

AGENDA

DES MOINES CITY COUNCIL REGULAR MEETING City Council Chambers VIA ZOOM

Thursday, July 8, 2021 - 5:00 PM

NOTE: The City of Des Moines is currently operating under a Proclamation of Emergency issued on March 5, 2020 and Governor Inslee's Stay-at-Home order issued March 23, 2020 in response to the COVID-19 Pandemic. Accordingly, this meeting will be held virtually using Zoom.

Public Comment continues to be encouraged and will be accepted in the following manner:

- (1)** In writing, either by completing a [council comment form](#) or by mail; Attn: City Clerk Office, 21630 11th Avenue S., Des Moines WA 98198 no later than 4:00 p.m. day of the meeting. Please provide us with your first and last name and the city in which you live. Your full name and the subject of your public comment will be read into the record at the Council meeting. Incomplete forms will not be read into the record, however the full correspondence will be attached to the Council packet and uploaded to the website as part of the permanent record.
- (2)** By participation via Zoom. If you wish to provide oral public comment please complete the [council comment form](#) no later than 4:00 p.m. day of the meeting to receive your Zoom log-in and personal identification number. Please note that Zoom attendees do not interact with one another; they join in listen-only mode until it is their turn to address the Council

City Council meeting can also be viewed live on Comcast Channel 21/321 or on the City's [YouTube](#) channel.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC VIA ZOOM/WRITTEN PUBLIC COMMENT

CITY MANAGER REPORT

CONSENT CALENDAR

- Item 1. DES MOINES NORMANDY PARK INTERLOCAL AGREEMENT FOR SENIOR SERVICES 2021-2022
Motion is to approve the Interlocal Agreement with the City of Normandy Park for the provision of Senior Services in fiscal years 2021 and 2022 whereby Normandy Park will pay an amount equal to Normandy Park's pro-rata share of costs per year for services based on participation levels, and authorize the City Manager to sign the Agreement substantially in the form as submitted.
[Des Moines Normandy Park ILA Agenda Item](#)

NEW BUSINESS

DRAFT ORDINANCE NO. 21-024; PROHIBITING ATTENDANCE AT UNLAWFUL RACING EVENTS

Staff Presentation: Assistant City Attorney Matthew Hutchins

[Prohibiting Attendance at Unlawful Racing Events](#)

INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

(4 minutes per Councilmember) - 30 minutes

PRESIDING OFFICER'S REPORT

EXECUTIVE SESSION

NEXT MEETING DATE

July 22, 2021 City Council Regular Meeting

ADJOURNMENT

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Des Moines Normandy Park
Interlocal Agreement for Senior Services, 2021-
2022

ATTACHMENTS:

1. Interlocal Agreement

FOR AGENDA OF: July 8, 2021

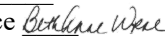
DEPT. OF ORIGIN: Parks, Recreation and Senior
Services

DATE SUBMITTED: June 30, 2021

CLEARANCES:

- ☐ Community Development _____
- ☐ Marina _____
- ☒ Parks, Recreation & Senior Services _____
- ☒ Public Works _____

CHIEF OPERATIONS OFFICER: 

- ☒ Legal /s/ TG
- ☒ Finance 
- ☐ Courts _____
- ☐ Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: , ACM

Purpose and Recommendation

The purpose of this agenda item is to seek City Council authorization to enter into an Interlocal Agreement between the City of Des Moines and the City of Normandy Park for the provision of Senior Services to Normandy Park residents for fiscal years 2021 and 2022.

Suggested Motion

Motion: "I move to approve the Interlocal Agreement with the City of Normandy Park for the provision of Senior Services in fiscal years 2021 and 2022 whereby Normandy Park will pay an amount equal to Normandy Park's pro-rata share of costs per year for services based on participation levels, and authorize the City Manager to sign the Agreement substantially in the form as submitted."

Background:

The Des Moines Activity Center (DMAC) has been a fundamental space for gathering and activities in the City of Des Moines. With the space to host programs, activities, meals, and more - DMAC has provided Senior Services to the residents of Normandy Park since 1992. Normandy Park's average participation is approximately 10% of the total participation for Senior Services programming.

The proposed 2021-2022 Interlocal Agreement defines the scope of Senior Services to be provided by Des Moines and the details for compensation for Senior Services to be rendered in the next two years. City staff have worked with Normandy Park staff to adjust in light of the COVID 19 pandemic, as this has altered service delivery and, with safety and precaution of utmost importance, will continue to affect how services and programs operate.

Discussion:

The City's DMAC remains committed to serving seniors in the area. DMAC continues to serve our seniors with on-going take-out lunch service and other outreach activities. This past year has been unprecedented and we remain committed to our seniors and will resume more robust in-person programming when safe to do so.

Des Moines and Normandy Park acknowledge the effects of COVID 19 and have worked to provide mutually beneficial accommodation outlined in the Interlocal Agreement.

Our typical Agreement allows Normandy Park residents access to all of the programs and services provided by Des Moines Senior Activity Center for adults fifty and older such as: classes, trips, health services, special events, legal services, health screenings, nutrition, meals on wheels, medical lending equipment, dances, scholarships for low income participants, arts and crafts, living well workshops, counseling, caregiver support, information and referral, transportation, special interest hobby groups, recreational activities, games and cards. Des Moines will provide the necessary Senior Services personnel, equipment and facilities to perform the foregoing described Senior Services in a timely manner and collect fees for programs and services where a cost is involved. Des Moines will promote Senior Services to Normandy Park residents through ongoing outreach and provide the City with current senior programs and services information for marketing purposes on a quarterly basis.

As we establish what the "new normal" will look like, we appreciate Normandy Park's continued partnership and willingness to work together to serve our area seniors.

Alternatives:

Reject Interlocal Agreement. (Not recommended).

Financial Impact:

Senior services staff has determined that the percentage of the senior services participants in 2019 who were Normandy Park residents was approximately 10%. The net budgeted cost for Des Moines senior programs and services for 2021 is \$380,679.00. Therefore, the annualized cost to Normandy Park for calendar months where the Des Moines Senior Center has not been closed for normal operation due to the COVID-19 pandemic during the first calendar year term of this Agreement (2021 calendar year) will be \$38,060.00, paid in quarterly payments of \$9,515.

Cost for 2022 The annualized cost to Normandy Park for calendar months where the Des Moines Senior Center has not been closed for normal operation due to the COVID-19 pandemic for the second calendar year term of this agreement will be calculated using the same formula described above.

Cost for months affected by COVID-19 closure. There shall be no cost to Normandy Park for calendar months where the Des Moines Senior Center is closed for normal operation due to the COVID-19 pandemic. For months where the Des Moines Senior Center is opened at less than 100% capacity, Normandy Park shall pay quarterly payments at 25% of the cost established.

Recommendation:

Staff recommends approval of this Interlocal Agreement.

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**INTERLOCAL AGREEMENT
For
SENIOR SERVICES
Between
THE CITIES OF DES MOINES & NORMANDY PARK
2021-2022**

In accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW), the cities of Des Moines ("Des Moines"), and Normandy Park ("Normandy Park"), each of which is a Washington Municipal Corporation, hereby enter into the following AGREEMENT:

RECITALS

WHEREAS:

- A. Des Moines and Normandy Park, through their respective City Councils, have created a relationship whereby Normandy Park contracts for senior services from Des Moines.
- B. Normandy Park and Des Moines recognize that the cost savings from shared senior services greatly outweigh the increased facility and administrative expenses in creating and maintaining separate facilities and accounting practices associated with senior services programs.
- C. The parties acknowledge the effects the worldwide COVID-19 pandemic have had and will continue to have on provision of senior services and have provided for a mutually beneficial accommodation in this Agreement for the period of time COVID-19 restrictions continue.

NOW, THEREFORE, Des Moines agrees to continue to provide, and Normandy Park agrees to continue to pay, for senior services for the benefit of the residents of Normandy Park who are fifty years of age and older on the following terms and conditions:

I. TERM of AGREEMENT and RENEWAL

- 1.1 Term.** This Agreement shall be valid for a period of two (2) years, commencing on January 1, 2021 and ending on December 31, 2022.
- 1.2 Renewal.** This Agreement may be renewed only by written agreement of the Parties.

II. DUTIES OF THE PARTIES

- 2.1 Duties of Des Moines.** Des Moines shall perform the following duties:

- a) Welcome Normandy Park seniors to participate in all senior services programs that are offered by the Des Moines Parks, Recreation & Senior Services Department, including classes, trips, health services, special events, legal services, health screenings, nutrition, meals on wheels, medical lending equipment, dances, scholarships for low income participants, pet food assistance, arts and crafts, living well workshops, quarterly newsletters, counseling, information and referral, transportation, special interest hobby groups, recreational activities, games and cards, sports, and volunteer recruitment and management;
- b) Provide all necessary senior services personnel, equipment and facilities to perform the foregoing described senior services in a timely manner;
- c) Collect all fees for programs and services where a cost is involved;
- d) Promote senior services to Normandy Park residents through the quarterly newsletter delivered to retirement homes, assisted living centers, Normandy Park City Hall, and businesses in the City of Normandy Park; and
- e) Provide Normandy Park with all current senior programs and services information for marketing purposes on a quarterly basis, this may include presentation(s) to Normandy Park City Council.

2.2 Duties of Normandy Park. Normandy Park shall perform the following duties:

- a). Provide classroom or meeting space at Normandy Park City Hall Council Chamber as requested by Des Moines Senior Services staff, if space is available on the date(s) requested;
- b). Include senior programs and services information in the quarterly Normandy Park “*City Scene*” as space is available;
- c). Include senior program and services information on the City of Normandy Park web page;
- d). Promote senior programs and services through resources Normandy Park utilizes to communicate with its residents regarding city programs, services, and events;
- e). Refer Normandy Park residents to Des Moines Senior Services as needed or requested for information, resources and assistance;

2.3 Limitation of services due to COVID-19. Normandy Park understands and agrees that the COVID-19 pandemic may require the limitation, cancellation, and/or rescheduling of services and use of facilities under this agreement. Actions taken to prevent COVID-19 shall not be a breach of Des Moines' duties under this Agreement.

III. COST OF SENIOR SERVICES & PAYMENT

3.1 Cost Basis. For calendar months where the Des Moines Senior Center has not been closed for normal operation due to the COVID-19 pandemic, Normandy Park shall pay Des Moines for providing senior services based on: (i) the percentage of Normandy Park residents served by the Des Moines Senior Activity Center for 2019; and (ii) the net budgeted cost for Des Moines senior services programs and services for the current year (i.e. projected costs for programs and services minus projected program revenues). The percentage of Normandy Park residents served in 2019 will be determined by senior services staff by tracking and comparing the number of Normandy Park participants against all senior services participants. The cost to Normandy Park will be the percentage of Normandy Park participants' times the net budgeted cost for Des Moines senior services programs and services for the current year.

3.2 Cost for 2021. Senior services staff has determined that the percentage of the senior services participants in 2019 who were Normandy Park residents was approximately 10% and the net budgeted cost for Des Moines senior programs and services for 2021 is \$380,679.00. Therefore, the annualized cost to Normandy Park for calendar months where the Des Moines Senior Center has not been closed for normal operation due to the COVID-19 pandemic during the first calendar year term of this Agreement (2021 calendar year) will be \$38,060.00, paid in quarterly payments of \$9,515.

3.3 Cost for 2022. The annualized cost to Normandy Park for calendar months where the Des Moines Senior Center has not been closed for normal operation due to the COVID-19 pandemic for the second calendar year term of this agreement will be calculated using the formula described in Section 3.1 and 3.2 of this Agreement.

3.4 Cost for months affected by COVID-19 closure. There shall be no cost to Normandy Park for calendar months where the Des Moines Senior Center is closed for normal operation due to the COVID-19 pandemic.

3.4.1 For months where the Des Moines Senior Center is opened at less than 100% capacity, Normandy Park shall pay quarterly payments at 25% of the cost established in Section 3.2 above.

- 3.5 Quarterly Reporting and Payment to Des Moines.** For the term of this Agreement, Des Moines shall provide to Normandy Park a quarterly invoice in the amount to be calculated according to Sections 3.1 through 3.4 of this Agreement. Payment will be due 45 days from the date of invoice and made payable to the City of Des Moines. In addition, Des Moines will provide to Normandy Park a report listing Normandy Park attendance for the quarter at the senior activity center.

IV. MISCELLANEOUS PROVISIONS

- 4.1 Effective Date.** This Agreement shall be effective upon ratification of the respective governing bodies and execution by the Parties.
- 4.2 Amendment.** This Agreement may be amended only upon consent of the Parties hereto. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.
- 4.3 Waiver.** The waiver by any party of any breach of any term, covenant, or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same term, covenant, or condition of this Agreement.
- 4.4 Severability.** If any provision of this Agreement shall be held invalid, the remainder of this agreement shall not be affected thereby.
- 4.5 Entire Agreement.** This Agreement represents the entire understanding of the Parties and supersedes any oral representations that are inconsistent with or modify its terms and conditions.
- 4.6 Counterparts.** This Agreement shall be effective whether signed by the Parties on the same document.
- 4.7 Notices.** Except as otherwise provided in this Agreement, any notice required to be provided under the terms of this Agreement, shall be delivered by certified mail, return receipt requested or by personal service.

EXECUTED and APPROVED by the Parties in identical counterparts of this Agreement, each of which shall be deemed an original hereof, on the dates set forth below.

CITY OF DES MOINES

CITY OF NORMANDY PARK

Interlocal Agreement for Senior Services
Page 5

By _____
Michael Matthias, City Manager
By direction of the City Council
Taken _____

By _____
Dan Yourkoski, Interim City Manager
By direction of the City Council
Taken _____

Approved as to Form:

Approved as to Form:

Tim George, City Attorney

City Attorney

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Prohibiting attendance at unlawful racing events.

ATTACHMENTS:

1. Draft Ordinance No. 21-024.

FOR AGENDA OF: July 8, 2021

DEPT. OF ORIGIN: Legal Department

DATE SUBMITTED: July 1, 2021

CLEARANCES:

- ☐ Community Development
- ☐ Marina
- ☐ Parks, Recreation & Senior Services
- ☐ Public Works

CHIEF OPERATIONS OFFICER: _____

- ☒ Legal /s/ TG
- ☐ Finance
- ☐ Courts
- ☒ Police /s/ KT

APPROVED BY CITY MANAGER
FOR SUBMITTAL: Bethanne W. W. W. W. W., ACM

Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider Draft Ordinance 21-024, which would prohibit attendance at unlawful racing events, create a new chapter in Title 9 DMMC, and prescribe penalties for violations.

Suggested Motion

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 21-024 on first reading."

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Motion 2: "I move to enact Draft Ordinance No. 21-024, adding a new chapter to Title 9 DMMC and creating a new offense, *Unlawful Race Attendance*."

Background

Illegal street racing has a long and often tragic history in this country generally, and in South King County specifically. While unsanctioned street racing has been documented and glorified in popular films and music at least as far back as the 1950's and more recently in films such as *the Fast and the Furious* series and *Need for Speed*, illegal street racing is an extremely dangerous activity that has caused death, injury, and property damage among racers, spectators, and members of the public using the public roadways completely unconnected with the race event.

Less commonly thought about dangers of unsanctioned street racing events come from the crowds that gather to watch, assist, and encourage the races and to socialize and show off their own cars and driving skills by performing stunts such as breaking traction or "drifting." These crowds, frequently in the hundreds of people, have been known to engage in violence and property destruction, and when discovered by police to engage in obstructive behavior and reckless driving when fleeing the scene.

During the pandemic, law enforcement agencies in the area have reported a significant increase in illegal racing events. The events have not only increased in number, they have become more brazen and more serious. Racers have been reported to block freeways and to engage in intimidation tactics with police. At one event last August in Renton, three people were reportedly shot, one fatally. With the increase in events and the changing patterns of behavior the racers employ to evade detection, Des Moines Police believe we should be prepared for the possibility that Des Moines will see an increase in these sorts of events. The City has indeed seen at least one such gathering, but quick response by the property owner has put in place security measures that should prevent repeat incidents.

In response to frequent street racing events, the City of Kent enacted the first illegal street race attendance ordinance in 2001, making it a misdemeanor to attend an illegal street racing event with knowledge that a race was occurring and with the intent to observe, support, or encourage the race. The ordinance also empowered the municipal court to issue an order prohibiting defendants from "no racing zones" in the City. The ordinance is considered to have been very effective in combating street racing. It has been amended through the years to adapt to changing patterns in street racing behavior. A number of cities, largely in South King County and Pierce County, have followed with their own ordinances patterned on Kent's.

At the May 6, 2021 Public Safety and Emergency Management Committee meeting, City Staff briefed the committee on the outlines of a potential illegal street race attendance ordinance that could be brought to council. The committee provided comment and direction to return with a draft ordinance to the next meeting. At the June 3, 2021, the committee considered the draft prepared by Staff and directed Staff to bring a draft ordinance forward to the full council and offered additional input. The proposed Draft Ordinance is presented with changes as recommended by the Committee on June 3.

Discussion

The costs and dangers of illegal street racing events is not limited to the act of racing itself. Local communities such as Kent and Auburn have found that these racing events are frequently attended by large numbers of spectators and facilitators. These crowds have been found to engage in violence, dangerous driving, and other illegal behavior, as well as leaving behind large amounts of trash and debris.

Between the independent costs of street racing attendance, the effect of large crowd attendance on encouraging street racing events, and the expanding footprint of street racing out of the Kent valley into other areas of South King County, it is vital that the Des Moines Police Department have the appropriate tools to address street race attendance. While the street racers can be arrested and prosecuted for reckless driving, the Des Moines Municipal Code currently does not adequately address street race attendance.

The proposed Draft Ordinance would make it an offense for any person to: 1) attend an unlawful racing event; 2) with the knowledge that such an event is occurring, was occurring, or is about to occur; and 3) with the intent to observe, support, encourage, or participate in the event. The Draft Ordinance defines “unlawful racing event” and provides a non-exhaustive list of factors that can be considered by an officer, a judge, or a jury to determine whether the event qualifies as an unlawful racing event and whether the offender has the required mental state to commit the offense.

Violation of the prohibition on unlawful race attendance where the offender has had no prior convictions under this Draft Ordinance or a substantially similar ordinance elsewhere in Washington State would be a class 2 civil infraction with a penalty of up to \$256.00 in fines and assessments. For offenders with one or more prior offenses, a violation would be a criminal misdemeanor with a maximum penalty of 90 days in jail and/or a \$1000 fine.

This Draft Ordinance also empowers the Judge of the Municipal Court to issue a “Stay Out of Areas of Racing” order (“SOAR order”) as a pretrial condition of release or as a condition of sentence to defendants charged with unlawful race attendance or certain other offenses where street racing is involved. Conditions of the order may include: prohibition on attending unlawful racing events; prohibition from returning to the scene of the unlawful racing event; restriction from entering specified areas where racing events are known to occur; and any other crime-related restriction the Judge may find appropriate. A police officer having probable cause to believe an individual is violating a SOAR order may arrest the individual. Violation of a SOAR order would be a misdemeanor with a maximum penalty of 90 days in jail and/or a \$1000 fine.

With recent increases in street racing activity in South King County and Pierce County, law enforcement agencies have been engaging in emphasis operations to combat the illegal activities. One result of these operations has been to force race organizers to change their modes of operation and to change venues, sometimes to other cities. The proposed Draft Ordinance will give Des Moines Police appropriate tools to address any potential street race attendance issues, and more importantly, will show organizers and attendants that Des Moines does not welcome these dangerous events and should not be seen as safe haven for racers fleeing other jurisdictions.

Alternatives

The City Council may:

1. Pass the proposed Draft Ordinance as written
2. Pass the proposed Draft Ordinance with amendments.
3. Decline to pass the proposed Draft Ordinance.

Financial Impact

Without knowing how much enforcement will be required, the financial impact of adopting the proposed Draft Ordinance is largely unknowable, but in the near term not likely to have outsized impact to existing resources.

Recommendation

Staff recommends that the City Council enact Draft Ordinance 21-024 as written.

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CITY ATTORNEY'S FIRST DRAFT 07/01/2021

DRAFT ORDINANCE NO. 21-024

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety, defining and prohibiting attendance at unlawful racing events, and adding a new chapter to Title 9 DMMC entitled *Unlawful Race Attendance*.

WHEREAS, unsanctioned street racing has created public safety issues in South King County for decades, and

WHEREAS, street racing events frequently occur at night, draw large crowds, and pose danger to both drivers and spectators, as well as the general public, and

WHEREAS, the crowds at illegal street racing events are often accompanied by violent crime, property damage, and large quantities of refuse left behind, and

WHEREAS, South King County cities have adopted ordinances to outlaw attendance at racing events to address the dangers and the costs of crowds attending unlawful race events, and

WHEREAS, these unlawful race attendance ordinances have been effective tools to reduce the incidence of illegal street racing and the attendance at race events, and

WHEREAS, organizers of street racing tend to be adaptable and well-connected through social media, which allows for frequent changes to practices in response to law enforcement efforts, and

WHEREAS, such adapting practices include finding new areas for staging and holding racing events where racers may expect less scrutiny from law enforcement, and

WHEREAS, the expanding footprint of illegal street racing makes it necessary that law enforcement in the City of Des Moines have appropriate tools to address the costs of crowds gathering at street racing events, and

WHEREAS, enactment of an illegal street racing ordinance is necessary and proper to protect the public health, safety and the environment; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Definitions.

As used in this section, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings throughout this chapter.

(1) "Prior offense" means a conviction or committed finding for a violation of this chapter or an equivalent ordinance of a municipality of the State of Washington to Section 2 of this Ordinance.

(2) "Public place" means an area, whether publicly or privately owned, generally open to the public and includes, without limitation, the doorways and entrances to buildings or dwellings and the grounds enclosing them, streets, sidewalks, bridges, alleys, plazas, parks, driveways, and parking lots.

(3) "Unlawful race event" means an event wherein persons willfully compare or contest relative speeds by operation of one or more motor vehicles or wherein persons willfully demonstrate, exhibit, or compare speed, maneuverability, or the power of one or more motor vehicles, in a straight or curved direction, in a circular direction, around corners, or in circles in an activity commonly referred to as "drifting," or by breaking traction.

Sec. 2. Unlawful race attendance - Prohibited.

(1) It is unlawful for any person to be present in an area where an unlawful race event is occurring, has occurred or is about to occur:

(a) who has actual or constructive knowledge that an unlawful race event is occurring, has occurred, or is about to occur, and

(b) is present with the intent to observe, support, encourage, or participate in the unlawful race event.

(2) The circumstances which may be considered in determining whether a violation of subsection (1) of this section has occurred shall include, but not be limited to:

(a) The person is associating with persons racing in an unlawful race event;

(b) The person, by admission, is in attendance of an unlawful race event with the intent to observe, support, encourage, or participate in the unlawful race event;

(c) Statements of other persons who are shown to be in knowing attendance at an unlawful race event which provide evidence that the person intends to observe, support, encourage, or participate in an unlawful race event;

(d) The person takes flight upon the appearance of a police officer;

(e) The person either operates or is a passenger in a vehicle which is driven in such a manner as to show evidence of an attempt to take flight upon the appearance of a police officer;

(f) The person's conduct demonstrates that he or she is acting as a lookout;

(g) The person possesses, on his or her person or in his or her vehicle, equipment such as a two-way radio or scanner that can be used to alert race participants to law enforcement;

(h) The area where the person is present is known to the arresting officer(s) as an area frequently used for unlawful race events;

(i) Persons present have no reasonable alternative purpose for congregating in a public area at the time the unlawful race event is occurring, is about to occur, or which occurred;

(j) The person has within the past two years been convicted in any court within this state of any violation involving racing, unlawful race attendance, reckless driving associated with racing, or trespass associated with race activity; and

(k) The person is currently subject to an order issued by a court within this state restricting the person's attendance at unlawful racing events or presence in an area designated as a "No Racing Zone" which was issued in connection with an allegation of racing, unlawful race attendance, reckless driving associated with racing, or trespass associated with race activity.

(3) A violation of this section by a person who has no prior offense is a class 2 civil infraction.

(4) A violation of this section by a person who has one or more prior offense is a misdemeanor.

Sec. 3. Stay Out of Areas of Racing (SOAR) Orders - Issuance.

(1) The municipal court may issue a SOAR order to any person criminally charged with unlawful race attendance or to any person charged with racing, reckless driving, or trespass where the Court finds a nexus with unlawful race activity as a condition of pre-trial release, sentence, or deferred sentence.

(2) A SOAR order:

(a) Shall prohibit the person subject to the order from attending an unlawful race event as defined by this chapter,

(b) May prohibit the person subject to the order from entering a defined geographic area or areas where unlawful racing activity has been shown to occur, which may include the area where the person was alleged to have been present during the charged offense,

(c) May include any other crime-related conditions the court shall find appropriate, and

(d) Shall bear the statement: "Violation of this order is a criminal offense under section 4 of this ordinance and will subject the violator to arrest.

(3) A person is deemed to have notice of the SOAR order when:

(a) The signature of the person prohibited in the order is affixed to the bottom of the order, acknowledging receipt of the order; or

(b) The order otherwise indicates that either the person or the person's attorney appeared before the court.

Sec. 4. Stay Out of Areas of Racing (SOAR) Orders - Violation.

(1) Violation of an order issued under section 3 of this ordinance shall be a misdemeanor.

(2) A police officer having probable cause to believe that a person subject to an order issued under section 3 of this ordinance is violating or failing to comply with any requirement or restriction imposed by the court shall have the authority to arrest the person without a warrant.

Sec. 5. Codification. Sections 1 through 4 of this Ordinance shall be codified as a new chapter in Title 9 DMMC, entitled *Unlawful Race Attendance*.

Sec. 6. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 7. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2021 and signed in authentication thereof this ____ day of _____, 2021.

Ordinance No. ____
Page 6 of 6

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____