



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6588
December 3, 2024
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6588: Repealing the Code of Ethics for Officials (Ordinance No. 24C-22, First Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Set Ordinance No. 24C-22 for a second reading and adoption on January 7, 2025.	

DEPARTMENT:	City Council
STAFF:	Mayor Salim Nice
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Proposed Ordinance No. 24C-22
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to consider Ordinance No. 24C-22 to repeal Chapter 2.60 Mercer Island City Code (MICC) relating to the Code of Ethics for Officials and rely on state law to govern the conduct and ethics of officials, which includes all members of the city council, the City's boards and commissions, and other council-appointed task groups or committees of the City of Mercer Island.

BACKGROUND

In 2018, the City Council adopted a Code of Ethics ([AB 5495](#) | [Ordinance No. 18C-15](#)) providing guidance for members of the City Council and the City's boards and commissions ("Officials") in their roles with the City. The code requires that:

1. Officials comply with the laws and policies affecting the operations of government;
2. Officials be independent, impartial and fair in their judgment and actions;
3. Public office be used for the public good, not for personal gain; and
4. Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

The code also approved a Code of Ethics Statement that Officials agree to sign upon taking office or being appointed. This statement was adopted by [Resolution No. 1548](#) and may be updated by the City Council as needed.

In November 2019, the City Council requested amendments to the Code of Ethics, after the filing of complaints earlier that year led to issues with the process for reviewing and investigating complaints and determining disposition of violations. The code revisions included improving the process for responding to a complaint, removing references to State law, and adding guidance on the acceptance of gifts, conflict of interest, representation of third parties, and misuse of public position and resources. As a result, a revised Ethics Code and ethics statement was adopted on December 10, 2019 ([AB 5643](#) | [Ordinance No. 19C-20](#) | [Resolution No. 1572](#)).

In January 2021, the City Council requested an opportunity to discuss additional revisions to the Code of Ethics ([AB 5802](#)), and in response, Pacifica Law Group was hired to assist the City evaluate the current Code of Ethics and recommend revisions to it. In April 2021, staff returned to the Council to provide a progress update on the revisions and in May proposed substantial revisions to the Code of Ethics ([AB 5827](#)).

At the May 4 ([AB 5849](#)) and June 1, 2021 ([AB 5873](#)) Council Meetings, City Council provided additional feedback on edits to the revised draft ordinance for third reading and adoption on June 15, 2021 ([AB 5898](#) | [Ordinance No. 21C-10](#)).

ISSUE/DISCUSSION

Title 42 RCW provides ethics and conflict of interest laws for public officers and agencies including:

- Campaign disclosure and contribution (Chapter 42.17A RCW);
- Misconduct of public officers (Chapter 42.20 RCW); and
- Code of ethics for municipal officers – Contract interests (Chapter 42.23 RCW).

These laws prohibit, among other things, public officials from using their public office or agency facilities in campaigns, making false or misleading statements, misappropriating agency funds, using their positions to secure special privileges, receiving certain gifts, disclosing confidential information, and entering into contracts where they may receive a financial benefit. In addition to these laws, other state laws and the constitution prohibit conflicts of interest and unethical conduct of public officials, such as:

- The doctrine of incompatible offices, which prohibits an individual from simultaneously holding two public offices that are “incompatible” with one another;
- The appearance of fairness doctrine, which requires government decision-makers to conduct quasi-judicial hearings and proceedings in a way that is fair and unbiased in both appearance and fact;
- The common law conflict of interest doctrine, which prevents municipal officers from adjudicating their own cause; and
- Article 11, section 8 and Article 30, section 1 of the Washington State Constitution, which prohibit mid-term or post-election pay increases for municipal officers who fix their own compensation.

Local governments may also adopt local codes of ethics that provide for additional standards expected of a local agency’s officials, along with a process for reviewing and adjudicating complaints. To that end, the Mercer Island City Council adopted Chapter 2.60 MICC establishing a local code of ethics in 2018.

Since its original adoption, Chapter 2.60 MICC has been amended multiple times to help improve the process and provide clarity. However, the administration and enforcement of the code of ethics has become unreasonably costly and burdensome on the City. In addition, the code of ethics has been used to express mere disagreement with various officials' decisions where no actual ethics violation exists, which undermines the purpose and intent of Chapter 2.60 MICC.

Thus, because sufficient authority exists in state law to govern the conduct and ethics of public officials, and other remedies, such as recall pursuant to Chapter 29A.56 RCW, may be used to enforcement circumstances of misfeasance or malfeasance in office, the City has determined that Chapter 2.60 MICC should be repealed.

NEXT STEPS

If the Council sets Ordinance No. 24C-22 for a second reading and adoption, it will be brought back on January 7, 2025. Alternatively, the Council could decide to suspend the City Council Rules of Procedure 6.3 and adopt Ordinance No. 24C-22 on Tuesday.

Since Boards and Commission members are subject to the Code of Ethics in chapter 2.60 MICC, staff will inform members that chapter 2.60 MICC has been repealed. The application for boards and commissions will be updated to remove references to chapter 2.60 MICC. The City's website will also be updated to remove references.

RECOMMENDED ACTION

Set Ordinance No. 24C-22 for a second reading and adoption on January 7, 2025.

Or, alternatively:

1. Suspend the City Council Rules of Procedure 6.3, requiring a second reading for an ordinance.
2. Adopt Ordinance No. 24C-22 repealing chapter 2.06 MICC, Code of Ethics.