

February 7, 2022

MEMORANDUM

To: Land Use Committee
From: Yolanda Ho, Analyst
Subject: Tree Service Provider Registration (CB 120207)

On February 9, 2022, the Land Use Committee (Committee) will receive a briefing and discuss [Council Bill \(CB\) 120207](#) that would establish a requirement for tree service providers to register with the City prior to conducting commercial tree work on private property.

This memorandum describes: (1) the background of the legislation; (2) CB 120207; (3) potential impacts of CB 120207; (4) proposed amendments; and (5) next steps.

Background

The Council adopted [Resolution 31902](#) in September 2019, stating the Council's and the Mayor's shared commitment to explore a variety of strategies to protect trees and increase Seattle's tree canopy cover. One of the key priorities included "requiring all tree service providers operating in Seattle to meet minimum certification and training requirements and register with the City."

Tree service providers are businesses generally engaged in the pruning, treatment, and removal of trees. They may also offer assessments of tree health to determine if a tree would be considered hazardous and thus warrant removal. Currently, tree service providers that work on trees in the public right-of-way (ROW) must register with the Seattle Department of Transportation (SDOT) before they may be permitted to conduct tree maintenance or removal activities. The City has no registration process for tree service providers that work on trees located on private property.

SDOT established its tree service provider registration requirement almost a decade ago ([Ordinance 124166](#)) as part of a comprehensive effort to improve management of the urban forest in the ROW. The publicly-accessible [tree service provider registry](#) is intended to increase compliance of these businesses with City regulations related to street trees. SDOT's registry system is relatively simple and managed by one staff person.

Registration is free and valid for one year. Tree service providers are required to reapply to renew their registration every year. To register, tree service providers must provide SDOT with the following information:

- State of Washington General Contractor's License;
- City of Seattle Business License;

- Proof of commercial general liability insurance that names the City of Seattle as an additional insured for primary limits of liability, with a minimum of \$1 million in coverage;
- At least one person (an employee or a consultant) who is a credentialed International Society of Arboriculture (ISA) certified arborist or ISA Certified Tree Worker who is responsible for supervision of street tree pruning; and
- Affirmation that the tree service provider has read and understands the following documents:
 - Street Tree Ordinance (Ordinance 124166);
 - [Street Tree Manual](#);
 - ANSI – A-300, Pruning Standards; and
 - City of Seattle Traffic Control Manual for In-Street Work.

There are about 75 active tree service providers on the registry and SDOT has processed over 100 registration applications thus far. Should a registered tree service provider be found to have conducted tree work in violation of City regulations more than once, SDOT will revoke that business' registration and allow it to reapply the following year.

SDOT permits the removal and replacement of a street tree in limited circumstances (e.g., a tree is deemed hazardous, poses a public safety risk, or cannot be successfully retained during a construction project). If a street tree is permitted for removal, SDOT requires that a public notice be posted at least 14 days in advance of the removal.

Summary of CB 120207

CB 120207 would amend Title 25 of the Seattle Municipal Code to require that tree service providers register with the City prior to conducting tree work on private property. The Seattle Department of Construction and Inspections (SDCI) would be required to create an application process and registry within 90 days of the effective date of the proposed ordinance. Following creation of the application process and registry, tree service providers would then be required to register with SDCI within 90 days.

It would define “commercial tree work” as performing the following services in exchange for financial compensation: major pruning; removal of trees larger than six inches diameter at breast height (DBH); and the assessment of tree health or hazard risk. A “tree service provider” would be defined as an entity that conducts commercial tree work. To apply, tree service providers would have to provide the following information:

- State of Washington General Contractor’s License;
- City of Seattle Business License;
- Proof of commercial general liability insurance;

- At least one employee who is a credentialed International Society of Arboriculture (ISA) certified arborist;
- At least one employee who is currently credentialed with an ISA Tree Risk Assessment Qualification if engaging in commercial tree work involving hazardous trees; and
- Affirmation that the tree service provider is knowledgeable about City codes related to commercial tree work.

The legislation would also do the following:

- Require that registered tree service providers post a notice in a location visible from the ROW at least three days in advance of conducting major pruning or removal of trees larger than six inches DBH. The notice would:
 - Describe how the work will exceed normal and routine pruning operations and maintenance; and/or
 - Note whether the work will involve removing any trees six inches or greater DBH and identify whether any of the trees to be removed would be considered exceptional;¹
- Require that registered tree service providers comply with best practices applicable to the specific to type of commercial tree work for which they are hired, including determining what is required beyond normal pruning and maintenance to achieve the client’s objectives, and maintaining adequate supervision over workers as they are performing the commercial tree work; and
- Amend other sections of Title 25 to align with the legislation’s intent of requiring that only registered tree service providers may perform commercial tree work.

Finally, it would authorize SDCI to (1) promulgate rules as needed to support administration of the registry and (2) enforce the provisions of this legislation. SDCI will not accept any reports or other information related to commercial tree work from a tree service provider that has been issued a notice of violation (NOV) related to the illegal removal of an exceptional tree until the NOV has been withdrawn or successfully appealed.

Potential Impacts of CB 120207

Urban forestry

The [2016 Seattle Tree Canopy Assessment](#) found that residential areas comprise 67 percent of Seattle’s land area and accounted for 72 percent of total canopy cover. By comparison, the ROW is 27 percent of land area and contained 22 percent of total canopy cover. This legislation

¹ “Exceptional tree” means a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by SDCI. The current version of the [Director’s Rule](#) generally considers trees to be exceptional at 30 inches DBH, though it identifies several dozen species as exceptional at a smaller diameter due to their slower growth rate or other factors.

would greatly expand the scope of the registration requirement by extending it beyond the ROW to include tree service providers working on private property.

SDOT has observed that the registration requirement appears to have increased overall tree service provider compliance with the City's street tree management regulations since establishing its registry. Based on SDOT's experience, the proposed tree service provider registry could improve management of trees on private property, supporting the City's priorities related to maintaining a healthy urban forest, as described in the recently updated [Urban Forest Management Plan](#). An additional benefit of this new requirement would be that the City would begin to receive more information about the management of trees on private property.

SDOT notes that the registry system has not entirely eliminated problems with tree management in the ROW. Some issues persist, such as registered tree service providers performing poor tree work and unregistered tree providers conducting work illegally in the ROW. The same is likely to occur in regard to the registry system for tree service providers operating on private property.

Unlike SDOT, which issues permits for planting, major pruning, and removal of street trees, SDCI provides relatively limited oversight of tree management outside of a development proposal.² Property owners may remove up to three trees that are six inches or greater DBH (that would not be considered exceptional) annually without a permit on lots in Lowrise, Midrise, Commercial, and Neighborhood Residential zones.

Lacking a permit requirement in these instances, SDCI would not be able to confirm whether a tree service provider conducting any commercial tree work is registered, which could allow unregistered tree service providers to continue to operate in Seattle. Expanding SDCI's authority to regulate tree management would need to be addressed through separate legislation.

Tree service providers

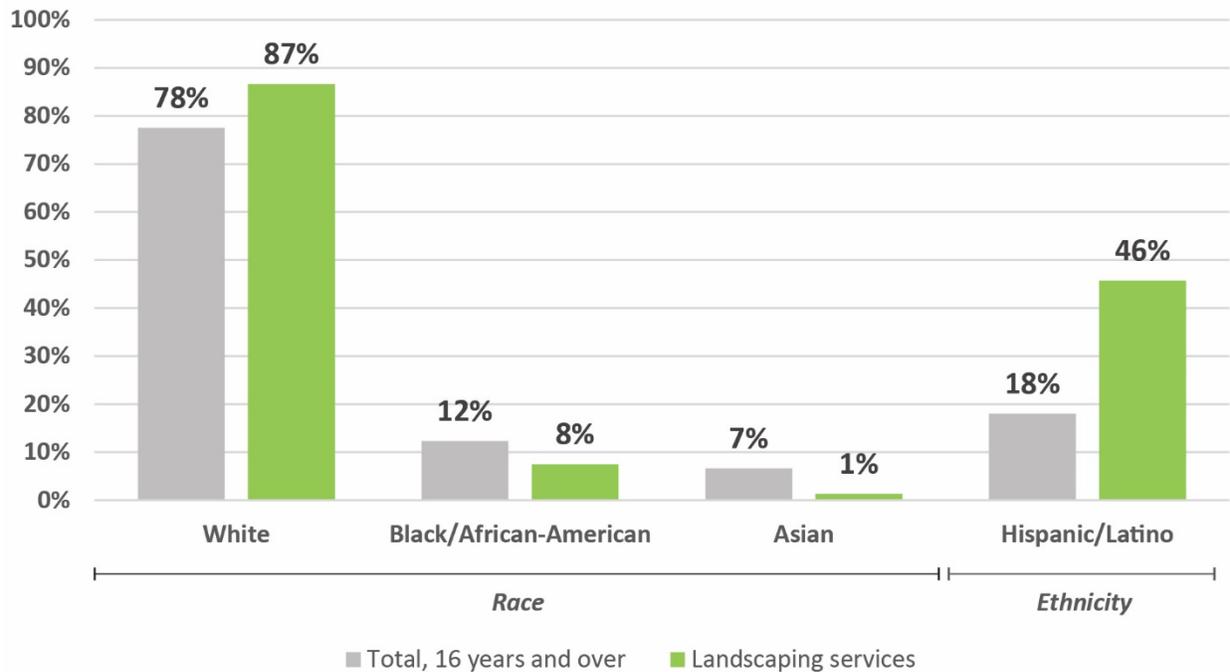
The City's active business license data includes over 900 businesses in the landscaping services industry. Over 12 percent (about 110) of these businesses appear to specialize in tree care and would likely meet the definition of a tree service provider.³ However, it is probable other businesses that offer general landscape maintenance also perform activities that would qualify as commercial tree work and thus would need to be registered as required by CB 120207.

² SDCI requires a permit when a hazardous tree is proposed to be removed or if more than three trees six inches or greater DBH are proposed to be removed in a year.

³ Based on a search using the North American Industry Classification System (NAICS) code for landscaping services (561730) and business trade names that included either "tree," "arborist," "arbor," or "arboriculture."

According to national data, workers in the landscape industry are predominately white and disproportionately skew Hispanic or Latino (see Exhibit 1 below).

Exhibit 1. Share of workers by race or ethnicity, total and landscaping services, United States, 2021⁴



The legislation could result in fewer job opportunities for companies that cannot meet the requirements for registration, particularly in regard to having a staff member who is an ISA-certified arborist, which may disproportionately impact Hispanic or Latino workers. Currently, the City only requires that tree service providers conducting tree work in the ROW be registered with SDOT. As discussed previously, this legislation would expand the registration requirement to a much larger area of the city that contains most of Seattle’s canopy cover, and therefore could impact many more businesses that perform commercial tree work.

Participants in the City’s recent outreach and engagement efforts related to tree protections generally supported the idea of establishing a registration system for tree service providers.⁵ They expressed concerns that the requirement for an ISA arborist certification may be a barrier and recommended that the City consider: (1) allowing tree service providers to have an ISA-certified arborist on retainer; and (2) strategies to help alleviate the costs associated with gaining and maintaining the credential for underrepresented workers.

⁴ U.S. Bureau of Labor Statistics, 2022. For reference, King County’s total worker population (16 years and over) is 64 percent white, 6 percent Black or African-American, 20 percent Asian, and 10 percent Hispanic or Latino.

⁵ See the [Tree Protections 2021 Outreach Report](#) compiled by SDCI, the Department of Neighborhoods, and the Office of Sustainability and Environment.

To qualify for the ISA arborist certification exam, an applicant must have either: (1) at least three years of arboriculture experience; and/or (2) a degree in the field of arboriculture, horticulture, landscape architecture, or forestry from a regionally-accredited educational institution along with practical arboricultural experience. The exam (available in Spanish or English) provides accreditation for a three-year period, after which the applicant either needs to take the exam again or accrue sufficient continuing education credits to maintain their credential.

SDOT allows registered tree service providers to have either an ISA-certified arborist on staff or retainer to allow for some flexibility. The Committee could consider amending CB 120207 to provide tree service providers with the option of having an ISA-certified arborist either on staff or retainer.

Cost of tree services

The City's tree protections outreach and engagement process revealed concerns about the possibility of increased costs for tree services as a result of this proposal. Residents or others that need the services of a tree service provider may find that costs for tree work have increased due to the requirement for an ISA-certified arborist to oversee the work. Providing the option of having an ISA-certified arborist on retainer instead of on staff may help to reduce staffing costs for tree service providers, which could in turn limit cost increases being passed onto their customers.

Implementation

As drafted, CB 120207 would require that SDCI establish the registration system within 90 days of the effective date of the ordinance. Tree service providers would then have 90 days to register with the City following establishment of the system. Should the Council pass the legislation on March 1, SDCI would need to have completed setup of the registration system by early July, and tree service providers would then need to be registered by early October.

SDCI anticipates that the tree service provider registry will not be ready to launch until September (at the earliest) as the staff responsible for developing the system are also engaged in creating systems to implement other priorities, such as the economic displacement relocation assistance program, passed by the Council via [Ordinance 126451](#) in September 2021. SDCI also will need to conduct culturally- and linguistically-appropriate outreach to key stakeholders, such as landscaping businesses that may need to register as tree service providers, which will include the over 900 businesses in the landscaping services industry and possibly others.

SDCI will require additional resources (amount still to be determined) to make the necessary changes to the Accela permitting system to enable SDCI to establish a registry system and for permit reviewers to confirm that tree service providers are registered. The system will have automated features so tree service providers can easily upload the required application

materials, submit photos of public notice postings, and other information as needed. Additionally, SDCI anticipates that they will need resources to support outreach. These costs could not be recovered through permit fees and would require additional general fund (GF) resources for the department.⁶

The Committee may want to consider amending the legislation to provide more time for implementation. If the legislation is passed by the Council, the Council will need to appropriate the additional resources requested by SDCI to support program implementation, possibly as part of the Mid-Year Supplemental Budget process. Currently, Central Staff is not aware of any GF resources available to support this appropriation absent an offsetting reduction in GF appropriations.

Enforcement

With the new public notice requirement for commercial tree work involving major pruning or tree removal, SDCI could receive an increase in calls, which may impact staff capacity to respond to complaints. SDCI may need to hire more enforcement staff to meet the demand. Conversely, the public notice requirement is intended to inform people that the commercial tree work performed by the registered tree service provider has been reviewed and permitted by the City; as such, SDCI may also receive fewer inquiries about permitted work and will be able to focus its attention on complaints of unpermitted commercial tree work.

Proposed Amendments

There are currently three proposed amendments to CB 120207 for discussion:

- Amendment 1 (sponsor: CM Pedersen) would make technical and clarifying changes.
- Amendment 2 (sponsor: CM Pedersen) would require that a registered tree service provider submit a report describing the health and risks posed by the tree if they are proposing to remove or conduct major pruning on an exceptional tree deemed hazardous.
- Amendment 3 (sponsor: CM Pedersen) would require that either a registered tree service provider or a State-licensed landscape architect with an ISA arborist certification submit a report describing how the proposed subdivision complies with the City policy of maximizing retention of existing trees as part of the subdivision, short subdivision, or boundary line adjustment process.

Next Steps

The Committee will continue discussion of CB 120207 and proposed amendments, and possibly vote at its next meeting on February 23. If the Committee votes it out that day, the legislation would go to the City Council for final action on March 1.

⁶ SDCI's 2022 Adopted Budget totals \$112 million, of which \$11 million is GF (10 percent).

Attachments:

1. Amendment 1 – Technical and clarifying changes
2. Amendment 2 – Reporting requirements for hazardous exceptional trees
3. Amendment 3 – Reporting requirements for subdivisions

cc: Esther Handy, Director
Aly Pennucci, Deputy Director

Attachment 1: Technical and clarifying changes

Yolanda Ho
Date: February 3, 2022
Version: 2

Amendment 1
to
CB 120207 – LEG Tree Service Provider Registry
Sponsor: Pedersen
Technical and clarifying amendments

Effect: This amendment would: clarify that the public notice requirement pertains only to major pruning and tree removal; amend the definition of “commercial tree work” to (1) clarify that only those that are doing the named activities in exchange for financial compensation are required to register and (2) exclude tree planting from the list of named activities; and would clarify that SDCI would not accept any reports or information regarding trees from a tree service provider that has a unresolved notice of violation related to the illegal removal of an exceptional tree.

1. Amend Section 2 of Council Bill 120207, as follows:

Section 2. A new Section 25.11.095 is added to the Seattle Municipal Code as follows:

25.11.095 Tree service provider registration

C. Tree service provider activities

1. A registered tree service provider shall comply with the following public notice requirements prior to conducting commercial tree work that involves major pruning or removal of trees larger than 6 inches DBH:

a. Post at least three days in advance of conducting any commercial tree work in a safe location at or adjacent to the commercial tree work site in a manner clearly visible from the public right-of-way, a copy of the tree service provider registration under which the commercial tree work is being conducted; and

b. Include a brief description of the commercial tree work the registered tree service provider is conducting that exceeds normal and routine pruning operations and

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maintenance or that involves removal of any trees 6 inches or greater diameter at breast height and identify whether said tree meets the City's definition of exceptional.

2. Amend Section 3 of Council Bill 120207, as follows:

Section 3. Section 25.11.020 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

25.11.020 Definitions

"Commercial tree work" means any of the following actions conducted within the City of Seattle in exchange for financial ~~compensation or other remuneration or personal benefit~~: major pruning as defined in Section 15.02.046; removal of trees larger than 6 inches DBH; ~~the planting of trees to replace removed trees larger than 6 inches DBH~~; and the assessment of the health or hazard risk of trees larger than 6 inches DBH. Normal and routine pruning operations that do not meet the definition of major pruning are not commercial tree work.

"Diameter at breast height" or "DBH" means the diameter of a tree trunk measured at 4.5 feet above ground. Diameter at breast height is equivalent to "diameter at standard height" or "DSH."

3. Amend Section 6 of Council Bill 120207, as follows:

Section 6. Subsection 25.11.100.A of the Seattle Municipal Code, which section was last amended by Ordinance 123633, is amended as follows:

25.11.100 Enforcement and penalties((-))

A. Authority((-))

1. The Director shall have authority to enforce the provisions of this ((chapter)) Chapter 25.11, to issue permits, impose conditions and establish penalties for violations of

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applicable law or rules by registered tree service providers, ((and)) establish administrative procedures and guidelines, conduct inspections, and prepare the forms and publish Director's Rules that may be necessary to carry out the purposes of this ((chapter)) Chapter 25.11.

2. The Director shall not accept any report containing, or approve any application relying on, information regarding trees or commercial tree work ~~authored or~~ prepared by ~~or on behalf of~~ a ~~person~~ ~~tree service provider~~ whenever the Director has issued a notice of violation regarding that ~~person's tree service provider's~~ actions occurring on or after the effective date of this ordinance that result in the removal of an exceptional tree, unless such notice of violation by the City has been withdrawn or overturned on appeal as provided in subsection 25.11.100.E or as otherwise provided by law.

Attachment 2: Reporting requirements for hazardous exceptional trees

Yolanda Ho

Date: February 3, 2022

Version: 3

Amendment 2

to

CB 120207 – LEG Tree Service Provider Registry

Sponsor: Pedersen

Reporting requirements for removal or major pruning of hazardous exceptional trees

Effect: This amendment would require that a registered tree service provider submit a report describing the health and risks posed by the tree if they are proposing to remove or conduct major pruning on an exceptional tree deemed hazardous. The report would need to include a description of potential targets, an industry-specific term for an area where personal injury or property damage could occur if the tree or a portion of the tree fails (e.g., sidewalks, vehicles, houses, or playgrounds). This amendment would codify existing reporting requirements related to hazardous trees as described in the Seattle Department of Construction and Inspections' [Hazard Tree Tip 331B](#).

Amend Section 2 of Council Bill 120207, as follows (subsections will be numbered as appropriate depending on which amendments are adopted):

Section 2. A new Section 25.11.095 is added to the Seattle Municipal Code as follows:

25.11.095 Tree service provider registration

C. Tree service provider activities

1. A registered tree service provider shall comply with the following public notice requirements prior to conducting commercial tree work:

a. Post at least three days in advance of conducting any commercial tree work in a safe location at or adjacent to the commercial tree work site in a manner clearly visible from the public right-of-way, a copy of the tree service provider registration under which the commercial tree work is being conducted; and

b. Include a brief description of the commercial tree work the registered tree service provider is conducting that exceeds normal and routine pruning operations and maintenance or that involves removal of any trees 6 inches or greater diameter at breast height and identify whether said tree meets the City's definition of exceptional.

2. A registered tree service provider is responsible for complying with best practices applicable to the particular commercial tree work for which they are retained, including:

a. Determination of the commercial tree work needed to justify removal or pruning outside of the routine pruning operations and maintenance in order to meet the objectives of the hiring entity;

b. Maintaining adequate supervisory control over workers conducting commercial tree work under their direct supervision.

X. If a registered tree service provider is proposing to remove or conduct major pruning on an exceptional tree based on it being a hazardous tree, the registered tree service provider must include a brief report that summarizes the factors contributing to the tree's risk rating. This report should include information on the overall health of the tree, the dimensions and structure of the tree, and analysis of potential targets should it or major parts of it fall. When necessary, the report should also include analyses of tissue samples to confirm disease or other issues concerning whether the tree posed a hazard to property or human safety.

Attachment 3: Reporting requirements for subdivisions

Yolanda Ho

Date: February 7, 2022

Version: 4

Amendment 3

to

CB 120207 – LEG Tree Service Provider Registry

Sponsor: Pedersen

Reporting requirements for subdivisions

Effect: This amendment would add an additional report requirement to the subdivision, short subdivision, or boundary line adjustment process. Currently, the City only requires that a registered surveyor draw plat maps. This would require that either a registered tree service provider or a state-registered landscape architect provide a report describing how the proposed subdivision complies with the City policy of maximizing retention of existing trees. Note that the subdivision process does not involve permitting development, but typically takes proposed development into account (e.g., building footprints and vehicle access).

Amend Section 2 of Council Bill 120207, as follows (subsections will be numbered as appropriate depending on which amendments are adopted):

Section 2. A new Section 25.11.095 is added to the Seattle Municipal Code as follows:

25.11.095 Tree service provider registration

C. Tree service provider activities

1. A registered tree service provider shall comply with the following public notice requirements prior to conducting commercial tree work:

a. Post at least three days in advance of conducting any commercial tree work in a safe location at or adjacent to the commercial tree work site in a manner clearly visible from the public right-of-way, a copy of the tree service provider registration under which the commercial tree work is being conducted; and

b. Include a brief description of the commercial tree work the registered tree service provider is conducting that exceeds normal and routine pruning operations and maintenance or that involves removal of any trees 6 inches or greater diameter at breast height and identify whether said tree meets the City's definition of exceptional.

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2. A registered tree service provider is responsible for complying with best practices applicable to the particular commercial tree work for which they are retained, including:

a. Determination of the commercial tree work needed to justify removal or pruning outside of the routine pruning operations and maintenance in order to meet the objectives of the hiring entity; and

b. Maintaining adequate supervisory control over workers conducting commercial tree work under their direct supervision.

X. Either a registered tree service provider or a Washington state-licensed landscape architect who is a currently credentialed ISA certified arborist shall prepare and submit a report to the Director during the subdivision, short subdivision, or boundary line adjustment process, describing how the proposal to subdivide land, short subdivide land, or adjust lot lines, complies with the City's policy of maximizing retention of existing trees.