



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5684
May 5, 2020
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5684: Backflow Prevention Assembly Testing Enforcement Update	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Adopt Ordinance No. 20C-07 to Amend Enforcement of Certification and Testing of Backflow Prevention Assemblies	<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Public Works
STAFF:	Alison Van Gorp, Policy Group Lead
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 20C-07
CITY COUNCIL PRIORITY:	n/a

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

SUMMARY

Completion of annual backflow testing is a necessary requirement to protect the City's water supply. Backflow tests are required to be performed by June 30 of each year. While many customers have already completed the required testing, some have not been able to do so given circumstances related to the COVID-19 Pandemic. One of the primary challenges is concerns related to safe access to backflow assemblies located inside a residence.

The purpose of this agenda bill is to eliminate the civil infractions associated with backflow testing, which effectively provides a three-month "grace period" for customers to complete the testing without incurring additional infractions or penalties. This ordinance, does not, however suspend the backflow testing requirement for this year

Customers facing challenges with completing backflow testing are encouraged to contact City of Mercer Island staff via the Call Center at 206-275-7626 to discuss options.

BACKGROUND

State law ([Washington Administrative Code 246-290-490](#)) requires water purveyors to have a Cross Connection Control Program to protect the public from contaminated drinking water. Any plumbing

connection that could potentially allow a contaminate to enter the City's drinking water system must be protected by a backflow prevention assembly, which must be tested annually, at a minimum.

Backflow prevention assemblies are installed on cross connections between the City's potable water supply and a non-potable fluid. Common property features that require a backflow prevention assembly include irrigation systems, swimming pools, and fountains. About one third of Mercer Island's water service connections are covered by this requirement, and most property owners are accustomed to receiving a notification of the testing requirement each year from the City. Annual testing by a certified backflow tester is required, and results are reported to the City via an online portal. This process is a key component of the City's Cross Connection Control Program, which was updated and strengthened following the *E. coli* contamination event and boil water advisory in 2014.

Companies that provide backflow testing are considered "essential" under the Governor's Stay Home, Stay Healthy order and have continued to perform backflow testing work. These companies have implemented no-contact protocols when tests are performed and must meet CDC and social-distancing guidelines. Challenges and concerns remain for some residents, however, due to backflow assemblies located inside a residence.

ORDINANCE AMENDMENT

Staff are recommending the City Council adopt Ordinance No. 20C-07 (Exhibit 1) amending MICC 15.14.060 and MICC 15.14.080 to eliminate monetary penalties from the backflow certification and testing enforcement process.

When the Code Compliance code was adopted in 2017 (Chapter 6.10 MICC), the code amendment changed the penalties in 15.14.080 to civil infractions. In practice, staff have found that issuing civil infractions for a violation of the testing requirement is extremely onerous given existing staff resources and municipal court capacity. Staff were planning to bring forward this recommended amendment later this year, but recently made the decision to accelerate the work in light of the COVID-19 Pandemic.

This amendment does not eliminate the requirement to complete backflow testing this year. Per the current code, residents are required to complete testing by June 30. If the testing deadline is missed, staff perform a series of follow-up steps (outlined in the code) to facilitate compliance with the testing requirements. These steps will still be implemented to ensure all backflow testing is completed by September 30.

Customers experiencing challenges completing backflow testing related to the COVID-19 Pandemic should contact City staff via the Call Center at 206-275-7626 to discuss options.

RECOMMENDATION TO WAIVE SECOND READING

Given the rapidly approaching deadlines related to testing and noticing, staff recommends that the City Council waive the second reading of the ordinance and adopt the code amendment on May 5, 2020. This will provide the staff adequate time to provide clear and consistent messaging in the notices that are sent to water customers.

RECOMMENDATION

1. Suspend the City Council Rules of Procedures Section 6.3 requiring a second reading of an ordinance.
2. Adopt Ordinance No. 20C-07, amending MICC 15.14.060 and MICC 15.14.080 related to enforcement of certification and testing of Backflow Prevention Assemblies.

