professional
 ● Other (please provide type of business, organization or profession)

Optional question (47 response(s), 199 skipped)

Question type: Dropdown Question

Q3 How familiar are you with the City's Tree Protection By-law 6108/03, as amended? (Select any one option)



Question options

● Was not aware of a By-law
 ● Somewhat familiar
 ● Have general knowledge
 ● High level of knowledge

Mandatory Question (246 response(s))

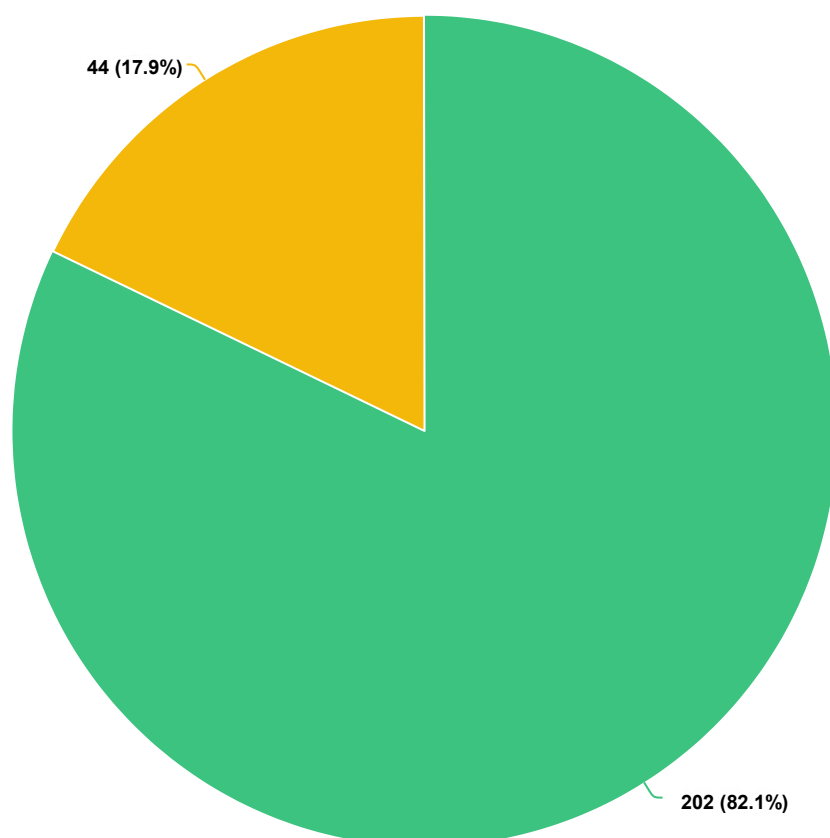
Question type: Radio Button Question

Q4 The City's Tree Protection By-law 6108/03 defined Screening Areas cover approximately 38% of the total land area of the City. This leaves approximately 62% of the City's land area outside of the Tree Protection By-law defined Screening Areas that are not protected.

The City's Tree Protection By-law contains a map (Schedule A) identifying the "Environmentally Sensitive Areas" as the current Tree Protection Area. Some of the reasons to expand the Tree Protection Area, in order to protect more of the existing tree canopy within the City, are to help:

- Improve air quality;
- Remove carbon dioxide from the atmosphere;
- Lower temperatures within the City and reduce the urban heat island effect;
- Decrease the volume of storm water run-off; and
- Contribute to a visually pleasing place.

Should the City expand the current Tree Protection Area to include all of the lands within the City? (Select any one option)

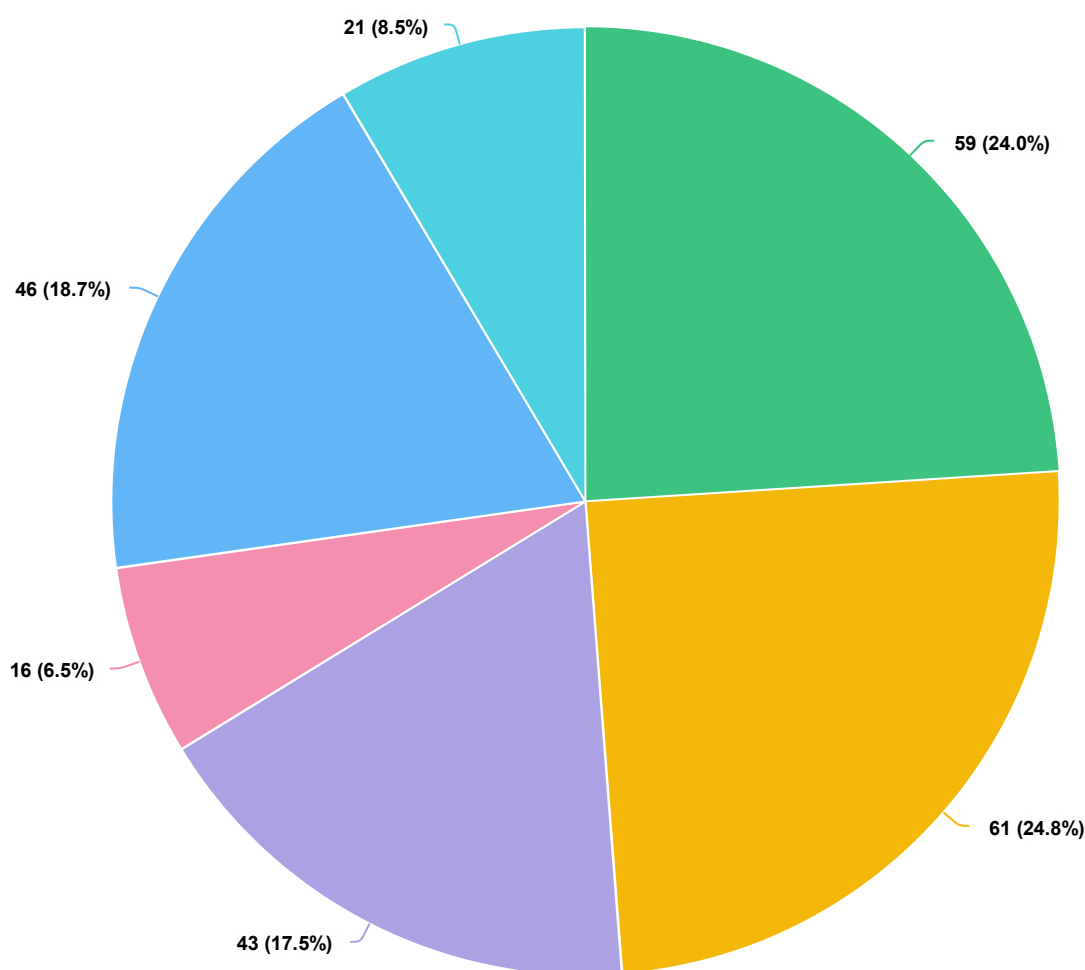


Question options

● Yes ● No

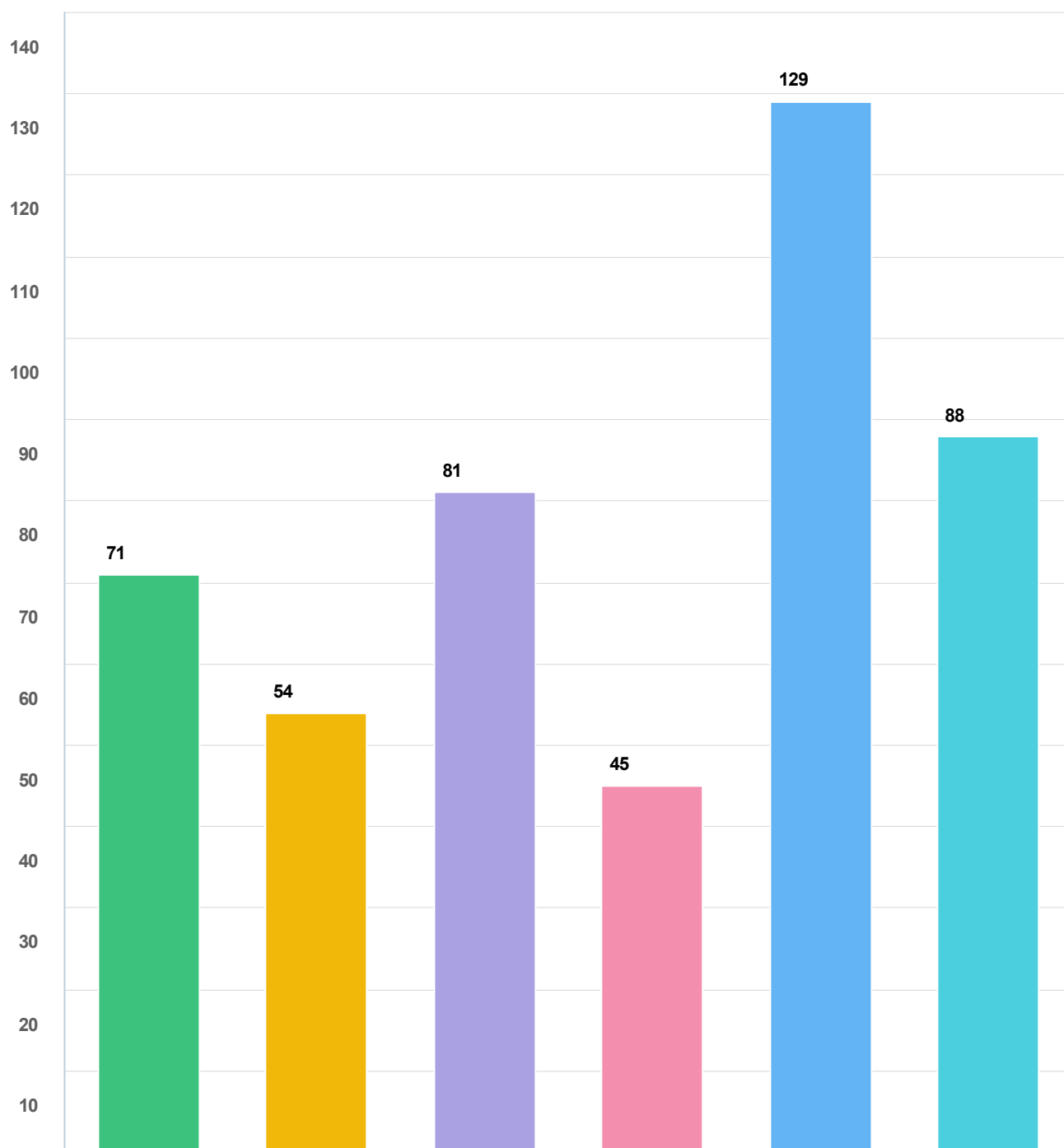
Q5 The current Tree Protection By-law regulates trees located within "Environmentally Sensitive Areas", measuring 25 millimetres / 1 inch (about the size of a loonie) or greater in DBH (thickness). The decision to regulate these trees is because they are within areas that are either woodlands, valley lands and stream corridors, wetlands or a combination of them; the intent is to protect as many trees as possible within the "Environmentally Sensitive Area".

In the City of Pickering, for lands outside of "Environmentally Sensitive Areas" (i.e. tree on private property), what should the minimum size of a protected tree be? (Choose any one option)



Question options

- 10 centimetres / 4 inches (diameter of an orange)
- 15 centimetres / 6 inches (diameter of a grapefruit)
- 20 centimetres / 8 inches (diameter of a volleyball)
- 25 centimetres / 10 inches (diameter of a watermelon)
- 30 centimetres / 12 inches (diameter of a pumpkin)
- Other (please specify)

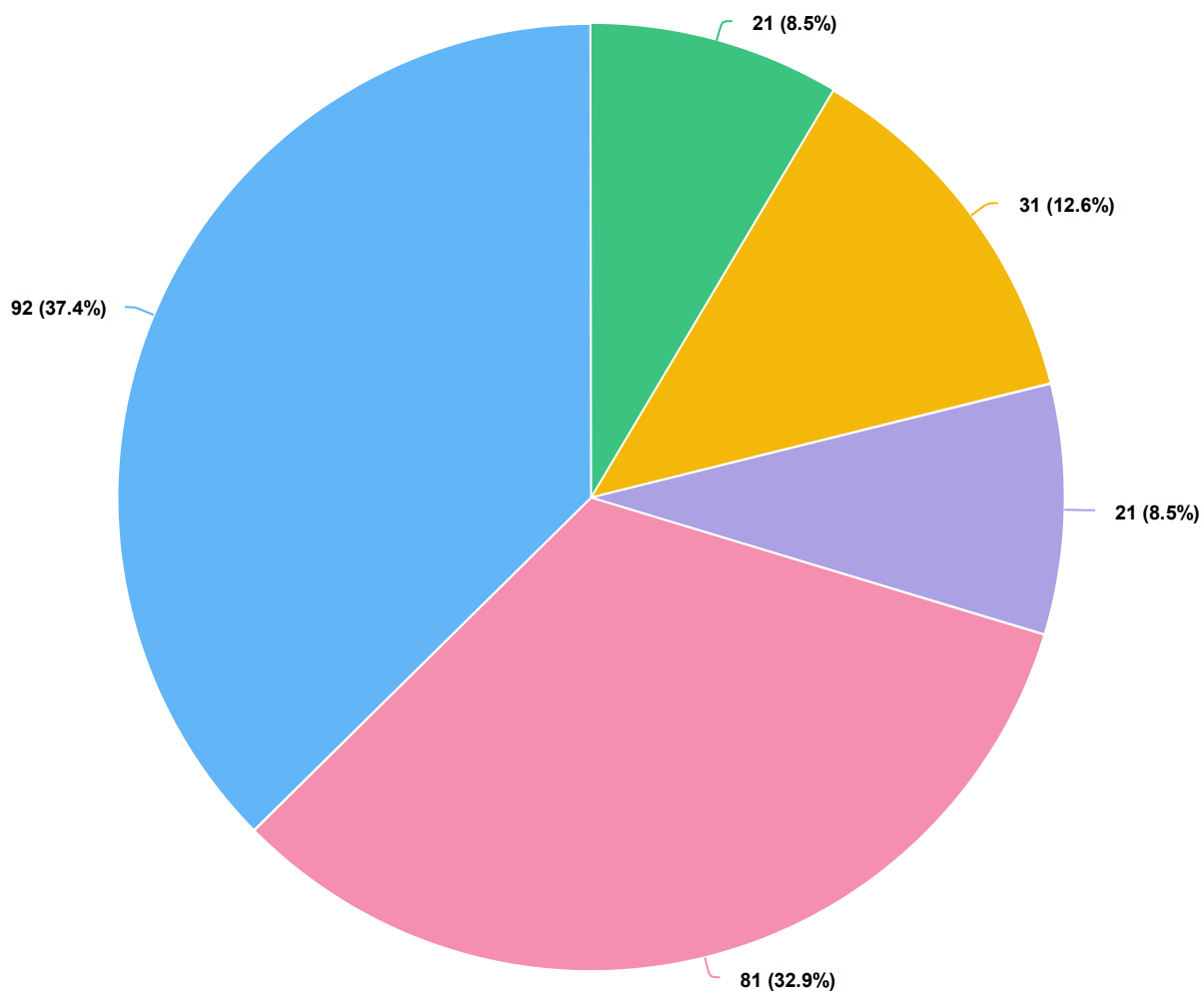
Q6 If you are seeking tree removal on your property, what would you hope to accomplish? (Select all that apply)**Question options**

- Improve visual aesthetics (i.e. increase natural light exposure)
- Addition to existing dwelling/building
- Add features to my property (i.e. shed, pool, deck)
- Developing a property (i.e. building a new house or building)
- General Maintenance (i.e. upkeep of fallen leaves, root control/grass growth issues)
- Other (please specify)

Mandatory Question (246 response(s))

Question type: Checkbox Question

Q7 How likely is it that you will be removing tree(s) on your property within the next two years? (Select any one option)



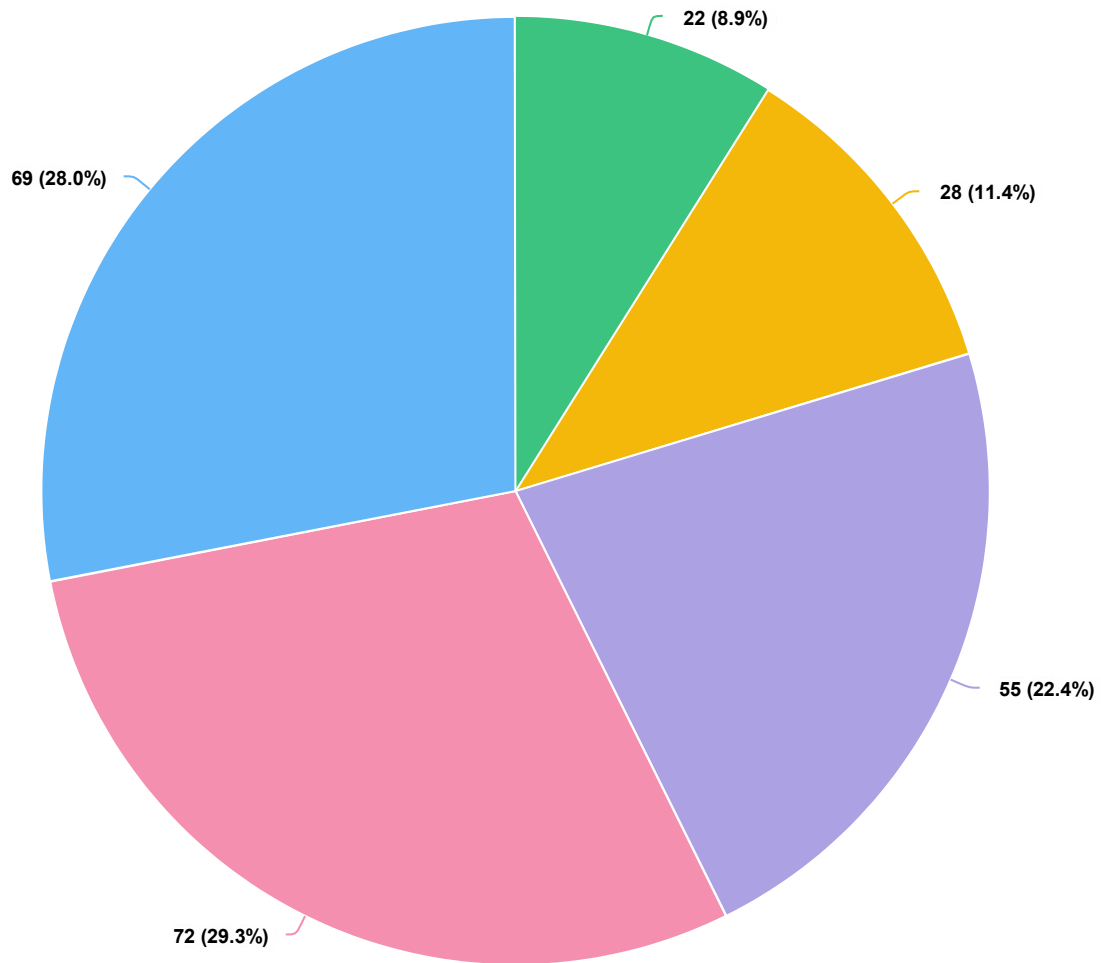
Question options

● Likely
 ● Somewhat likely
 ● I don't know
 ● Not likely
 ● Not at all

Mandatory Question (246 response(s))

Question type: Radio Button Question

Q8 How likely is it that you will be removing tree(s) on your property in more than two years from now? (Select any one option)



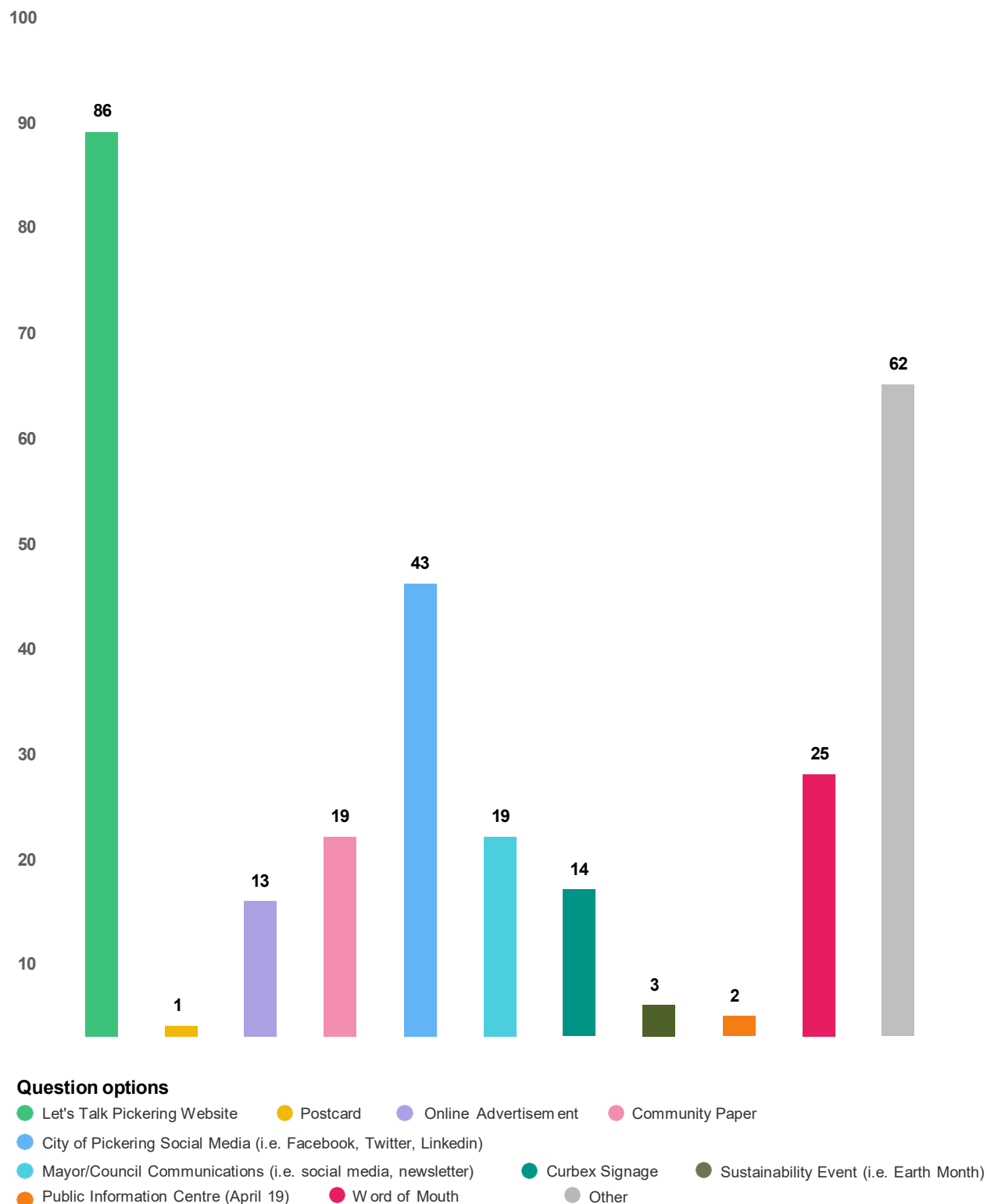
Question options

● Likely
 ● Somewhat likely
 ● I don't know
 ● Not likely
 ● Not at all

Mandatory Question (246 response(s))

Question type: Radio Button Question

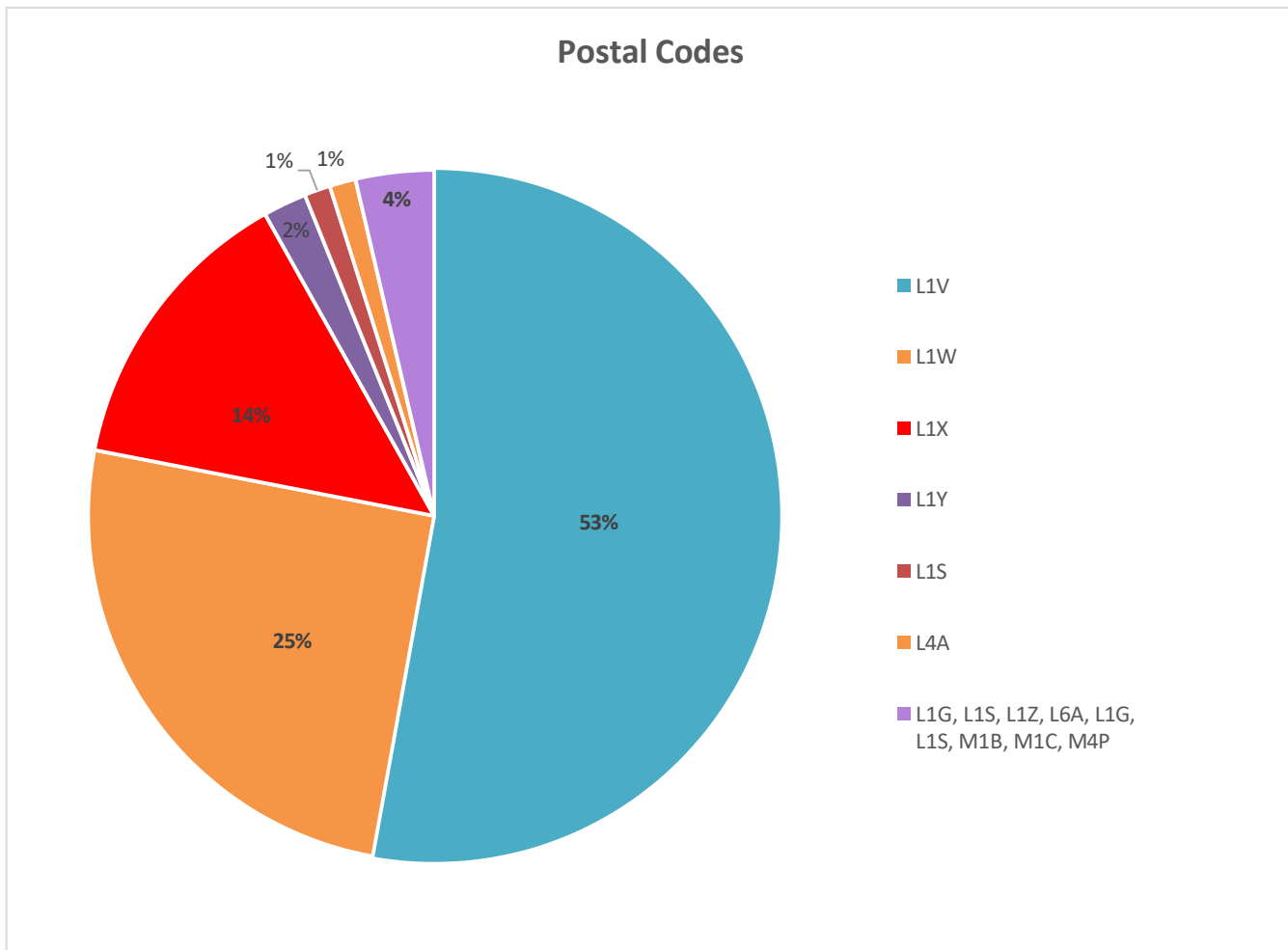
Q9 How did you hear about this Project? (Select all that apply)



Optional question (242 response(s), 4 skipped)

Question type: Checkbox Question

Q10 For geographic purposes, what is your postal code?



SURVEY COMMENTS

An overview of the general comments received is provided below:

- Trees on private properties are the responsibility of the property owner and does not require government intervention, especially if planted by the property owner;
- Great to see tree protection taken more seriously in the City and fully supportive of expanding tree protection, planting greater diversity of trees (with proper planting and maintenance practices) to encourage vibrant colors and pollination;
- Cost of tree removal is expensive, acting as a deterrent for those looking to remove without necessity;
- Removal should be allowed if the tree poses a risk to a property and/or human health;
- Beyond expanding the tree protection by-law, awareness, education and information are important in terms of creating awareness about tree species, and protection and providing circumference and height measurements would be helpful rather than just regulating diameter sizes;
- More trees should be planted on public lands and large open fields (i.e. power line towers) to help tree canopy rather enforcing regulation and its associated costs onto private property for tree removal;
- Work towards net-zero with an aggressive tree planting program, understand the intrinsic and calculated value of trees and urban natural areas, maintain green patches with forested trees, and create more parks- trees are essential to climate change, mental health, the natural environment and community property values;
- Has any research been conducted towards increasing tree protection and removing air pollution;
- There are safety issues generally overlooked in the tree protection by-laws;
- The cost to administer a tree protection by-law will be expensive to the City and property owners;
- Trees that have significant impact on indigenous people's historical/cultural/spiritual values and practices, are in a "tree dessert". During bird nesting season, trees provide protection to wildlife (place a condition to protect native species and increase biodiversity), trees are mature "mother trees" that promote ecological integrity, maintain neighbourhood character, provides significant shade, and locally rare or endangered species should not be removed;
- The Tree Protection By-law should be modelled after other municipalities, such as the City of Toronto, and examples looked to beyond local area (i.e. British Columbia, Quebec);
- Tree removals should not be permitted on vacant lots unless a building permit has been permitted;
- Trees should not have been removed from the waterfront;
- More attention needs to be paid to infill custom home builders through the permit process to take inventories of trees on a lot before permits are issued;
- Replace tree with similar size tree and within proximity to where the initial tree was;
- There needs to be more by-law enforcement, and before a removal request have City staff review the site in-person and ensure not more than 50% of the tree canopy on a property is removed;
- Minimum trimming standards are to be provided for trees sharing a property line since uninformed trimming can result in the tree dying over time;
- Saving trees when subdivisions are created is very difficult. This is especially true as density increases and lots get smaller. Subdivisions are required to incorporate plans to control surface water in development plans. Trenches are required on individual lots to properly direct surface water runoff. Also flood plains are included in subdivision plans where required.
- Overgrown trees can present a path for vermin and pests to reach the homes with misplaced trees affecting the marketability of homes. In time, trees become overgrown and often die over a long period of time, during which they present a falling hazard during storms.
- Even the most ardent environmental alarmist would have difficulty making the case that a shortage of trees in urban Pickering has a material effect on the climate.
- Existing forests and selected trees within subdivisions can be protected by the current subdivision approval process. Changes to construction plans should be considered to protect trees rather trees being removed in favor of urban sprawl; and
- The value of a tree and its role in climate change is greater than \$100,000; the fines need to be increased significantly, with both the property owner and tree removing specialist severely charged and respective companies being levied.