

# COUNCIL WORKSHOP

## TREE PRESERVATION & ENHANCEMENT POLICY DEVELOPMENT AND THE PRIVATE TREE BYLAW UPDATE

**November 22, 2021**



# WORKSHOP AGENDA

1:00 – 1:10	Introduction, Workshop Goals and Objectives
1:10 – 1:15	Why do we need a Policy?
1:15 – 1:30	Proposed Policy Statements and Public Feedback
1:30 – 2:20	Discussion
2:20 – 2:30	<b>Break</b>
2:30 – 2:40	Private Tree By-law Progress Update
2:40 – 3:10	By-Law Amendments and Public Feedback
3:10 – 3:55	Discussion
3:55 – 4:00	Next Steps



# WORKSHOP OBJECTIVES

## **PART A – URBAN TREE CANOPY GUIDING PRINCIPLES**

1. Share the proposed Guiding Principles for the City’s Urban Forest Canopy
2. Confirm and receive direction for any refinements to the Principles

## **PART B – PRIVATE TREE BY-LAW UPDATES & DISCUSSION**

1. Share additional information gathered related to the Private Tree Bylaw
2. Discuss the 15 amendments (from the June 10, 2021 EICS Meeting)
3. Confirm and receive direction for updates to the current Private Tree Bylaw



# WHY DO WE NEED A POLICY?

- To guide approaches and practices that support the urban forest on City-owned and non-City owned lands within the Municipality in a consistent way
- To frame and direct:
  - Urban Forest Master Plan Update
  - Public and Private Tree Bylaw Updates
  - Non-Forestry led programs with Urban Forestry Impact
- To identify constraints and opportunities related to protecting and establishing trees as part of public infrastructure, utilities, boulevard planting and construction projects



# A BALANCING ACT

## **Reliance on private lands for long term success**

35% canopy target; City owns 15% of land

## **Moderate approach to tree preservation**

Too restrictive and too lenient both have negative consequences

## **Socio-environmental factors**

Policy needs to balance priorities of both environmental and social factors to tree preservation



# URBAN CANOPY GROWTH STRATEGIES

## **Regulation-based**

Protect and maintain assets 'we' currently have

## **Incentive-based**

Plant More Trees – but in the right way



# TREE PROTECTION & ENHANCEMENT POLICY

**Municipal Act, section 270(1)**  
***A municipality shall adopt and maintain policies with respect to the following matters:***

***(7) The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality***



# PUBLIC ENGAGEMENT

## Public Information Session

- October 28, 2021, 7 – 8:30 pm (virtual)
- 32 participants

## On-line Survey

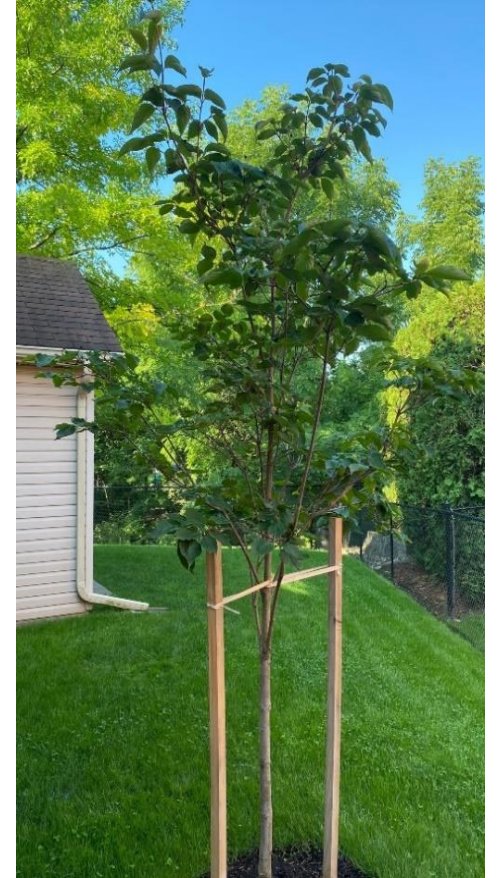
- 16 questions
- October 21, 2021 - November 12, 2021
- 321 respondents



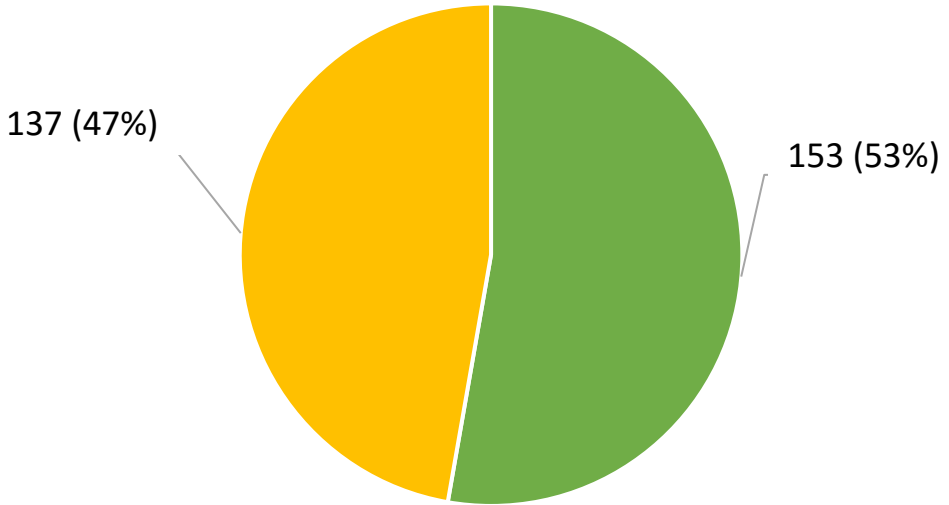


# GUIDING PRINCIPLE #1: TREE PLANTING & REPLACEMENT

1. The City supports tree planting initiatives of all scales on public and private properties
2. Tree planting shall be completed in accordance with standards and best management practices
3. Trees will be planted with sufficient access to high quality soils with adequate volumes
4. Where a tree is removed, compensation for canopy loss will be provided
5. Increasing diversity builds resilience and will be a primary measure to which tree species selection is based

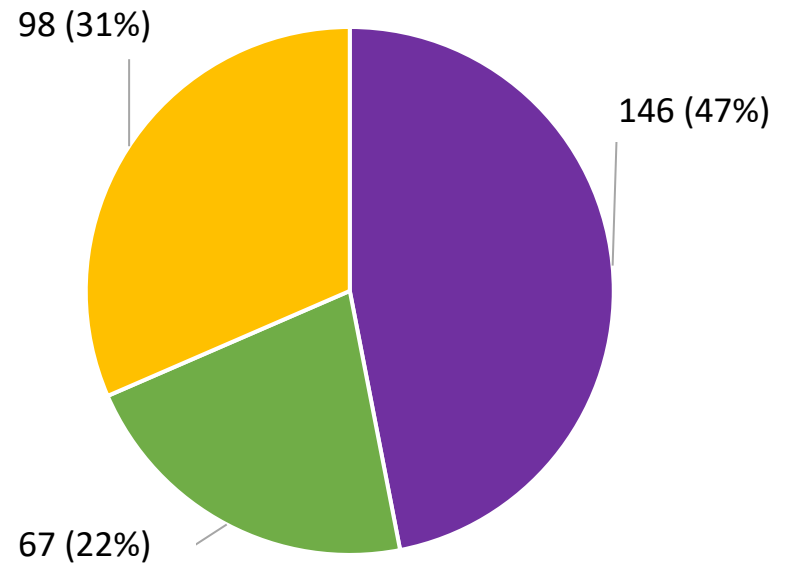


To ensure replacement trees are planted properly, which action do you support:



- Applying automatic cash-in-lieu of replacement fees to the property tax roll if non-compliant (after 1 year).
- Holding a security deposit until the trees are planted.

Cash in Lieu of Replacement



- Decrease
- Increase
- Stay the same

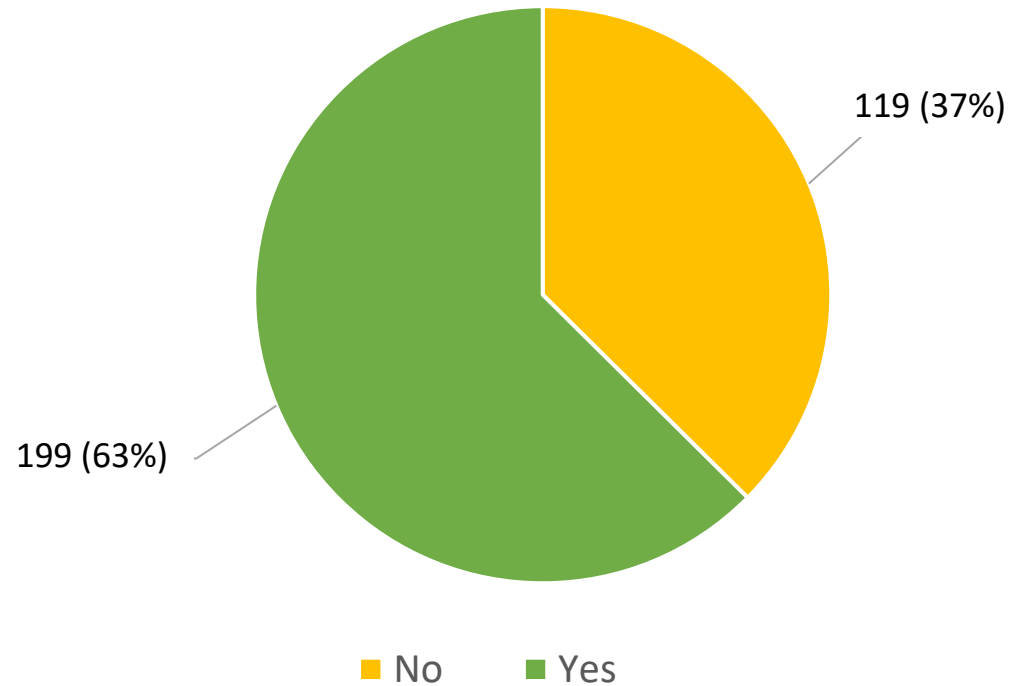


# GUIDING PRINCIPLE #2: PROTECTION & PRESERVATION

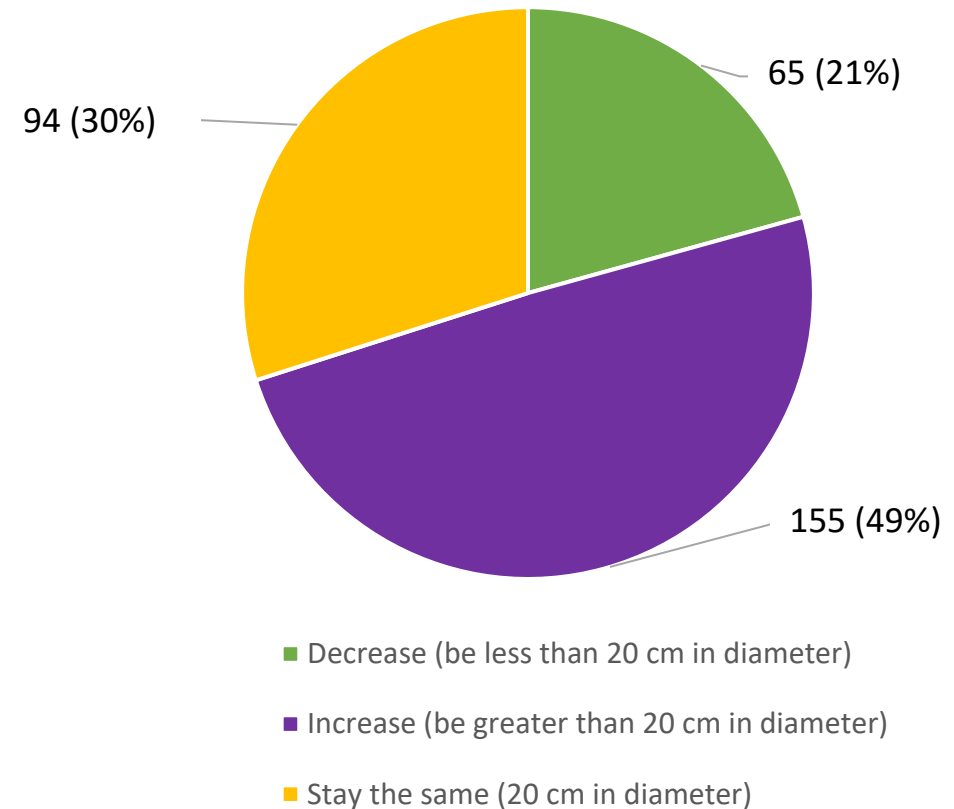
1. The City supports the preservation and protection of trees on public and private property
2. The City will take an adaptive management approach to strategies that support tree protection and preservation
3. Urban Forest management is a shared responsibility, that requires all stakeholders to work together to protect and preserve trees
4. Trees should not be removed solely for the reasons of aesthetics or nuisance
5. All trees are valuable and larger significant trees require special consideration



### Do you think there should be extra protection for significant trees



### The Private Tree Bylaw currently regulates the removal of trees 20 cm in diameter or greater (about the size of a dinner plate). Do you think the size of a regulated tree should:



# GUIDING PRINCIPLE #3: ASSET MAINTENANCE



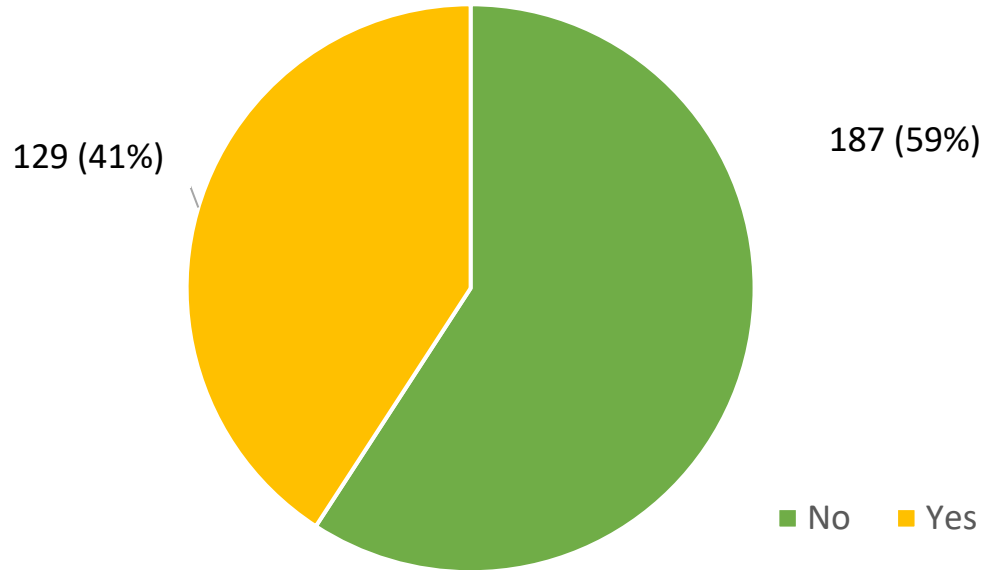
1. The City supports a healthy urban forest through the promotion of ongoing and regular maintenance of trees in accordance with good arboricultural practice
2. The Urban Forest is an important part of the City's green infrastructure and will be maintained accordingly
3. Various management strategies shall be explored and considered to maintain trees prior to removal
4. Proper maintenance shall be used to mitigate risk to ensure safety
5. The management of the urban forest shall be focused on proactive strategies

# GUIDING PRINCIPLE #4: OUTREACH & ENGAGEMENT

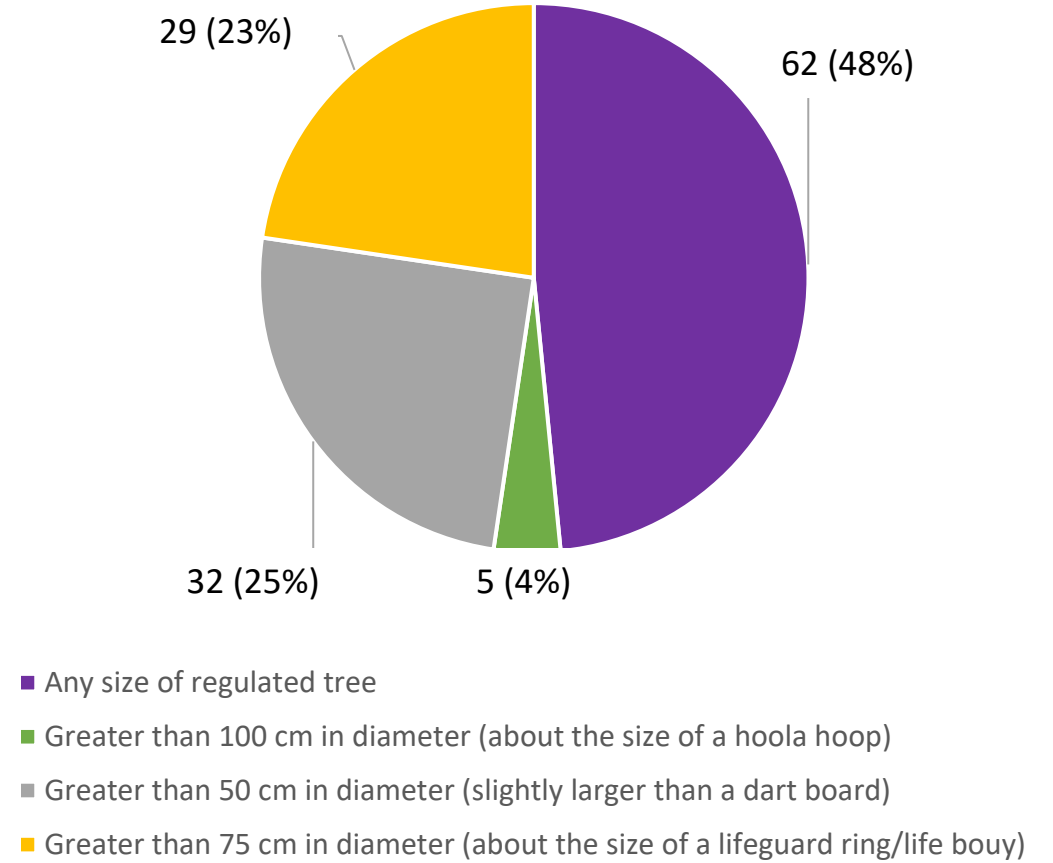
1. The City will actively pursue opportunities to engage with members of the community and other stakeholders and partners to promote stewardship
2. The City will take an active role in educating members of the community to increase awareness on urban forestry related issues and topics
3. Communication methods will be transparent, truthful, and equitable
4. The Urban Forest is a community resource, and all residents deserve equitable access to its benefits



### Do you think neighbours should be notified of a tree permit through mandatory posting of permits?



### If yes, what size of tree should trigger a permit posting?



# DISCUSSION





**BREAK**



# PRIVATE TREE BYLAW BACKGROUND



# AMENDMENTS & GUIDING PRINCIPLES

## **THEME 1**

**WITHIN THE EXISTING BYLAW AND/OR PROCESS RELATED TO AN EXTENT**

## **THEME 2**

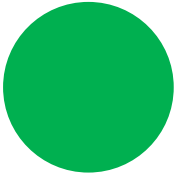
**AMENDMENT TO EXISTING BYLAW AND/OR PROGRAM PROCESS**

## **THEME 3**

**POLICY AND/OR PROCEDURAL CHANGE**



# THEME 1:



**Amendment 9:** *If the applicant is unable to plant replacement trees, then they will pay cash in lieu of \$400 per tree to the City.*

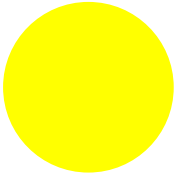
**Amendment 10:** *All cash in lieu replacement fees will be used entirely for planting trees, not administration costs.*

**Amendment 14:** *All other aspects of City Private Tree By-law 02-2020 will be reviewed by City staff, including Legal Services, in alignment with amendments identified and approved by Council and a revised version brought back for approval in September 2021*

**Amendment 15:** *Amended City Private Tree By-law 02-2020 again be brought back for review of effectiveness and process efficiency, one year after its implementation date.*



# THEME 1: DISCUSSION



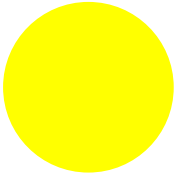
**Amendment 1:** *Adopt a Simplified, on-line, tree residential removal permit issuance that requires no mandatory inspection.*

Pros	Cons
<ul style="list-style-type: none"><li>• Faster permit issuance</li><li>• Less admin time required</li><li>• May lead to lower program costs</li></ul>	<ul style="list-style-type: none"><li>• No ability to verify tree size, condition, or compensation requirements</li><li>• Potential increase in violations and enforcement requirements and legal resources</li></ul>

**Staff Proposed Amendment 1:** *Adopt a simplified, on-line, tree residential removal permit application where no mandatory inspection is required depending on the nature of the removal (e.g., dead trees).*



# THEME 1: DISCUSSION



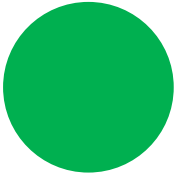
**Amendment 2:** *Tree permits will be required to remove any tree greater than 20 cm's in diameter other than one that has physically fallen, irrespective of species or state of health, unless the City or its agents require that tree(s) be removed*

Pros	Cons
<ul style="list-style-type: none"><li>• Simplified diameter threshold makes the bylaw easier to understand</li><li>• Eliminates consideration/challenges surrounding hedges</li></ul>	<ul style="list-style-type: none"><li>• Tree injuries not considered permissible</li><li>• Health (and structure) of the tree not considered</li><li>• Potential for lot clearing for any tree less than 20 cm in diameter</li><li>• Hedges no longer protected</li></ul>

**Staff Proposed Amendment 2:** *Tree permits will be required **to injure** or remove any tree greater than 20 cm's in diameter other than one that has physically fallen **from natural causes**, unless the City or its agents require that tree(s) be removed **under the Property Standards Bylaw***



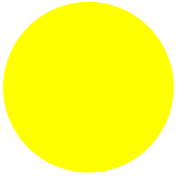
# THEME 2



**Amendment 3:** *Trees less than 20cms in diameter do not require a permit*



# THEME 2: DISCUSSION



**Amendment 7:** *In the event that a property, which is subject to a tree removal application, is sold then the responsibility to plant outstanding replacement trees or pay cash-in-lieu remains the responsibility of the seller.*

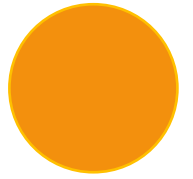
Pros	Cons
<ul style="list-style-type: none"><li>• Ensures a measure for replacement</li></ul>	<ul style="list-style-type: none"><li>• May require multiple resources and department involvement (e.g., finance) to implement accordingly</li><li>• Complicated process</li></ul>

**Staff Proposed Amendment 7:** *A security deposit is held for replacement trees*





# THEME 2: DISCUSSION



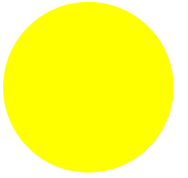
**Amendment 11:** *Enforcement of the Burlington Private Tree Bylaw shall be the responsibility of Bylaw Enforcement Department*

Pros	Cons
<ul style="list-style-type: none"><li>• Enforcement undertaken by Municipal Law Enforcement Officer with extensive experience with court proceedings and issuance of tickets</li></ul>	<ul style="list-style-type: none"><li>• No foreseeable cost savings with respect to transfer of responsibility as additional MLE staff would be required</li><li>• Forest Protection staff support Bylaw Enforcement Department currently on hazardous trees as subject matter experts</li><li>• Reassignment of Forest Protection staff to bylaw enforcement will not yield any process efficiencies</li></ul>

**Staff Proposal – Do not incorporate**



# THEME 3: DISCUSSION



**Amendment 5:** *A tree permit will be \$300.00*

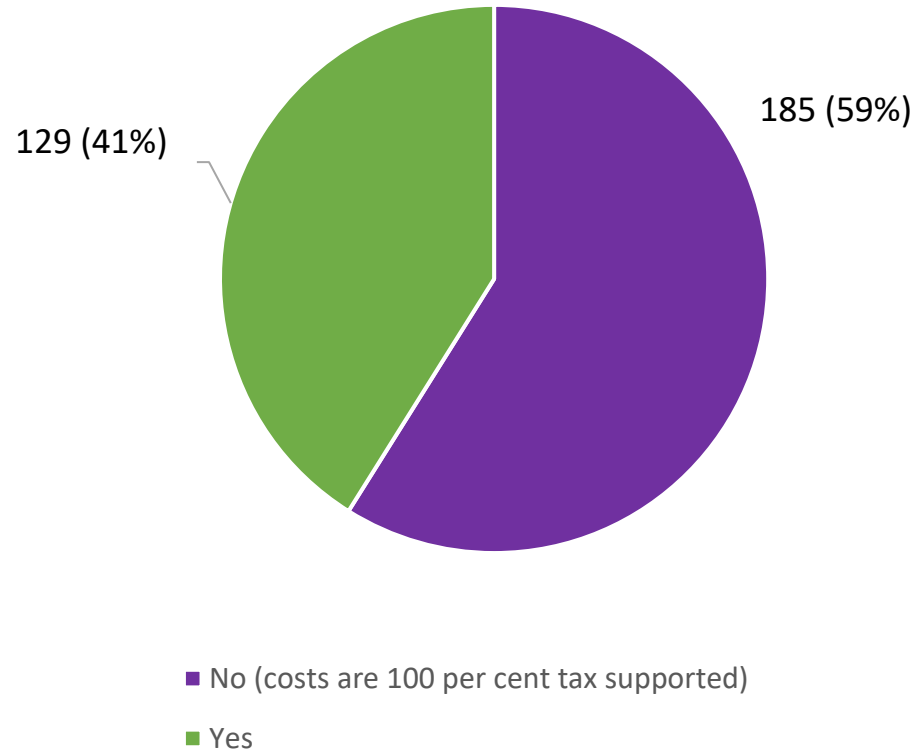
Pros	Cons
<ul style="list-style-type: none"><li>• Easy to understand process</li></ul>	<ul style="list-style-type: none"><li>• Introduces inequities amongst applicants (e.g., applicant removing a single tree due to maintenance and another building a house pay the same fee with very different review times).</li></ul>

**Staff Proposal:** Staff recommend a permit per tree approach

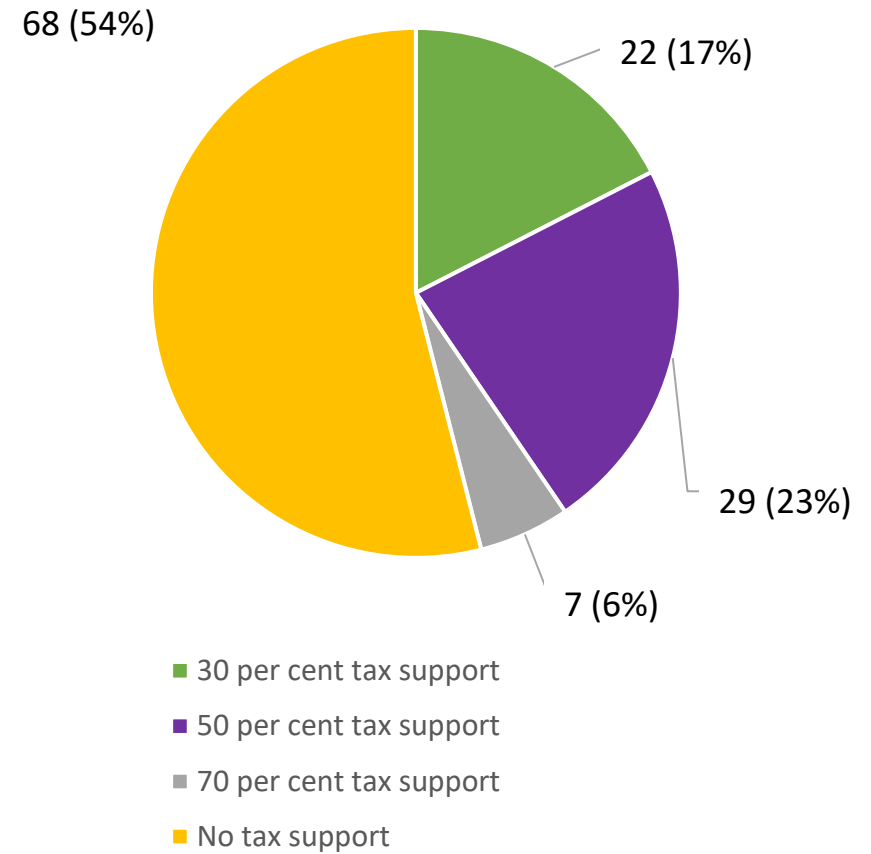
**Staff note:** This is expected to result in an 80% tax supported program if a permit per application approach is maintained



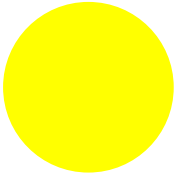
### Do you think there should be fees associated with a tree permit?



### If yes, please choose the percentage of the fee to be subsidized by the tax base.



# THEME 3: DISCUSSION



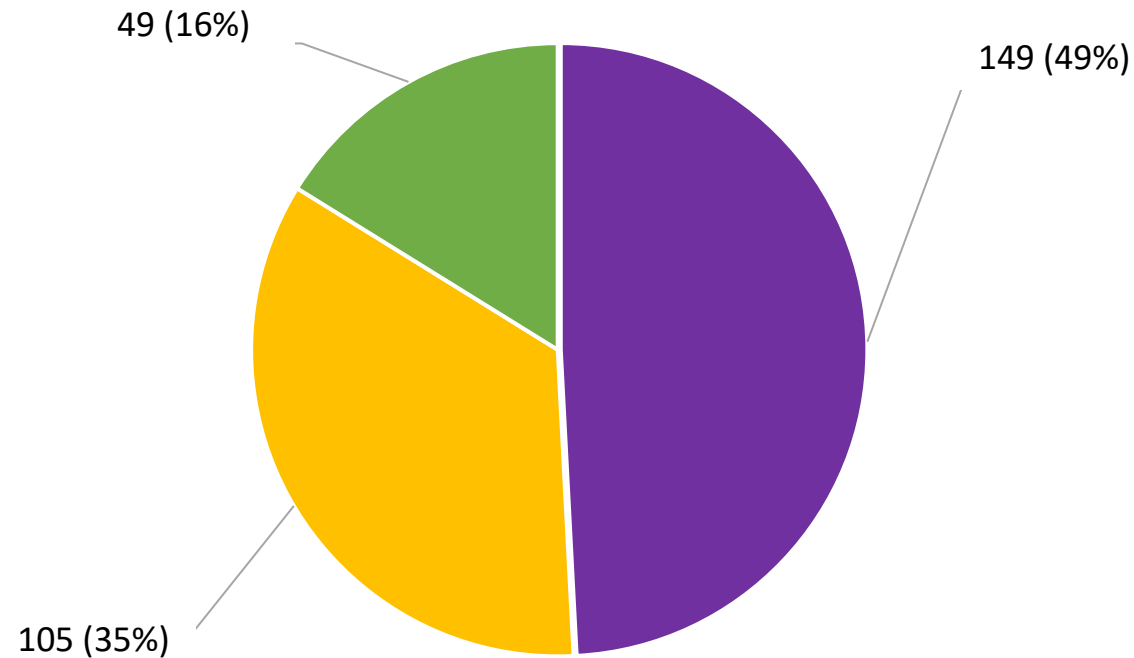
**Amendment 6:** *The applicant is responsible to provide two (2) acceptable replacement trees for each individual tree removed*

Pros	Cons
<ul style="list-style-type: none"><li>• Easy to understand compensation process</li></ul>	<ul style="list-style-type: none"><li>• This format does not consider the size or condition of the tree to be removed</li><li>• This format introduces inequities amongst applicants</li></ul>

**Staff Proposed Amendment 6:** *The applicant is responsible to provide compensation for canopy loss through replacement trees or cash-in-lieu using the current method of calculation*

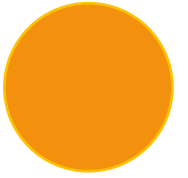


## What do you feel is a reasonable compensation ratio for cash in lieu of replacement?



- 1 replacement tree for every tree removed no matter the size of the tree removed.
- 1 tree for every 10 cm removed (current process) eg. 30 cm tree in healthy condition requires 3 trees (30/10=3).
- 2 replacement trees for every tree removed no matter the size of the tree removed.

# THEME 3: DISCUSSION



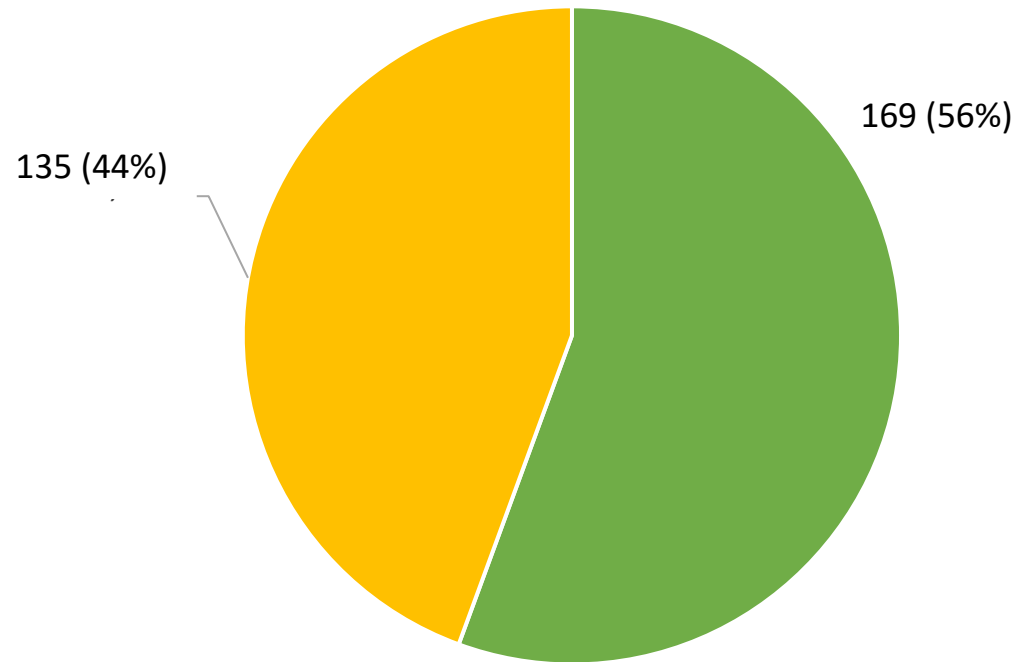
**Amendment 4:** *A tree permit will be sufficient for a single project, whether for one or several trees as identified in the application form*

Pros	Cons
<ul style="list-style-type: none"><li>• Easy to understand process</li></ul>	<ul style="list-style-type: none"><li>• Permit per application approach introduces inequities amongst applicants</li><li>• Per application approach does not consider difference in review times of different application types</li><li>• No disincentive to retain trees (i.e., same permit cost for 1 tree or 10 trees)</li><li>• Unable to recover costs for larger scale projects</li></ul>

**Staff Proposal:** Staff recommend a permit per tree approach

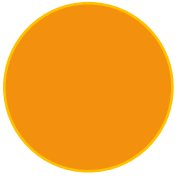


## Which option do you support with respect to the tree permit fee structure?



- Tree permit fee remains the same regardless of the number of trees proposed to be removed on the property (one tree permit per application)
- Tree permit fee will increase based on the number of trees proposed to be removed on the property (one tree permit per tree).

# THEME 3: DISCUSSION



**Amendment 8:** *Replacement trees may be planted by the applicant on their own property or by written agreement on another person’s private property. Costs to be born as agreed between the parties.*

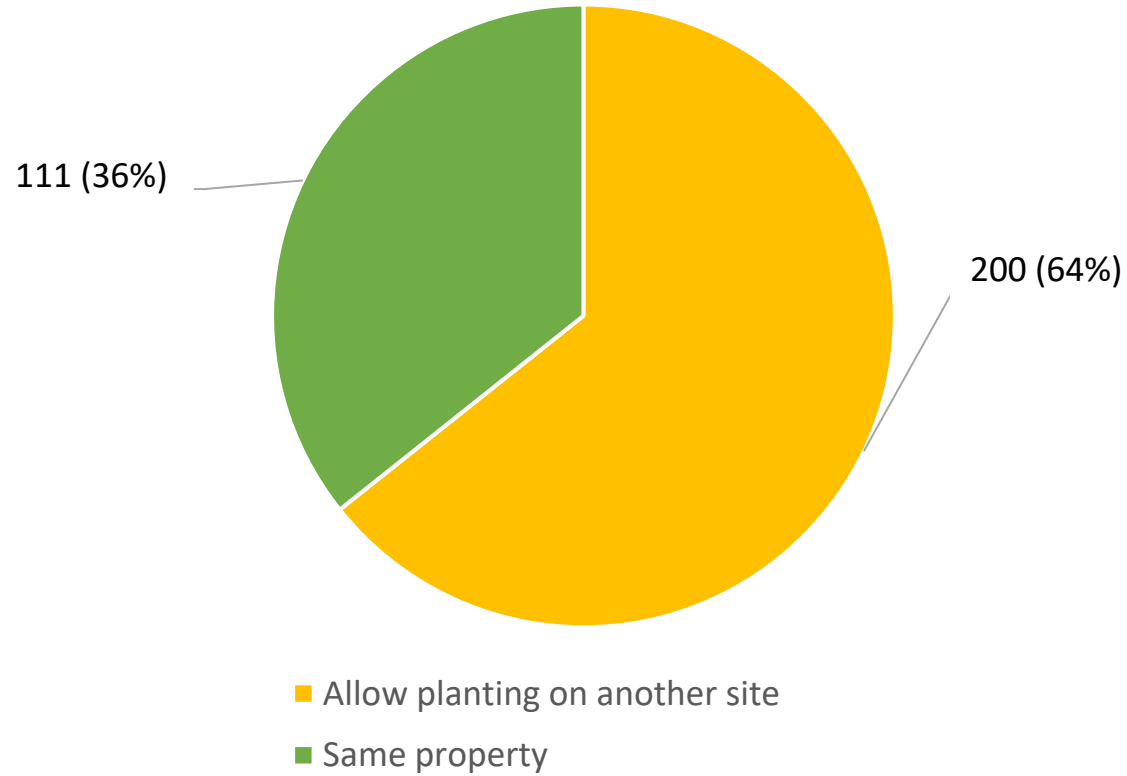
Pros	Cons
<ul style="list-style-type: none"><li>• Opportunity to plant trees on adjacent properties with viable planting locations</li></ul>	<ul style="list-style-type: none"><li>• Difficult to administer and follow up to ensure compliance</li><li>• Increase need in staffing requirements</li><li>• Places additional restrictions on another person’s property in terms of regulations if protection is provided to re-plantings</li></ul>

**Staff Proposed Amendment 8:** *Replacement trees may be planted by the applicant on their own property or pay compensation as cash in lieu of replacement*

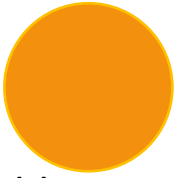




**Do you think replacement trees should be planted on the same property as the removal or allowed on another site?**



# THEME 3: DISCUSSION



**Amendment 13:** *City Arborist will make available a consultative service to residential permit applicants, should they wish to receive them. Such service should be provided within 5 days of application being received and may provide recommendations to the applicant. Applicant is under no obligation to accept such recommendations. There will be no regulatory role for Forestry staff with respect to private homes, renovations, extensions, swimming pools, decks, hot tubs, sheds or any other such property improvements*

Pros	Cons
<ul style="list-style-type: none"><li>• Opportunity to actively engage with the general public</li></ul>	<ul style="list-style-type: none"><li>• Introduces risk and liability to the City</li><li>• No measure to compensate for <b>additional</b> staff time.</li><li>• No regulatory measure eliminates any purpose of the bylaw</li><li>• Does not uphold goals where applicant has no obligation to accept recommendation for protection</li></ul>

**Staff Proposal – Do not incorporate**



# DISCUSSION



# NEXT STEPS

1. Follow-up with internal stakeholders and final draft of recommended policy, procedures and proposed by-law amendments – December 2021 / January 2022
2. Confirm revised permit process changes and prepare final draft of by-law with incorporated amendments - February 2022
3. Staff Report to EICS Committee – March 2022

