

**CITY OF MERCER ISLAND
ORDINANCE NO. 20C-07**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING
ENFORCEMENT OF CERTIFICATION AND TESTING REQUIREMENTS FOR
BACKFLOW PREVENTION ASSEMBLIES, PROVIDING FOR SEVERABILITY
AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the Washington Administrative Code 246-290-490 requires water purveyors to protect water quality by controlling and eliminating cross connections, including the mandatory use of backflow prevention assemblies; and

WHEREAS, Mercer Island City Code (MICC) 15.14 requires backflow prevention assemblies to be installed at the city's water service connection per city standards. The backflow preventer must be certified at installation and tested annually to ensure proper functioning; and

WHEREAS, the enforcement procedures detailed in MICC 14.14.060 and MICC 15.14.080 currently include monetary penalties for non-compliance; and

WHEREAS, the current COVID-19 pandemic and public health emergency has resulted in financial difficulties for many as well as impacts on the ability for testers to access some backflow preventer assemblies for the annual testing procedure; and

WHEREAS, the Washington State Department of Health has not provided an extension to the annual compliance deadlines for the cross connection control program and annual testing of backflow prevention devices is essential for the protection of water quality; and

WHEREAS, the protection of water quality is a very high probity for the City of Mercer Island and the City would like to ensure backflow assembly testing is completed on schedule, while also avoiding any undue financial hardship for residents and businesses during the COVID-19 emergency. As such, the testing requirement and timeline will remain in place but the city will remove monetary penalties for noncompliance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1: **MICC 15.14.060 Amended.** MICC 15.14.060 is amended to read as follows:

15.14.060 Certification response and enforcement.

A. *Certification Response Required.* The city will periodically send a certification to identify consumers with property features which may require approved backflow preventers. Consumers shall return the certification within 30 days.

B. *Enforcement.* In the event the consumer has failed to respond to the certification within the specified time period, the consumer shall be subject to the following penalties:

1. Initial Warning. Written ~~warning notice~~ shall be sent to the consumer or, alternatively, a copy of such ~~written notice~~ warning shall be posted on the

premises involved. The ~~notice-warning~~ shall provide that the certification ~~shall must be~~ returned within 30 days of the date the notice is mailed or posted on the premises.

2. ~~First Violation~~Final Warning. If the consumer does not correct the violation by returning the certification within 30 days of issuance of or the posting of the initial first-written notice~~warning~~, ~~the consumer shall receive a \$50 penalty~~ the consumer shall be issued a final warning that water service to the premises may be terminated after 30 days.

3. ~~Second and Subsequent~~Notice of Violations. If the consumer does not correct the violation by returning the certification within 30 days of the issuance of or the posting of the final warning, ~~the first or subsequent penalty, the consumer shall receive an additional \$50 penalty~~ the consumer shall be issued a written notice of violation, and water service to the premises shall be shut off.

Section 2: **MICC 15.14.080 Amended.** MICC 15.14.080 is amended to read as follows:

15.14.080 Enforcement

A. The city shall have the authority to terminate water service, and take abatement action as set forth in MICC 15.14.090 ~~and impose monetary penalties~~ for violations of the inspection, testing and installation requirements in this chapter.

B. ~~Water Service Termination and Monetary Penalties~~. In the event that the water purveyor, or his/her designee, determines that an unlawful cross-connection exists and/or that the consumer has failed to meet the inspection and testing requirements for backflow preventers, the consumer shall be subject to the following penalties:

1. Initial Warning. Written ~~notice-warning~~ shall be sent to the consumer or, alternatively, a copy of such ~~written notice-warning~~ shall be posted on the premises involved. The ~~notice-warning~~ shall provide that the unlawful cross-connection ~~shall must be~~ corrected by testing or installation within 30 days of the date the ~~notice-warning~~ is mailed-issued or posted on the premises.

2. ~~First Violation~~Final Warning. If the consumer does not correct the violation by testing or installation within 30 days of the first issuance or posting of the written notice initial warning, the consumer shall be issued ~~an infraction as provided in MICC 6.10.050(C)~~ and a final warning notice that water service to the premises may be terminated after 30 days.

3. ~~Second~~Notice of Violation. If the consumer does not correct the violation by testing or installation within 30 days of the issuance or posting of the first infraction~~final warning~~, the consumer shall be issued a notice of violation ~~second infraction as provided in MICC 6.10.050(C)~~ and water service to the premises ~~may shall be~~ shut off ~~immediately~~.

4. If the water purveyor determines that service should not be interrupted, the city may hire a contractor to abate the unlawful cross-connection as set forth in MICC [15.14.090](#).

Section 3: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 4: **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its special meeting on May 5, 2020 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Benson Wong, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Deborah A. Estrada, City Clerk

Date of Publication: _____