



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 5898**  
**June 15, 2021**  
**Regular Business**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 5898: Code of Ethics Revisions (Ordinance No. 21C-10, Third Reading)	<input type="checkbox"/> Discussion Only
<b>RECOMMENDED ACTION:</b>	Adopt Ordinance No. 21C-10 amending chapter 2.60 MICC to revise the Code of Ethics for officials.	<input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	City Council
<b>STAFF:</b>	Jessi Bon, City Manager
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Ordinance No. 21C-10 2. Exhibit A to Ord. No. 21C-10 (amendments to chapter 2.60 MICC revising the Code of Ethics)
<b>CITY COUNCIL PRIORITY:</b>	n/a

### SUMMARY

At the January 19, 2021 Council Meeting, the City Council directed the City Manager to prepare an ordinance amending chapter 2.60 MICC – the City’s Code of Ethics. Matthew Segal and Sarah Washburn of Pacifica Law Group were hired to assist the City and evaluate and recommend revisions to the current Code of Ethics. A draft ordinance with potential revisions to the Code of Ethics proposed by Pacifica was presented to City Council for a first reading and discussion at the May 4, 2021 Council Meeting. Background information and the potential revisions presented to the City Council for a first reading can be reviewed in [AB 5849](#).

At the May 4, 2021 Council Meeting, the City Council provided feedback to Pacifica on edits to the draft ordinance for second reading. Based on the City Council’s suggestions, and continuing to take into account state law and other municipal jurisdictions’ approaches to common issues, Pacifica presented to the City Council a revised draft ordinance for second reading on June 1, 2021. Potential revisions presented for a second reading can be reviewed in [AB 5873](#).

At the June 1, 2021 Council Meeting, the City Council again provided additional feedback on edits to the revised draft ordinance for third reading. As before, based on the City Council’s suggestions and the same considerations taken on previous drafts, the draft ordinance for third reading includes the following edits:

First, changes were made to MICC 2.60.010. The title of this section has been changed from “policy” to “purpose and intent” to more accurately reflect its aspirational content. For the same reason, subsection (A) of this section has been retitled “preamble.” A handful of wordsmithing changes were also made in subsection A per the City Council’s suggestions.

Second, the conflicts of interest provision (MICC 2.60.030(A)) has been revised to state that officials shall “recuse” themselves from participation in government deliberations or decisions where they have a conflict of interest.

Third, the signed acknowledgment section (MICC 2.60.040) has been streamlined to clarify that the acknowledgment indicates an official has received, read, and agrees to be bound by the code of ethics and state law (chapter 42.23 RCW).

Fourth, the ethics officer section (MICC 2.60.050) has been revised to confirm that the position of ethics officer is created. This section has also been changed to provide that the city manager “shall” contract with one or more agencies to fill the ethics officer position and that the ethics officer shall be responsible for the prompt and fair enforcement of the code of ethics “when called upon to do so.”

Fifth, the discretionary advisory opinion section (MICC 2.60.060) was revised to provide that the ethics officer, if he or she agrees to provide an advisory opinion, “shall endeavor, except for good cause shown,” to respond to requests for advisory opinions within 45 days. Minor wordsmithing changes were also made to this section per the City Council’s suggestions. Per consensus at the June 1, 2021 meeting, the language adopting a discretionary advisory opinion process was maintained.

Finally, further changes were made to the complaint, hearing, and enforcement procedures section (MICC 2.60.070). In subsection (A)(2), language describing the purpose of sufficiency determinations was removed. In subsection (A)(5)(b), a provision granting the official complained against the right to file a written answer, appear at the hearing, submit testimony, and examine/cross examine witnesses was removed as duplicative given prior edits to the hearing procedures. In subsection (B), the term “as needed” was removed from the sixth sentence per the City Council’s suggestion. The following sentence allows the parties to request that the hearing examiner issue subpoenas. Consistent with common administrative practice, issuance remains discretionary on the part of the hearing examiner upon a showing of reasonable necessity. Given the changes to MICC 2.60.010, language in MICC 2.60.070 referring to the “policy section” was changed to “purpose and intent section.” Minor wordsmithing changes were also made to this section per the City Council’s suggestions, and an erroneous cross reference was corrected.

The amendments to chapter 2.60 MICC revising the Code of Ethics proposed by Pacifica, including edits proposed by the City Council at previous readings, is attached as Exhibit 2.

## **NEXT STEPS**

At Tuesday’s Council Meeting, Pacifica will present the proposed revisions including edits requested by the City Council at the second reading. The City Council will then have an opportunity to ask questions and discuss the revisions as part of the third reading of Ordinance No. 21C-10. If the City Council is satisfied with the proposed revisions, Ordinance No. 21C-10 may be adopted at Tuesday’s Council Meeting.

## **RECOMMENDATION**

Move to adopt Ordinance No. 21C-10 amending chapter 2.60 MICC to revise the Code of Ethics for officials.