



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: August 24, 2021
Report Number: PDS.21.080
Title: Tree By-Law Update and Directions Report
Prepared by: Travis Sandberg, Planner II

A. Recommendations

THAT Council receive Staff Report PDS.21.080, entitled “Tree By-Law Update and Directions Report”;

AND THAT Council direct Staff to implement Option 1, as outlined in Staff Report PDS.21.080, which includes the following:

- a) To direct Staff to complete housekeeping updates to Municipal Tree Preservation By-law 2021-68, as necessary, in order to ensure coordination with any updates completed by the County of Grey regarding County Forest Management By-law 4341-06, as amended; and
- b) To consider the development of a Comprehensive Tree Strategy/Urban Forest Management Plan based upon completion of the Natural Heritage Study (in 2022 subject to budgeting).

B. Overview

This report provides an overview of the results of public survey and comments received by the Town regarding potential updates to the Town’s Municipal Tree Preservation By-law 2010-68. Recommendations with options are also included for Council’s consideration.

C. Background

As a result of the enactment of Bill 68, titled *Modernizing Ontario’s Municipal Legislation Act, 2016*, and public concern regarding tree cutting occurring within the municipality, Council provided direction to Staff in early 2019 to develop interim policies to provide for tree protection on private lands within the Municipality, while a more robust comprehensive corporate tree strategy is explored in 2020 with input from the Sustainability Committee.

In November 2019, Council directed Staff to complete additional public consultation to gain further feedback from the public. A public Open House was initially scheduled for March of

2020; however, it was postponed to March 24, 2021, due to restrictions imposed by COVID-19. A public survey was released following the March 2021 Open House to obtain further comment and feedback from the public with respect to tree preservation and protection in the Municipality. The public survey period was completed on May 14, 2021, and this report provides an overview of the general trends and results of the public survey and comments received through the public Open House process.

D. Analysis

Municipal Act Authority to establish a Tree By-law

Municipal authority to establish by-laws to regulate or prohibit the destruction or injuring of trees is provided under the Ontario Municipal Act, 2001 ("Municipal Act").

More specifically, Section 270 of the Municipal Act, requires municipalities to develop and maintain policies regarding the manner in which the municipality will protect and enhance tree canopy and natural vegetation in the Municipality.

In addition to Section 270, Section 135 of the Municipal Act, entitled "*Tree By-laws*" further outlines municipal authority to establish tree by-laws. Section 135 specifically provides for the following:

- S.135(1) provides authority for municipalities to prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law, subject to subsection (4).
- S.135(4) states that where an upper-tier by-law in respect of woodlands is in effect, the lower-tier municipality may not prohibit or regulate destruction of trees in any woodlands so designated in the upper-tier by-law.
 - o Note: unless the authority is delegated (s. 135(8) of the Act), the upper-tier municipality has the jurisdiction to prohibit or regulate the destruction of trees in "Woodlands". Woodlands means an area one hectare or more and as defined in the *Forestry Act*, meaning land with at least:
 - 1,000 trees, of any size, per hectare,
 - 750 trees, measuring over five centimetres in diameter, per hectare,
 - 500 trees, measuring over 12 centimetres in diameter, per hectare, or
 - 250 trees, measuring over 20 centimetres in diameter, per hectare,
 - but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.
- S.135(5) requires that in passing a by-law regulating or prohibiting the injuring or destruction of trees in woodlands, a municipality shall have regard to good forestry practices, as defined in the *Forestry Act 2001*.
- S.135(7) provides authority to municipalities, in a by-law passed under this section of the Act, to:
 - a) Require that a permit be obtained to injure or destroy trees; and

- b) Impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees
- S.135(12) outlines the statutory exemptions to any municipal tree by-law, which includes:
 - a) Activities or matters undertaken by a municipality or a local board of a municipality
 - b) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*
 - c) The injuring or destruction of trees licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey
 - d) The injuring or destruction of trees imposed after December 31, 2002, as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51, or 52, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections
 - e) The injuring or destruction of trees imposed after December 31, 2002, 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
 - f) 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
 - g) The injuring or destruction 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*
 - h) 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, 2001, c. 25, s. 135 (12); 2002, c. 17, Sched. A, s. 27 (3, 4).*

It is generally noted that the current County of Grey Forest Management By-law and the Town's existing Municipal Tree Preservation By-law both provide additional exemptions for agricultural uses.

As outlined above, the Town is authorized to enact by-laws to regulate or prohibit the injuring or destruction of trees within the municipality, with the exception of trees that are under the

authority of the County of Grey Forest Management By-law. The Municipal Act also provides authority to the Town to require permits for injuring/destruction of trees and to apply various conditions to the issuance of such permit.

Public Survey: Results and Emerging Trends

A public survey was launched on March 30, 2021, for a period of six weeks ending May 14, 2021. There was a total of 140 responses to the survey. The survey results report is attached as Attachment 1. An overview and general summary of the survey results and received comments is provided below:

1. General Support for tree preservation in the Settlement Area (combined 72.8% responding strongly/somewhat agree; combined 13.7% responding strongly/somewhat disagree). Other general comments/feedback:
 - Invasive species or dead/diseased trees should be removed
 - Depends on the land use (i.e., should be preserved on Development Lands outlined in the Official Plan)
 - Should not apply to private property
2. General support for tree preservation in the Rural Area (69.1% responding strongly/somewhat agree; combined 18.7% responding strongly/somewhat disagree). Other general feedback/comments:
 - Should only apply to farmers
 - Should not apply to private property
 - Should be in accordance with NEC and/or Conservation Authority processes
 - Rural owners should be permitted to maintain their own bush (general maintenance)
 - Should focus on protection on Escarpment and Bruce Trail
3. Support for tree protection on privately owned lands with a minimum 1.0ha lot area (combined 60.4% responding strongly/somewhat agree; combined 25.2% responding strongly/somewhat disagree). Other general comments/feedback:
 - Cutting for farming and general maintenance should be permitted; but should protect against clear-cutting
 - Should not apply to agricultural lands, but should apply to residential
 - Should apply to all lands 0.2ha in lot area and above
 - Should not apply to private lands
 - Should apply to urban areas and environmentally sensitive areas
 - Should apply to all properties – charges for clear-cutting
 - Should not apply to large properties as it restricts development
4. Slightly less support for tree protection on privately owned lands less than 1.0ha in lot area (combined 56.1% responding strongly/somewhat agree; combined 27.3% responding strongly/somewhat disagree). Other general comments/feedback:

- Individual trees should be permitted to be removed, especially if dangerous or diseased
 - No clear-cutting – removal of dead, diseased, or dangerous trees should be permitted
 - A threshold should be set for minimum diameter of tree that would require a permit
 - Should apply to Urban Areas, environmentally sensitive lands, and for species at risk
 - Should only apply for clear-cutting – no limit on firewood, diseased trees, etc.
 - Should be assessed by an arborist prior to removal
5. Strong support for financial compensation for unauthorized tree clearing (combined 67.4% responding strongly/somewhat agree; combined 16.7% responding strongly/somewhat disagree). Other general comments/feedback:
- Removal of dead/hazardous trees should be exempt
 - Personal firewood should be exempt; should only apply to large clearing for profit
 - Should apply to clear-cutting for development
 - Replacement of trees should also apply
 - Should not apply to private property
6. Strong support for the creation of an Urban Forest Strategy for Settlement Area (combined 73.9% responding strongly/somewhat agree; combined 12.3% responding strongly/somewhat disagree). Further general comments/feedback:
- Replacement policies should be included. Policies should aim to retain existing trees in development plans and to include planting on municipal properties and street trees in subdivisions
 - Only if the Town's budget can support it
 - Offer incentives in the development process to preserve existing trees
 - Include a municipal tree sale with discount prices
7. Support for the Town to invest financial and staff resources into tree management and protection (combined 71.2% responding strongly/somewhat agree; combined 16.6% responding strongly/somewhat disagree). Further general comments/feedback:
- Too many staff already, should not hire more
 - Initiatives should include a tree nursery, arboretum, but a full-time arborist is not necessary
 - Resources for tree planting only
 - Should collaborate with the County and Conservation Authorities to share resources
 - Hire an arborist as needed, but not full-time

As a result of the survey and additional public comments received through the public Open House, Staff note the following emerging trends:

- (i) General Support for a Tree By-law to apply to private properties.
- (ii) Slightly more support for the application of a tree by-law in the Settlement Area versus the Rural Area. General trend of concerns regarding development related clear-cutting but to permit removal of a small number (or individual) trees on private property without permission.
- (iii) Strong support for financial compensation for unauthorized tree clearing.
- (iv) General support to develop an Urban Forest Strategy, but limited support for additional full-time staff to oversee/implement.

There appears to be public appetite to develop a comprehensive plan for trees in the Municipality, including policies for new development and tree enhancement/replacement. There also appears to be a trend to prevent clear-cutting in the settlement area on future development lands, and concerns related to limiting the impact of any tree by-laws on agricultural operations.

It is noted that a Natural Heritage Study is planned to be completed in 2022 (subject to budgeting), which will include an assessment of the status of the tree canopy across the Town. The information that will be obtained through the completion of this study will be critical in informing any major policy changes and/or the development of any comprehensive tree strategy. In the absence of this information, it is difficult to determine the current needs of the Town and what targets should be established for tree enhancement, and further, where the policy priorities ought to be (i.e., policy focusing on protection, policies focusing on enhancement, policies focusing on development, etc.). At this time, it is suggested by Staff that the Natural Heritage Study be completed to inform appropriate goals and objectives respecting tree canopy enhancement/protection within the Municipality, prior to initiating the development of any comprehensive Plan. By taking this approach, future policy development would be data driven and would develop a Plan that outlines the needs of the Town, as well as a clear path to achieve those needs.

Staff have prepared the following options for Council's consideration. Specifically:

- Option 1 (Recommended Option):
 - a) To direct Staff to complete housekeeping updates to Municipal Tree Preservation By-law 2021-68, as necessary, in order to ensure coordination with any updates completed by the County of Grey regarding County Forest Management By-law 4341-06, as amended; and
 - b) To consider the development of a Comprehensive Tree Strategy/Urban Forest Management Plan based upon completion of the Natural Heritage Study (in 2022 subject to budgeting).
- Option 2:
 - a) To direct Staff to complete housekeeping updates to Municipal Tree Preservation By-law 2021-68, as necessary, to ensure coordination with any updates completed by the County of Grey regarding County Forest Management By-law 4341-06, as amended

- b) To include new requirements in the update to the Municipal Tree Preservation By-law 2010-68, that would require that a Permit be obtained prior to the removal of five or more trees on privately owned lands located within the *Development (D)* zone category of Zoning by-law 2018-65, as amended, and to prepare a Staff Report outlining the details of any required changes to the By-law; and
- c) To consider the development of a Comprehensive Tree Strategy/Urban Forest Management Plan upon completion of the Natural Heritage Study (in 2022, subject to budgeting).

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

No adverse impacts to the environment are anticipated as a result of the recommendations of this report.

G. Financial Impacts

No adverse financial impacts to the Municipality are anticipated as a result of the recommendations of this report. Future budget considerations may be impacted if direction to include the development of a Comprehensive Tree Strategy/Urban Forest Management Plan and Natural Heritage Study in 2022 is directed.

H. In Consultation With

Will Thomson, Director of Legal Services

I. Public Engagement

The topic of this Staff Report has been the subject of a Public Meeting and/or Public Information Centre which took place on **March 24, 2021**. Those who provided comments at the Public Meeting and/or Public Information Centre, including anyone who has asked to receive

notice regarding this matter, has been provided notice of this Staff Report. Any comments regarding this report should be submitted to Travis Sandberg, planning@thebluemountains.ca

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J. Attached

1. Survey Results Report

Respectfully submitted,

Travis Sandberg
Planner I

Trevor Houghton, MCIP RPP
Manager of Community Planning

Nathan Westendorp
Director of Planning and Development Services

For more information, please contact:
Travis Sandberg, Planner I
planning@thebluemountains.ca
519-599-3131 extension 283

Report Approval Details

Document Title:	PDS.21.080 Tree By-Law Update.docx
Attachments:	- ATT 1 PDS.21.080.pdf
Final Approval Date:	Jul 21, 2021

This report and all of its attachments were approved and signed as outlined below:

Trevor Houghton - Jul 20, 2021 - 12:52 PM

No Signature - Task assigned to Nathan Westendorp was completed by delegate Trevor Houghton

Nathan Westendorp - Jul 20, 2021 - 2:11 PM

Shawn Everitt - Jul 21, 2021 - 2:04 PM

Tree Preservation - Public Survey

SURVEY RESPONSE REPORT

03 September 2019 16 May 2021

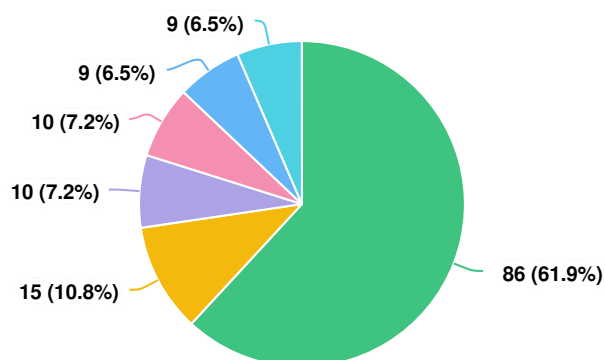
PROJECT NAME:

Municipal Tree By law Update



SURVEY QUESTIONS

Q1 | Please choose the most appropriate response: Trees should be protected in Settlement Areas (note: Settlement Areas include ...



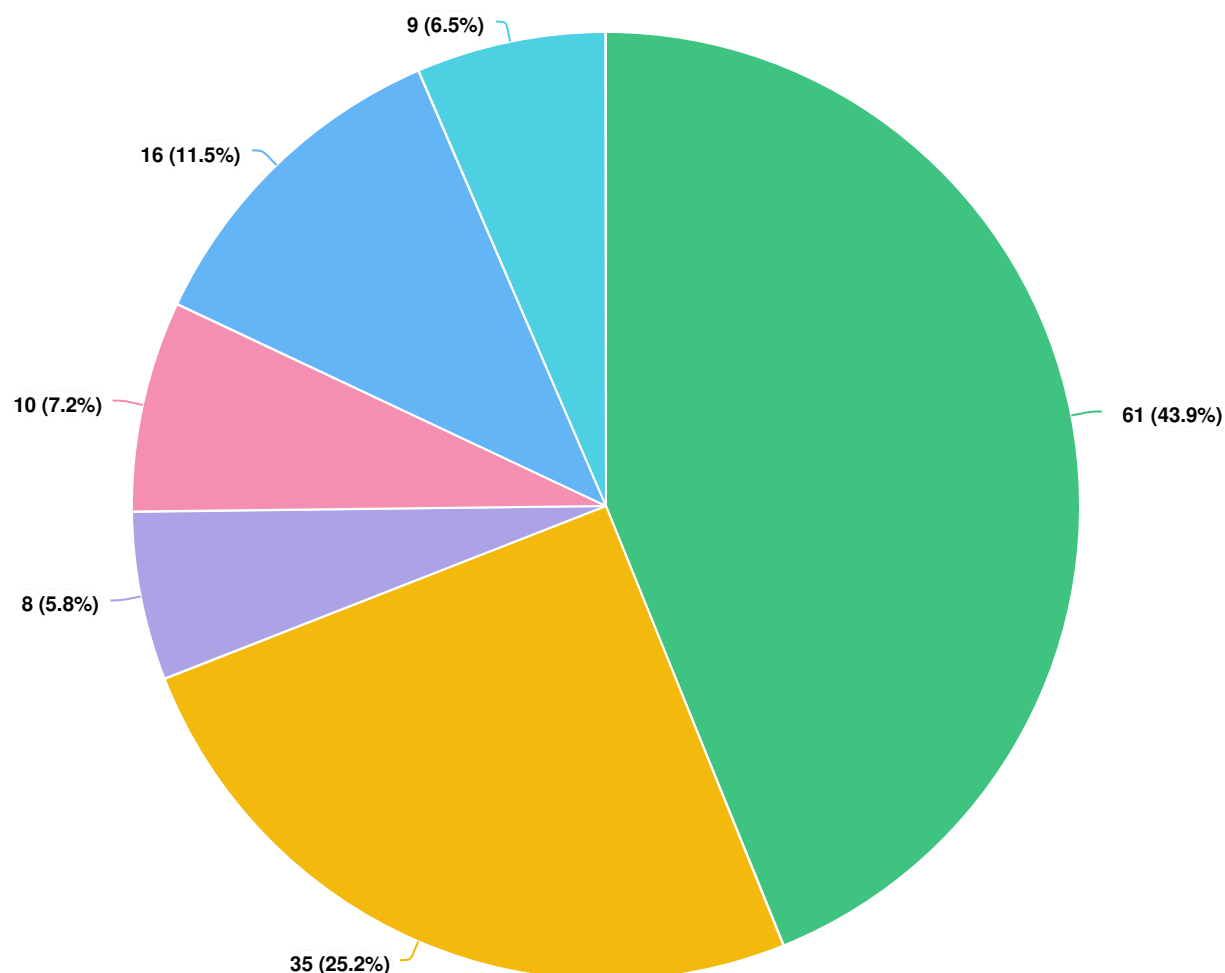
Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
Depends - please be specific in the comment section below:

Optional question (139 response(s), 1 skipped)

Question type: Radio Button Question

Q2 Please choose the most appropriate response: Trees should be protected in Rural Areas.

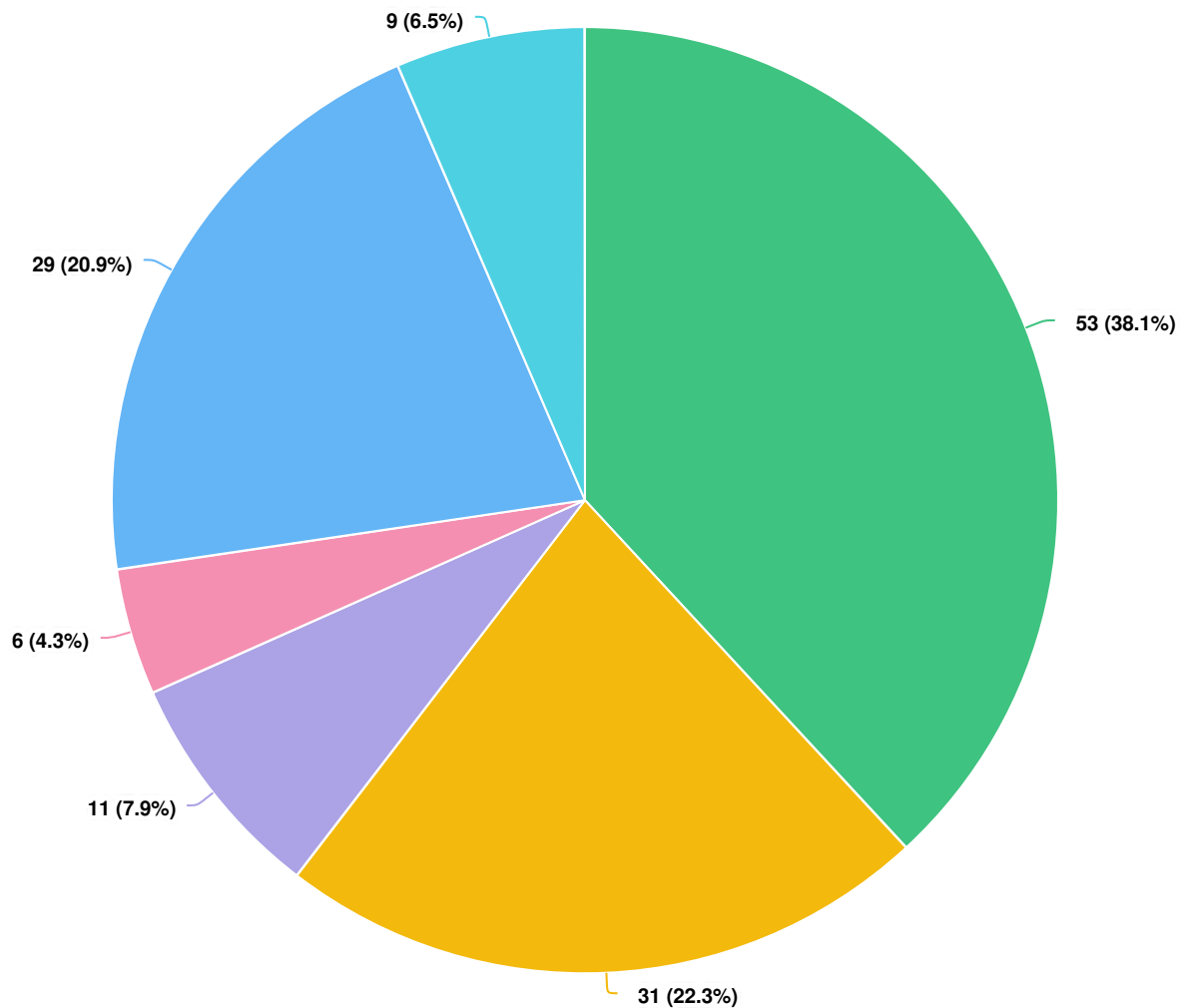


Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
Depends - please be specific in the section below:

Optional question (139 response(s), 1 skipped)
Question type: Radio Button Question

Q3 Please choose the most appropriate response: Trees should be protected on privately owned lands 1Ha (2.47 acres) and OVER in size.

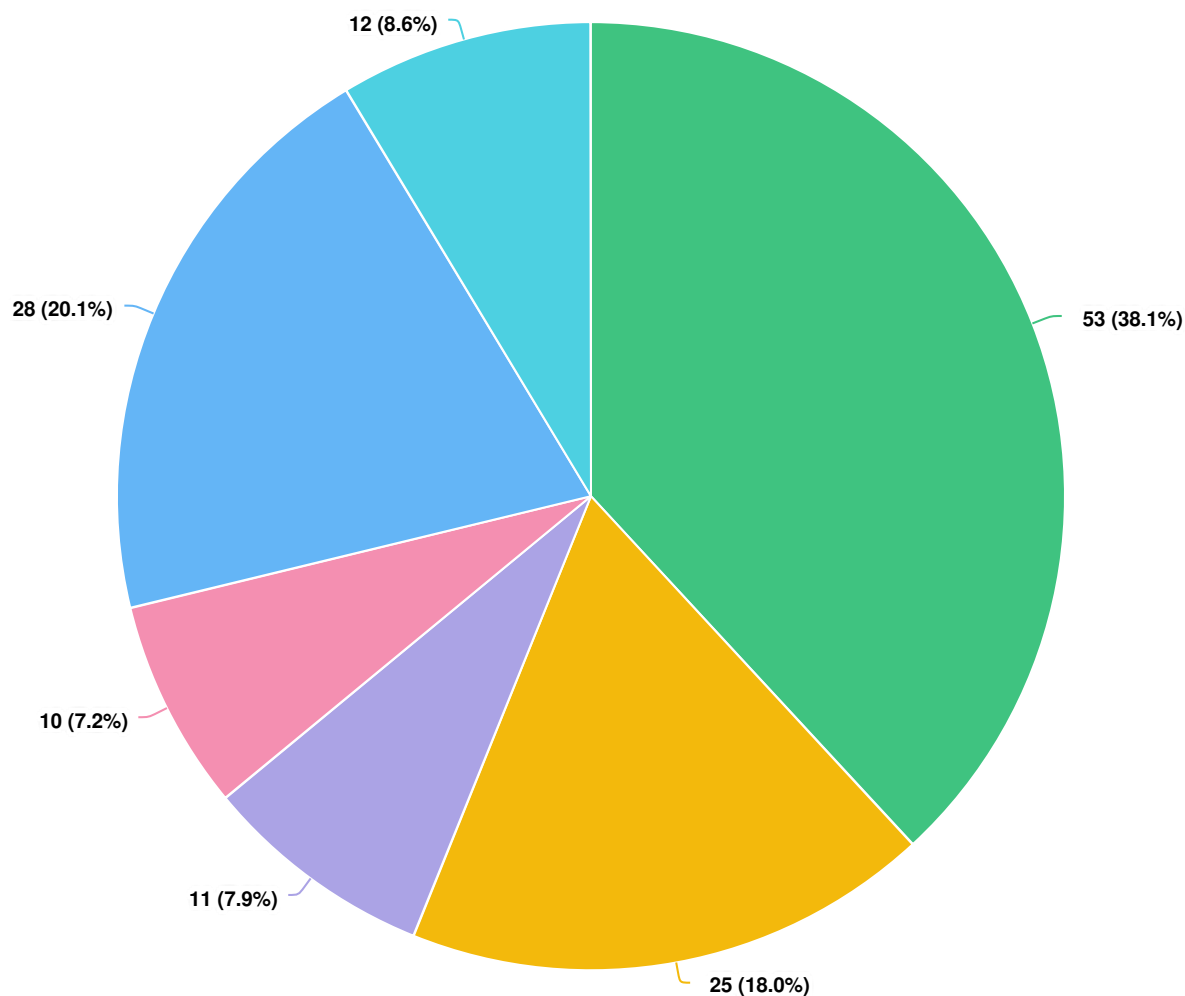


Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
Depends - please be specific in the comment section below:

Optional question (139 response(s), 1 skipped)
Question type: Radio Button Question

Q4 Please choose the most appropriate response: Trees should be protected on privately owned lands UNDER 1Ha (2.47 acres) in size.

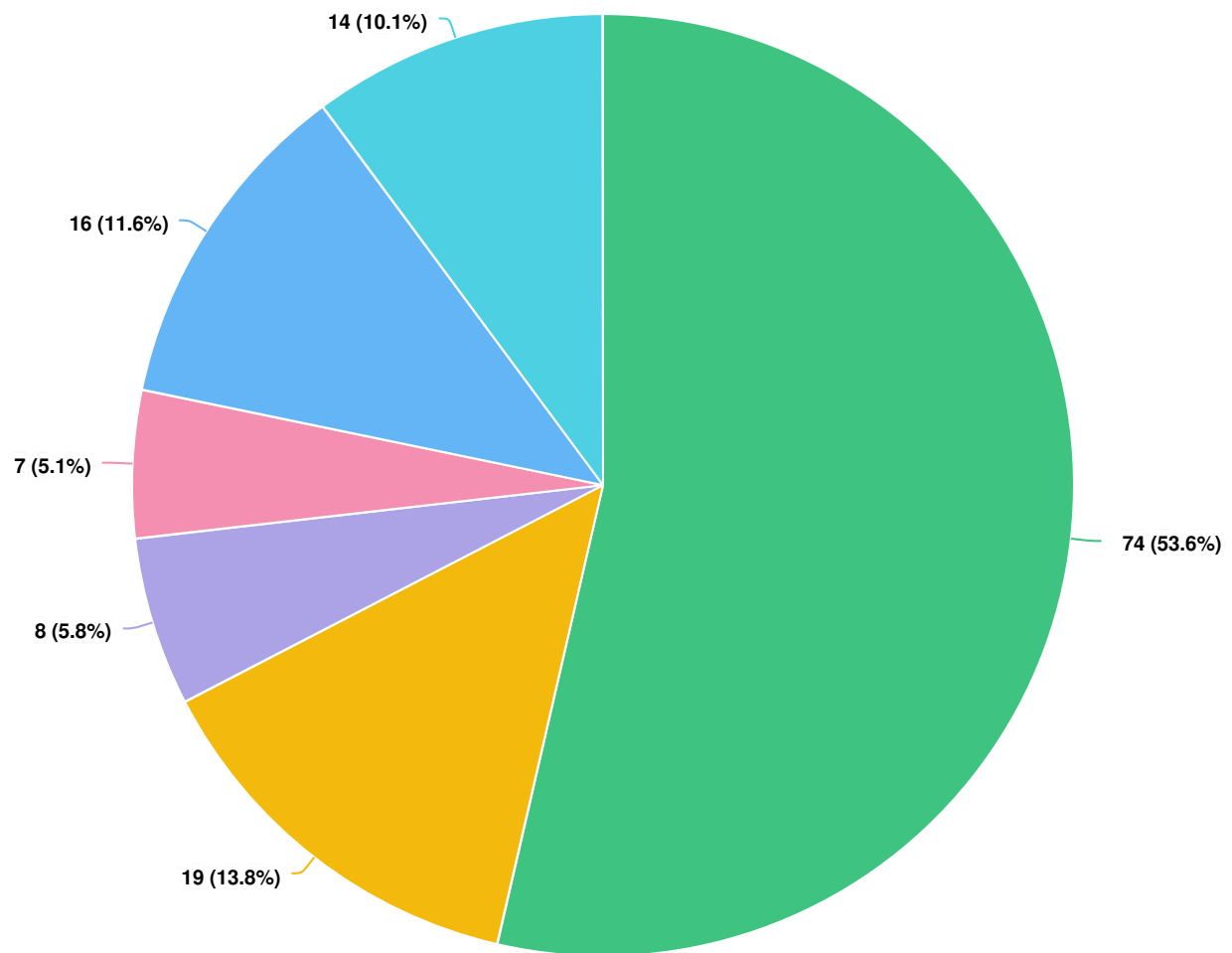


Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
Depends - please be specific in the comment section below:

Optional question (139 response(s), 1 skipped)
Question type: Radio Button Question

Q5 Please choose the most appropriate response: Financial compensation should be sought for any unauthorized tree clearing.

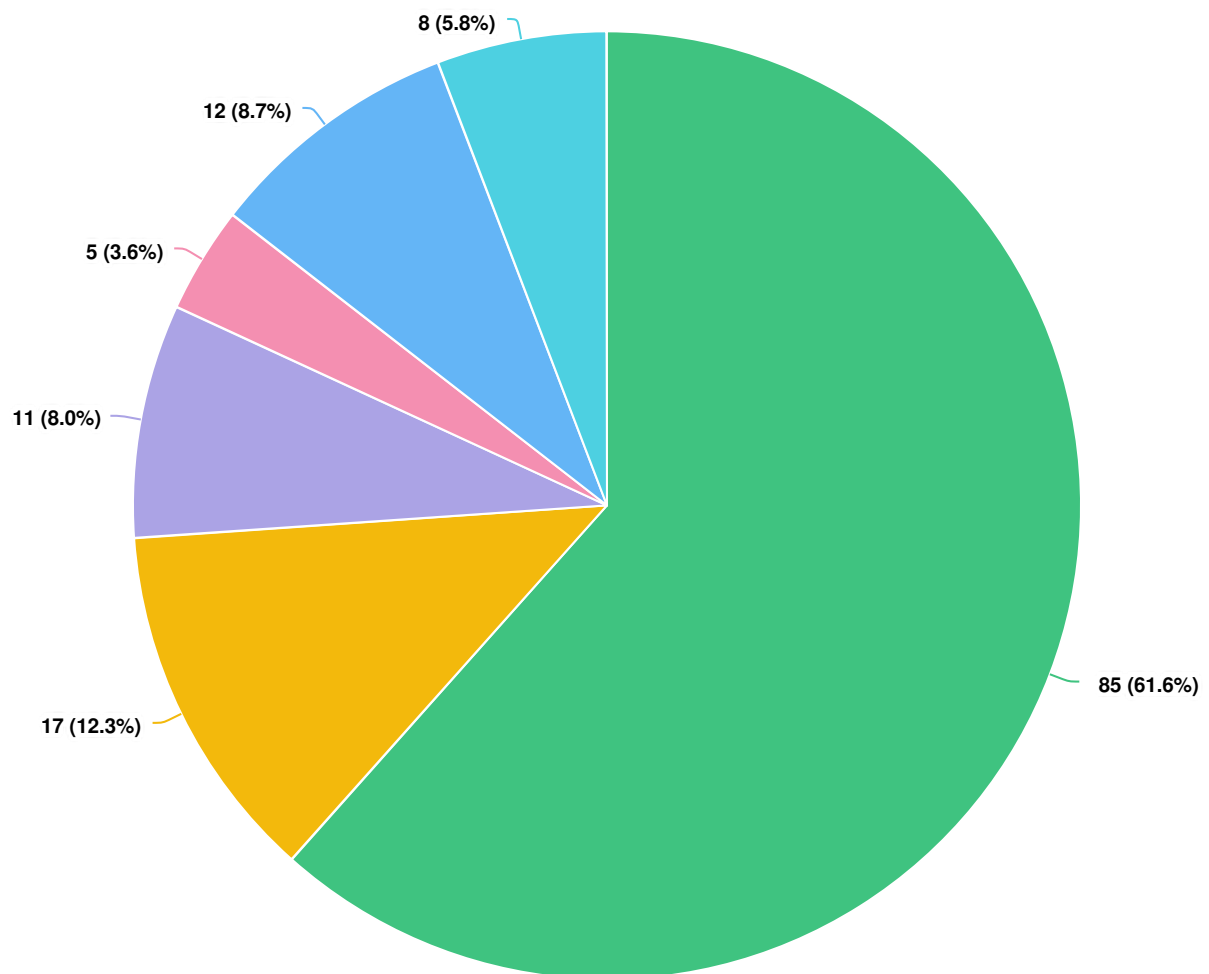


Question options

- 1 - Strongly Agree ● 2 - Somewhat Agree ● 3 - Neutral ● 4 - Somewhat Disagree ● 5 - Strongly Disagree
● Depends - please be specific in the comment section below:

Optional question (138 response(s), 2 skipped)
Question type: Radio Button Question

Q6 Please choose the most appropriate response: The Town of The Blue Mountains should develop an Urban Forest Strategy to protect, preserve, and enhance the Tree Canopy within the Settlement Areas of the Town.

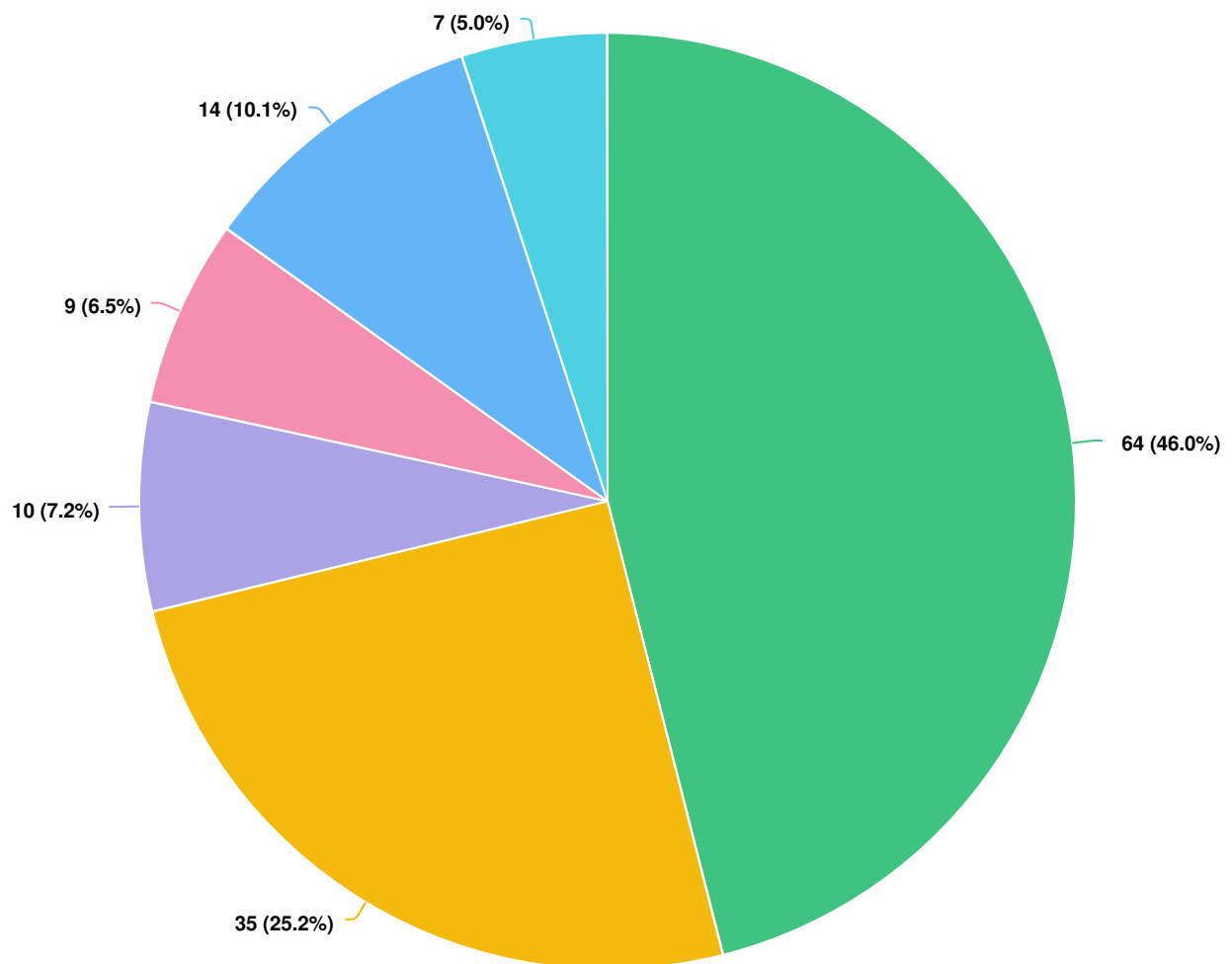


Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
- Depends - please be specific in the comment section below:

Optional question (138 response(s), 2 skipped)
Question type: Radio Button Question

Q7 Please choose the most appropriate response: The Town of The Blue Mountains should invest financial and staff resources in additional tree management and protection measures (for example, tree planting, creation of a heritage tree inventory, arbo...

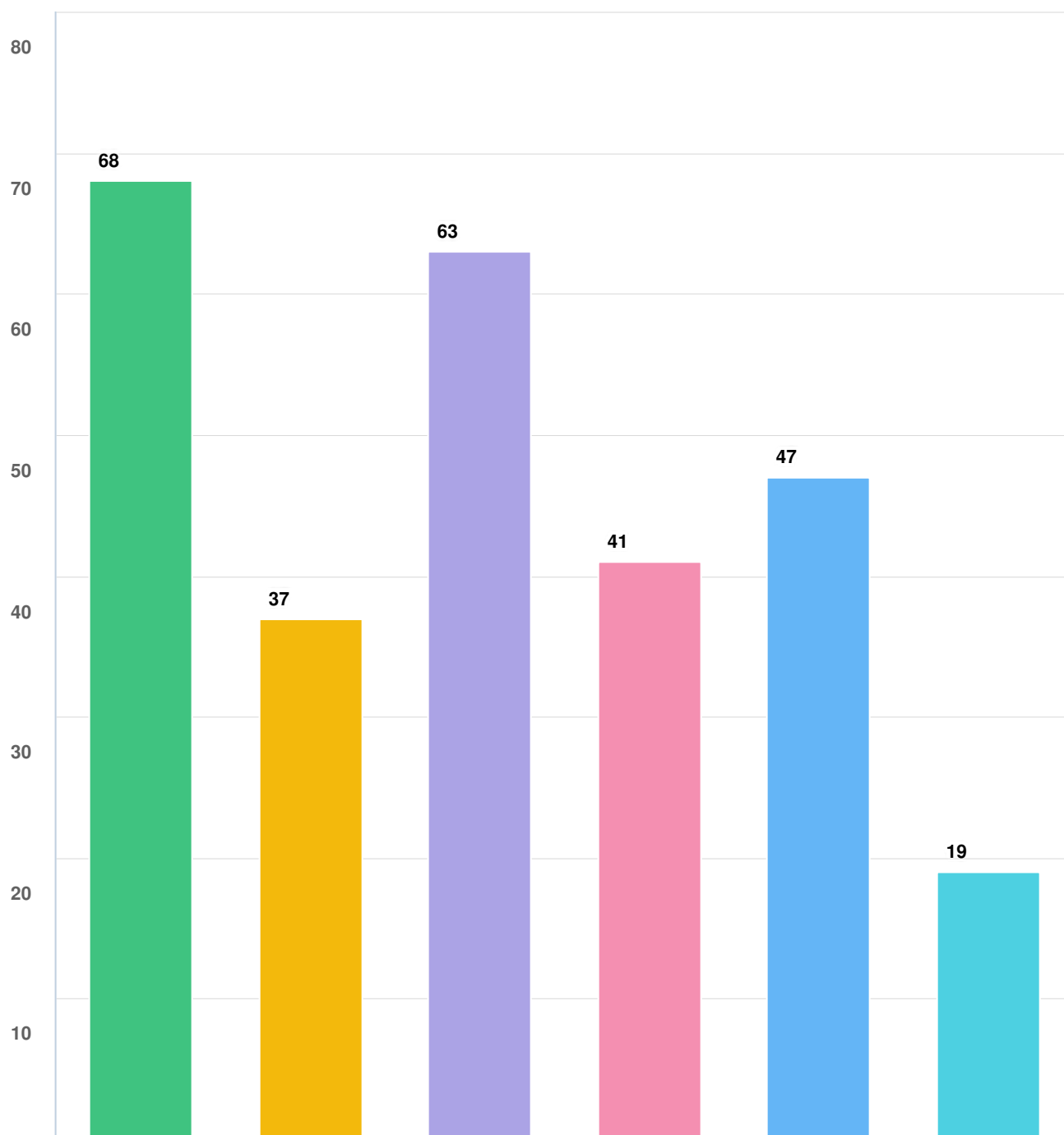


Question options

- 1 - Strongly Agree 2 - Somewhat Agree 3 - Neutral 4 - Somewhat Disagree 5 - Strongly Disagree
Depends - please be specific in the comment section below:

Optional question (139 response(s), 1 skipped)
Question type: Radio Button Question

Q8 In Settlement Areas, tree removal and preservation should be managed under the authority of (please select all that apply).

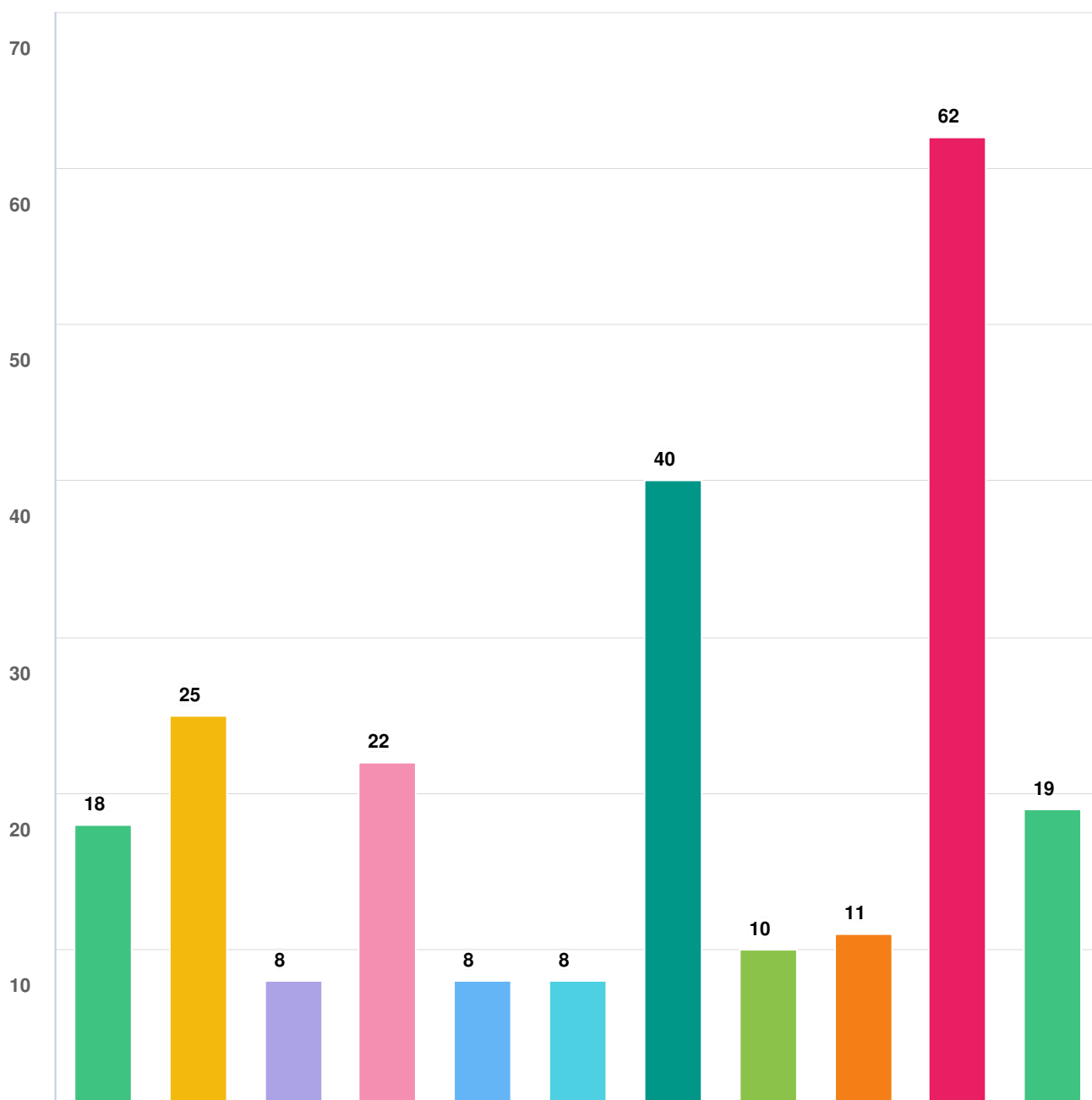


Question options

- The Town of The Blue Mountains ● The County of Grey ● A Conservation Authority
- The Niagara Escarpment Commission (where applicable) ● Private land owners
- Depends - please be specific in the comment section below:

Optional question (138 response(s), 2 skipped)
Question type: Checkbox Question

Q9 Should any types and/or uses of properties be exempt from any regulations on tree cutting? (Please select all that you think should apply)



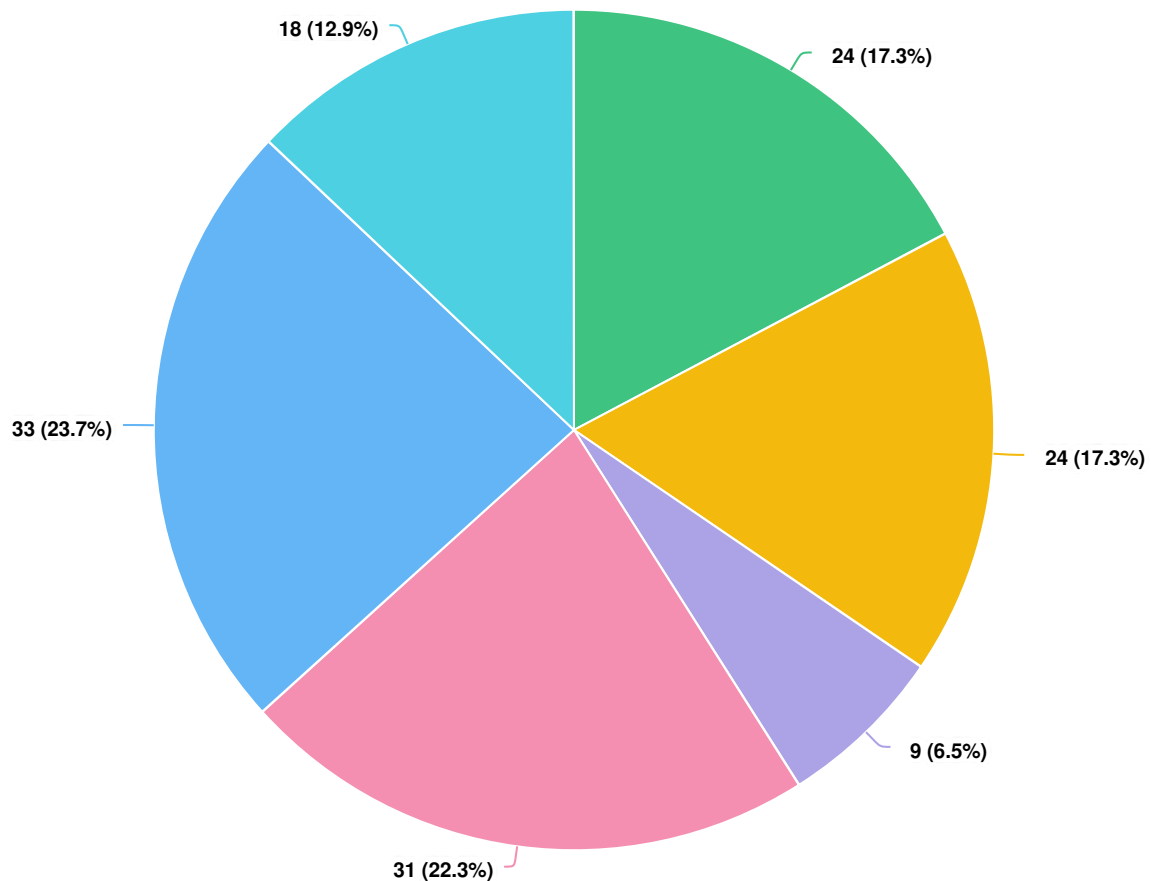
Question options

- All properties - there should not be any regulation on tree cutting in the Town
 ● Rural properties
 ● Urban properties
- Residential properties
 ● Commercial/Industrial properties
 ● Future development properties
 ● Agricultural uses
- Institutional uses
 ● Park and Open Space uses
- None - all properties should be subject to regulation on tree cutting in the Town
- Depends - please be specific in the comment section below:

Optional question (138 response(s), 2 skipped)

Question type: Checkbox Question

Q10 | **Property Owner A wishes to remove a tree from an urban residential lot that contains a single detached dwelling. Property Owner A:**



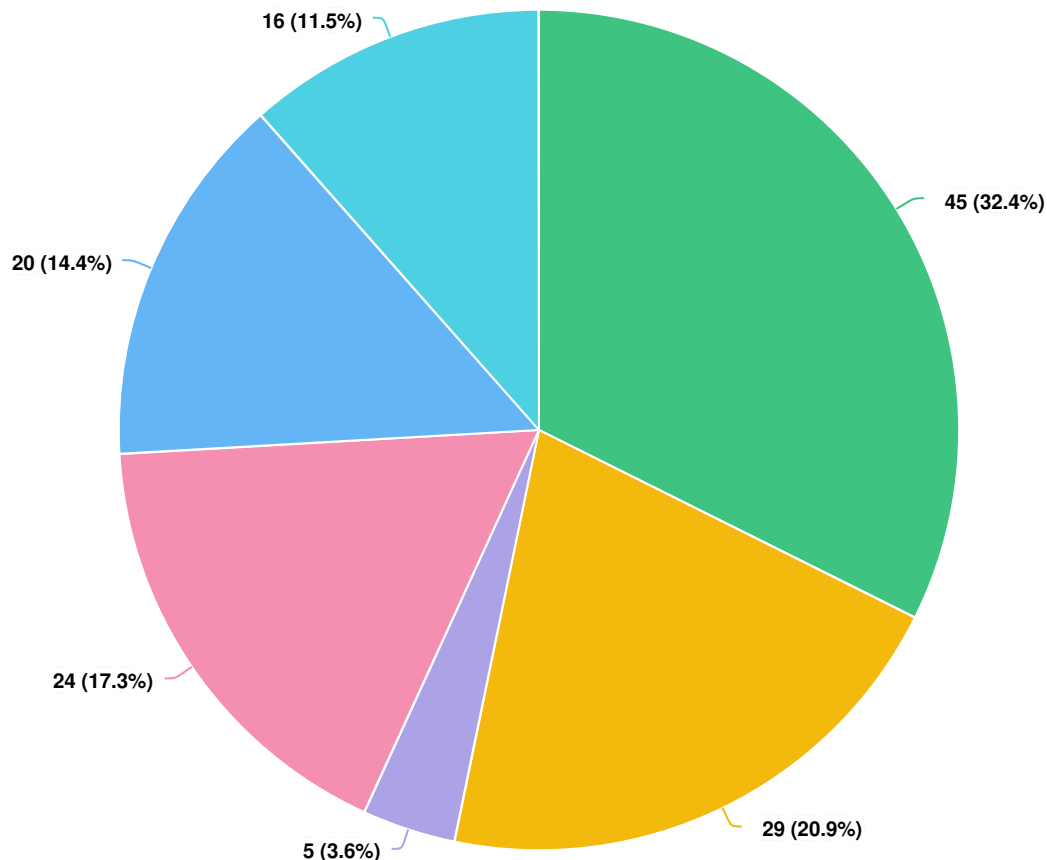
Question options

- A) Should contact the Town to obtain permission and/or a permit prior to removal of the tree
- B) Should engage a qualified arborist to assess the health of the tree. If deemed to be healthy, should contact the Town to obtain permission and/or a permit prior to removal of the tree
- C) Should engage a qualified arborist to assess the health of the tree. If deemed to be unhealthy, hazardous, or an invasive species, the tree can be removed without any further approval
- D) Should be permitted to remove dead, hazardous, or invasive tree species from the lands without an Arborist report or permission from the Town
- E) Should be permitted to remove a single tree from the property, regardless of health, age or species, without an Arborist report or permission from the Town
- F) Other (please specify)

Optional question (139 response(s), 1 skipped)

Question type: Radio Button Question

Q11 | **Property Owner B wishes to remove a group of five or more trees on an urban residential lot that contains a single detached dwelling. Property Owner B:**



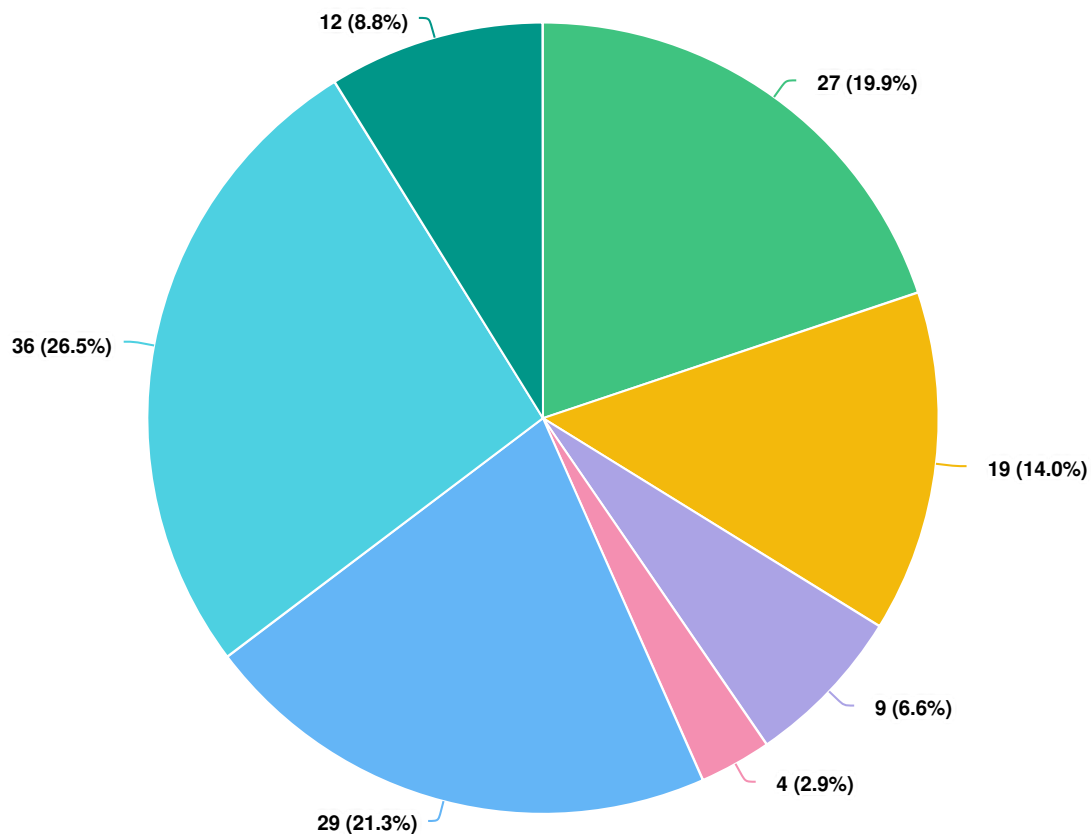
Question options

- ☐ A) Should contact the Town to obtain permission and/or a permit prior to removal of the trees
- ☐ B) Should engage a qualified arborist to assess the health of the trees. If deemed to be healthy, should contact the Town to obtain permission and/or a permit prior to removal of the trees
- ☐ C) Should engage a qualified arborist to assess the health of the trees. If deemed to be unhealthy, hazardous, or an invasive species, the trees can be removed without any further approval
- ☐ D) Should be permitted to remove dead, hazardous, or invasive tree species from the lands without an Arborist report or permission from the Town
- ☐ E) Should be permitted to remove five or more trees from the property, regardless of health, age or species, without an Arborist report or permission from the Town
- ☐ F) Other (please specify)

Optional question (139 response(s), 1 skipped)

Question type: Radio Button Question

Q12 | Property Owner C wishes to remove a tree from a rural property that is located within a Woodlot identified by the County of Grey Forest Management By-law. Property Owner C:

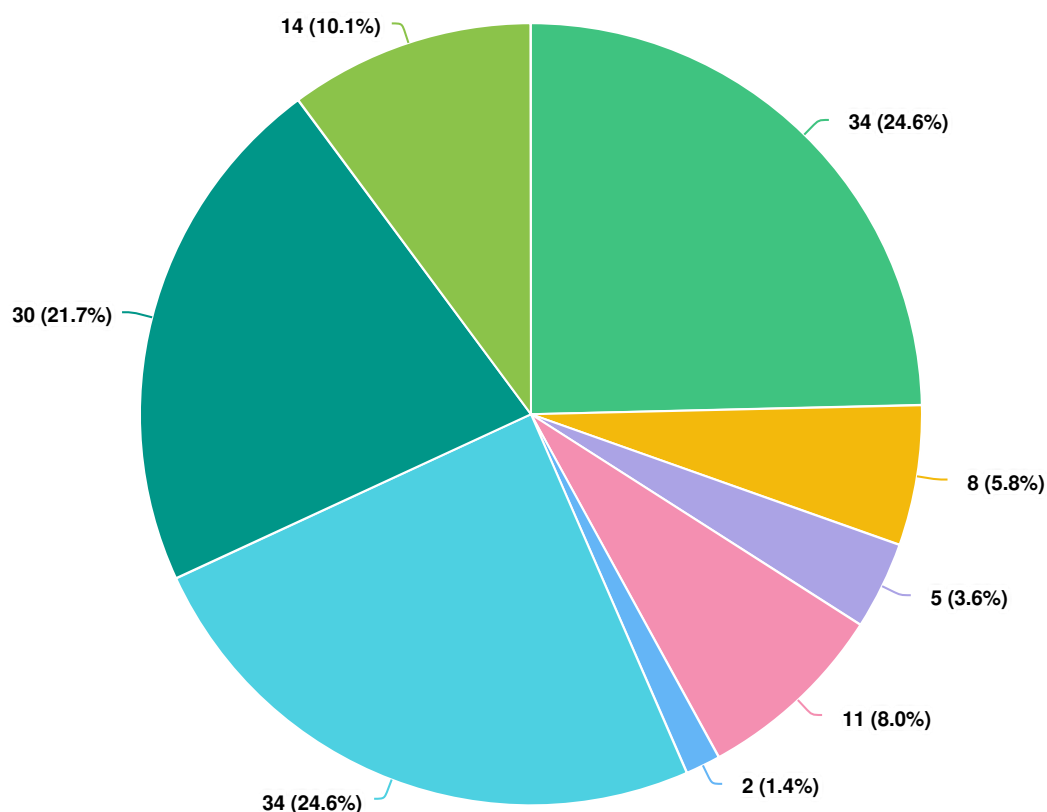


Question options

- A) Should contact the County of Grey and the Town of The Blue Mountains to obtain permission and/or a permit prior to removal of the tree
- B) Should contact the County of Grey only to obtain permission and/or a permit prior to removal of the tree
- C) Should engage a qualified arborist to assess the health of the trees. If deemed to be healthy, should contact the County of Grey to obtain permission and/or a permit prior to removal of the trees
- D) Should engage a qualified arborist to assess the health of the trees. If deemed to be unhealthy, hazardous, or an invasive species, the trees can be removed without any further approval
- E) Should be permitted to remove dead, hazardous, or invasive tree species from the lands without an Arborist report or further permission
- F) Should be permitted to a single tree from the property, regardless of health, age or species, without an Arborist report or further permission
- G) Other (please specify)

Optional question (136 response(s), 4 skipped)
Question type: Radio Button Question

Q13 | **Property Owner D wishes to remove a tree from a rural property that contains a Woodlot identified by the County of Grey Forest Management By-law, however, the subject tree is located outside of the limit of the Woodlot. Property Owner D:**



Question options

- A) Should contact the County of Grey and the Town to obtain permission and/or a permit prior to removal of the tree
- B) Should contact the County of Grey only to obtain permission and/or a permit prior to removal of the tree
- C) Should contact the Town only to obtain permission and/or a permit prior to removal of the tree
- D) Should engage a qualified arborist to assess the health of the tree. If deemed to be healthy, should contact the County/the Town to obtain permission and/or a permit prior to removal of the trees
- E) Should engage a qualified arborist to assess the health of the trees. If deemed to be unhealthy, hazardous, or an invasive species, the trees can be removed without any further approval
- F) Should be permitted to remove dead, hazardous, or invasive tree species from the lands without an Arborist report or further permission
- G) Should be permitted to a single tree on a rural property that is not located within a Woodlot identified by the County of Grey Forest Management By-law, regardless of health, age or species, without an Arborist report or further permission
- H) Other (please specify)

Optional question (138 response(s), 2 skipped)

Question type: Radio Button Question

