

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 3076

A Bylaw to provide for the protection of trees
located within the Township of Esquimalt

The Municipal Council of the Township of Esquimalt, in open meeting assembled, enacts as follows:

1. CITATION

This Bylaw may be cited as the “Tree Protection Bylaw, 2022, No. 3076.”

2. INTERPRETATION

- (1) Schedule “A” contains definitions of terms used in the Bylaw and any terms not defined are interpreted consistently with the *Community Charter* and the *Local Government Act*.
- (2) In this Bylaw, words in the singular include the plural and gender specific terms include both genders and include corporations. A reference to another enactment in this Bylaw refers to the enactment as it may be amended or replaced from time to time.
- (3) The headings in this Bylaw are for convenience only and must not be construed as defining or in any way limiting the scope or intent of the provisions of this Bylaw.
- (4) If any portion of this Bylaw is for any reason held to be invalid by any court of competent jurisdiction, the invalid portion is severed and the severance does not affect the validity of the remainder.

3. APPLICATION

- (1) This Bylaw applies in relation to all land within the Township except where:
 - (a) the land is owned by the Crown in right of Canada or is being used for a purpose of the federal government;
 - (b) the land is owned by the Crown in right of British Columbia and is being used by or on behalf of the provincial government;
 - (c) the land or the use of land is, under a federal, provincial or local government enactment, not subject to this Bylaw.
- (2) Nothing in this Bylaw precludes or relieves a person from complying with the provisions of the *Migratory Birds Convention Act, 1994 (Canada)*, the *Species at Risk Act (Canada)*, the *Wildlife Act*, any regulation thereto, and any other federal, provincial or local government enactments that may apply to the protection or removal of trees.

4. PROHIBITIONS

- (1) No person shall Cut or Prune any Protected Tree, or cause, suffer or allow any Protected Tree to be Cut or Pruned, except in accordance with this Bylaw and:
 - (a) a Permit issued under this Bylaw; or
 - (b) an order issued by Council pursuant to this Bylaw.
- (2) Every Property Owner of the property to which a Permit relates, Permit Holder, and any person who carries out work pursuant to a Permit if different from the Permit Holder, shall comply with the terms, conditions and requirements of the Permit, this Bylaw and any written notice or order made under this Bylaw.
- (3) Unless exempted under Section 5 or in accordance with a Permit, written notice or order under this Bylaw, no person shall damage any Protected Tree, or cause, suffer or allow any Protected Tree to be damaged by any means including, without limitation, by doing any of the following:
 - (a) Cutting, damaging or undermining the roots of a Protected Tree inside the Drip Line;
 - (b) Cutting any structural or anchoring roots of a Protected Tree;
 - (c) placing or depositing on land inside the Drip Line any fill, building materials, asphalt, concrete, liquid, solid or chemical substances that are harmful, or likely to cause harm, to a Protected Tree;
 - (d) operating a truck, backhoe, excavator or other heavy equipment over the roots of a Protected Tree inside the Drip Line;
 - (e) removing soil from land inside the Drip Line in such a quantity as to damage the health of a Protected Tree;
 - (f) blasting, whether inside or outside of the Drip Line, so as to damage roots or disturb soil inside the Drip Line;
 - (g) applying chemicals, toxic materials or other substances to a Protected Tree, or any part of a Protected Tree, that are harmful, or likely to cause harm, to a Protected Tree or any part of it;
 - (h) denting, gouging or damaging the trunk of a Protected Tree;
 - (i) removing bark from a Protected Tree; or
 - (j) constructing or placing a building or other structure on land inside the Drip Line of a Protected Tree.

5. EXEMPTIONS FROM REQUIREMENT FOR PERMIT

- (1) A Permit is not required for Cutting or Pruning in the following circumstances:
- (a)
 - (i) the tree is a Hazard Tree; or
 - (ii) the Protected Tree has been seriously damaged or compromised by natural causes such as wind or landslide to such an extent that it poses an immediate danger to persons or property; and
 - (iii) In the case of either (i) or (ii) the Property Owner of the property on which the Protected Tree is located reports the Cutting to the Director by the end of the next business day after the Cutting or Pruning, providing written and photographic reasons showing how the Protected Tree was a Hazard Tree or was seriously damaged or compromised and how it posed an immediate danger to persons or property.
 - (b) for Cutting or Pruning a hedge;
 - (c) to allow for the installation of roads or municipal services shown on an engineering drawing that has been approved by both the Director of Engineering and Public Works and the Director;
 - (d) where Pruning of a Protected Tree is required for the safe maintenance of roads and sidewalks as directed by both the Director of Engineering and Public Works and the Director;
 - (e) by a public utility, in relation to a Protected Tree that is located on land owned by or held by the public utility and is Cut or Pruned for the purpose of safety, maintenance or operation of the utility's service or infrastructure;
 - (f) by a British Columbia land surveyor for the purpose of establishing survey lines of a width less than one (1) metre where any Protected Tree is less than 10 centimetres DBH; or
 - (g) by the Township or at the direction of the Township, in relation to a Protected Tree located on land owned by or in the possession of the Township.
 - (h) pruning of branches that are less than 10 cm in size for any tree, , provided such pruning is done in accordance with the International Society of Arboriculture standard practices for a purpose consistent with promoting the tree's health and growth or to mitigate potential danger to persons or personal property.

6. APPLICATION FOR A PERMIT

- (1) An application for a Permit must be in writing on a form prescribed by the Director and be submitted to the Director together with the following information:
- (a) a statement explaining the reasons for the proposed Cutting or Pruning;

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- (b) the civic address and legal description of the property on which the Cutting or Pruning will occur;
 - (c) if the applicant is not the Property Owner, the consent in writing of the Property Owner, Strata, or Board authorizing the applicant to act as the Property Owner's agent;
 - (d) the consent of the Property Owner of the adjacent property if any part of the base of any Protected Tree to be Cut is located on the adjacent property;
 - (e) a site plan drawn to appropriate scale showing:
 - (i) the boundaries of the property;
 - (ii) any abutting streets, sidewalks, lanes and public rights of way;
 - (iii) the location of existing and proposed buildings, driveways, services and structures;
 - (iv) any Watercourse within or near the property;
 - (v) the location, species, and DBH of the Protected Tree(s) proposed to be Cut or Pruned; and
 - (vi) any other relevant site features or information to show the location of the tree,
where trees of a single species growing in clusters may be shown in outline as a mass;
 - (f) payment of a non-refundable Permit fee in the amount of \$30 for the first three trees and \$5 for each additional tree proposed to be Cut or Pruned.
- (2) If required by the Director due to concerns regarding construction, demolition, excavation or slope stability, the applicant could be asked to provide additional information.
- (a) Where Cutting would occur on a slope of land steeper than 30 percent, a report from a Qualified Professional addressing the risk of landslip, flooding, slope failure, and erosion, as may be relevant, specifying conditions under which the proposed Cutting may take place safely and prudently, noting the appropriate extent, timing and phasing of the proposed Cutting and certifying that, if carried out in accordance with the report, the proposed Cutting will address:
 - (i) slope destabilization or landslip, flooding or erosion;
 - (ii) adverse impacts on retained trees or adjacent properties;
 - (iii) risk of personal injury or damage to property; or
 - (iv) detrimental effects on any Watercourse, fish or wildlife habitat, or other environmental features or functions,
 - (b) An Arborist or Registered Forester report which may include:
 - (i) Relevant information including, but not limited to, surveyed location, species, size, condition, value of tree(s), and risk assessment of the subject tree or trees;
 - (ii) Why no other reasonable arboricultural practices are available as an alternative to the proposed Cutting or Pruning;
 - (iii) A Tree Assessment Report is required to be sufficiently clear and comprehensive that the municipal arborist does not need to attend

the site to clarify any detail. Tree assessment reports contain any recommendations of tree retention and must provide detailed mitigation measures for the retention of trees. These measures include tree protection barriers, arborist supervision, relocation of retaining walls, drainage, and utilities, details on suspended slabs when working in critical root zones. Reports may also include requirement for hand digging, air spade excavation, hydro vac excavation, root pruning, tree well construction, boring or tunneling under roots, tree surgery including cabling and bracing, watering, mulching, fertilization, and drainage. Reports may also include details on risk to people or property. Finally, reports should include a summary on protected trees retained, removed, and the number of trees to be replaced.

- (c) Tree Survey means a survey plan prepared by an engineer or by a surveyor registered as a British Columbia land surveyor, that illustrates the location of trees in relation to the property lines of a lot, along with the size, and species of each tree, plus any other information required by the Director of Parks and Recreation for the purpose of assessing a tree cutting permit application. The Survey Plan will show the location of the trees, including trees within and in close proximity to the building footprint.

The following information is required on the survey plan:

- Stamped by a registered BCLS surveyor or professional engineer
 - Property scaled with scale given and North arrow
 - Diameter of tree for deciduous and coniferous trees (DBH) must be provided in centimeters to nearest centimeter and/or height in metres for coniferous trees
 - Tag number of tree
 - Any existing or proposed buildings, driveways, or sidewalks
 - Overhead or underground utility lines (such as storm/sanitary/Telus/Hydro/Shaw/Fortis)
 - Septic fields, easements, restrictive covenant areas
 - All neighbour trees where the drip line is within 6 metres of any excavation or other works
 - Tree barriers and sizes
 - Any other features which would impact tree removal or planting and maintenance or replacement trees or the viability of retained trees
 - All public boulevard and neighbour trees regardless of size
- (d) an approved building or demolition permit with a plan that shows preliminary lot grading, servicing plans, driveway, building and foundation footprint and other relevant construction or de-construction information that requires Protected Tree removal or tree protection.,
- (e) such other information that the Director determines is necessary to adequately assess and describe the nature and extent of the proposed Cutting or Pruning.

- (3) All information required to be included with an application must be provided at the applicant's expense.

7. SECURITY DEPOSIT

- (1) For the purposes of this Section, "site restoration works" includes, in addition to restoration of the property to which a Permit applies, the restoration of any property of the Township that may potentially be damaged or lost by Cutting or Pruning or any work required pursuant to a Permit.
- (2) An applicant for a Permit who is required to provide site restoration works or Replacement Tree(s) must provide the Township with a security deposit to ensure compliance with the Permit and this Bylaw prior to the issuance of the Permit.
- (3) The security deposit must be in cash or in the form of an irrevocable letter of credit acceptable to the Director of Financial Services in an amount equal to:
 - (a) 100 percent of the value of all of the Replacement Trees, including the cost of planting and maintaining such Replacement Trees for a period of one year; and
 - (b) 100 percent of the value of any site restoration works required to be completed pursuant to the Permit;as estimated by the Director or by a Qualified Professional when required by the Director.
- (4) The Township may hold the security for a period of 12 months following the date of the final completion of the planting or site restoration works. If the Director is satisfied that all of the required Replacement Trees are healthy and have been planted and maintained adequately over that period, and that the site restoration works have been completed and are functioning properly, and that all terms and conditions of the Permit and this Bylaw have been complied with, the security will be refunded to the Permit Holder.
- (5) If the Director is not satisfied that the Replacement Trees have been planted and maintained, site restoration works have been satisfactorily completed, or that the Permit or Bylaw have been complied with, the Director may issue a written notice setting out deficiencies and requiring the Permit Holder to correct such deficiencies within the timeframe set out in the notice.
- (6) If the Permit Holder fails to comply with the written notice, the Township or its agents or servants may enter onto the property and perform such work as is necessary to fulfill the requirements and conditions, and may draw upon and use all or a portion of the security to cover the costs of the work. Any further costs incurred by the Township for the work shall be the sole responsibility of the Property Owner and shall be paid in full immediately upon receipt of an invoice from the Township therefor, and if not fully paid by December 31st of the year in which the costs were incurred, may be recovered by the Township in the same manner as property taxes in arrears.

8. PERMIT ISSUANCE AND REGULATIONS

- (1) On receiving a completed application for a Permit, the Director may:
 - (a) issue the Permit, under such terms and conditions that the Director considers appropriate; or
 - (b) refuse to issue the Permit, providing the applicant with written notice including reasons for the refusal.

- (2) Despite any other provisions of this Bylaw, on receiving a report prepared by a Certified Arborist certifying that a Protected Tree:
 - (a) is a Hazard Tree;
 - (b) is dead; or
 - (c) is diseased or damaged to such an extent that it may constitute a danger to persons or property,

the Director may issue a Permit without requiring that an application, any additional information, or fee be submitted.

- (3) The Director may require the applicant to mark on the ground with paint, stakes or flagging the boundaries of the areas within the protected root zones on which the proposed excavation, blasting or other tree damaging activity is to take place;

- (4) The Director may require the applicant to flag each tree proposed for removal and in the case of trees in wooded lots to tag and number the trees for removal and retention.

- (5) A Permit Holder or Property Owner must display the Permit in an accessible and conspicuous location on the property to which it relates prior to commencement of any work and must ensure that it remains displayed until all of the work required pursuant to the Permit has been completed.

- (6) A Permit is applicable only to the property to which it relates and is not transferable to another person or property.

- (7) A Permit is valid for a period of 12 months from the date on which it is issued, unless otherwise specified in the Permit or unless the Permit has been extended pursuant to Section 8(8) hereof.

- (8) If Cutting, Pruning or related works authorized by a Permit are not completed before the Permit expires, or if it becomes necessary to alter or modify the Permit or to take further steps, upon receiving a request in writing from the Permit Holder, the Director may modify, renew, or extend the Permit, subject to the following:
 - (a) the Director in considering the circumstances may in his or her discretion require that a new application for a Permit and fee be submitted;

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- (b) the Permit may not be renewed or extended for a period of more than two years from the date of its original issuance;
 - (c) the Director may require additional information that is authorized under this Bylaw as a condition to considering the modification, renewal or extension, and the Permit Holder must promptly provide that information; and
 - (d) all terms and conditions set out in the original Permit shall apply to each modification, renewal or extension except as specifically amended, modified, renewed or extended.
 - (9) The work must be limited to the area specified in the Permit, which area must be clearly identified and such markings must be maintained for the duration of the work.
 - (10) The Cutting, Pruning, and associated site work must be carried out in compliance with an approved Tree Protection Plan and/or Arborist report. Tree Protection barriers must be installed around the drip Line of each Protected Tree to be retained, in such a manner that its branches, root systems and trunk will not be damaged by the work.
 - (11) Except in the case of an emergency in accordance with Section 5(1)(a) hereof, no Cutting or Pruning or other associated works may take place between the hours of 10:00 p.m. and 7:00 a.m. on a Monday to Friday, and between the hours of 10:00 p.m. and 9:00 a.m. on a Saturday, Sunday or Holiday.
 - (12) Whether or not a Permit is required:
 - (a) prudent measures must be taken to prevent damage or impairment to paths, sidewalks, lanes, highways, public property of all kinds, watercourses, adjacent properties, and public utilities;
 - (b) any hazards or potential hazards arising from any Cutting, Pruning, planting, associated site work carried out pursuant to a Permit, or site restoration work must be mitigated and adequately fenced to avoid injury to and to ensure the safety of persons on or near the site; and
 - (c) tree parts and wood waste must be disposed of carefully and promptly, in the appropriate manner in accordance with applicable Bylaws of the Township, and having particular regard to the safety of persons and property, and avoiding any obstruction, unsightliness and risk of fire.
 - (13) The holder of an approved building or demolition permit that permits construction or deconstruction on a property where a Protected Tree is located, or the boundary of which is adjacent to municipal or private property containing a Protected Tree (the "permit holder"), must comply with all of the following conditions, to the satisfaction of the Director:
 - (a) before excavation, blasting, construction, or other potentially tree-damaging activity is carried out, install a Tree Protection Barrier or take other protective

measures approved by the Director, to separate the land to which the permit applies from the remainder of the root zone of a Protected Tree;

- (b) continuously maintain the Tree Protection Barrier or other protective measure until the completion of the work proposed to be carried out on the property to which the permit applies;
- (c) post and continuously maintain on the Tree Protection Barrier or other protective measure an all-weather sign stating "Protected Root Zone – No Entry";
- (d) if Protected Tree roots are cut by excavation, immediately wrap the remaining roots in a root curtain of wire mesh lined with burlap surrounded by posts;
- (e) continuously keep a root curtain of wire mesh moist throughout the construction process;
- (f) any Cutting or Pruning of a Protected Trees branches, limbs or roots may only be done pursuant to the conditions as noted on the Permit;
- (g) immediately upon completion of the works pursuant to the permit, to replace any Protected Trees that were damaged beyond repair during excavation, blasting or construction, pursuant to Section 8 hereof.

9. REPLACEMENT TREES

- (1) As a condition of obtaining a Permit under this Bylaw, other than for Pruning pursuant to a Permit, the Permit Holder must plant and maintain on each property from which a Protected Tree is Cut or damaged, Replacement Trees in the number specified below, up to the value as shown on a valuation report prepared by a Certified Arborist, such amount not to be less than \$300 for each Protected Tree proposed to be Cut. (See Schedule "C" for recommended Replacement Tree species.)
- (2)

Protected Tree Species	Size of Tree to be Cut (DBH)	Number of Replacement Trees Required for Each Tree Cut
Big Leaf Maple, Garry Oak, Pacific Dogwood, Pacific Yew, Arbutus	<4 cm	0
	4 cm to 20 cm	1
	20 cm to 40 cm	2
	> 40 cm	3
Douglas Fir, Western Red Cedar, Grand Fir	< 1.2 m	0
	1.2 m to 6 m tall	1
	6 m to 12 m tall	2
	> 12 m tall	3

All Other Tree Species	< 30 cm	0
	30-45 cm	1
	45-60 cm	2
	> 60 cm	3

- (3) Where one or more Replacement Trees are required to be planted as a condition of issuing a Permit, the Permit Holder must submit a Tree Replacement Plan for approval by the Director.
- (4) Replacement trees shall not be planted:
- (a) in the case of trees having a mature height of eight (8) metres or less, within two (2) metres of a building foundation wall; or
 - (b) in the case of trees having a mature height greater than eight (8) metres, within three (3) metres of a building foundation wall; or
 - (c) within one (1) metre of a property line.
- (5) Where the required number of Replacement Trees cannot reasonably be accommodated on the property to which the Permit relates, or where the value of the Replacement Trees is less than the value of the Protected Trees proposed to be Cut, as set out in a valuation report prepared by a Certified Arborist, the Director may require the Property Owner or Permit Holder to do one of the following:
- (a) to contribute an amount up to 100 percent of the value of any Protected Tree(s) proposed to be Cut to the Township's tree replacement and maintenance reserve account for planting and maintaining trees in parks and other public lands owned by the Township, such amount not to be less than \$300 for each Protected Tree proposed to be Cut; or
 - (b)
 - (i) to plant Replacement Trees on the Property Owner's or Permit Holder's property; and
 - (ii) to contribute to the Township's tree replacement and maintenance reserve account for planting and maintaining trees in parks and other public lands owned by the Township; such planting and contribution to be equal to or greater than the value of the Protected Trees proposed to be cut as set out in a valuation report prepared by a Certified Arborist, such amount not to be less than \$300 for each Protected Tree proposed to be Cut.
- (6) All Replacement Trees must be planted and maintained in accordance with sound arboricultural practices as set out in the latest edition of the BCSLA/BCLNA "BC Landscape Standard" and must be planted substantially in accordance with the tree planting diagram in Figure 1 of Schedule "B".
- (7) If, within the 12 month period following its planting, the Director is not satisfied that any Replacement Tree has been planted or maintained to the required standard, the Director may by written notice require the Permit Holder or Property Owner to carry out such steps within the timeframe specified in the notice to ensure the standard is met and the Permit Holder or Property Owner to whom the notice is directed must forthwith comply with the notice.

10. ENTRY AND INSPECTION

- (1) The Director, or any bylaw enforcement officer or other employee of the Township designated by the Director, is authorized at all reasonable times to enter on any property to inspect and determine whether this Bylaw, and any terms, conditions, restrictions and requirements of a Permit, written notice of the Director or order of Council issued under the Bylaw, are being complied with.
- (2) No person shall prevent or obstruct the Director or other authorized Township employee or agent from entering on any property for the purposes of this Bylaw.

11. NOTICE OF DIRECTOR

- (1) If the Director reasonably believes that:
 - (a) any term, condition or requirement of a Permit or this Bylaw has been contravened; or
 - (b) a Permit was issued based on incomplete or incorrect information,the Director may, by written notice to the Permit Holder or Property Owner, direct that the contravention or non-compliance be remedied or that the required information be provided, corrected or verified, as applicable, within the timeframe specified in the notice.
- (2) A person to whom a written notice is addressed pursuant to Section 11 (1) must within the timeframe specified take such measures or actions or provide such information to remedy the matter as required in the notice to the satisfaction of the Director.
- (3) If a person to whom a written notice is addressed fails to comply with a notice within the timeframe specified, the Director may take the following action:
 - (a) amend the Permit, including amending, adding or deleting any terms or conditions of the Permit;
 - (b) suspend the Permit, either entirely or in part, until satisfied that the Permit and the written notice have been complied with; or
 - (c) cancel the Permit.
- (4) If the Director reasonably believes that a Protected Tree or any part of it has been Cut, Pruned or damaged in contravention of this Bylaw, the Director may deliver a written notice to the Property Owner or other person responsible for the Cutting, Pruning or damage, directing the person to do any or all of the following, as the Director considers appropriate:
 - (a) provide a written explanation of the reason for the Cutting, Pruning or damage, and such additional information as may be relevant to the matter;
 - (b) submit a Tree Replacement Plan for approval by the Director;

- (c) plant and maintain Replacement Trees in compliance with an approved Tree Replacement Plan and Section 8;
 - (d) do any of the things described in Section 8;
 - (e) provide security in accordance with Section 7; and
 - (f) where Township property has been damaged or destroyed as a result of the Cutting, Pruning or other action, pay the Township for the costs of repairing, replacing or restoring the Township property.
- (5) The person to whom the written notice is addressed must comply with the terms and conditions set out in the written notice within 30 days of the date of receipt, or such shorter period as may be ordered by Council where it considers there is a significant threat to health or safety if immediate action is not taken.

12. RECONSIDERATION BY COUNCIL

- (1) Any person who has received a written notice from the Director may request reconsideration by Council by delivering a written request to the Director of Corporate Services within 10 days from the date of receipt of the written notice.
- (2) The request for reconsideration must include:
 - (a) a copy of the written notice of the Director;
 - (b) the reasons why the person requesting reconsideration believes the terms, conditions or timeframe set out in the written notice should be amended or set aside; and
 - (c) how the terms, conditions or timeframe set out in the written notice should be amended or what alternative terms, conditions or timeframe should be substituted therefor.
- (3) The request for reconsideration may be heard at the next regularly scheduled meeting of Council, or at such meeting within 3 months following the request as may be arranged between the Director of Corporate Services and the person making the request.
- (4) In addition to the written request for reconsideration, and any further submissions from that person or his or her appointed representative as may be made before or at the Council meeting, Council may also consider information from municipal staff or any person who Council considers has relevant knowledge, expertise, or sufficient interest in the matter.
- (5) After considering submissions under Section 12 (4), Council may issue an order to confirm, vary or substitute its own decision or direction for the terms, conditions and timeframe set out in the written notice by the Director, and such order of Council is final and binding.
- (6) A person who has submitted a request for reconsideration must not Cut, Prune or damage any Protected Tree in contravention of the Bylaw, a Permit, or a written

notice by the Director pending the order of Council, and any person who is subject to an order of Council must comply with any terms, conditions, restrictions or requirements imposed in that order.

13. OFFENCES AND PENALTIES

- (1) Any person who contravenes, violates or fails to comply with any provision of this Bylaw or any Permit, written notice by the Director or order of Council under this Bylaw, or who allows, suffers or permits any act or thing to be done in contravention thereof or who fails to do anything required by this Bylaw, commits an offence and shall be liable upon conviction to a fine of not more than \$10,000 (Ten Thousand Dollars), and any other penalty or order imposed pursuant to the *Community Charter* or the *Offence Act*.
- (2) Each day that the offence continues or exists shall be deemed to be a separate and distinct offence.
- (3) A separate offence is committed for each Protected Tree that is Cut, Pruned or damaged, or for each Replacement Tree that is not planted or maintained, in contravention of this Bylaw, a Permit, written notice of the Director or order of Council under this Bylaw.

14. SCHEDULES

The following Schedules attached hereto form part of this Bylaw:

Schedule "A": Definitions

Schedule "B": Figure 1 - Tree Planting Detail

Figure 2 - Tree Protection Barrier

Figure 3 - Tree Drip Line

Figure 4 - DBH (diameter at breast height)

Schedule "C": Replacement Trees

15. REPEAL

The "Tree Protection Bylaw, 2015, No. 2837" and any amendments thereto, are hereby repealed.

Read a first time by the Municipal Council on the 5th day of June, 2023.

Read a second time by the Municipal Council on the 5th day of June, 2023.

Read a third time by the Municipal Council on the 5th day of June, 2023.

ADOPTED by the Municipal Council on the day of , 2023.

BARBARA DESJARDINS
MAYOR

DEB HOPKINS
CORPORATE OFFICER

SCHEDULE "A"

DEFINITIONS

In this Bylaw:

"Arboricultural Best Practices" means practices in accordance with the most current version of the American National Standards Institute (ANSI) publication – A-300. Tree Care Operation and the companion Best Management Practices Series of the International Society of Arboriculture.

"Certified Arborist" means a person certified by the International Society of Arboriculture.

"Qualified Tree Risk Assessor" means a person qualified by the International Society of Arboriculture as a Tree Risk Assessor (TRAQ) or by the Province of British Columbia as a Wildlife/Danger Tree Assessor.

"Council" means the municipal council of the Township of Esquimalt.

"Cut" or "Cutting" means to kill, remove at its base, or substantially destroy a Protected Tree by any means including, but not limited to, the topping of a tree, cutting or knocking down a tree or cutting into any or all parts of a Protected Tree or its roots.

"D.B.H. (Diameter at breast height)" means the diameter of a tree at roughly breast height (1.4 meters or 4.6 feet) above the highest point of natural grade of the ground measured from the base of a tree. For multi-stemmed trees, the three largest stems shall be measured 1.4 meters or 4.6 feet above the highest point of natural grade and the D.B.H. of the tree shall equal the cumulative total of the D.B.H. of the three largest stems.

"Development" means any of the following applications:

- the construction of buildings, roads, services, or other improvements to land
- rezoning
- subdivision
- development permits or temporary use permits associated with a new building or an addition to an existing building, or
- building permits associated with demolition, blasting or construction of a principal building.

"Director" means the Director of Parks and Recreation Services of the Township or any person designated to carry out one or more of the Director's duties or powers under this Bylaw.

"Drip Line" means a circle drawn on the ground around a tree directly under the tips of the outermost branches of the canopy of the tree.

"Hazard Tree" means a Protected Tree having a defect sufficient to significantly increase the likelihood that all or part of the tree will fail resulting in a risk of personal injury or property damage, as determined by a Qualified Tree Risk Assessor.

"Hedge" means a row of two or more trees of consistent size and form planted in close proximity to each other that have been topped or sheared.

“Permit” means a permit issued by the Director under authority of this Bylaw.

“Permit Holder” means the person to whom a Permit has been issued under this Bylaw.

“Property Owner” has the same meaning as in the *Community Charter* and in the case of a strata property, means the strata corporation.

“Protected Tree” means any woody perennial plant with one or more substantially erect main trunks or stems, including its root system, that is:

- (i) any native tree including Douglas Fir, Grand Fir and Western Red Cedar that has reached a height of at least 4 m above the natural grade;
- (ii) any native tree including Arbutus, Big Leaf Maple, Garry Oak, Pacific Dogwood and Pacific Yew that has a DBH of at least 4 cm at 1.4 m above the ground;
- (iii) a Wildlife Tree;
- (iv) a tree with evidence of nesting or use by raptors, osprey or heron colony (as described in the *Wildlife Act*),
- (v) a Replacement Tree,
- (vi) a tree on a steep slope
- (vii) any tree shown as to be retained on a Tree Protection Plan; or
- (viii) any tree regardless of species having a DBH of 30 centimetres or more.

“Protective Root Zone” means:

- The area of land surrounding the trunk of a tree that contains the bulk of the critical root system of the tree which has been specifically delineated on a tree plan prepared by an arborist and approved by the Director of Parks and Recreation.
- In the absence of such information, the area of land surrounding the trunk of the tree contained within a circle having a radius which is calculated by multiplying the D.B.H. of the tree by 18.

“Prune” or “Pruning” means the selective cutting or removal of living or dead branches of a Protected Tree which are greater than 10 centimetres in diameter, in accordance with the International Society of Arboriculture standard arboricultural practice, for a purpose consistent with promoting the tree’s health and growth, but does not include the topping of a tree.

“Public Utility” means a utility service provided by the Township, BC Hydro, or any other utility company or authority providing a public service or utility including, without limitation: water, sewer and drainage services; gas, heating, and electrical energy systems; telecommunications and cable transmission systems; and all related infrastructure and equipment;

“Qualified Professional” means a person in good standing with a legislated self-regulating association in British Columbia who is acting within the individual’s area of expertise and include a professional Biologist, Agrologist, Arborist, Forester, Geoscientist Engineer, Architect and Landscape architect.

“Replacement Tree” means a tree, including its root system, that is required to be planted and maintained in accordance with this Bylaw and which must:

- (i) meet the plant condition and structural requirements set out in the latest edition of the BCSLA/BCLNA “BC Landscape Standard” and the CNTA “Canadian Standards for Nursery Stock” ; and

-
- (ii) have a height of a least 1.2 metres in the case of coniferous species and in the case of deciduous species must have a caliper of at least 4 centimeters measured 1.4 meters above the base of the tree

“Shared tree” means a tree with any part of its trunk or trunk flare crossing a property line, including where the adjacent property is a highway, park, or other City-owned property.

“Township” means the Township of Esquimalt

“Tree Protection Barrier” means a sturdy, continuous barrier or fence at least 1.2 metres in height, installed outside the Drip Line of a tree that is to be retained, substantially in accordance with Figure 2 of Schedule “B”.

“Tree Protection Plan” means a plan which, when reviewed from above, indicates the location of one or more Protected Trees to be retained, and the measures to be taken for the protection of such trees.

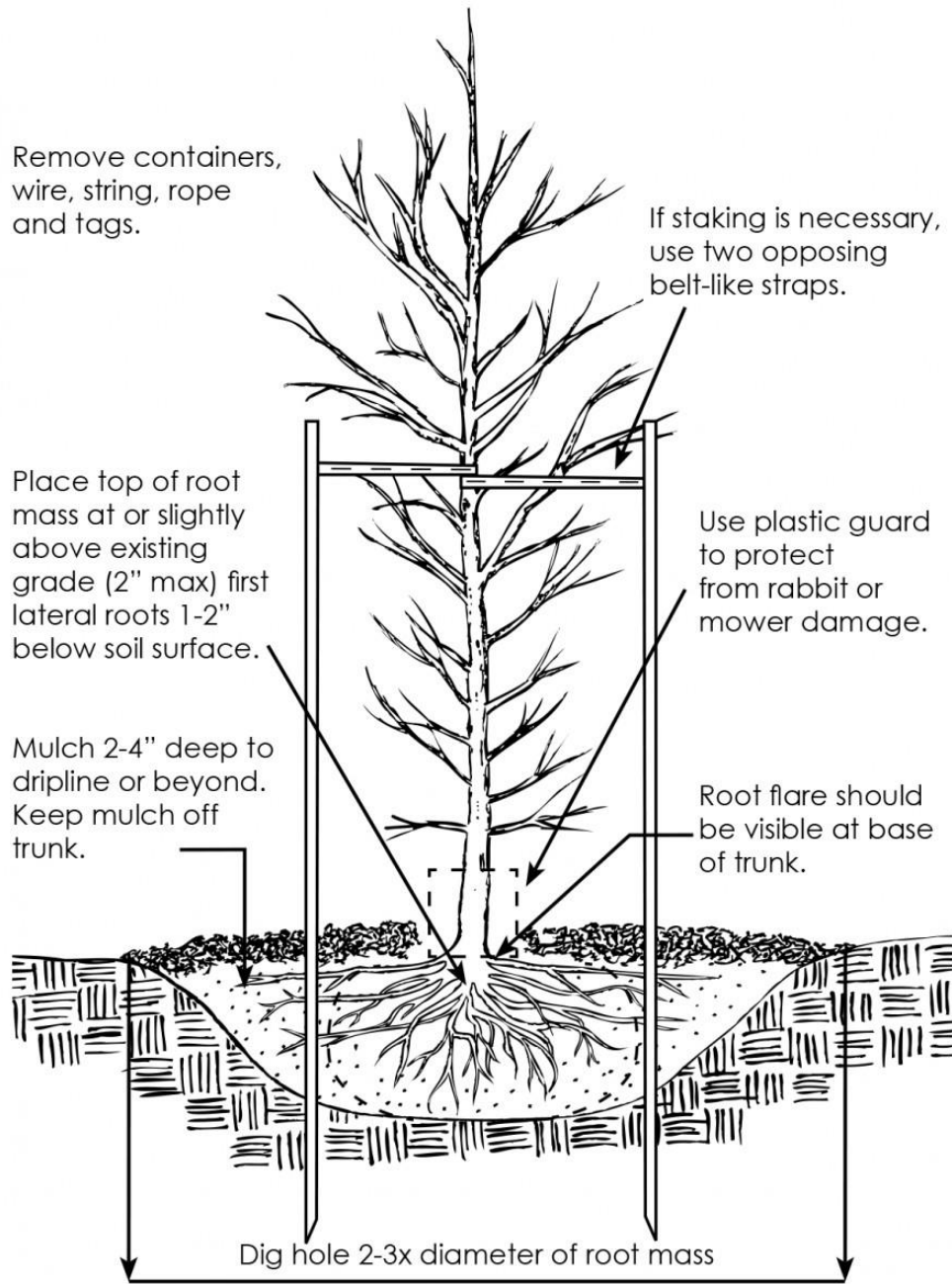
“Tree Replacement Plan” means a drawing prepared by a Qualified Professional showing planting areas; proposed species, number and size of Replacement Trees, existing Protected Trees; location of fences, decks, pathways, patios and other paved surfaces; and any other relevant site features or information.

“Watercourse” means any creek, stream or waterway governed by the provincial Ministry of Environment or Federal Department of Fisheries and Oceans.

“Wildlife Tree” means a tree which provides habitat (shelter or nutrients) for birds or wildlife designated as threatened or endangered under the *Wildlife Act*.

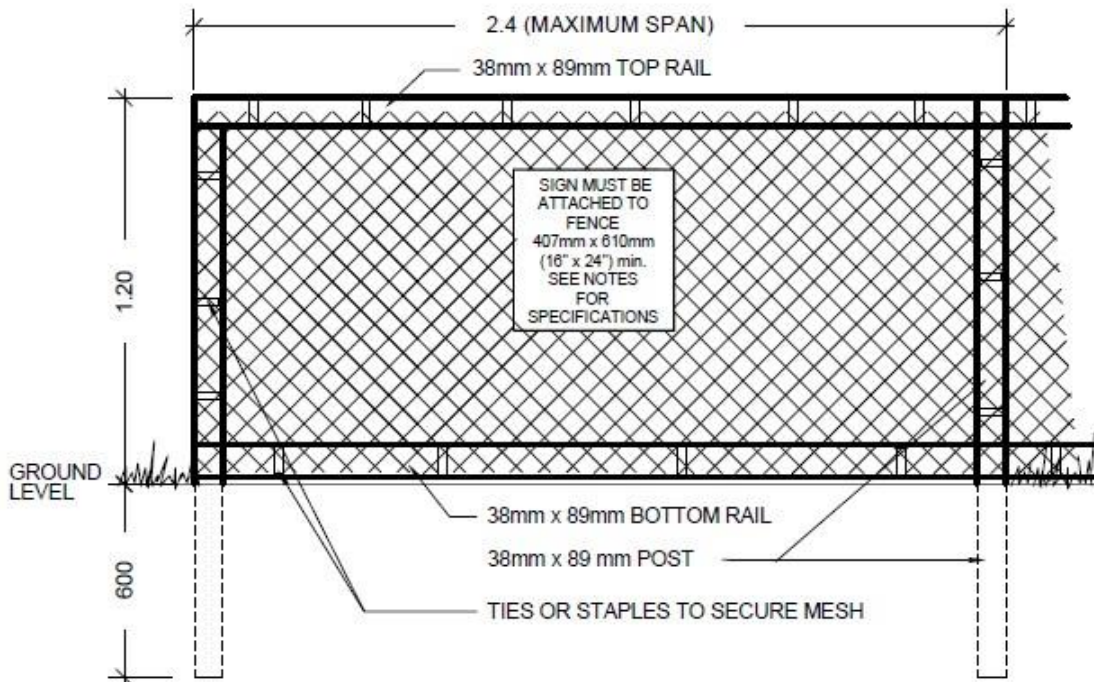
SCHEDULE "B"

Figure 1 - Tree Planting Diagram



SCHEDULE "B"

Figure 2 - Tree Protection Barrier



Tree Protection Fencing Specifications:

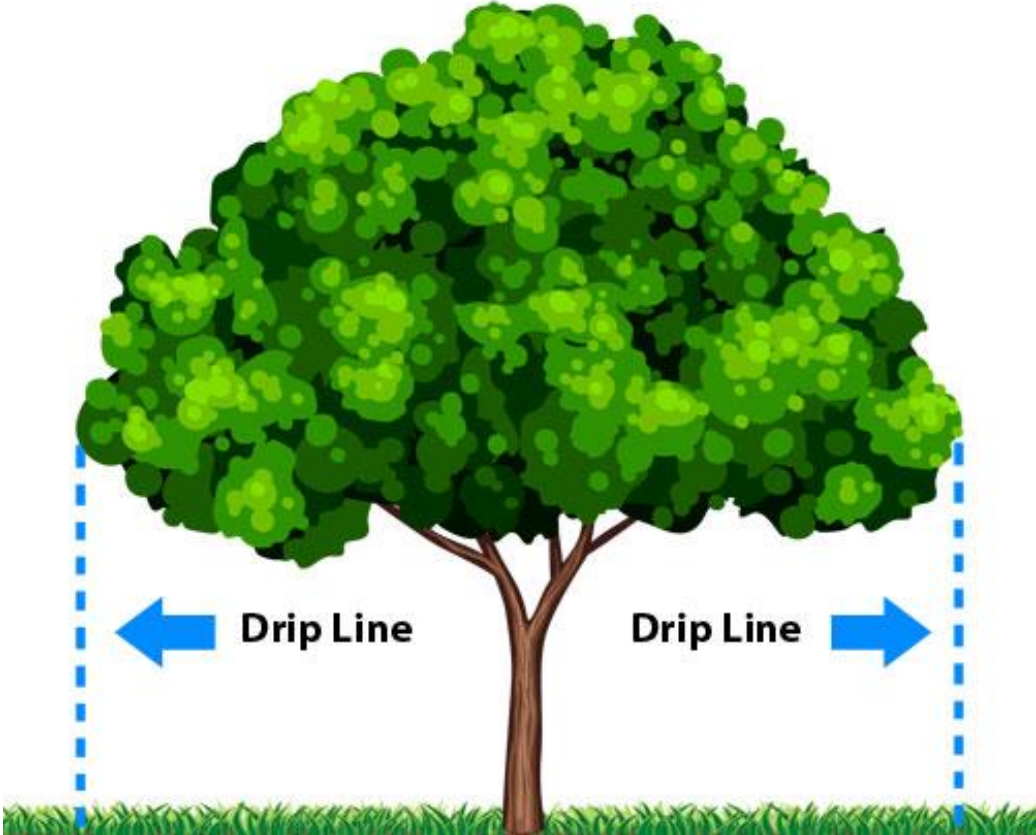
1. The fence will be constructed using 38 mm x 89 mm (2" x 4") wood frame:
 - a. Top, Bottom and Posts *
 - b. Use orange snow fencing mesh and secure to the wood frame with "zip" ties or galvanized staples.
2. Attach a sign with minimum size of 407 mm x 610 mm (16" x 24") with the following wording:
 - a. **DO NOT ENTER** – Tree Protection Zone (For retained trees) or;
 - b. **DO NOT ENTER** – Future Tree Planting Zone (For tree planting sites).

This sign must be affixed on every fence face or at least every 10 linear metres.

*In rocky areas, metal posts (t-bar or rebar) drilled into rock will be accepted.

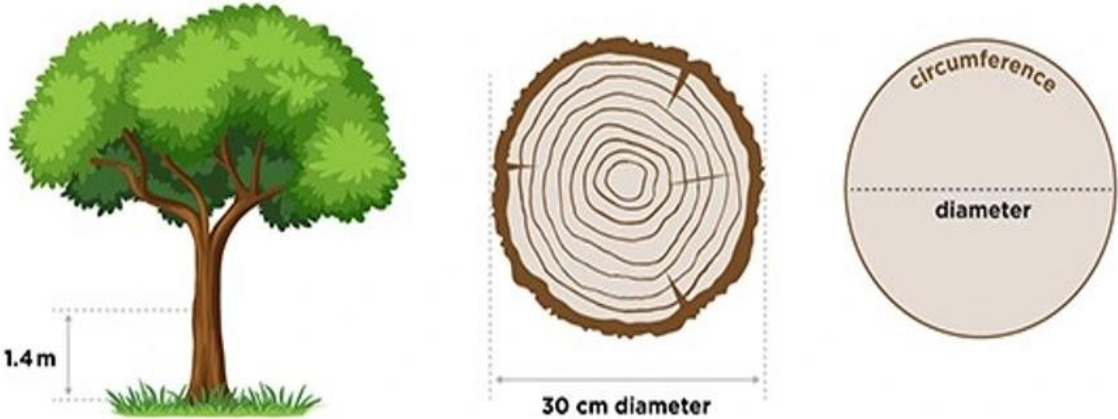
SCHEDULE "B"

Figure 3 - Tree Drip Line Diagram



SCHEDULE "B"

Figure 4 - DBH Measurement Diagram



SCHEDULE “C”
REPLACEMENT TREES

Tree species	Size	Coniferous/Deciduous	Special Characteristics
Trident Maple <i>Acer buergeranum</i>	S, M	Deciduous	Fall colour leaves are yellow, red and orange
Snake Bark Maple <i>Acer davidii</i>	S	Deciduous	Bark colour and texture, understory trees
Paper Bark Maple <i>Acer griseum</i>	S, M	Deciduous	Exfoliating brown/orange bark, drought tolerant
Japanese Maple <i>Acer palmatum 'cultivars'</i>	S	Deciduous	Fall colour, bark colour, canopy shape, leaf texture
Weeping Birch <i>Betula pendula</i>	M	Deciduous	Bark colour and texture canopy shape
Japanese Hornbeam <i>Carpinus japonica</i>	M	Deciduous	Dark glossy leaves
Eastern Redbud <i>Cercis canadensis</i>	S	Deciduous	Rose colored Spring flowers, textured bark with deep fissures
Dogwood (tree form) <i>Cornus spp</i>	S, M	Deciduous	Spring bloom, fall colour
Amur maackia <i>Maackia amurensis</i>	S	Deciduous	Exfoliating bark, and attractive to pollinators, drought tolerant
Magnolia (tree form) <i>Magnolia spp</i>	S, M	Deciduous and evergreen	Spring bloom
Ornamental Crab-apple <i>Malus spp</i>	S, M	Deciduous	Spring bloom, Fall colour
White Mulberry <i>Morus alba</i>	S, M	Deciduous	Spring bloom, fruit, and canopy shape
Sourwood <i>Oxydendrum arboreum</i>	S	Deciduous	Fall colour vivid red, summer cream white flower bloom
Persian Ironwood <i>Parrotia persica</i>	S, M	Deciduous	Fall colour and summer bloom with showy red flowers and exfoliating bark
Ornamental Plum <i>Prunus spp</i>	S, M	Deciduous	Spring bloom with pale pink flowers
Ornamental Cherry <i>Prunus spp</i>	S, M	Deciduous	Spring bloom, bark texture
Ornamental Pear <i>Pyrus calleryana</i>	S	Deciduous	Spring white flower bloom, bark texture
Mountain Ash <i>Sorbus spp</i>	S, M	Deciduous	Spring bloom, red cluster berries
Japanese Stewartia <i>Stewartia pseudocamellia</i>	S, M	Deciduous	Summer bloom with white camelia like flowers
Japanese Snowbell <i>Styrax japiconus</i>	S	Deciduous	Spring bloom with white bell shaped flowers
Japanese Tree Lilac <i>Syringa reticulata</i>	S	Deciduous	Spring creamy white fragrant bloom and attractive to pollinators
Windmill Palm <i>Trachycarpus fortune</i>	S, M	Evergreen	Bark texture, interesting fan shaped leaves, hardy

Coliseum Maple <i>Acer cappadocicum</i>	M	Deciduous	Golden yellow fall colour
David's Maple <i>Acer davidii</i>	S, M	Deciduous	Smooth olive green bark
Rocky Mountain Maple <i>Acer glabrum</i>	S	Deciduous	Red leaves in fall, showy red fruits
Striped Maple <i>Acer pensylvanicum</i>	S	Deciduous	Green and white striped bark, broad green leaves
Red Maple <i>Acer rubrum</i>	M, L	Deciduous	Brilliant red leaves in fall
Sugar Maple <i>Acer saccharum</i>	M, L	Deciduous	Spectacular fall color ranging from reds to bright yellow to fluorescent orange
Freeman Maple <i>Acer x freemanii</i>	M	Deciduous	Stunning fall red, yellow and orange colors
Red Horsechestnut <i>Aesculus x carnea</i>	M	Deciduous	Showy spring red or pink flowers, good carbon sequester
Silk Tree <i>Albizia julibrissin</i>	M	Deciduous	Summer bloom with pink silky thread flowers, great pollinator
Japanese Angelica Tree <i>Aralia elata</i>	S, M	Deciduous	Summer bloom with white, bark is rough and gray with prickles
Pacific Madrone <i>Arbutus menziesii</i>	M	Evergreen	Native, waxy evergreen foliage, contorted growth habit, distinctive flaky bark
European Hornbeam <i>Carpinus betulus</i>	S, M	Deciduous	Densely textured foliage with slate grey smooth to fluted bark
Katsura Tree <i>Cercidiphyllum japonicum</i>	M	Deciduous	Broad ovate leaves have a sweet caramel fragrant in fall
Nootka Cypress <i>Cupressaceae nootkatensis</i>	M	Evergreen	Native, strongly weeping pyramidal tree with dark gray-green foliage
Fringe Tree <i>Chionanthus virginicus</i>	M	Deciduous	Late spring pure white fragrant blooms
Pacific Dogwood <i>Cornus nuttallii</i>	S, M	Deciduous	Native, small white flowers in a dense cluster
Handkerchief Tree <i>Davidia involucrata</i>	M	Deciduous	Pure white flowers flutter in the wind
Dawyck Beech <i>Fagus sylvatica 'Dawyck'</i>	L	Deciduous	Dense foliage, leaves remain on the tree until spring
Maidenhair Tree <i>Ginkgo biloba</i>	L	Deciduous	Fan shaped leaves turning bright yellow in fall
Halka Honey Locust <i>Gleditsia triacanthos 'Halka'</i>	M, L	Deciduous	Fast growth and tolerant to poor soil conditions, bright cream colored leaves appear in late spring
Mountain Silverbell <i>Halesia monticola</i>	M	Deciduous	White to light pink bell shaped spring flower blooms
Golden Rain Tree <i>Koelreuteria paniculata</i>	M	Deciduous	Bright yellow flower blooms
European Larch <i>Larix decidua</i>	M, L	Deciduous, Evergreen	Needle like light green leaves that turn bright yellow before fall

Sweetgum <i>Liquidambar</i>	M, L	Deciduous	Star shaped leaves turn dark purple, yellow and red in autumn Good carbon sequester
Antarctic Beech <i>Nothofagus moorei</i>	M	Evergreen	Large trunks with scaly dark brown color, leaf color is dark green
Corkscrew Willow <i>Salix matsudama</i>	M, L	Deciduous	Branches twist and turn creating curls or corkscrews
Umbrella Pine <i>Sciadopitys verticillata</i>	M	Evergreen	Richly textured and rare conifer tree
Whitebeam <i>Sorbus airia 'Lutescens'</i>	M	Deciduous	Columnar tree with leaves that are nearly white on the underside
Pacific Yew <i>Taxus brevifolia</i>	M	Evergreen	Native, bright green foliage with red berries
Little Leaf Linden <i>Tilia cordata</i>	M	Deciduous	Small heart shaped lime green leaves and yellowish fragrant summer flowers
Japanese Zelkova <i>Zelkova serrata</i>	M	Deciduous	Leaves are narrowly oval with a pointed tip. Bark is gray and fairly smooth,
Grand Fir <i>Abies grandis</i>	L	Evergreen	Native, Fast growing trees, Great for wildlife as deer eat the foliage and birds and squirrels eat the seed.
Balsam Fir <i>Abies balsamea</i>	L	Evergreen	This tree grows slowly, Dark green foliage with 4 inch cones, Seeds are eaten by birds and squirrels.
White Fir <i>Abies concolor</i>	L	B	Needles are bluish or silvery gray, Cones are upright and up to 6 inches in height,
Noble Fir <i>Abies procera</i>	L	Evergreen	Tall narrow tree, Needles are bluish green and are distinctly curved at the tip, Cones are 6 to 10 inch and turn purplish brown,
Bigleaf Maple <i>Acer macrophyllum</i>	L	Deciduous	Native, Very large leaves, Barred owls prefer to nest and perch in this tree. Great carbon sequestor,
Sycamore Maple <i>Acer pseudoplatanus</i>	L	Deciduous	Large tree with a stately crown, Dark green leaves turn intensely gold yellow red in autumn,
Western Catalpa <i>Catalpa speciosa</i>	L	Deciduous	Showy white spring flowers and bean like pods,
Atlas Cedar <i>Cedrus atlantica</i>	L	Evergreen	Beautiful pyramidal shaped tree with barrel shaped cones,
American Beech <i>Fagus grandifolia</i>	L	Deciduous	Dark green narrow oval leaves, The nuts are edible, Thin smooth bark,
White Ash <i>Fraxinus americana</i>	L	Deciduous	Dark green leaves turn reddish purple in Fall, Tall tree with diamond pattern textured bark,
Thornless Honeylocust <i>Gleditsia tricanthos inermis</i>	L	Deciduous	Fast growing tree with fragrant spring flowers, Tiny leaflets turn yellow in Fall,
Black Walnut <i>Juglans nigra</i>	L	Deciduous	Deeply furrowed grey black bark. Walnuts are typically harvested after 12 years. Good for carbon sequestration.

English Walnut <i>Juglans regia</i>	L	Deciduous	Large tree with a short trunk and broad crown. Leaves turn bright yellow in Fall.
Tulip tree <i>Liriodendron tulipifera</i>	L	Deciduous	Very tall tree that can grow up to 300 years old, The trunk can grow up to 50 feet high without a single branch,
Dawn Redwood <i>Metasequoia glyptostroboides</i>	L	Deciduous	A fast growing deciduous conifer, The foliage is light green and feathery. The trunk is deeply fluted with buttressed roots. The trunk is reddish brown with peeling bark.
Colorado Blue Spruce <i>Picea pungens</i>	L	Evergreen	Blue green foliage with a columnar shape. Pale brown cones are up to 4 inches in length.
Sitka Spruce <i>Picea sitchensis</i>	L	Evergreen	This tree can grow up to 300 feet tall and can live up to 700 years old. It has reddish brown scaly bark. Older trees may not have branches lower than 100 feet.
Scotch Pine <i>Pinus sylvestris</i>	L	Evergreen	Growing up to 115 feet tall, this tree has thick, flaky bark. It has a long, bare straight trunk with a rounded mass of foliage.
London Plane Tree <i>Platanus acerifolia</i>	L	Deciduous	Large tree with a pale grey green, smooth exfoliating bark. Leaves are thick and stiff textured. It is one of the best trees for sequestering carbon.
English Oak <i>Quercus robur</i>	L	Deciduous	A large tree with a thick trunk. This tree lives a long time with one of the oldest being 1500 years old. Its large crown is very efficient at sequestering carbon.
Pin Oak <i>Quercus palustris</i>	L	Deciduous	This is a mid to large tree growing to about 70 feet tall with a 30 foot spread on its canopy. This tree is a great carbon sequester
Red Oak <i>Quercus rubra</i>	L	Deciduous	Great carbon sequester. The bark is dark reddish grey brown. Leaves turn red in the Fall.
Garry Oak <i>Quercus garryana</i>	L	Deciduous	This tree is native to Vancouver Island. A slow growing tree up to 90 feet. The bark is gray and fissured. This tree is a great carbon sequester
Douglas-fir <i>Pseudotsuga</i>	L	Evergreen	This is a native tree that can grow up to 300 feet tall. The green foliage is flat and soft. On older trees, the thick bark is deeply fissured making it quite fire resistant.
Weeping Willow <i>Salix babylonica</i>	L	Deciduous	Rapidly growing tree with a short lifespan. It has an open crown with ground sweeping branches. It grows especially well near water.

Coast Redwood <i>Sequoia sempervirens</i>	L	Evergreen	One of the tallest tree species growing up to 380 feet. Also very long lived with some trees living up to 2000 years old. Thick red brown colored bark is soft and fibrous.
Western redcedar <i>Thuja plicata</i>	L	Evergreen	The trunk swells at the base and has shallow roots. Green foliage is flat with scale like leaves. This tree is native to this area.