

## AGENDA

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, June 1, 2023 - 6:00 PM**

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

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### CORRESPONDENCE

### COMMENTS FROM THE PUBLIC

### CITY MANAGER REPORT

### CONSENT CALENDAR

- Item 1. APPROVAL OF VOUCHERS [Page 3](#)  
**Motion** is to approve for payment vouchers through May 18, 2023 and payroll transfers through May 19, 2023 in the attached list and further described as follows:

EFT Vendor Payments	#8309-8414	\$830,621.43
Wires	#2205-2221	\$745,212.61
Accounts Payable Checks	#164900-164937	\$394,059.40
Payroll Checks	#19676-19680	\$ 17,324.96
Direct Deposit	#5434-5598	\$516,436.30

Total Checks and Wires for A/P and Payroll: \$2,503,654.70

[Approval of Vouchers](#)

- Item 2. APPROVAL OF MINUTES [Page 4](#)  
**Motion** is to approve the May 04, 2023 City Council Regular Meeting minutes.

[Approval of Minutes](#)

- Item 3. LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER/QUESTIONING, INTERSEX, AND

ASEXUAL/AROMATIC/AGENDER COMMUNITIES, (LGBTQIA+)  
PROCLAMATION **Page 10**

Motion is to approve the proclamation acknowledging June as LGTBQ  
Pride Month.

[Lesbian, Gay, Bisexual, Transgender, And Queer-Questioning, Intersex,  
And Asexual-Aromatic-Agender Communities, \(LGBTQIA+\)  
Proclamation](#)

- Item 4. AMENDMENT #3, VERRA MOBILITY SPEED CAMERAS **Page 13**  
**Motion** is to approve Amendment #3 to the contract with Verra Mobility  
to provide for the installation and operation of speed zone cameras in  
appropriate areas in or adjacent to City parks.  
[Amendment #3, Verra Mobility Speed Cameras](#)

## **PUBLIC HEARING/CONTINUED PUBLIC HEARING**

- Item 1. PUBLIC HEARING AND FIRST READING OF DRAFT RESOLUTION  
23-030 RELATING TO THE CITY OF DES MOINES HOUSING  
ACTION PLAN **Page 34**  
Staff Presentation by Community Development Director Denise Lathrop  
[Public Hearing and First Reading of Draft Resolution 23-030 relating to  
the City of Des Moines Housing Action Plan](#)

## **NEW BUSINESS**

- Item 1. CITY COUNCIL APPROVAL FOR ISSUANCE OF A BOND (\$26  
MILLION) FOR MARINA AND REDONDO REDEVELOPMENT **Page**  
**147**  
Staff Presentation by City Manager Michael Matthias  
[City Council approval for issuance of a bond \(\\$26 million\) for Marina and  
Redondo Redevelopment](#)
- Item 2. FIRST READING - CITY OF DES MOINES CITY COUNCIL  
PROTOCOL MANUAL ADOPTION **Page 177**  
[First Reading - City of Des Moines City Council Protocol Manual  
Adoption](#)
- Item 3. 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**

June 8, 2023 City Council Regular Meeting

**ADJOURNMENT**

**CITY OF DES MOINES  
Voucher Certification Approval**

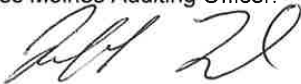
**June 1, 2023**

**Auditing Officer Certification**

Voucher transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of **June 1, 2023** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through May 18, 2023 and payroll transfers through May 19, 2023 included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer:



Jeff Friend, Finance Director

		# From	# To	Amounts
<b>Claims Vouchers:</b>				
EFT's		8309	8414	830,621.43
Wires		2205	2221	745,212.61
Accounts Payable Checks		164900	164937	394,059.40
<b>Total Vouchers paid</b>				<b>1,969,893.44</b>
<b>Payroll Vouchers</b>				
Payroll Checks		19676	19680	17,324.96
Direct Deposit	5/19/2023	5434	5598	516,436.30
<b>Total Paychecks &amp; Direct Deposits</b>				<b>533,761.26</b>
<b>Total checks and wires for A/P &amp; Payroll</b>				<b>2,503,654.70</b>

**MINUTES**

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11th Avenue S, Des Moines, Washington  
Thursday, May 4, 2023 - 6:00 PM**

**CALL TO ORDER**

Mayor Matt Mahoney called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember JC Harris.

**ROLL CALL**

**Council Present:**

Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Gene Achziger; Councilmember JC Harris; Councilmember Jeremy Nutting; Councilmember Vic Pennington; and Councilmember Harry Steinmetz

**Staff Present:**

City Manager Michael Matthias; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Chief Administrative Officer Bonnie Wilkins; Harbormaster Scott Wilkins; Assistant Police Chief Mark Couey; Community Development Director Denise Lathrop; Finance Director Jeff Friend; Principal Planner Laura Techico; Management Analyst Rochelle Sems; and City Clerk Taria Keane

Mayor Matt Mahoney and Deputy Mayor Traci Buxton gave a brief report on their trip to the SEA Stakeholder Advisory Round Table (StART) meeting in Washington D.C.

**CORRESPONDENCE**

There were no additional correspondence outside of the emails already received by Council.

**COMMENTS FROM THE PUBLIC**

- Martha Hamilton, Housing
- Christine Tollefson, Marina District
- Bill Linscott, Community Engagement

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- Kay Vann, Safety
- Ivana Halvorsen, Des Moines Yacht Club

## CITY MANAGER REPORT

Chief Administrative Office Bonnie Wilkins gave Council an update on Consor Group the Communication Consultant and the process with the Council.

City Attorney Tim George gave Council an update on the Blake Decision.

City Manager Michael Matthias gave Council a brief update on Consent Calendar Item #3 - 2023 Des Moines Farmers Market Agreement.

City Manager Michael Matthias gave Council a Brief update on Consent Calendar Item #6 - 2023 Passenger Ferry Pilot Implementation.

City Manager Michael Matthias gave Council an update on Maritime High School helping with the Passenger Ferry Service.

## CONSENT CALENDAR

Item 1: APPROVAL OF VOUCHERS

**Motion** is to approve for payment vouchers through April 20, 2023 and payroll transfers through April 20, 2023 in the attached list and further described as follows:

EFT Vendor Payments	#8170-8285	\$ 547,645.06
Wires	#2172-2200	\$2,783,271.03
Accounts Payable Checks	#164852-164878	\$ 231,671.16
Payroll Checks	#19667-19671	\$ 4,035.87
Direct Deposit	#5076-5265	\$ 472,376.38

Total Checks and Wires for A/P and Payroll: \$4,038,999.50

Item 2: APPROVAL OF MINUTES

**Motion** is to approve the April 06, 2023 City Council Study Session minutes, and the April 13, 2023 City Council Regular Meeting minutes.

Item 3: 2023 DES MOINES FARMERS MARKET AGREEMENT

**Motion** is to approve the Agreement with the Des Moines Farmers Market for the 2023 Des Moines Waterfront Farmers Market to be held

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at the Des Moines Marina, and authorize the City Manager to execute the Agreement substantially in the form as attached.

Item 4: SOUTH SOUND BOATING SEASON OPENING DAY  
PROCLAMATION

**Motion** is to approve the Proclamation recognizing the official opening of the South Sound Boating season on May 13, 2023.

Item 5: HAZARD WASTE MANAGEMENT PROGRAM - GRANT AGREEMENT

**Motion** is to accept the Seattle-King County Department of Public Health LHWMP Grant and authorize the City Manager to sign the grant document substantially in the form as attached.

Item 6: 2023 PASSENGER FERRY PILOT IMPLEMENTATION

**Motion 1** is to ratify and approve the Operation Agreement with PROPSF in the amount of \$578,206 to operate the passenger ferry pilot program for 2023, and authorize the City Manager to sign the Agreement substantially in the form as attached.

**Motion 2** is to approve the Operations Management Agreement with Maritime Consulting Partners in an amount not to exceed \$108,000, and authorize the City Manager to sign the Agreement substantially in the form as attached.

Item 7: ~~DRAFT ORDINANCE 23-024, RELATING TO CONTROLLED  
SUBSTANCES AND DRUG USE IN PUBLIC PLACES~~

~~**Motion 1** is to suspend Rule 26(a) in order to enact Draft Ordinance No. 23-024 on First Reading.~~

~~**Motion 2** is to enact Draft Ordinance No. 23-024 prohibiting the use of controlled substances or drug paraphernalia in public places, and adding two sections to Chapter 9.28 DMMC.~~

**Direction/Action**

**Motion** made by Councilmember Jeremy Nutting to approve the Consent Calendar; seconded by Deputy Mayor Traci Buxton.

Councilmember JC Harris pulled Consent Calendar Item #6.

The remainder of the Consent Calendar passed 7-0.

Mayor Matt Mahoney read the South Sound Boating Season Opening Day Proclamation into the record.

Council discussed Consent Calendar Item #6.

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**Motion 1** made by Deputy Mayor Traci Buxton to approve the Consent Calendar Item #6 as presented; seconded by Councilmember Jeremy Nutting.

Motion passed 5-2.

**For:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

**Against:** Councilmember Gene Achziger and Councilmember JC Harris.

**Motion 2** made by Councilmember Jeremy Nutting to approve the Consent Calendar Item #6 as presented; seconded by Deputy Mayor Traci Buxton.

Motion passed 5-2.

**For:** Mayor Matt Mahoney; Deputy Mayor Traci Buxton; Councilmember Jeremy Nutting, Councilmember Vic Pennington, and Councilmember Harry Steinmetz.

**Against:** Councilmember Gene Achziger and Councilmember JC Harris.

## **NEW BUSINESS**

- Item 1: HOUSING ACTION PLAN  
Staff Presentation by Community Development Director Denise Lathrop  
  
Community Development Director Denise Lathrop along with AHBL, Inc. Principal Wayne Carlson gave Council a PowerPoint Presentation on the Housing Action Plan.
- Item 2: ~~DRAFT ORDINANCE 23-024, RELATING TO CONTROLLED SUBSTANCES AND DRUG USE IN PUBLIC PLACES~~  
~~Staff Presentation by City Attorney Tim George~~
- Item 3: INTRODUCTION OF ITEMS FOR FUTURE CONSIDERATION – 10 Minutes  
  
Councilmember Jeremy Nutting proposed using \$25,000 of the existing ARPA funds to create a program to help local downtown businesses that have been impacted by vandalism.  
Council supports.



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Councilmember Jeremy Nutting ask that staff research the ability of installing Charging Stations on City Property for Metro Electric Busses be remanded to the Environment Committee for review.  
Council supports.

## **BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS**

(4 minutes per Councilmember) - 30 minutes

### **COUNCILMEMBER JC HARRIS**

- Representative Tina Orwall's proposal for an Aviation Emission Monitoring Station at Sea-Tac Airport

### **COUNCILMEMBER VIC PENNINGTON**

- Public Safety/Emergency Management Committee Meeting
- International Firefighters Day

### **COUNCILMEMBER HARRY STEINMETZ**

- International Firefighters Day
- Thanked the Mayor and Deputy Mayor for representing the City on their trip to Washington D.C.
- Public Safety/Emergency Management Committee Meeting
- AD-HOC Council Rules Committee Meeting
- Quiet Skies Puget Sounds Group Meeting

### **COUNCILMEMBER GENE ACHZIGER**

- Quiet Skies Puget Sound Meeting

### **COUNCILMEMBER JEREMY NUTTING**

- Mount Rainier Booster Club Ram Jam Auction

### **DEPUTY MAYOR TRACI BUXTON**

- AD-HOC Council Rules Committee Meeting
- Public Safety/Emergency Management Committee Meeting
- Global Leadership Coalition Meeting
- Des Moines Farmers Market

### **PRESIDING OFFICER'S REPORT**

- Global Leadership Coalition Meeting

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- Community
- International Firefighters Day

**NEXT MEETING DATE**

May 11, 2023 City Council Regular Meeting

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Vic Pennington to adjourn; seconded by Councilmember Harry Steinmetz.  
Motion passed 7-0.

The meeting adjourned at 8:21 p.m.

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Lesbian, Gay, Bisexual, Transgender,  
And Queer/Questioning, Intersex, And  
Asexual/Aromatic/Agender Communities,  
(LGBTQIA+) Proclamation

FOR AGENDA OF: June 1, 2023

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 26, 2023

ATTACHMENTS:  
1. Proclamation

CLEARANCES:

- City Clerk *JK*
- Community Development \_\_\_\_\_
- Courts \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance \_\_\_\_\_
- Human Resources \_\_\_\_\_
- Legal \_\_\_\_\_
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *[Signature]*

**Purpose and Recommendation**

The purpose of this agenda item is to recognize June as LGBTQIA+ Pride Month.

**Suggested Motion**

**Motion:** "I move to approve the Proclamation recognizing June as LGBTQIA+ Pride Month."

**Background**

Last year the City’s proclamation recognizes the work of the Washington Legislature in passing SB5313, the Gender Affirming Treatment Act, sponsored by Senator Marko Lias (D-Everett), and with the backing and the advocacy of several grassroots organizations working for the wellbeing of the transgender community in the state. This year is also the 30<sup>th</sup> anniversary of Executive Order 91-06 signed by Governor Booth Gardner in 1991, which recognizes sexual orientation as a protected class in the state for the first time as well as the 30<sup>th</sup> anniversary of the first Capital City Pride in our capital city of Olympia, the first such Pride celebration outside of the City of Seattle. Today the Seattle Pride Parade is the fourth largest in the country, attracting an estimated 500,000 members of the LGBTQIA+ community, friends and allies. The Parade provides the entire community an opportunity to celebrate the present, envision the future and honor the past.

**Alternatives**

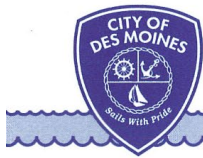
None provided.

**Financial Impact**

No financial impact.

**Recommendation**

Des Moines Administration supports the approval of this proclamation



# City of Des Moines

CITY COUNCIL

21630 11TH AVENUE SOUTH, SUITE A  
DES MOINES, WASHINGTON 98198-6398  
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



## Proclamation

**WHEREAS**, the City of Des Moines recognizes that one of its greatest strengths is the diversity of its residents and citizens; and

**WHEREAS**, members of the lesbian, gay, bisexual, transgender, and queer/questioning, intersex, and asexual/aromatic/agender communities, (LGBTQIA+) contribute to our community's success and strengths in a great number of immeasurable ways; and

**WHEREAS**, the City of Des Moines must proactively ensure that acts of discrimination and hatred will not be tolerated; and

**WHEREAS**, the LGBTQIA+ community continues to be a target of violence, harassment, and discrimination by many and yet continue to thrive through the efforts of the community itself and through the support of LGBTQIA+ affirming spaces, agencies, and individual allies; and

**WHEREAS**, while nationwide trends continue to highlight the targeting and discriminate against members of the LGBTQIA+ community, Washington State continues to lead in affirming the lives and values of LGBTQIA+ individuals; and

**WHEREAS**, LGBTQIA+ Washingtonians invite all people to join them during the month of June in celebrating the resiliency of the community;

**NOW THEREFORE, THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS** June LGBTQIA+ Pride Month and encourage all people in our state to join in celebrating diversity, and promoting inclusion and equal protection under the law, and further encourage people to join us in eliminating discriminatory policies and practices toward any culture, race, or group.

**SIGNED** this 1<sup>st</sup> day of June, 2023.

\_\_\_\_\_  
Matt Mahoney, Mayor

*The Waterland City*

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT:  
Amendment #3, Verra Mobility Speed  
Cameras

- ATTACHMENTS:
1. Contract Amendment #3
  2. Contract
  3. Potential Location Map

FOR AGENDA OF: June 1, 2023

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: May 24, 2023

CLEARANCES:

- City Clerk \_\_\_\_\_
- Community Development \_\_\_\_\_
- Courts *M. Patrick*
- Director of Marina Redevelopment \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance *Phil Zil*
- Human Resources \_\_\_\_\_
- Legal */s/ TG*
- Marina \_\_\_\_\_
- Police *Ken Higgins*
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works *Richard Brown*

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *[Signature]*

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to consider a contract amendment with Verra Mobility to install and operate speed zone cameras in appropriate areas in or adjacent to City parks.

**Suggested Motion**

**Motion 1:** "I move to approve Amendment 3 to the contract with Verra Mobility to provide for the installation and operation of speed zone cameras in appropriate areas in or adjacent to City parks."

### **Background**

In the 2005 session, the State Legislature passed Engrossed Substitute Senate Bill 5060, which authorized local jurisdictions to use automated traffic safety cameras to enforce certain traffic violations that were felt to be particular threats to public safety. This authorizing legislation, codified at RCW 46.63.070, contains safeguards to protect privacy interests, address due process concerns, and to prevent automated traffic safety cameras from being deployed arbitrarily or primarily as a revenue generator. The violations that could be detected by automatic traffic safety cameras at that time were limited to school zone speed violations, red light violations at the intersection of two arterials, and railroad crossing violations.

In 2011, the Des Moines City Council enacted Ordinance no. 1512, authorizing the use of automated traffic safety cameras to detect speeding violations in school zones. After conducting comprehensive speed studies, the area on 16th Avenue South in front of Woodmont Elementary was chosen for the City's pilot program since the surrounding posted speed limit is 35 mph and traffic volumes through that school zone were higher than any other school zones in the City. The speed studies had shown an average of 100 to 130 speeding violations during peak pick-up and drop-off times during the day prior to installation of the cameras. Post installation, evaluation showed an 82% reduction in the number of speeding motorist going 6+ MPH through the Woodmont Elementary 20 MPH School Zone. Following the success of these first cameras, additional cameras were installed at Midway Elementary and Pacific Middle School.

Following the success of this program, the City Council enacted Ordinance no. 1647, which authorized the use of automated traffic safety cameras to detect red light violations at arterial intersections. Following a traffic safety study, three intersections were identified as particular risks for collisions due to red light running: Marine View Drive and S 216th St., SR 99 and S 216th St., and SR 99 and Kent-Des Moines Road. Following installation of cameras at those locations, there was a substantial drop in red light running violations, particularly at the Kent-Des Moines Road and SR 99 location.

Building on the success of automated traffic safety camera programs in decreasing traffic violations, the State Legislature enacted Engrossed Substitute Senate Bill 5974 in the 2022 session, which added to the permissible locations where the cameras can be used. Among the new applications are speed violations in a school walk area as defined by RCW 28A.160.160, hospital speed zones, and public park speed zones. "Public Park Speed Zones" were not previously defined by statute and are a creation of this bill, defined roughly as a posted area including and within 300 feet of public park property consistent with public park use.

In January of 2023, the City Council enacted Ordinance No. 1769 that authorized the City to install cameras in Public Park Speed Zones consistent with state law. Since that time, the City identified a number of potential locations for speed studies to be conducted. As a result of those studies, there are two locations that have been identified as potential locations. Both sites would require two cameras.

### **Discussion**

A traffic speed study has been conducted to determine whether camera enforcement is warranted. At this time it has identified two potential locations, 28800 Redondo Beach Dr S and 28567 Redondo Way S. Both of these locations would require cameras facing each direction. Approval of this contract allows the City to move forward with additional feasibility including permitting and electrical requirements for installation. Once that is done, the City would issue a Notice to Proceed to Verra Mobility for installation at one or both locations.

Additional steps would include appropriate signage and public noticing.

**Alternatives**

The City Council may:

1. Approve the contract amendment as presented (Recommended).
2. Adopt the contract amendment with additional amendment(s). Amendments would be subject to negotiation with Verra Mobility.
3. Decline to approve the contract amendment

**Financial Impact**

The cost per camera is \$5,035 per month, which includes installation, maintenance and infraction processing. Based on the results of the traffic studies, it is projected that this amount will be offset by the infractions that are issued. There will also be costs for signage, staff time to review infractions, court staff time and other costs. If there is excess revenue on top of the costs, the excess would be split 50-50 between the City, to be used for traffic safety purposes, and the State's Cooper Jones active transportation safety account.

**Recommendation**

Staff recommends approving the contract amendment as drafted.



**THIRD AMENDMENT  
TO PROFESSIONAL SERVICES AGREEMENT**

This Third Amendment is dated effective this \_\_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”) and is entered into between American Traffic Solutions, Inc., doing business as Verra Mobility (“Verra Mobility”), with its principal offices at 1150 N. Alma School Rd., Mesa, AZ 85201 and the City of Des Moines (“City”), Washington, a municipal corporation of the State of Washington.

**RECITALS**

WHEREAS, on June 17, 2011, the City and Verra Mobility entered into a Professional Services Agreement for the City’s use of the Axis™ System to enforce traffic violations, which was amended on July 12, 2012 (the “First Amendment and on June 7, 2016(the “Second Amendment”), with Professional Services Agreement as amended by the First Amendment and Second Amendment, collectively referred to herein as the “Agreement”); and

WHEREAS, the parties desire to amend certain terms and conditions of the Agreement; and

WHEREAS, Section 17 of the Agreement allows for the parties to amend the Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Third Amendment, the City and Verra Mobility do hereby agree as set forth below:

1. The above recitals are true and correct and are incorporated herein.
2. Section 1. of the Agreement is hereby amended to add the following definition:

*“Camera System” or “Camera”*: An automated traffic safety camera consisting of one (1) rear camera, strobe (if applicable), and traffic monitoring device (including the wiring associated with each) capable of accurately detecting a Violation, which records such data with one (1) or more images of such vehicle. **“Camera System”** may refer to a fixed school zone speed camera system, public park speed zone camera system, hospital speed zone camera system and red light camera system as authorized by RCW §46.63.170, depending on the context.
3. Schedule 1 of Exhibit A of the Agreement is hereby deleted in its entirety and replaced with the “Schedule 1” attached below to this Third Amendment. All other fees and conditions as provided in the Agreement, including in Section 6 “Fees and Payment”, except as expressly amended by this Third Amendment, shall remain the same and unchanged.
4. Notwithstanding anything in Section 4.b of the Agreement to the contrary, the current term of the Agreement is hereby extended through June 30, 2028 and will be automatically extended for additional five (5) year terms, unless within one hundred and twenty (120) days of the expiration date of the-then current term one party provides the other party with written notice of its intent not to extend the term of the Agreement.
5. The “Flexible Payment Plan” as stated in Section 6 “Fees and Payment” of the Agreement is hereby deleted in its entirety and the Flexible Payment Plan shall no longer apply to the Agreement.
6. Subsection 2.3.21 is hereby added to Exhibit A “Scope of Work” as follows:

2.3.21 If a construction or improvement project requires an installed Camera System to be deactivated or requires a Camera System, including imbedded sensors, to be moved or removed, City shall pay a reduced monthly fee of \$2,500 per month for the deactivated Camera System during the time the Camera System is deactivated and pay any costs incurred by Verra Mobility for removing, and if applicable reinstalling, the System. If the System shall be reinstalled after project is completed, in lieu of paying the reduced monthly Fee while Camera System is deactivated City may instead elect through a Change Order, or other written modification to the Agreement, to extend the current term of the Agreement for the time period the Camera System was

deactivated and pay the removal and reinstallation costs or extend the term of the Agreement for five (5) years from the date of reinstallation.

- 7. Any Camera Systems installed after the Effective Date of this Third Amendment shall be through the mutual agreement of the parties as reflected in a written Notice to Proceed in substantially the same form as the Notice to Proceed attached to this Third Amendment below and incorporated into the Agreement as "Schedule 3".
- 8. Except as expressly amended or modified by the terms of this Third Amendment, all terms of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Third Amendment and the Agreement, the terms of this Third Amendment shall prevail and control.
- 9. The provisions of this Third Amendment, including the recitals, comprise all of the terms, conditions, agreements, and representations of the parties with respect to the subject matter hereof. All representations and promises made by any party to another, whether in writing or orally, concerning the subject matter of this Third Amendment are merged into this Third Amendment.
- 10. This Third Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. Each party represents and warrants that the representative signing this Third Amendment on its behalf has all right and authority to bind and commit that party to the terms and conditions of this Third Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment.

**CITY OF DES MOINES, WASHINGTON**

By: \_\_\_\_\_  
Mayor or City Administrator Date

Print Name: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk Date

Print Name: \_\_\_\_\_

**AMERICAN TRAFFIC SOLUTIONS, INC.**

By: \_\_\_\_\_  
Executive Vice President–Govt. Solutions Date

Print Name: \_\_\_\_\_

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
City Attorney Date

Print Name: \_\_\_\_\_

**Schedule 1**

**Service Fee Schedule**

<b>Product Description</b>	<b>Fee*</b>
<b>1-2 Lane Fixed School Zone Speed Safety Camera System</b> – the parties shall mutually agree on the number of Camera Systems to be installed.	\$5,536 Fixed Fee per Month per Camera System
<b>3-4 Lane Fixed School Zone Speed Safety Camera System</b> – the parties shall mutually agree on the number of Camera Systems to be installed.	\$6,701 Fixed Fee per Month per Camera System
<b>1-4 Lane Red Light Camera System</b> – the parties shall mutually agree on the number of Camera Systems to be installed.	\$5,536 Fixed Fee per Month per Camera System
<b>5-7 Lane Red Light Camera System</b> – the parties shall mutually agree on the number of Camera Systems to be installed.	\$6,701 Fixed Fee per Month per Camera System
<b>1-2 Lane Park Speed Zone Camera System</b> – the parties shall mutually agree on the number of Camera Systems to be installed.	\$5,035 Fixed Fee per Month per Camera System
<p><b>*Fee</b> includes up to 600 issued citations per month per camera, a \$5.00 fee per citation issued over 800 issued per month to cover coverage service and mailing. The monthly fee shall be per Camera System per month paid in twelve monthly installments per year. Monthly fee is fixed through June 30, 2024 and then subject to CPI increase pursuant to Section 6. “Fees and Payment” of the Agreement beginning July 1, 2024.</p>	
<p><b>Service Fees:</b> All service Fees per Camera System above includes all costs required and associated with a Camera System installation, routine maintenance, use of back-office system for back-office operations and reporting, processing services, DMV records access, the standard set of notices as described in Subsection 1.3.14 of EXHIBIT A “Scope of Work” of the Agreement, call center support for general Program questions and public awareness program support. Any subsequent notices pursuant to Subsection 1.3.15 of EXHIBIT A “Scope of Work” of the Agreement or required certified mail, or other special mailing, is not included and the fee is extra and will be billed at \$2.00 per page per notice plus the mailing fee published by the US Postal Service.</p>	

**Schedule 1**

**Form Notice to Proceed**

Reference is made to the Professional Services Agreement by and between American Traffic Solutions, Inc., doing business as Verra Mobility (“Verra Mobility”) and \_\_\_\_\_ (“City”), dated as of [date] (the “Agreement”). Capitalized terms used in this Notice to Proceed shall have the meaning given to such term in the Agreement.

City hereby designates this implementation of Systems at the Approaches listed below. Verra Mobility shall make its best efforts to install a System within sixty (60) days of permits being granted and power delivered for each agreed-upon Approach, providing that City has received permission for all implementations in writing from any third-party sources.

Below is a list of Approaches provided by City, which have been analyzed based on traffic volumes, road geometry, and existing infrastructure and are believed to be locations at which a System would increase public safety.

Execution of this Notice to Proceed by City shall serve as authorization for the installation of Systems for all Approaches designated as follows:

Approach (Direction and Roadway)	Type of Enforcement	Camera System Solution

City understands that implementation and installation of any Approach is subject to Site Selection Analysis and engineering results.

City recognizes the substantial upfront costs Verra Mobility will incur to construct and install the Systems for the above listed Approaches. City agrees that the Systems authorized by this Notice to Proceed for the above-listed Approaches shall remain installed and operational for the duration of the current term of the Agreement. Verra Mobility reserves the right to bill City for any upfront costs associated with the Approaches listed above in the event City elects to cancel or suspend the installation.

IN WITNESS WHEREOF, City has executed this Notice to Proceed as of the date written below.

[CITY]

By:

\_\_\_\_\_  
Name: Date

Title:

**ACKNOWLEDGED AND AGREED TO BY:**

AMERICAN TRAFFIC SOLUTIONS, INC.

By:

\_\_\_\_\_  
Name: Date

Title:

**PROFESSIONAL SERVICES AGREEMENT  
"AGREEMENT"  
School Zone Speed Compliance Camera System**

THIS AGREEMENT made this 20<sup>th</sup> day of June, 2011 between American Traffic Solutions, Inc. (herein "ATS"), a corporation duly registered under the laws of the State of Kansas with its principal place of business at 7681 E. Gray Road, Scottsdale, Arizona 85260, County of Maricopa, State of Arizona, and the City of Des Moines, herein "City", a municipal corporation of the State of Washington with principal offices at 21630 11<sup>th</sup> Ave S. Suite A, Des Moines, WA 98198.

WITNESSETH:

WHEREAS, the City desires to implement and operate a traffic safety camera system pursuant to Washington state law RCW 46.53.170; and

WHEREAS, ATS has the exclusive knowledge, possession and ownership of certain equipment, licenses, and processes, referred to collectively as the "Axis<sup>™</sup> System" (herein "Axis"), and

WHEREAS, City desires to use the Axis<sup>™</sup> System to monitor and enforce traffic speed in school zones, and

WHEREAS, the City of Seattle awarded a contract to ATS for a traffic safety camera system as a result of a competitive solicitation; and

WHEREAS, ATS extends the City of Seattle contract to the City of Des Moines and such agreement is the basis for this contract; and

WHEREAS, the City finds that ATS is qualified to perform and is experienced in performing the required services; and

WHEREAS, the City desires to engage ATS to provide traffic safety camera services, also known as photo enforcement services;

NOW THEREFORE, the parties agree:

**1. DEFINITIONS:**

As used in this Agreement, the following words and terms shall, unless the context otherwise requires, have the respective meanings provided below:

"**Citation**" means a citation issued by a competent state or municipal law enforcement agent or agency or by a court of competent jurisdiction relating to a violation documented or evidenced by Axis<sup>™</sup>.

"**Person**" or "**persons**" means any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental authority or political subdivision thereof or any other form of entity.

"**Project Time Line**" means initial schedule and timelines required to begin the implementation of Customer's project.

"**School Zone Camera System**" means a photo-traffic monitoring device consisting of one (1) rear camera, strobe, and traffic monitoring device capable of accurately detecting a traffic infraction in a designated school zone during the periods the school zone has restricted speed to protect students.

"**Violation**" means failure to obey an applicable traffic law or regulations, including, without limitation, failure to obey a traffic signal, operating a motor vehicle in excess of the posted speed limit, and operating a motor vehicle without displaying a valid license plate.

"**Operational Time**" means the actual time that a Camera System is monitoring traffic.

**2. ATS AGREES TO PROVIDE:**

The scope of work identified in Exhibit "A, Section 1"

**3. CITY AGREES TO PROVIDE:**

The scope of work identified in Exhibit "A, Section 2."

**4. TERM AND TERMINATION:**

- a. This contract shall be effective on the signature date at the end of this agreement.
- b. The term of this Agreement shall be for five (5) years beginning on the date of first issued and payable notice of a violation from the last installed Camera System (**the "Start Date"**) and may be automatically extended for two additional five (5) year periods. However, Customer may terminate this Agreement at the expiration of any term by providing written notice of its intent not to extend the Agreement 90 days prior to the expiration of the current term.
- c. The Contractor's services may be terminated:
  - i) By mutual written consent of the parties;
  - ii) For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within forty-five (45) days after receiving notice.
  - iii) For Convenience, by either party in the event the City's use of school zone speed enforcement camera systems is rendered financially unsustainable due to changes in the state or federal law or is rendered unlawful pursuant to applicable state or federal law. If the cameras are rendered unlawful, the City shall have no obligation to pay ATS a fee for any period when it is unlawful to issue citations but the Contract will remain in place until after the exhaustion of all legal action by either the City or ATS seeking to overturn the court order or state or federal legislation that rendered the use of red light safety cameras unlawful. The term of the Agreement shall be suspended during any period in which the City is not obligated to pay ATS and such time period shall be added to the term of the Agreement once it becomes lawful for the City to issue citations. In the event of termination pursuant to this subsection 4.c. iii), the parties shall take the following actions set forth in Subsection (d) below which survive termination during the wind-down period.
- d. Upon termination of this Agreement, the parties shall take the following actions, and shall have the following obligations, which survive termination during the wind-down period: The City shall cease using the Axis™ System, shall return or allow ATS to recover all provided equipment within a reasonable time not to exceed 60 days, and shall not generate further images to be processed. Unless directed by the City not to do so, ATS shall continue to process all images taken by the City before termination and provide all fees associated with processing in accordance with this Agreement, and shall be entitled to all Fees specified in the Agreement as if the Agreement were still in effect.
- e. **Pilot Program:** Year one shall be a "pilot program" to determine the effects of the program. Terms: With 60 days written notice, on the first anniversary of the *Start Date*, either party shall have the option to terminate this Agreement. The option to terminate shall expire except as otherwise provided herein.

**5. ASSIGNMENT:**

Neither party may assign all or any portion of this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed; provided, however, the City hereby acknowledges and agrees that the execution, delivery and performance of ATS's rights pursuant to this Agreement shall require a significant investment by ATS, and that, in order to finance such investment, ATS may be required to enter into certain agreements or arrangements ("Financing Transactions") with equipment lessors, banks, financial institutions or other similar persons or entities (each, a "Financial Institution" and

collectively; "Financial Institutions"). The City hereby agrees that ATS shall have the right to assign, pledge, hypothecate or otherwise transfer ("Transfer") its rights, or any of them, under this Agreement to any Financial Institution in connection with any Financing Transaction between ATS and any such Financial Institution subject to the City's prior written approval, which approval shall not be unreasonably withheld or delayed. The City further acknowledges and agrees that in the event that ATS provides written notice to the City that it intends to Transfer all or any of ATS's rights pursuant to this Agreement, and in the event that the City fails to provide such approval or fails to object to such Transfer within forty-five (45) business days after its receipt of such notice from ATS, ATS shall be free to effect said Transfer.

**6. FEES AND PAYMENT:**

City shall pay for all equipment, services and maintenance based on the fee schedule indicated in Exhibit A, Schedule 1, ("Fees").

The City shall pay all fees due ATS based upon invoices from the proceeding month within 30 days of submission. Late payments are subject to interest calculated at 1.5% per month on open balances.

Each anniversary date of the term, the unit prices will increase by the CPI, according to the average of the U.S. Department of Labor, Consumer Price Indices for the City and the Metro Phoenix MSA.

**FLEXIBLE PAYMENT PLAN**

During the term of the contract, payments by the City may be made to ATS under a Flexible Payment Plan. Under the Flexible Payment Plan, the City may defer certain payments to ATS until the City has collected sufficient funds pursuant to the terms of the contract. If, at the end of the term of the contract, sufficient funds have not been collected by the City to pay the balance then due to ATS, ATS agrees to waive its right to recovery of any outstanding balance. For purposes of this clause, the term "funds" means the revenue retained by the City according to the distribution methods applicable under this contract and Washington law.

This clause will be applied as follows:

ATS will maintain an accounting of any net balances owed to ATS. If the amount collected during a billing period exceeds the amount of ATS invoices during the same period, the City shall pay ATS the total amount due. If the amount collected during a billing period is less than the amount of ATS invoices during the same period, the City shall pay ATS the amount collected, and may defer payment of the remaining balance. Payments due to ATS shall be reconciled by applying future funds collected, first to the accrued balance, and then to the invoice for the current billing period. At any time that ATS invoices, including any accrued balance, are fully repaid, the City will retain all additional funds collected during that billing period. Such additional funds (whether reserved in cash or not by the City) will be available to offset future ATS invoices

**7. VIOLATION RATE ANALYSIS:**

Prior to implementing a school zone system the city shall conduct an analysis of each school site being considered for a Camera System to determine if the violation counts justify camera intervention. That data will be shared with ATS. ATS may elect not to install a Camera System where traffic violation data does not support installation of the Axis System.

**8. COMMUNICATION OF INFORMATION:**

ATS agrees that all information obtained by ATS through operation of the Axis System shall be made available to the City at any time during ATS's normal working hours, excluding trade secrets and other confidential or proprietary information not reasonably necessary for the prosecution of citations or the fulfillment of City's obligation under this Agreement.

**9. CONFIDENTIAL INFORMATION:**

No information given by ATS to City will be of a confidential nature, unless specifically designated in writing as

proprietary and confidential by ATS. Provided, however, nothing in this paragraph shall be construed contrary to the terms and provisions of any "Open Records Act" or similar laws, insofar as they may be applicable. ATS shall not use any information acquired by this program with respect to any violations or the City's law enforcement activities for any purpose other than the program.

**10. OWNERSHIP OF SYSTEM:**

It is understood by the City that the System being installed by ATS is, and shall remain, the sole property of ATS, unless separately procured from ATS through a lease or purchase transaction. The System is being provided to City only under the terms and for the term of this Agreement.

**11. INDEMNIFICATION AND INSURANCE:**

ATS shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer recommendations for operation of the Axxis™ equipment which affect this Agreement, and shall indemnify and save harmless the City against any claims arising from the violation of any such laws, ordinances and regulations or any claims arising from the violations of the maintenance procedures and manufacturer recommendations for operation of the equipment as a result of the negligence of willful misconduct of ATS, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of City.

ATS shall maintain the following minimum scope and limits of insurance:

- (a) Commercial General Liability Insurance including coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability with a combined single limit of \$1,000,000 per occurrence. Such insurance shall include the City, its officers, directors, employees, and elected officials as additional insured's for liability arising from ATS's operation.
- (b) Workers Compensation as required by applicable state law, and Employers' Liability insurance with limits of not less than \$500,000 each accident; ATS shall at all times maintain worker's compensation insurance coverage in the amounts required by law, but shall not be required to provide such coverage for any actual or statutory employee of City.
- (c) Comprehensive Business Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by ATS with a minimum \$1,000,000 per occurrence combined single limit bodily injury and property damage.

The City and its officers and employees, shall be named as additional insured on the comprehensive general liability policies provided by ATS under this Agreement. ATS shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name the City and its officers, employees, and authorized volunteers as additional insureds.

Certificates showing ATS is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the City within thirty calendar days after the date on which this Agreement is made. Such certificates shall show that the City shall be notified of all cancellations of such insurance policies. ATS shall forthwith obtain substitute insurance in the event of a cancellation.

Inasmuch as the City is a body politic and corporate, the laws from which City derives its powers, insofar as the same law regulates the objects for which, or manner in which, or the concerns under which, the City may enter into this Agreement, shall be controlling and shall be incorporated by reference into this Agreement. The City shall be responsible for vehicle insurance coverage on any vehicles driven by City employees. Coverage will include liability and collision damage.

**12. STATE LAW TO APPLY:**

This Agreement shall be construed under and in accordance with the laws of the State of Washington.

**13. DISPUTE RESOLUTION:**

All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between senior management of both parties, followed if necessary within thirty (30) days by



professionally-assisted mediation. Any mediator so designated must be acceptable to each party. The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

- (a) Failing resolution through negotiation or mediation, any remaining dispute shall be submitted to binding arbitration in accordance with the Arbitration Rules for Professional Accounting and Related Services Disputes of the American Arbitration Association ("AAA Rules") before a single arbitrator. The place of arbitration will be mutually agreed upon within 14 days of a decision to seek arbitration. Limited discovery will be permitted in connection with the arbitration upon agreement of the parties or upon a showing of substantial need by the party seeking discovery. The arbitrator's decision shall follow the plain and natural meaning of the relevant documents, and shall be final and binding. The arbitrator will have no power to award (i) damages inconsistent with the Agreement or (ii) punitive damages or any other damages not measured by the prevailing party's actual damages, and the parties expressly waive their right to obtain such damages in arbitration or in any other forum. All aspects of the arbitration will be confidential. Neither the parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Each party will promptly pay its share of all arbitration fees and costs, provided that such fees and costs shall be recoverable by the prevailing party as determined by the arbitrator. If a party fails to pay such share promptly upon demand, the arbitrator shall, upon written request by the other party, enter a final and binding decision against the nonpaying party for the full amount of such share, together with an award of attorney's fees and costs incurred by the other party in obtaining such decision, which decision may be entered in any court of competent jurisdiction. Except for the failure of a party to pay arbitration fees and costs that requires resort to the arbitrator to order such payment, the parties will bear their own attorneys' fees in any matter or dispute under this Agreement.

**14. CHANGE ORDERS OR ADDITIONAL SERVICES:**

Changes to services or scope and additional systems and services may be added to this agreement by mutual consent of the parties in writing as an addendum to this Agreement. All other terms and conditions shall remain the same.

**15. LEGAL CONSTRUCTION:**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as of such invalid, illegal, or unenforceable provision had not been contained herein.

**16. PRIOR AGREEMENT SUSPENDED:**

This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understanding, written or oral, between the parties respecting the written subject matter.

**17. AMENDMENT:**

No amendments, modifications, or alterations of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date of this Agreement and duly executed by the parties.

**18. NO AGENCY:**

ATS is an independent contractor providing services to the City and the employees, agents and servants of ATS shall in no event be considered to be the employees, agents, or servants of the City. This contract is not intended to create an agency relationship between ATS and the City.

**19. FORCE MAJEURE:**

Neither party will be liable to the other or be deemed to be in breach of this agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually

severe weather, or governmental authorities approval delays which are not caused by any act or omission by ATS. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.

**20. TAXES:**

In the event that any excise, sales or other taxes are due relating to this service contract, the City will be responsible for the payment of such taxes.

**21. NOTICES:**

Any notices or demand which under the terms of this Agreement or under any statute must or may be given or made by ATS or City shall be in writing and shall be given or made by personal service, telegram, first class mail, FedEx, or by certified or registered mail to the parties at the following address:

City of Des Moines  
21630 11<sup>th</sup> Ave S., Suite A  
Des Moines, WA. 98198  
Attn: City Manager


American Traffic Solutions, Inc.  
14861 N. Scottsdale Rd, Suite 109  
Scottsdale, AZ 85254  
Attn: Chief Operating Officer

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date on Page 1.

CITY OF DES MOINES

AMERICAN TRAFFIC SOLUTIONS, INC.

  
\_\_\_\_\_  
Anthony A. Piasecki  
Its City Manager

  
\_\_\_\_\_  
Adam E. Tuton  
Its Executive Vice President

By Direction of the Des Moines City Council  
in Open Public Meeting on June 2, 2011

Date: 6/17/11

Date: 6/20/11

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

**Exhibit A**  
**ATS SCOPE OF WORK**

**1 AMERICAN TRAFFIC SOLUTIONS (ATS) SCOPE OF WORK**

**1.2 ATS IMPLEMENTATION**

- 1.2.13 ATS agrees to provide a turnkey solution for Camera Systems to the City wherein all reasonably necessary elements required to implement and operate the solution are the responsibility of ATS, except for those items identified in Section 2 titled "Customer Scope of Work". ATS and the City understand and agree that new or previously unforeseen requirements may, from time to time, be identified and that the parties shall negotiate in good faith to assign to the proper party the responsibility and cost for such items. In general, if work is to be performed by the City, unless otherwise specified, the Customer shall not charge ATS for the cost. All other in-scope work, external to the City, is the responsibility of ATS.
- 1.2.14 ATS agrees to make every effort to adhere to the Project Time Line agreed to by the parties.
- 1.2.15 ATS will assist the City with video evaluation of candidate sites using the Axis VIMS system.
- 1.2.16 ATS will install Camera Systems at a number of school zone approaches to be agreed upon between ATS and the City after completion of site analyses to be entered into Schedule 2. In addition to the initial locations, the parties may agree from time to time, by additional Work Order(s), to add to the quantities and locations where Camera Systems are installed and maintained.
- 1.2.17 ATS will operate each Camera System operational on a 24 hour basis, but activated only during those times designated as school zone hours as designated by sign or flashing signal. There may be some downtime for maintenance and normal servicing activities.
- 1.2.18 ATS' in-house marketing department will assist the City with public information and outreach campaign strategies. In addition, depending upon the agreed-upon strategy, ATS may pay for agreed upon extra scope expenditures for public relations consultants, advertising, or media relations provided that such extra scope expenditures will be reimbursed to ATS from collected revenues.
- 1.2.19 ATS agrees to provide a secure web site ([www.violationinfo.com](http://www.violationinfo.com)) accessible to citation recipients (defendants) by means of a Notice # and a PIN, which will allow violation image and video viewing.
- 1.2.20 The City and ATS agree to complete the Project Time Line within 30 calendar days of contract signature, unless otherwise mutually agreed to by the parties in writing.
- 1.2.21 ATS normally shall provide technician site visits to each Camera System once per month to perform preventive maintenance checks consisting of camera enclosure lens cleaning; camera, strobe and controller enclosure cleaning; inspection of exposed wires; and general system inspection and maintenance.
- 1.2.22 ATS shall repair a non-functional Camera System within 72 business hours of determination of a malfunction.

1.2.23 ATS shall repair the Axisis VPS system within 1 business day from the time of the outage. Outages of City internet connections or infrastructure are excluded from this service level.

### 1.3 ATS OPERATIONS

1.3.13 ATS shall provide the City with an optional one-time warning period up to 30 days in length at the outset of the program.

1.3.14 As the party responsible for initial contact with the speed violator, ATS shall provide the City with an automated web-based citation processing system (Axisis™ VPS) including image processing, 1<sup>st</sup> notice color printing and mailing of at Citation or Notice of Violation per chargeable event. Each citation shall be delivered by First Class mail to the registered owner within the statutory period. Mailings to owners responding to first notices identifying drivers in affidavits of non-liability or by rental car companies are also included according to each pricing option.

1.3.15 Subsequent notices (such as second or pre-collection letters) may be delivered by First Class or other mail means for additional compensation to ATS as agreed by the parties in Schedule 1.

1.3.16 ATS shall apply an electronic signature to the citation when authorized to do so by an approving law enforcement officer.

1.3.17 ATS shall obtain in-state vehicle registration information necessary to issue citations assuming that it is named as the City's agent and the State provides the registration data at no cost.

1.3.18 ATS shall seek records from out-of-state vehicle registration databases and apply records found to Axisis to issue citations for the City according to each pricing option.

1.3.19 If City is unable to or does not desire to integrate ATS data to its court system, ATS shall provide an on-line court processing module, which will enable the court review cases, related images, correspondence and other related information required to adjudicate the disputed citation. The system will also enable the Court staff to accept and account for payments. Any costs to integrate ATS system to a court computer system shall be borne by the City. ATS may agree to cover these up front costs and recover the costs from collected revenue.

1.3.20 The Axisis™ VPS system, which provides the City with ability to run and print a reports, shall include the following:

- Issuance Rate Report
- Location Performance Summary Report
- Location Performance Detail Report
- Violation Reject Report
- Document Aging Report

1.3.21 If required by the court or prosecutor, ATS shall provide the City with, or train a local expert witness able to testify in Court on matters relating to the accuracy, technical operations, and effectiveness of the Axisis™ System until judicial notice is taken.

1.3.22 In those instances where damage to a Camera System or sensors is caused by negligence on the part of the City or its authorized agent(s), ATS will provide an estimate of the cost of repair. Upon authorization to proceed with the repairs or replacement, ATS shall replace or repair any damaged equipment and invoice for the pre-approved repair cost. ATS shall bear the cost to replace or repair equipment damaged in all other circumstances.

1.3.23 ATS shall provide a help line to help the City resolve any problems encountered regarding its Camera System and/or citation processing. The help line shall function during normal business hours.

## 2 CUSTOMER SCOPE OF WORK

### 2.2 GENERAL IMPLEMENTATION REQUIREMENTS

- 2.2.13 Within 7 business days of contract execution, the City shall provide ATS with the name and contact information for a project manager with authority to coordinate City responsibilities under the Agreement.
- 2.2.14 Within 7 business days of contract execution, the City shall provide ATS with the name and contact information for a Municipal Court manager responsible for oversight of all Court-related program requirements
- 2.2.15 The City shall make every effort to adhere to the Project Time Line to be agreed to by the parties.
- 2.2.16 The City shall, on a form provided by ATS, provide verification to the State Department of Motor Vehicles, National Law enforcement Telecommunications System, or appropriate authority indicating that ATS is acting as an Agent of the City for the purposes of accessing vehicle ownership data pursuant to the list of permissible uses delineated in the Drivers Privacy Protection Act 18 U.S.C. § 2721, Section (b) (1) and as may otherwise be provided or required by any provision of applicable state law.
- 2.2.17 The City and ATS shall complete the Project Time Line within 30 calendar days of contract signature, unless otherwise agreed to by the parties in writing.

### 2.3 STREETS AND TRAFFIC DEPARTMENT OPERATIONS

- 2.3.13 City shall execute a right of way agreement or amendment to allow installation of cameras on state roads with Washington Department of Transportation within 30 days of contract execution.
- 2.3.14 If the City chooses to move a Camera System to a new approach after initial installation, it shall pay the costs to relocate the System.
- 2.3.15 City will design, fabricate, install and maintain camera warning signs. If City cannot provide such signage, ATS will do so and charge the costs to the client.
- 2.3.16 The City shall provide access to traffic signal phase connections according to approved design.
- 2.3.17 City shall allow ATS to access power from existing power sources at no cost and shall allow or facilitate access to traffic signal phase connections to a pull box, pole base, or controller cabinet nearest to each Camera System within the City's jurisdiction. The costs of any additional conduit or power infrastructure needed to support installation of the Camera shall be funded by ATS and ATS shall recover such added costs out of collected revenue in addition to its normal fees.
- 2.3.18 The City shall not require ATS to provide installation drawings stamped by a licensed civil engineer. However, ATS work product and drawings shall be overseen and approved by and ATS PE and such deliverable shall conform to applicable engineering norms and reflect the details of installation work to be completed.
- 2.3.19 The City shall approve or reject ATS submitted plans within 7 business days of receipt and shall limit iterations to a total of one revision beyond the initially submitted plans. Total plan approval duration shall not exceed 10 business days.

2.3.20 The City shall not charge ATS or its subcontractor for building, constructions, street use and/or pole attachment permits.

#### 2.4 POLICE DEPARTMENT OPERATIONS

2.4.13 The Police Department shall process each potential violation in accordance with State Laws and/or City Ordinances within 3 business days of its appearance in the Police Review Queue, using Axis™ to determine which violations will be issued as Citations or Notices of Violation.

2.4.14 Police Department workstation computer monitors for citation review and approval should provide a resolution of 1280 x 1024.

2.4.15 For optimal data throughput, Police Department workstations should be connected to a high-speed internet connection with bandwidth of T-1 or greater.

2.4.16 Police Department shall provide signatures of all authorized police users who will review events and approve citations on forms provided by ATS.

#### 2.5 COURT OPERATIONS

2.5.13 Court shall provide a judge or hearing officer and court facilities to schedule and hear disputed citations.

2.5.14 Court shall provide the specific text required to be placed on the Citation notice to be issued by ATS within 30 calendar days of contract signature.

2.5.15 The Court shall approve the Citation form within 15 days receipt from ATS.

2.5.16 Each citation will have 800# for questions regarding the citation. However, the Municipal Court may receive phone calls and correspondence from defendants who have questions about disputes, and other issues relating to citation adjudication. Court may refer citizens with questions regarding ATS or Axis technology and processes to websites and/or toll-free telephone numbers provided by ATS for that purpose.

2.5.17 Within 10 days after expiration of a second notice, Municipal court shall pursue delinquent collections of unpaid notices with an existing contractor or ATS.

2.5.18 Any potential one time, direct costs to ATS (including ATS' costs) to develop an interface between the Court system will be initially paid by ATS will be reimbursed to ATS from collected revenues from the program once available.

#### 2.6 INFORMATION TECHNOLOGY DEPARTMENT OPERATIONS

2.6.13 In the event that remote access to the ATS Axis VPS System is blocked by City network security infrastructure, the Customer's Department of Information Technology shall coordinate with ATS to facilitate appropriate communications while maintaining required security measures.

2.6.14 If Customer-owned telecommunications lines or WiFi networks are present at or near the site, and if feasible to share such existing bandwidth, ATS shall be allowed to use such infrastructure for data transmission. ATS shall work with the City's IT department to ensure City security protocols are maintained.

Schedule 1

Service Fee Schedule

<b>Fixed Fee per Month with Surcharge for Excess Use</b>	
<b>FIXED SPEED SCHOOL ZONE ENFORCEMENT SYSTEM</b>	
<b>Per camera site installed.....</b>	<b>\$4,750</b>
<p>Fee includes up to a 4-lane site and 800 issued citations per month per camera, a \$5.00 per citation issued over 800 issued per month to cover overage service and mailing. The monthly fee shall be per camera per approach paid in twelve monthly installments per year.</p> <p>Includes camera equipment, installation, maintenance, violation processing services. Event processing includes in web application hosting, maintenance and remote administration, clerical data entry and quality review steps, state and out of state DMV records access and data acquisition, mailing of 1<sup>st</sup> notice in color with return envelope, mailing of reminder notice-text only, lockbox payment processing, web-payments access with user convenience fee, call center support for general program questions, web site accessible to citizens for image viewing, information and payments, and design support for city-implemented public awareness program. Extraordinary construction costs driven by unique customer requirements may trigger per camera surcharges.</p>	

**Schedule 2**  
**Initial Camera Locations**

The City will designate first phase implementation of cameras at designated school zone sites. ATS shall make its best efforts to install a camera system within forty-five (45) business days of receipt of approved permits and powered delivered for each agreed upon site providing that City has received permission for all implementations in writing from any third-party sources.

The proposed school speed zones to be installed include, but are not limited to the following:

Woodmont Elementary

**Schedule 3**



**DMV Services Subscriber Authorization**

**Agency ORI:** \_\_\_\_\_

DATE

Nlets  
1918 W. Whispering Wind Dr.  
Phoenix, AZ 85085

**Attn:** Steven E. Correll, Executive Director  
**Re:** Authorization for American Traffic Solutions, Inc. to Perform MVD Inquiry

Dear Mr. Correll:

Please accept this letter of acknowledgement that a Agreement to perform automated enforcement between \_\_\_\_\_ (herein, "Agency") and American Traffic Solutions, Inc. is or will be enacted and will be or is in force. As a requirement of and in performance of that Agreement between Agency and American Traffic Solutions, Inc., it will be necessary for American Traffic Solutions, Inc. to access Nlets motor vehicle data.

Please accept this letter as authorization from Agency for American Traffic Solutions, Inc. to run motor vehicle inquiries. This authorization is and will be in effect for the term of our Agreement with Nlets and any subsequent renewals.

This authorization will automatically expire upon the termination of the Agreement between the Agency and American Traffic Solutions, Inc.; and, such authorization is limited to violations detected by the automated enforcement camera systems. By completing the information below and signing this letter, I am stating that I am a member of the Agency and have the authority to empower American Traffic Solutions, Inc. to use ORI [Insert Agency ORI for this function.

**SUBSCRIBER INFORMATION**

**Subscriber Agency/Name** \_\_\_\_\_

**Nlets Agency ORI** \_\_\_\_\_

**Name/Title of Authorized Representative** \_\_\_\_\_

**Mailing Address** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone** \_\_\_\_\_ **Fax** \_\_\_\_\_

**Email** \_\_\_\_\_

**Signature of Authorized Representative** \_\_\_\_\_

**Date Signed** \_\_\_\_\_



**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Public Hearing and First Reading of  
Draft Resolution 23-030 relating to the City of Des  
Moines Housing Action Plan

FOR AGENDA OF: June 1, 2023

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: May 24, 2023

ATTACHMENTS:

- 1. Draft Resolution 23-030

CLEARANCES:

- City Clerk *JK*
- Community Development *DEL*
- Courts \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance \_\_\_\_\_
- Human Resources \_\_\_\_\_
- Legal */s/ TG*
- Marina \_\_\_\_\_
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *[Signature]*

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to hold a public hearing for the consideration of Draft Resolution 23-030 relating to the City of Des Moines Housing Action Plan.

**Suggested Motion**

**Motion 1:** "I move to pass Draft Resolution 23-030 to a second reading on June 8, 2023, or as soon thereafter as the matter may be heard."

**Background**

The City of Des Moines developed the Housing Action Plan (HAP) to identify strategies, actions, and policy tools to create enough housing options to meet our community's needs. The HAP was prepared pursuant to the Revised Code of Washington 36.70A.600 and will serve as a strategic roadmap for a City to follow toward furthering its housing goals and ensuring an equitable approach for acquiring and retaining one's housing.

Key components of this work included:

- Preparing a Housing Needs Assessment
- Engaging the public and summarizing the results
- Preparing a Housing Action Plan

Des Moines' HAP considers how the City will:

- Increase the supply of housing in Des Moines;
- Increase the housing choice options in Des Moines;
- Provide more affordable housing options and tools;
- Reduce displacement and eliminate substandard housing conditions; and
- Address the needs of those struggling with homelessness.

On May 4, 2023 the City Council was briefed on the Draft Housing Action Plan. Discussion items focused on the findings of the Housing Needs Assessment (HNA) and gaps in housing that exist in our City; the public participation process and key themes and policy considerations that emerged as a result of the outreach; and proposed goals and strategies that could be implemented or facilitated by the City.

The Council Economic Development Committee was also briefed on May 25, 2023 where the discussion focused on frame work goals and strategies that could be implemented and/or facilitated by the City.

***Key Dates:***

- SEPA Threshold Determination publication and initiation of comment period: May 12, 2023. The comment period closes on May 26, 2023 and the appeal period ends on June 5, 2023.
- Briefing to City Council Economic Development Committee: May 25, 2023
- Public Hearing – 1st Reading: June 1, 2023
- Public Hearing – 2nd Reading and Adoption: June 8, 2023
- Commerce grant period concludes: June 30, 2023

**Alternatives**

N/A

**Financial Impact**

There will be no fiscal impact to the City.

**Recommendation**

N/A

**CITY ATTORNEY'S FIRST DRAFT, 05/24/2023**

**DRAFT RESOLUTION NO. 23-030**

**A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON** adopting a Housing Action Plan pursuant to RCW 36.70A.600.

**WHEREAS**, the City has previously adopted a Comprehensive Plan pursuant to the Growth Management Act, chapter 36.70A RCW, that includes a Housing Element, and is required to be updated by 2024; and

**WHEREAS**, in 2019, the Washington State Legislature adopted Engrossed Second Substitute House Bill 1923, now codified in RCW 36.70A.600, authorizing the Washington State Department of Commerce to provide grants to cities planning under the Growth Management Act for the development of a Housing Action Plan; and

**WHEREAS**, the City of Des Moines received and accepted a Department of Commerce grant to prepare the Housing Action Plan; and

**WHEREAS**, pursuant to RCW 36.70A.600, the goal of the Housing Action Plan is to encourage the construction of affordable and market rate housing in a variety of housing types and prices to meet our City's needs; and

**WHEREAS**, the City conducted community engagement through circulation of a public survey in English and Spanish, interviews of stakeholders that provide affordable housing and support serves to Des Moines' residents, several in-person outreach events, social media, the City Currents newsletter and the project webpage; and

**WHEREAS**, briefings on the Housing Action Plan were provided to the City Council on May 4, 2023 and to the Council Economic Development Committee on May 25, 2023; and

**WHEREAS**, the SEPA responsible official for the City of Des Moines issued a Determination of Nonsignificance on May 12, 2023, and the comment and appeal periods have lapsed; and

**WHEREAS**, the Department of Commerce grant requires legislative action to adopt the Housing Action Plan; and

**WHEREAS**, the City Council held a public hearing on June 1, 2023 and any persons wishing to be heard were heard; and

Resolution No. 23-030  
Page 2 of 3

**WHEREAS**, the City Council finds the adoption of the Housing Action Plan to be in the public interest; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:**

**Sec. 1. Plan Adoption.** The City of Des Moines Housing Action Plan, attached hereto as Exhibit A and incorporated herein by reference, is hereby adopted.

**Sec. 2. Submittal of Resolution to the Department of Commerce.** Pursuant to the terms of the grant agreement COM-Des Moines-22-63314-010 the City of Des Moines shall file a copy of this resolution with the Washington State Department of Commerce.

**Sec. 3. Distribution of Resolution following City Council action.** Certified or conformed copies of this Resolution shall be delivered to the following:

- (1) City of Des Moines Community Development Department;
- (2) Washington State Department of Commerce; and
- (3) City Clerk of the City of Des Moines.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this \_\_\_\_ day of \_\_\_\_\_, 2023 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Matt Mahoney, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Tim George, City Attorney

ATTEST:

\_\_\_\_\_  
Taria Keane, City Clerk



CITY OF

# DES MOINES

## HOUSING ACTION PLAN

*DRAFT May 9, 2023*

## **Acknowledgments**

AHBL and ECONorthwest prepared this plan for the City of Des Moines. AHBL, ECONorthwest and the City of Des Moines are grateful to the numerous staff, elected officials, and community members who participated and provided feedback to shape the plan.

This project has been funded wholly or in part by the Washington State Department of Commerce (Commerce) under Contract Number 22-63314-010. The contents of this document do not necessarily reflect the views and policies of Commerce.

### **Des Moines City Council**

Matt Mahoney, Mayor

Traci Buxton, Deputy Mayor

Harry Steinmetz, Position 1

JC Harris, Position 2

Gene Achziger, Position 3

Jeremy Nutting, Position 4

Vick Pennington, Position 6

### **Stakeholder Participants**

Bree Nicolello, African Community Housing and Development Office

Miguel Maestas, El Centro De La Raza

Antonio Lewis, Highline Public Schools

Nick Merriam, Housing Connector

Andrew Calkins, King County Housing Authority

Seth Lundgaard, SeaMar Community Health Centers

Claire Vanessa Goodwin, South King County Housing and Homelessness Partners

Dorsol Plants, South King County Housing and Homelessness Partners



## Project Team

### City of Des Moines

Denise Lathrop, AICP, Community Development Director

Laura Techico, AICP, Planning and Development Services Manager

Jason Woycke, AICP, Senior Planner

Eric Lane, Land Use Planner II

Joseph Messana-Croly, Land Use Planner I

### AHBL, Inc.

Wayne E. Carlson, FAICP, LEED AP, Principal Land Use Planner

Nicole Stickney, AICP, Senior Project Manager

Elizabeth Espinoza, Land Use Planner

Ali Masterson, Land Use Planner

Carmen Smith, Land Use Planner

### ECONorthwest

Robert Parker, Project Director

Oscar Saucedo-Andrade, Project Manager



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- Appendix B: Housing Needs Assessment
- Appendix C: Stakeholder Interviews

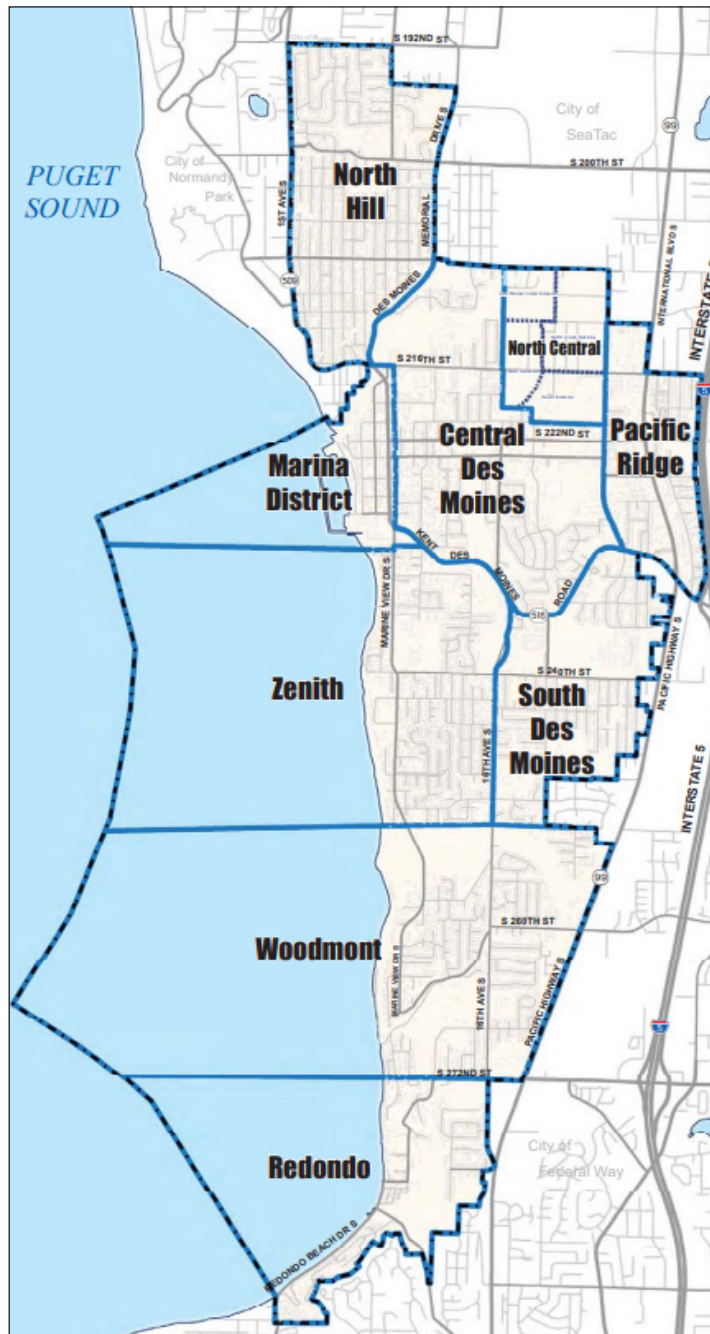
# Part 1: Introduction

## 1.1 Introduction

The City of Des Moines, Washington was incorporated on June 17, 1959. Since the time of incorporation, the City has grown in population, both as a result of people moving into the city as new construction occurs and also due to annexations from portions of unincorporated King County This has resulted in geographic growth and increased population within added territory). Des Moines is situated along Puget Sound midway between Seattle and Tacoma. Geographically, the City is long and narrow (6.3 miles long and 2.1 miles wide) and covers 4,340 acres (6.8 square miles). For Planning purposes, the City is divided into nine neighborhoods, each having a unique mix of population, housing stock, commercial opportunities, and amenities (Figure 1).

The City of Des Moines, together with the broader region and Washington State on the whole, has experienced a rapid and dramatic change with respect to housing affordability and availability.

Figure 1: Neighborhood Map



Source: City of Des Moines

The Washington State Department of Commerce awarded the City a “Housing Action Plan and Implementation Grant” in 2022 to develop a Housing Action Plan (HAP) which is defined in RCW 36.70A.600(2). This Housing Action Plan identifies actions and strategies to encourage construction of additional affordable and market rate housing of a variety of housing types that is affordable to households at different income-levels. A critical component of this work is the Housing Needs Assessment (HNA) that provides the data and analysis required to understand Des Moines’ housing needs. The Housing Needs Assessment looks at many factors related to housing in Des Moines, such as population and household characteristics, income and employment, and housing costs and affordability in order to provide a clear picture of the state of housing in the city. The Housing Needs Assessment serves as a foundation for the HAP.

The King County Countywide Planning Policies (CPPs) create a shared and consistent framework for growth management planning for all jurisdictions in King County — which includes Des Moines. VISION 2050 is the region’s plan for growth and is a product of a regional planning process led by the Puget Sound Regional Council and association of four counties (King, Kitsap, Pierce, and Snohomish), cities, towns, ports, tribes, and state agencies. The Housing Action Plan, like other planning documents of the city, must align with these broader policy documents.

## 1.2. What is a Housing Action Plan?

The Housing Action Plan is an implementation guide and is intended to provide clear actions that the City can implement to promote:

- More diversity in the types of housing available in Des Moines
- More affordable housing for residents of all income levels in Des Moines
- Greater access to housing for residents of all income levels in Des Moines

Informed by the Housing Needs Assessment, the Housing Action Plan provides guidance to the City on specific actions and initiatives to undertake in order to meet Des Moines' housing need.

A Housing Action Plan (HAP) is a strategic roadmap for Des Moines to follow toward furthering its housing goals. The HAP will provide clear actions that the City can implement with the purpose of promoting greater diversity in the types of housing available and more affordable housing to residents of all incomes in Des Moines

The Des Moines Housing Action Plan identifies the current and future housing needs for the city's residents and discusses how those needs are or are not being met. The HAP includes potential solutions to address the challenges associated with expanding affordable housing options within the city. Further, changing economic factors and shifting demographics contribute to a dynamic situation. The HAP goals and strategies were developed to show the City's determination to promote more housing choices where they are needed. Through the development and implementation of a Housing Action Plan, the City of Des Moines can better understand its residents' housing needs and how to implement or support effective policies and programs to provide for those needs.

This HAP was written and developed to comply with state guidance, including the adoption of the grant-funded HAP document consisting of the Housing Needs Assessment, housing policy review, and strategic policy recommendations.

### **1.3. How was the HAP created?**

The City received a grant from the Department of Commerce which provided funds for the city to assemble a plan to accomplish its goal of creating more affordable housing opportunities amid a growing problem driven by disparity between incomes and housing costs. The City hired a team of consultants – AHBL and ECONorthwest – to assist in the development of this HAP. In order to create a HAP that can be most beneficial to the city, AHBL has reached out to community members and stakeholders to get a better understanding of the community’s vision and housing needs. Additionally, ECONorthwest prepared a Housing Needs Assessment for the city.

### **1.4. Where did the Plan Recommendations come from?**

The plan recommendations stem from various components of this project including feedback from the public and other stakeholders, a detailed review of the existing zoning code/development standards, understanding the Housing Needs Assessment completed, and research of how surrounding communities are addressing similar issues. The plan recommendations were developed based on the following actions:

- Housing Needs Assessment
- Community Engagement Events
- Online Survey
- Stakeholder Group Engagement Interviews

These four sources of input were used to arrive at the preliminary recommendations offered in this plan. The key findings from each of these sources are described in Part 2: Summary.

### **1.5. What objectives are driving the HAP?**

The Housing Action Plan is an implementation guide and is intended to provide clear actions that the City can implement to promote:

- Greater access to housing for residents of all income levels
- More diversity in types of housing available
- More affordable housing for residents of all income levels

Informed by the Housing Needs Assessment, the Housing Action Plan provides guidance to the City on specific actions and initiatives to undertake in order to meet Des Moines' housing need.

### **1.6. What is the Planning Horizon for the HAP?**

This HAP has been created to plan for housing and population growth through 2044. The leaders, staff, developers, and residents in the city of Des Moines will have this document to reference as the Housing Element is prepared for the City's 2024-2044 Comprehensive Plan. This document includes factors relating to existing forecast needs that should be considered. This HAP provides an actionable collection of implementation strategies to meet the local housing needs.

### **1.7. What is the Geographic Study Area for the plan?**

The Housing Action Plan is written for the entire city of Des Moines, and all parts of the city were studied and considered. The city is generally organized into nine neighborhoods and members from each neighborhood were consulted in the study. Public engagement events were held within city limits, keeping the geographic study area focused on residents.

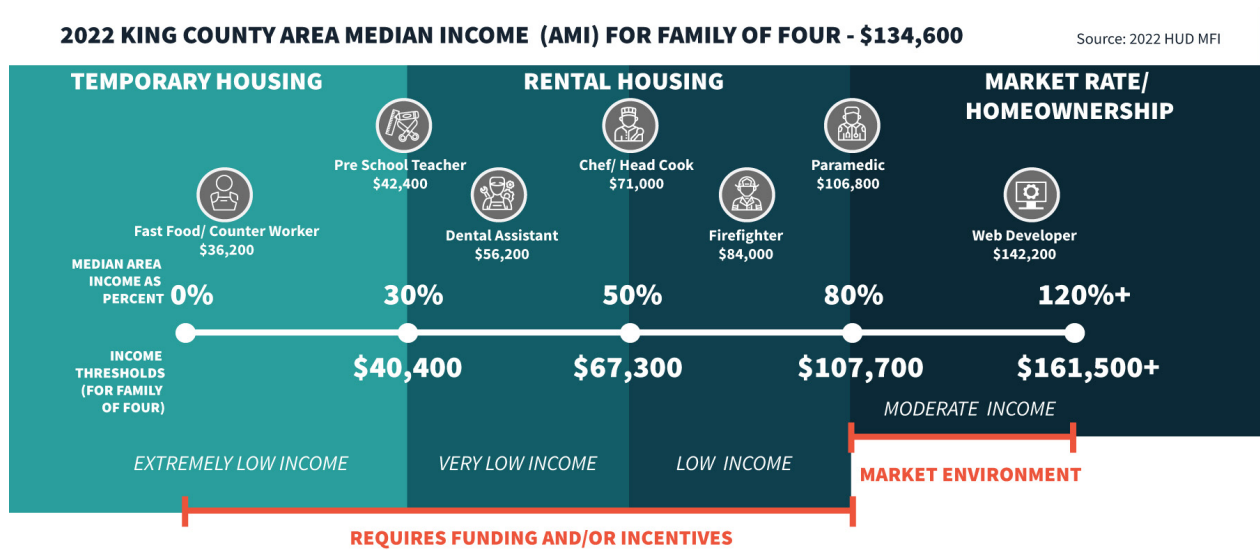
## 1.8. How does Income related to Housing in Des Moines?

Housing affordability refers to the degree to which a household or individual can afford to pay for housing without experiencing financial hardship or sacrificing other essential needs.

According to the US Department of Housing and Urban Development (HUD), affordable housing refers to a residence that a household or family can acquire - either through buying, renting, or other methods - that requires payment of no more than 30% of the household's income. Typically, households paying more than 30 percent of their income for housing is considered "cost burdened", while households paying more than 50 percent for housing are "severely cost burdened."

The figure below shows the income brackets typically used to evaluate income qualifications for various housing programs, based on the Seattle-Bellevue Metro area median income (AMI). AMI is defined annually by HUD market studies and can increase or decrease from previous years based on market conditions. The figure provides AMI ranges and the housing types that typically serve the households in the AMI range.

Figure 2. Household Median Income, Des Moines and King County, 2010 and 2020





# Part 2: Summary

## 2.1. Summary of Housing Needs

The City of Des Moines residents fall into different income brackets and the housing needs for each group vary. In order for city to provide affordable housing options to its residents, the City must first understand its current housing inventory, its residents' incomes, and housing demand.

### 2.1.1. Current Housing Inventory

According to US Census data under the program known as American Community Survey (ACS), Des Moines had 12,950 housing units in 2020. The majority (56%) of the housing stock in Des Moines is comprised of single unit detached homes, followed by multifamily (5+units). Compared to Washington as a whole, Des Moines' housing stock features more units which are not single family residential; Des Moines has a diverse housing stock of attached housing and multifamily both with 2-4 units and more than 5 units, which corresponds to a comparatively large share of persons renting their homes.

ACS data reveal that a majority of Des Moines housing units are owner-occupied (59%), while 41% are renter occupied. The vast majority of Des Moines' owners (88%) live in single unit detached and attached homes. The majority of Des Moines' renters live in multifamily housing including duplex, triplex, quadplex and apartment buildings (with 5 or more units). According to HUD building permit data, between 1980 and 2021 a total of 8,308 housing units were built in Des Moines with about 66% of the units being multifamily and 34% of the units being single family housing structures.

Examining data from Zillow, in 2012 the median price for a Des Moines home was \$175,000 while in 2022 the median price for a home was \$630,000. The increase of \$455,000 equals a change of 257%. Des Moines has experienced the largest housing cost increase compared to its neighboring cities like SeaTac, Kent, Tacoma, Burien, Federal Way, and Seattle. Likewise, when reviewing data from the ACS we find that household incomes have not kept pace with the rising rental costs in Des Moines.

Des Moines is poised to lose about a quarter of its income-restricted housing stock in the next 10 years. In 2022, there were six Low Income Housing Tax Credit (LIHTC) properties in Des Moines with 641 income-restricted units. In the next 10 years the income-restriction status will expire for three properties supplying 162 units.

Additionally, Des Moines lacks services that help resident's access temporary shelters. An inventory of emergency shelter, transitional housing, and permanent supportive housing revealed that Des Moines does not have any of these continuum of care services which are essential in reducing the risk of people becoming homeless.

### 2.1.2. Income Characteristics

As shown in Figure 3, the median household income in Des Moines increased by \$10,691 between 2010 and 2020, which is an increase of 18%. During the same time period, the median household income in King County increased by \$31,000 (46%).

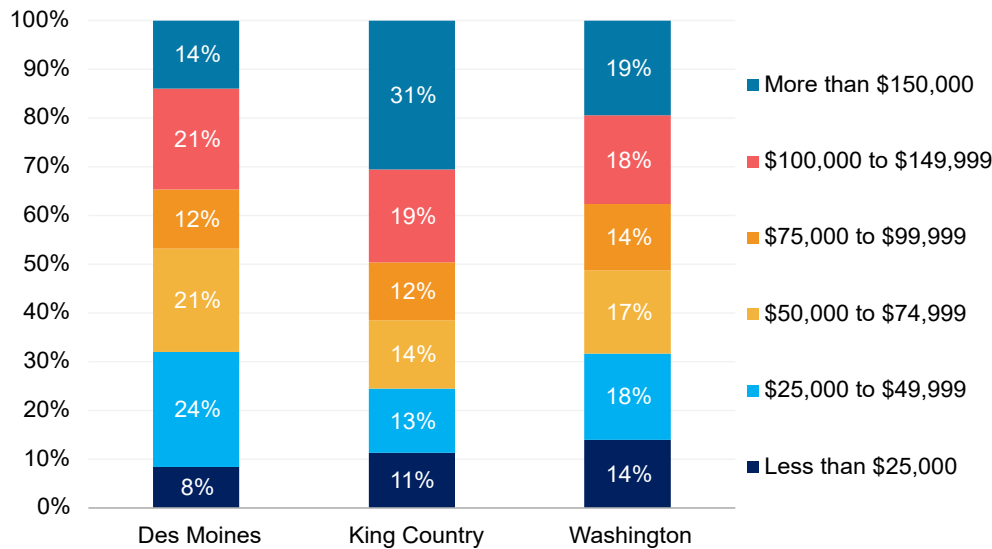
**Figure 3. Household Median Income, Des Moines and King County, 2010 and 2020**

Jurisdiction	Household Median Income		Change (2010 - 2020)	
	2010	2020	Amount (\$)	Percent (%)
Des Moines	\$68,065	\$70,268	+\$10,691	18%
King County	\$59,577	\$99,158	+31,093	46%

Source: American Community Survey (ACS) 2010 and 2020, 5-year estimates, and ECONorthwest calculations

Next, Figure 4 compares the annual household income distribution in Des Moines with the distribution among King County residents and Washington households, as determined in the year 2020. In Des Moines, about 32 percent of residents make less than \$50,000 which is a larger share when compared to in King County. The lower annual incomes (\$25,000 - \$49,999) along with middle incomes (\$50,000-\$74,999) were higher than both King County and Washington. Additionally, Des Moines also has a higher percentage of households who make \$100,000 to \$149,999, but a lower percentage of residents who make more than \$150,000. This is consistent with the conclusion that on the whole, Des Moines households have a lower annual income than those in King County.

**Figure 4. Annual Household Income Distribution, Des Moines, King County, and Washington, 2020**



Source: American Community Survey (ACS) 2020 5-year estimates

### 2.1.3. Population Characteristics

According to the Washington Office of Finance Management (OFM), Des Moines has experienced stable population growth since 2010. The population was estimated at 33,100 in 2021. Des Moines is one of the smaller cities in King County, making up 1.4% of the total county population in 2021.

Since 2010, Des Moines has grown approximately 12% or by 3,427 persons—growing at a slower rate than King County. Des Moines has experienced an Average Annual Growth Rate (AAGR) of 1.00% compared to 1.55% in the county.

**Figure 5. Population Growth, Des Moines and King County, 2010-2021**

Jurisdiction	Population		Change (2010 - 2020)		
	2010	2020	Number	Percent (%)	AAGR
Des Moines	29,673	33,100	3,427	12%	1.00%
King County	1,931,249	2,287,050	355,801	18%	1.55%

Source: Washington Office of Finance Management (OFM) and ECONorthwest Calculations

Household incomes in Des Moines have substantially changed since 2010. From 2010 to 2020, there was a steep increase in households making more than \$100,000, signaling a shift toward wealthier residents. To supplement this point, there was a 49% decrease in households making less than \$25,000 and a 24% decrease in households making \$75,000 to \$99,999. The increase in income was largely seen in households making over \$100,000 per year. This is primarily due to wealthier households moving to Des Moines; and it is generally understood many of these higher income households work in other communities. Since 2010, Des Moines has lost households with low- and middle-incomes (generally those who make less than \$74,999), while gaining households with higher incomes—especially those making more than \$100,000.

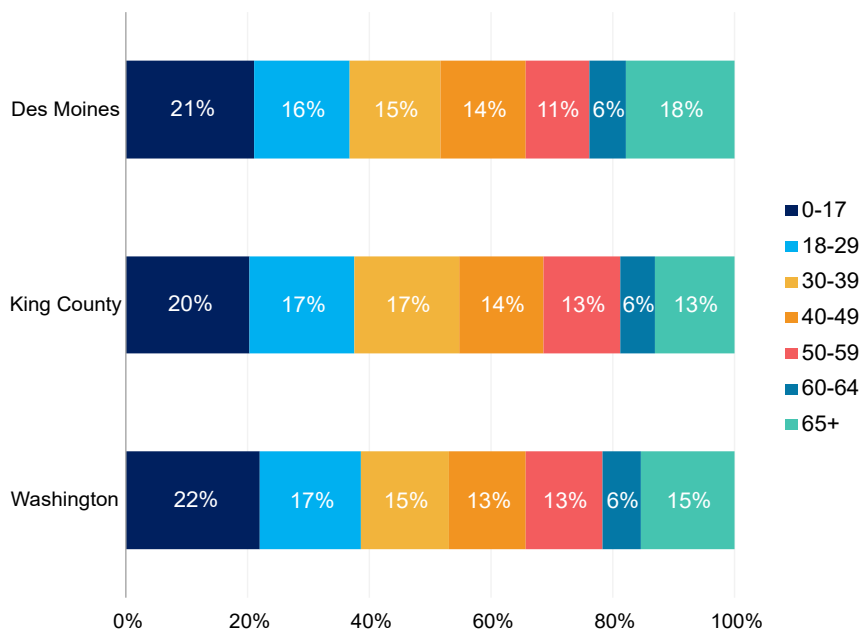
## Age Distribution

The age characteristics among a community can be used to assess current housing needs and may indicate future trends for housing. Because different age cohorts may have different housing needs, demand for particular housing types correlates to the age of residents. For example, young adult households may choose to occupy apartments, condominiums, and small single-family homes because of affordability, location, and household size/presence of children. In contrast, middle-aged adults may prefer larger homes in which to raise families, while seniors may prefer smaller units that have lower costs, less maintenance, and are more proximate to services.

Figure 6 shows the age distribution of Des Moines residents in 2020. The distribution of Des Moines's population by age tends to more closely mirror that of Washington rather than King County. Children (ages 0-17) comprised the largest cohort of residents in Des Moines followed by older adults (65 and older), and young adults aged 18-29. Since 2010, Des Moines saw the fastest growth among the group of adults 65 years and older had (increasing 18%) followed by young adults aged 18 to 29 which increased by 17%. During the same period, the number of adults aged 50-59 decreased by 27%.

When reviewing the age distribution of Des Moines from 2020, it is important to consider that the largest cohort of residents fall in the 0-17 age range. This indicates that the city should consider including housing and amenities geared towards growing families.

**Figure 6. Age Distribution, Des Moines, King County, and Washington, 2020**



Source: American Community Survey (ACS) 2020 5-year estimates

### Race and Ethnicity

Figure 7 shows that approximately half of Des Moines’ population identify as white. The second largest race category in Des Moines is Asian (12%) followed by Black or African American (9%), persons reporting having two or more races (7%), and Native Hawaiian or Pacific Islander (3%). In addition, approximately 19% of Des Moines’ population identify as Hispanic or Latino. Compared to King County and Washington, Des Moines is more racially and ethnically diverse.

**Figure 7. Race and Ethnicity, Des Moines, King County, and Washington, 2020**

Race/Ethnicity	Des Moines		King County		Washington	
	Count	Percent	Count	Percent	Count	Percent
White	15,911	50%	1,295,401	58%	5,067,909	67%
Black or African American	2,951	9%	141,566	6%	279,720	4%
American Indian or Alaska Native	109	0%	10,307	0%	75,677	1%
Asian	3,785	12%	405,835	18%	656,578	9%
Native Hawaiian or Pacific Islander	1,077	3%	16,673	1%	49,219	1%
Some other race	92	0%	9,449	0%	23,363	0%
Two or more races	2,135	7%	127,070	6%	388,477	5%
Hispanic or Latino	5,923	19%	218,763	10%	971,522	13%

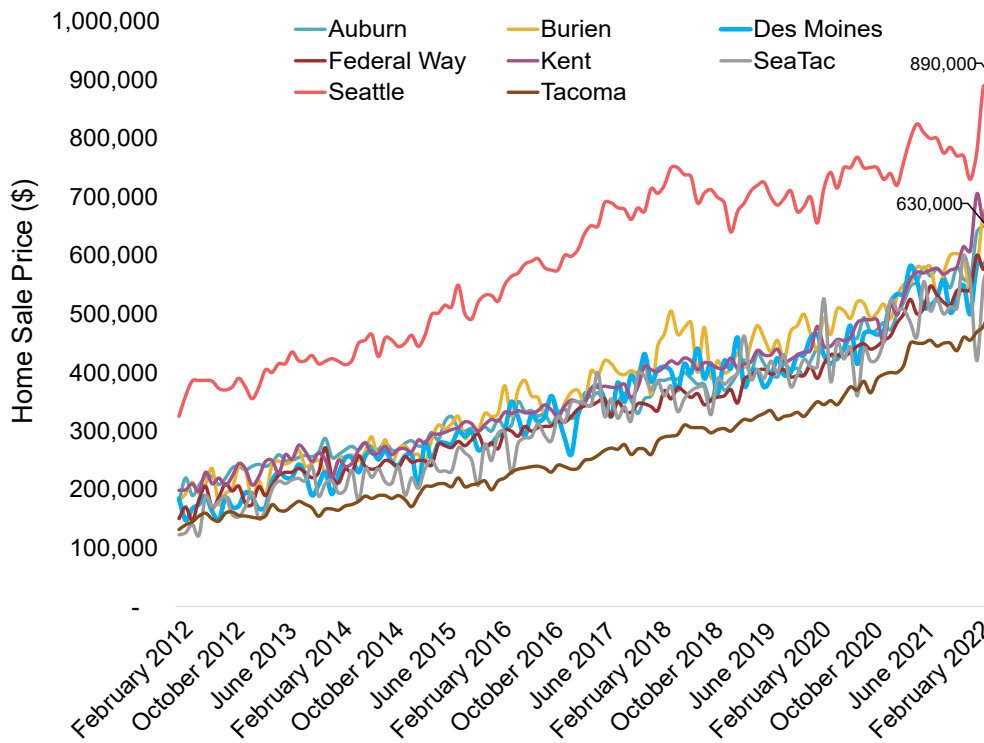
Source: American Community Survey (ACS) 2020 5-year estimates

### 2.1.4. Housing Cost Trends

Housing cost has a direct relationship with housing accessibility for all economic segments of the community. In general, if housing supply exceeds housing demand, housing costs will decrease but if housing demand exceeds housing supply, housing costs will increase. Figure 8 shows that since 2012, the median sale price of a home has increased in all comparison cities, with the most significant increase in Des Moines (257%), while SeaTac experienced the second highest increase of 252%.



Figure 8. Median Home Sale Prices, Des Moines and comparison cities, 2012-2022



Jurisdiction	Median Sales Price		Change (2012-2022)	
	2012	2022	Value	Percent
Des Moines	\$175,000	\$630,000	\$455,000	257%
Auburn	\$219,950	\$650,000	\$430,050	196%
Burien	\$202,000	\$665,000	\$463,000	229%
Federal Way	\$182,500	\$580,000	\$397,500	218%
Kent	\$210,000	\$701,000	\$491,000	234%
SeaTac	\$157,490	\$554,000	\$396,510	252%
Seattle	\$375,000	\$890,000	\$515,000	137%
Tacoma	\$154,975	\$479,000	\$324,025	209%

Source: Redfin and ECNorthwest Calculations

Additionally, after analyzing data from the ACS, we observe that household incomes have not kept pace with the rising increase of rental costs in Des Moines. Between 2010 and 2020, the median income in Des Moines increased 18% while the median rent increased 56%.

According to ACS data, between 2019 and 2020 Des Moines renters experienced rising housing costs leading to a higher rate of cost burden (households that pay 30% or more of their income for housing), while King County and Washington renters have experienced declining cost burden. Cost burden increased in Des Moines from 31% in 2010 to 38% in 2020.

Figure 9 shows that incomes have not kept pace with the rising increase of rental costs in Des Moines. Between 2010 and 2020, the median income in Des Moines increased 18% while the median rent increased 56%. In comparison King County’s median income increased 46% while the median rent increased 70%.

**Figure 9. Change in Median Rent vs. Median Income, Des Moines and King County, 2010-2020**

Jurisdiction	2010	2020	Change (2010-2020)	
			Value	Percent
<b>Des Moines</b>				
Median Monthly Rent	\$890	\$1,390	\$500	56%
Median Annual Income	\$59,577	\$70,268	\$10,691	18%
<b>King County</b>				
Median Monthly Rent	\$999	\$1,695	\$696	70%
Median Annual Income	\$68,065	\$99,158	\$31,093	46%

Source: American Community Survey (ACS) 2010 and 2020 5-year estimates Note: Nominal dollars (i.e., not adjusted for inflation).

Given the rapid increase in sales prices and rents in combination with the shortfall of income increases, cost burden likely increased significantly between 2020 and 2022. When housing costs increase substantially, residents across all income segments begin to have challenges with affording housing and keeping a shelter over their heads. These differences should be considered when looking at what the future housing offered in Des Moines looks like.

### 2.1.5. Employment

Figure 10 compares Des Moines’s job composition by industry for 2010 and 2019. Des Moines continues to rely on service producing industries for the majority of its employment (87%) compared to goods producing industries (13%). Since 2010, Des Moines experienced massive growth in the goods producing sector, while losing jobs in the service producing sector.

Among the industries with the largest employment growth since 2010 in Des Moines was the service industry which gained the most jobs (378), followed by construction and resources (300), wholesale trade (220), manufacturing (78) and government (13).

In 2019, Des Moines had a large concentration of jobs in the services industry, mainly in accommodation and food services as well as health care and social assistance.

More than half of Des Moines residents work in the Services industry, mainly in Accommodation and Food Services as well as Educational Services. The third most popular industry is Construction and Resources with most residents in this group are working in construction. The smallest percentage of individuals work in Manufacturing.

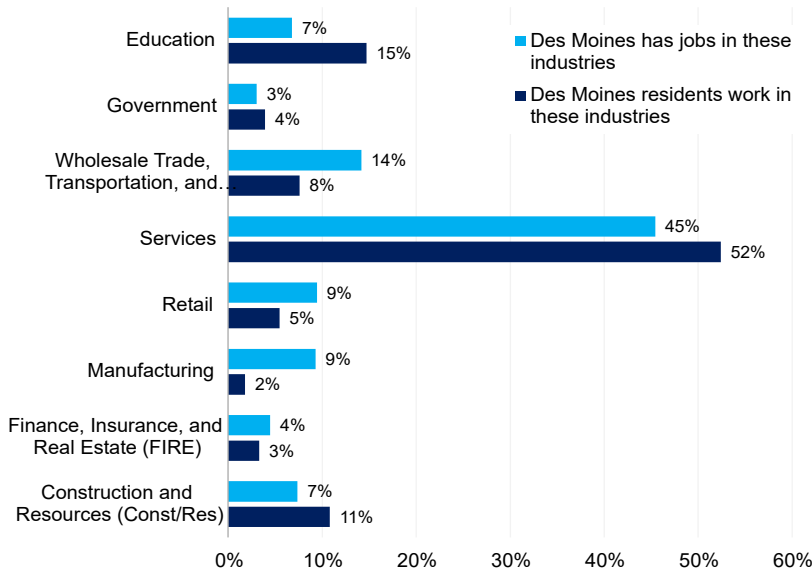
Gaps exist between where residents work and the jobs that Des Moines offer. In 2019, there were more jobs in the Manufacturing, Retail, and Finance, Insurance, and Real Estate industries in Des Moines than residents working in those fields. This indicates that there is a mismatch between labor and jobs.

**Figure 10. Employment by Industry, Des Moines, 2010 and 2019**

Industry	2010		2019		Percent Change 2010-2019
	Number	Percent	Number	Percent	
Good Producing Sector	283	6%	661	13%	134%
Construction and Resources (Const/Res)	267	6%	567	11%	112%
Manufacturing	16	0%	94	2%	488%
Service Producing Sector	4,184	94%	4,586	87%	10%
Finance, Insurance, and Real Estate (FIRE)	189	4%	173	3%	-8%
Retail	434	10%	287	5%	-34%
Services	2,372	53%	2,750	52%	16%
Wholesale Trade, Transportation, and Utilities (WTU)	178	4%	398	8%	124%
Government	193	4%	206	4%	7%
Education	818	18%	772	15%	-6%
<b>Total Employment</b>	<b>4,467</b>	<b>100%</b>	<b>5,247</b>	<b>100%</b>	<b>17%</b>

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (2019), ECONorthwest

**Figure 11. Employment by Industry, Des Moines, 2019**



Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (2019). Note: Net new jobs (2019-2044).

According to the King County Countywide Planning Policies, Des Moines is a High-Capacity Transit Community that is expected to grow by 2,380 jobs between 2019 and 2044. Compared to other High-Capacity Transit Communities, Des Moines has the fourth largest growth target in jobs.

The growth in jobs looking at the future of Des Moines, indicates that more housing will be needed for those individuals. Currently, the discrepancy between jobs available in the city and the jobs of its residents may be attributed to the lack of affordable housing within the income bands. The ability for new workers to find affordable housing nearby their work is crucial to the successful growth of the city.

**Figure 12. Job Target, Des Moines and King County, 2019-2044**

<i>Jurisdiction</i>	<i>Job Target (2019-2044)</i>
Des Moines	2,380
Normandy Park	35
SeaTac	14,810
Kent	32,000
Burien	4,770
Auburn	19,520
Federal Way	20,460
King County	490,103

Source: 2021 King County Countywide Planning Policies

### 2.1.6. Future Housing Needs and Methodology

According to King County Countywide Planning Policies (CPPs), Des Moines needs 3,800 housing units by 2044. King County CPPs requires all jurisdictions within the county to plan for housing affordable for all income segments of the population.

Based on Des Moines’ current household income distribution, 2,629 housing units or 70% of Des Moines housing growth target are needed for households who make 80% or less of the area median income.

Based on the 2021 King County’s residential land supply and capacity analysis, Des Moines has substantial land supply and capacity to accommodate the planned future housing growth. The majority of Des Moines housing capacity lies in its high- and medium high-density zones that have the capacity for about 7,622 housing units in both zones. Most of these housing units will be constructed on redeveloped land within Des Moines—which can pose development challenges for getting these units constructed due to market forces of high land values and high construction costs.

**Figure 13. Residential Land Supply and Capacity in Des Moines, 2022**

Density Level	Net Available Acres	Assumed Density (low/ high – units/acre)	Net Capacity (units)
Very Low Density	21.75	1.2 / 3.8	46
Low Density	77.86	4.4 / 8.8	220
Medium Low Density	3.98	12.4	41
Medium High Density	56.88	24.2 /36.3	1,550
High Density	61.91	48.4 / 129.7	6,072
All Zones	222.37	—	7,930
<b>Capacity in Pipeline</b>			<b>456</b>
<b>Total Capacity (units)</b>			<b>8,386</b>
<b>Remaining Target (2018-2035)</b>			<b>3,067</b>
<b>Surplus / Deficit Capacity (units)</b>			<b>5,319</b>

Source: King County Urban Growth Capacity Report 2021

According to the King County Urban Growth Capacity Report, between 2006 to 2018, Des Moines has grown at 29% of the pace needed to achieve its growth target of 3,480 housing units. This indicates that Des Moines is underperforming in terms of producing housing units needed by 2035.

Under the Growth Management Act, King County in coordination with the cities in King County, adopts growth targets for ensuing 20-year planning period. Growth targets are policy statements about the amount of housing and employment growth each jurisdiction is planning to accommodate within its comprehensive plan. Growth targets are adopted for each jurisdiction and unincorporated urban King County in the Countywide Planning Policies.

According to the King County CPPs Des Moines is categorized as a High-Capacity Transit Community and is planned to grow by 3,800 new housing units and 2,380 new jobs by 2044.

**Figure 14. Des Moines Growth Targets, 2019-2044**

Housing Target 2019-2044	Job Target 2019-2044
3,800	2,380

Source: 2021 King County Countywide Planning Policies

Des Moines housing need by income level assumes that the current household income distribution in 2020 will remain constant through 2044. Under this assumption, 2,629 housing units or 70% of Des Moines housing growth target are needed for households who make 80% or less of the area median income.

**Figure 15. Household Income Distribution**

Household Income Distribution	Need per Des Moines Household Income Share Percent	Housing Units Needed
0-30% AMI (Extremely Low-Income)	23%	878
30-50% AMI (Very Low-Income)	24%	896
50-80% AMI (Low-Income)	23%	866
80-120% AMI (Moderate Income)	18%	702
120%+ AMI (Above Moderate-Income)	12%	459
<b>Total</b>	<b>100%</b>	<b>3,800</b>

Source: 2021 King County Countywide Planning Policies

The overall understanding of the future housing needs in the city are focused on providing affordable housing that is attainable for the households who make 80% or less of the area median income but this is feasible given the land and capacity of the city to meet these needs. In the present the housing stock is predominately single unit detached homes, but multifamily developments have become more common in the past decade, making more units available that could potentially meet the needs of the community.

## **2.2. Summary of Public Engagement Key Findings**

The City established a website, DesMoinesHAP.com, and updated the site throughout the public engagement process. The website featured documents such as an Infographic, PowerPoint slides from an open house, and flyers in multiple languages. It was used to provide project updates, provided a “link” to the survey, and additionally provided ways for people to “subscribe” to receive information on the project.

### **2.2.1. Survey Findings**

As a part of the creation of the Housing Action Plan, AHBL conducted a community survey. The community was encouraged to participate in the survey with electronic distribution via email and Facebook posts, and a link from the City and project websites. After typing in the address or scanning a QR code, it was convenient for participants to respond to the survey on their phone, tablets, computer, or other devices. Most surveys were electronic, but surveys on paper were also completed at public engagement events.

The survey was open November 15, 2022, through January 31, 2023, and re-opened March 6, 2023, through March 23, 2023, to expand the reach to more vulnerable populations. There was a total of 213 responses in both English and Spanish. Ninety-three percent (93%) of the respondents to the survey were from individuals that currently live in Des Moines while 7% of respondents were of those that do not. It should also be considered that the survey is not “statistically valid” given that people that participated “opted-in” and it may not represent all segments of the community. The following is a brief summary of the survey respondent distribution:



**Where do respondents live?**

24% - Central Des Moines	10% - Marina District
16% - Woodmont	7% - Pacific Ridge
14% - Zenith	5% - Redondo
12% - North Hill	2% - North Central
11% - South Des Moines	

**What types of housing do respondents currently live in?**

75% - Detached single-family	1% - Multifamily with 2-4 DUs (duplex, triplex)
14% - Multifamily with 5+ DUs	
5% - Other housing types	<1% - Manufactured homes or shelters/ transitional housing
3% - Townhomes	
2% - Senior living	

**How long have respondents lived in their current homes?**

58% - More than 10 years	3% - Other
18% - Between 2-5 years	2% - Less than 6 months
13% - Between 5-10 years	1% - Have no permanent housing
7% - 6 months-2 years	

**How long did it take respondents to find their current home?**

30% - 1-3 months	15% - 4-6 months
28% - Less than a month	8% - More than 1 year
16% - Do not know/recall	4% - 7-12 months

The top four responses when asked about individuals' most recent search for housing were difficulty finding a home that I could afford (93 responses), a home in an area I wanted to live (66 responses), a home in good physical condition (43 responses), a home that had enough bedrooms for my household (27 responses). The top responses for housing types needed in Des Moines were cottage housing, accessory dwelling units (ADUs), detached single family homes, and buildings with 2-4 dwellings.

The survey asked for respondents to "select the top three actions that you believe are most important to address in the Des Moines Housing Action Plan" and those were more affordable housing options, preventing displacement (household forced to move from current residence due to circumstances outside of their control, such as rent increases), and creating more environmentally sustainable housing (designed to be more energy efficient, use less water, etc.). When asked which housing types they think Des Moines needs more of. The top four responses were cottage housing (93 responses), accessory dwelling unit (69 responses), detached single family homes (66 responses), and buildings with 2-4 dwellings (51 responses).

Generally, households had difficulties finding housing in their price range and were open to a variety of housing options. The ability to have privacy and sufficient space for the members of their household was important. The ability for the city to plan for additional affordable housing options while considering environmentally sustainable buildings and preventing displacement will meet the needs of its residents.

## 2.2.2. Stakeholder Interviews

City staff identified several primary and secondary stakeholder organizations during the early phases of the Housing Needs Assessment based on their involvement with housing in Des Moines or the greater King County area. The project consultants interviewed representatives from seven of the primary stakeholder organizations in order to gain a deeper and more nuanced understanding of the community's current housing needs and where the action plan should concentrate its focus:

- South King County Housing and Homelessness Partners
- African Community Housing and Development Office
- King County Housing Authority
- Housing Connector
- SeaMar Community Health Centers
- Highline Public Schools
- El Centro De La Raza

Representatives of each primary stakeholder organization were asked twelve open-ended questions during thirty-minute interviews conducted over the phone and/or internet-based video conversations. The stakeholder were asked the following questions organized into three main categories:

## **Stakeholder Interview Questions**

### **Background Information**

1. What organization do you represent and what is the impact it has on housing in Des Moines?
2. What do you believe are the biggest housing challenges that Des Moines faces?
3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?

### **Barriers**

4. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)
5. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.
6. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.
7. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.

### **Actions**

8. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.
9. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?
10. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?
11. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?
12. Is there anything else you would like to add?

The following recurring themes emerged from the stakeholder interviews:

- **Affordability** was unanimously identified as the biggest housing issue in Des Moines and emphasized as a high priority. There is not enough affordable housing in Des Moines to serve the current and growing population, which includes large numbers of immigrant and low-income families. Supplying more affordable housing and subsidizing existing housing for low-income households are specific actions that could address the need.
- **Displacement** of existing Des Moines residents was identified as a current issue and high risk by several stakeholders. Des Moines residents must move away when they are no longer able to afford to live in their current residence (due to a number of factors including rent increases), forcing them to leave Des Moines in search of alternate housing they can afford. Specific actions focused on retaining and protecting existing residents and housing is needed.
- **Investment** in affordable housing development, both among public and private organizations, was identified by multiple stakeholders as an important need. Restrictive residential zoning, off-street parking requirements, density/lot size restrictions, impact fees, NIMBYism, and the often slow and expensive permitting process all contribute to deterring residential development and investment. When asked to suggest specific actions to address the needs, interviewees focused on incentives, such as tax credits/exemptions to attract more investment in affordable housing in Des Moines.
- **Options** in housing types is desirable and identified by multiple stakeholders as an approach to meeting housing needs in Des Moines. Missing middle housing, such as triplexes and cottages, are often prohibited or limited by zoning and land use regulations. When asked to suggest specific actions to address the needs, interviewees focused on supporting more variety in housing types and said concepts like smart zoning are needed to provide more housing options to better meet the needs of all Des Moines residents at all income levels.

- **Barriers** to housing seekers (beyond lack of affordability) include rental screening problems, discrimination against those with a criminal history, issues with bad credit, difficulty overcoming a record of past evictions, and housing owner reluctance/low-income renters viewed as risk. All of these are understood to inhibit families from securing housing, when these situations occur. Specific actions are needed to reduce barriers to acquiring housing particularly for low-income renters.

Overall, the stakeholder interviews were very insightful to better grasp what housing needs the community has and understand the “story” or situations that don’t always emerge from data analysis. The results of these interviews the Housing Action Plan can expand on the potential solutions that could meet the housing needs of the city’s current and future residents.

### 2.2.3. Public Engagement Events

The City of Des Moines hosted several events to engage the public and gain input on the Housing Action Plan. The first event was an Open House at Highline College on November 15, 2022. The purpose of the open house, which occurred during a weekday evening, was to formally kick-off the public engagement process with the community and to discuss upcoming ways to engage with the city. During the meeting, AHBL and ECONorthwest staff provided a summary of a working draft of the Housing Needs Assessment, shared a link to the on-line survey, and provided the public opportunities to discuss preferences for the types of new affordable housing that could be constructed in the city. Over 20 people attended the open house.

**Figure 14. AHBL, ECONorthwest, and City of Des Moines staff presenting the Housing Needs Assessment at the November 15, 2022 Open House at Highline College.**



**Figure 15. November 15, 2022 Open House at Highline College.**



A second open house was held a short time later, during the daytime on Saturday, December 3, 2022. It was purposely scheduled to accommodate people unable to attend meetings during the work week. Twelve people attended.

The City and consultant also reached out to the public by attending the Gingerbread House Decorating event at the Des Moines Public Library during the afternoon of December 14, 2022. The purpose of the event was to solicit input on the production of additional affordable housing units within the City of Des Moines, to share the results of the Housing Needs Assessment, and most importantly encourage residents to participate in the community survey.

**Figure 16. Public Engagement at the December 14, 2022, Gingerbread House Decorating event at the Des Moines Public Library.**



The fourth, and final, public engagement event occurred March 8, 2023, at the Des Moines Food Bank. For this event, AHBL and City staff set up a booth at the food bank and encouraged patrons to take part in voicing their opinion on housing needs in the area, addressing any questions individuals had, and filling out surveys in person. Spanish translation services were available by AHBL staff, and the event provided insight on the types of housing desired by its participants through interaction with the housing dot exercise pictured below.

**Figure 17. Public Engagement on March 8, 2023 at the Des Moines Food Bank.**





## 2.2.4. Consistent Themes

After completing the various public engagement events, surveys, and interviews the consultant team compiled feedback to gain better insight of what residents and stakeholders desire in the future.

- **Enhance affordability** was unanimously identified as the biggest housing issue in Des Moines and emphasized as a priority to address. There is not enough affordable housing in Des Moines to serve the current and growing population, which includes large numbers of immigrant and low-income families. Specific actions focused on supplying more affordable housing and subsidizing existing housing for low-income households are needed.
- **Minimize displacement** of existing Des Moines residents was identified as a current issue and high risk by several stakeholders. Des Moines residents are being forced to move because they are no longer able to afford to live in their current residence, due to a number of factors including rent increases, forcing them to leave Des Moines in search of housing they can afford. Specific actions focused on retaining and protecting existing residents and housing are needed.
- **Increase supply** in affordable housing development, both public and private, was identified as a Des Moines housing need by multiple stakeholders. Restrictive residential zoning, off-street parking requirements, density/lot size restrictions, impact fees, NIMBYism, and the often slow and expensive permitting process all contribute to deterring residential development. Specific actions focused on incentives like tax credits/exemptions, are needed to attract more investment in affordable housing in Des Moines.

- **Expand options** in housing types is desirable and identified by multiple stakeholders as an approach to meeting housing needs in Des Moines. Missing middle housing, such as triplexes and cottages, are often prohibited or limited by zoning and land use regulations. Specific actions focused on supporting more diversity in housing types, like smart zoning, are needed to provide more housing options to better meet the needs of all Des Moines residents of all income levels.
- **Enhance access** and remove barriers to housing for housing seekers, beyond lack of affordability, including rental screening, criminal history discrimination, bad credit, past evictions, and housing owner reluctance/low-income renters viewed as risk, all contribute to inhibiting families from securing housing. Specific actions are needed to reduce barriers to acquiring housing particularly for low-income renters.

# Part 3: Goals, Objectives, and Recommendations

## 3.1. Overview

This Housing Action Plan identifies short and long-term actions that will serve to develop the city in a way to encourage new housing and preserve existing housing for the variety of residents located in Des Moines. The goals outlined below were developed based on community input and findings identified from the Housing Needs Assessment.

## 3.2. Goals

### ***Goal 1. Improve access to housing.***

The Des Moines community emphasized the need for greater access to housing for vulnerable population groups such as low-income households, homeless individuals, and community members that don't meet all the requirements for acquiring shelter.

It is important for the city to develop partnerships with organizations that provide programmatic and financial support for residents that need help accessing these resources and housing. These types of organizations include non-profit housing providers, community organizations, faith-based organizations, and regional partners. The city should continue participating in regional efforts to addressing regional housing needs and advocate for South King County specific solutions when appropriate.

### ***Goal 2. Mitigate displacement.***

Des Moines households have experienced rising housing costs, while incomes have not increased at the same rate. This has created a housing affordability crisis for renters and homeowners where they are spending a greater share of their income on housing with less disposable income for other needs such as food, travel, and health care.

This makes preservation of existing affordable housing important while also providing some financial assistance to residents to help them stay in their homes and community. Several strategies to help renters and homeowners to stay in their homes include regulatory changes, partnerships with existing housing providers, and both direct and indirect financial assistance.

### ***Goal 3. Increase the supply of housing.***

The City of Des Moines needs to considerably increase the supply of housing for households across the income spectrum, but most importantly for households with low incomes. While the city does not control private sector investment, it does control public policy that guides the type of private investment that gets built. The city should use the powers it controls such as development regulations to promote the development of a wide array of housing types including exploring different incentives to create affordable housing.

**Goal 4. Support the preservation and creation of affordable housing.**

The city’s role in providing affordable housing begins with finding ways to eliminate barriers for constructing this housing type that is needed in the community. There are several ways that the city can participate to promote more affordable housing development which include exploring new development incentives, amending the development code, and coordinating the acquisition and rehabilitation of existing affordable housing units.

**3.3. Strategic Recommendations and Actions**

Five priority strategic recommendations were identified to achieve the Housing Action Plan goals. Each recommendation includes a range of actions that the City can undertake during the short-term implementation horizon of the plan. These strategic recommendations arose as the best opportunities for responding to immediate needs while also establishing a system for the City to continue its work for the long-term as part of the Comprehensive Plan update in 2024.

The strategic recommendations correspond to the four Housing Action Plan goals. The following table cross-references the goals with the strategic recommendations.

<b>Strategy</b>	<b>Goal 1. Improve Access to Housing</b>	<b>Goal 2. Mitigate Displacement</b>	<b>Goal 3. Increase the Supply of Housing</b>	<b>Goal 4. Support the Preservation and Creation of Affordable Housing</b>
<i>Strategy 1. Support and create new partnership to address housing needs.</i>	✓	✓		✓
<i>Strategy 2. Support the acquisition and preservation of income-restricted rental housing by housing partners.</i>		✓		✓
<i>Strategy 3. Amend the development code to support housing options.</i>		✓	✓	
<i>Strategy 4. Remove regulatory barrier to support the development of a variety of housing types.</i>	✓	✓	✓	
<i>Strategy 5. Reduce development costs for affordable housing.</i>	✓	✓	✓	✓

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**Strategy 1. Support and create new partnership to address housing needs.**

**Description:**

The City has long-standing partnerships with several regional housing providers and advocacy groups that provide essential housing programs and education to all income groups but most importantly to low-income households who are most vulnerable to changes in the housing market. There are instances where Des Moines residents are not eligible for specific housing related programs provided by its partners. It is vital that the city identify gaps in the programs and services offered by outside organizations but that may not be provided to Des Moines' residents.

**Implementation Actions:**

- Review and identify gaps in housing programs/services that are administered through the city versus those provided by partner organizations and available to Des Moines residents.
- Continue partnering with SKKHP to provide housing programs not currently administered to Des Moines' residents. These may include but not limited to:
  - Emergency rental assistance
  - Tenant right's counsel
  - Tenant education and training
  - Landlord education
  - Weatherization programs
- Explore partnerships with housing providers to increase access to housing programs by Des Moines residents. The programs could complement or supplement SKKHP on-going work and may include expanding the City's relationship with the Multi-Service Center (MSC).
- Continue to coordinate with county and regional agencies on affordable housing needs.
- Promote and facilitate new opportunities for collaboration within the different housing providers and social services.
- Coordinate with housing partners and create a centralized webpage in the city's website to host all programs and services that Des Moines residents can access through the city and partners.

**Considerations:**

- Seeking additional programmatic assistance to Des Moines residents from existing housing providers may require additional funding commitment from the city.
- Consider funding an additional staff position to coordinate housing programs

**Households Supported:** Low-income and middle-income.

**Strategy 2. Support the acquisition and preservation of income-restricted rental housing by housing partners.**

**Description:**

Subsidized or income-restricted units are crucial in a community because they provide affordable housing options for low- and moderate-income households, who may otherwise struggle to afford market-rate housing. This ensures that individuals and families have access to safe and decent housing, which is essential for their well-being and ability to participate in their communities. The Housing Needs Assessment identified that in the next 10 years three, privately-owned, low-income housing tax credit (LIHTC) developments will have their affordability requirement expire. The affordability expiration will allow the property owner to raise the rents to market-rate, potentially displacing the current households. Acquisition of these affordable housing units by housing providers such as the King County Housing Authority will ensure that these units remain affordable permanently.

**Implementation Actions:**

- Proactively track the expiration of the subsidy for LIHTC properties.
- Collaborate and coordinate with regional partners and housing providers to identify organizations that might be willing and able to acquire the properties if the owners seek to sell or convert them to market rate.
- Identify long-term funding sources (i.e., housing trust fund) for the acquisition of future LIHTC properties.

**Considerations:**

- The city may consider reaching out to the property owners of LIHTC properties before the end of the affordability period to offer technical assistance with preservation options and make them aware of any city or county programs or incentives available to support maintaining affordability.
- The city should consider proactive coordination with housing providers to develop educational and technical assistance to tenants of LIHTC properties when the affordability is about to expire and potentially provide relocation assistance.

**Households Supported:** Low-income.

**Strategy 3. Amend the development code to support housing options.**

**Description:**

Strategically rezone areas within the city to allow for a variety of housing types such as missing middle housing—townhomes, duplexes, triplexes, quadplexes, and cottage clusters—that can help encourage the development of higher-density housing as well as the development of affordable homeownership housing types. The City of Des Moines is considered a ‘land locked’ with no opportunities to expand the city limits. This limits the city’s ability to accommodate future residential growth. Allowing a greater number of housing types to be built and at higher densities will ensure that the city can accommodate future population growth.

**Implementation Actions:**

- Review and evaluate residential zones where missing middle housing types could be allowed by right to support broader Housing Action Plan goals.
- Review and explore simplifying residential zoning designations where similar housing types are allowed or will be allowed.
- Use national best practice development standards for missing middle housing types as a starting point for updating zoning regulations for these housing types. These may include amending code regulation related to parking minimums, maximum density, maximum height, and setbacks.



**Considerations:**

- Use the 2024 Comprehensive Plan Update as an opportunity to integrate major zoning and code changes.
- Consider rezoning residential zones that could support additional housing capacity without the need of substantial infrastructure improvements such as sidewalks, water and sewer, and infrastructure to minimize development costs.

**Households Supported:**

Low-income, middle-income, and high-income.

**Strategy 4. Remove regulatory barriers to support the development of a variety of housing types.**

**Description:**

The City’s role to encourage housing development begins with the development regulations it controls and finding ways to eliminate barriers for the construction of housing. Zoning and land use regulations as well as design standards can add additional costs to new development that can ultimately render a project financially unfeasible. Amending or removing these regulations can yield great benefits such as more housing production and potentially lower housing cost to the end consumer.

**Implementation Actions:**

- Remove or reduce minimum parking requirements for ADUs, townhomes, duplexes, multifamily and other missing middle housing types.
- Remove required guest parking requirements in residential zones.
- Review and amend minimum lot sizes, open space requirements, building height, setbacks, and design standards.

**Considerations:**

- Use the 2024 Comprehensive Plan Update as an opportunity to integrate major zoning and code changes.
- Consider removing or reducing regulatory barriers in areas or zones near frequent transit where higher density development can complement the transit facility.

**Households Supported:**

Low-income, middle-income, and high-income.

**Strategy 5. Reduce development costs for affordable housing.**

**Description:**

The Housing Needs Assessment identified that Des Moines has a need for more affordable housing units that are affordable for low-income residents who earn at and below 80 percent of the area median income (AMI). Typically, the housing market builds housing that is affordable to households with income of 80 percent of AMI and above, while affordable housing types for low-income households generally require some type of government subsidy or support to incentive the creation of this housing. Removing regulatory barriers and providing incentives to developers to build affordable housing is one of the tools that the city has control over.

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**Implementation Actions:**

- Create an expedited building permit process for affordable housing developments.
- Remove or reduce minimum parking requirements for affordable housing.
- Remove required guest parking requirements for affordable housing.
- Review and amend minimum lot sizes, open space requirements, building height, setbacks, and design standards.
- Explore regulatory incentives (i.e., density bonus, maximum height, fee waiver, etc.) to support the creation of affordable housing.
- Consider re-establishing the multi-family tax exemption (MFTE) program with an evaluation of the requirements and incentives to increase the use of the program within the city.
- Consider using city owned land for the development of affordable housing through a competitive RFP process.
- Explore using real estate excise tax (REET 3) as a funding source for affordable housing development.
- Explore ways to partner with faith-based organizations and institutions to develop affordable housing.
- Coordinate citywide projects with anticipated affordable development to provide necessary infrastructure needs for the project.

**Considerations:**

- Consider funding a part-time or full-time position to coordinate with housing partners and state agencies to identify funding opportunities for the creation and preservation of affordable housing.

**Households Supported:**

Low-income, middle-income, and high-income.

## Recommendations for Future Actions

The following actions, while important and useful, are recommended for the City to consider in the future as or long-term objectives. Some of these recommendations are broad, with the intent that in the future the city might have clarity of how to potentially implement these recommendations or further consider as staff resources are available.

- **Support Preservation of Manufactured Home Parks.** Manufactured home parks play a significant role in providing naturally occurring affordable housing in the city. Preserving manufactured home parks can help address the affordable housing crisis, support vulnerable population groups and helps with mitigating displacement pressures of possible redevelopment of existing manufactured home parks.
- **Develop Pre-Approved Plans for ADUs and Middle Housing.** Consider lowering the barriers to Accessory Dwelling Units (ADU) and middle housing typologies (i.e., cottage clusters, townhomes, and plex development) by providing a pre-approved set of plans for designs that, if used by a developer or homeowner, would lead to streamlined approvals and reduced permitting schedule. Pre-approved plans can reduce the need for architectural assistance, reducing costs and eliminating barriers to the development of these housing types, encouraging more participation from homeowners or smaller-scale developers.
- **Explore Working with Community Land Trusts.** Building affordable housing for homeownership requires different considerations to ensure long-term affordability, beyond the first sale. One way to achieve this is through land trusts, which are managed by a nonprofit organization that holds land in perpetuity and sells or leases housing on the land at below-market rates. This helps achieve below-market pricing since the land is not included in the housing price. Land trusts are commonly used to support affordable homeownership and the City's role may involve partnering with existing nonprofit organizations that operate land trusts or developing its own land trust. The City could participate in a community land trust by assisting with land acquisition through land banking or providing funding to support housing development.

- **Explore a Local, Revolving Funding Source to Support Affordable Housing Development.** While the City of Des Moines has limited funds available to financially support affordable housing development, there are opportunities to create a local funding stream. For example, the city could explore a housing levy or a housing trust fund to direct funds for the creation of affordable housing within city limits. Direct financial support is one of the most effective ways to supporting affordable housing developments to closing the financial gap.
- **Explore Creative, Low-cost Housing Solutions to Serve People Experiencing Homelessness.** In partnership with non-profit organizations and service providers, explore innovative ways to provide shelter to houseless individuals such as repurposing motels for emergency and permanent supportive housing, examining building tiny homes on publicly owned land, and the possibility of building a permanent shelter with services.



# Part 4: Implementation

## 4.1. Overview

Achieving the goals outlined in this Housing Action Plan will require new and deeper partnerships with non-profit organizations, new policies, land use development code changes, and possibly zoning code changes.

The following table provides specific actions the city can pursue to implement the five strategic recommendations.

<i>Action</i>	<i>Priority</i>	<i>Level of Effort (Staff Time &amp; Cost)</i>	<i>Action Type</i>
<b>Strategy 1. Support and create new partnership to address housing needs.</b>			
Review and identify gaps of what housing programs are administered through the City versus those provided by partners to Des Moines residents.	Immediate (1-2 years)	Moderate \$\$	Administrative
Continue to partner with SKKHP to provide housing programs not currently administered to Des Moines’ residents these may include to but not limited to: <ul style="list-style-type: none"> <li>• Emergency rental assistance</li> <li>• Tenant right’s counsel</li> <li>• Tenant education and training</li> <li>• Landlord education</li> <li>• Weatherization programs</li> </ul>	Immediate (1-2 years)	Moderate \$\$	Administrative
Seek additional partnership with existing housing providers to provide housing programs to Des Moines residents for which programs could complement or supplement SKKHP on-going work.	Immediate (1-2 years)	Moderate \$\$	Administrative
Continue to coordinate with county and regional agencies on affordable housing needs.	Short-term (2-5 years)	Low \$	Programmatic
Promote and facilitate new opportunities for collaboration within the different housing providers and social services.	Short-term (2-5 years)	Low \$	Programmatic
Coordinate with housing partners and create a centralized webpage in the city’s website to host all programs and services that Des Moines residents can access through the city and partners.	Immediate (1-2 years)	Low \$	Programmatic

<i>Action</i>	<i>Priority</i>	<i>Level of Effort (Staff Time &amp; Cost)</i>	<i>Action Type</i>
<b>Strategy 2. Support the acquisition and preservation of income-restricted rental housing by housing partners.</b>			
Proactively track the expiration of the subsidy for LIHTC properties.	Short-term (2-5 years)	Low \$	Programmatic
Collaborate and coordinate with regional partners and housing providers to identify organizations that might be willing and able to acquire the properties if the owners seek to sell or convert them to market rate.	Short/Long-term (2-5 years)	Moderate \$\$	Programmatic
Identify long-term funding sources (i.e., housing trust fund) for the acquisition of future LIHTC properties.	Long-term (5+ years)	Moderate \$\$	Regulatory
<b>Strategy 3. Amend the development code to support housing options.</b>			
Review and evaluate residential zones where missing middle housing types could be allowed by right to support broader housing action plan goals.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Review and explore simplifying residential zoning designations where similar housing types are allowed or will be allowed.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Use national best practice development standards for missing middle housing types as a starting point for updating zoning regulations for these housing types.	Immediate (1-2 years)	Moderate \$\$	Regulatory
<b>Strategy 4. Remove regulatory barrier to support the development of a variety of housing types.</b>			
Remove or reduce minimum parking requirements for ADU's, townhomes, duplexes, multifamily and other missing middle housing types.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Remove required guest parking requirements in residential zones.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Review and amend minimum lot sizes, open space requirements, building height, setbacks, and design standards.	Short-term (2-5 years)	Moderate \$\$	Regulatory



<i>Action</i>	<i>Priority</i>	<i>Level of Effort (Staff Time &amp; Cost)</i>	<i>Action Type</i>
<b>Strategy 5. Reduce development costs for affordable housing.</b>			
Remove or reduce minimum parking requirements for affordable housing.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Remove required guest parking requirements for affordable housing.	Immediate (1-2 years)	Moderate \$\$	Regulatory
Create an expedited building permit process for affordable housing developments.	Short-term (2-5 years)	Moderate \$\$	Regulatory/Programmatic
Review and amend minimum lot sizes, open space requirements, building height, setbacks, and design standards.	Short-term ( 2-5 years)	Moderate \$\$	Regulatory/Incentive
Explore regulatory incentives (i.e., density bonus, maximum height, fee waiver, etc.) to support the creation of affordable housing.	Short-term (2-5 years)	Moderate \$\$	Regulatory/Incentive
Consider re-establishing the multi-family tax exemption (MFTE) program with an evaluation of the requirements and incentives to increase the use of the program within the city.	Short-term (2-5 years)	Moderate \$\$	Regulatory/ Incentive
Coordinate citywide projects with anticipated affordable development to provide necessary infrastructure needs for the project.	Short-term (2-5 years)	Low \$	Administrative
Consider using city owned land for the development of affordable housing through a competitive RFP process.	Long-term (5+ years)	Moderate \$\$	Incentive
Explore using real estate excise tax (REET 3) as a funding source for affordable housing development.	Long-term (5+ years)	Moderate \$\$	Incentive/Revenue
Explore ways to partner with faith-based organizations and institutions to develop affordable housing.	Long-term (5+ years)	Low \$	Programmatic

# Appendices

## Appendix A: Definitions

**Affordable Housing** – Housing that costs no more than 30% of a household’s total, pre-tax income.

**Area Median Income (AMI)** – The area median income (AMI) is the midpoint of a community’s income distribution, which means that 50% of the households in that community have a total, pre-tax income higher than the AMI and 50% of the households in the community have a total, pre-tax income lower than the AMI.

**Average Annual Growth Rate (AAGR)** – The average annual growth rate (AAGR) refers to the percent increase in population size per year.

**Cost Burdened Household** – A household is considered “cost burdened” when it spends more than 30% of its total, pre-tax income on housing (including utility payments).

**Environmentally Sustainable Housing** – Environmentally sustainable housing refers to housing that is designed in a way so as to be more energy efficient, use less water, etc.

**Extremely Low-Income Households** – A household is considered to be an ‘extremely low-income household’ when its total, pre-tax income is less than 30% of the community’s AMI.

**Housing Action Plan (HAP)** – A Housing Action Plan (HAP) is a plan that identifies strategies and implementing actions to promote greater housing diversity, affordability, and access to residents of all income levels in a community.

**Housing Insecurity** – Housing insecurity refers to several dimensions of housing challenges, such as difficulty finding housing that is affordable and/or safe, having inconsistent and/or unreliable housing conditions, and a loss of housing.

**Housing Needs Assessment (HNA)** – A Housing Needs Assessment (HNA) provides the quantitative data and analysis required to understand a community’s housing needs. The HNA serves as the foundation for policy recommendations and implementing actions contained in the HAP.

**Housing Tenure** – Household tenure refers to the way in which an individual or a household occupies their home. For example, renting a home or owning a home.

**Income-Restricted Units** – Income-restricted units refer to housing units in which there is a maximum rent or sale price cap to ensure that the housing unit is occupied by and affordable to eligible households.

**Low Income Households** – A household is considered to be a ‘low-income household’ when its total, pre-tax income is less than 80% of the community’s AMI.

**Low-Income Housing Tax Credit (LIHTC)** – The Low-Income Housing Tax Credit (LIHTC) program is a program designed to create affordable housing in communities across the United States. The LIHTC gives state and local agencies an annual budget to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.

**NIMBYism** – NIMBY is an acronym referring to “Not In My Back Yard.” NIMBYism is characteristic of individuals or groups that object to land uses that occur in close proximity to their places of residence.

**Residential Density** – Residential density refers to the number of dwelling units in a geographic area and is typically expressed in dwelling units per acre. A residential density of ten dwelling units per acre means ten individual dwelling units are allowed per one acre of land.

**Severely Cost Burdened Household** – A household is considered “severely cost burdened” when it spends more than 50% of its total, pre-tax income on housing (including utility payments).

**Social Equity** – Understanding and addressing disparities across social groups to provide for equal access and opportunity.

**Very Low-Income Households** – A household is considered to be a ‘very low-income household’ when its total, pre-tax income is less than 50% of the community’s AMI.

**Appendix B: Housing Needs Assessment**

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# Des Moines

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# Housing Needs Assessment

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**November 2022**

**Prepared for: City of Des Moines**

**ECONorthwest**  
ECONOMICS • FINANCE • PLANNING

Park Place  
1200 Sixth Avenue  
Suite 615  
Seattle, WA 98101  
206-823-3060

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## Executive Summary

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Washington Legislature requires jurisdictions across the state to plan for housing set by the Growth Management Act (GMA). In 2021, the legislature provided further direction to local jurisdictions to “plan and accommodate” for housing affordable to all income levels of the population. This substantially strengthens the need to plan for and encourage the construction of affordable housing.

A Housing Action Plan is a document approved by the legislature as the means for local jurisdictions to plan for and accommodate future growth within their communities. In addition, the 2021 King County Countywide Planning Policies (CPPs) further provides guidance as to how local jurisdictions within the county should plan for housing based on the 2019-2044 King County jurisdiction growth targets.

This Housing Needs Assessment (HNA) is the first product of a two-part Housing Action Plan for the City of Des Moines. The HNA provides the quantitative data and analysis required to understand Des Moines’s housing needs and serve as a foundation for policy recommendations to design implementable housing strategies in Des Moines. Below we identify the top trends of Des Moines demographic and housing market conditions that influence the type of housing needed.

### Demographic and Economic Top Trends

#### Des Moines has experienced moderate population growth with particular growth among older and young adults.

- According to the Washington Office of Finance Management (OFM), Des Moines population in 2021 was 33,100. Since 2010, Des Moines population has increased by 3,427 residents or 12%. Compared to King County, Des Moines has grown at a much slower rate, 1.00% versus 1.55% AAGR respectively.
- Based on the Census Bureau American Community Survey (ACS) Children ages 0-17 comprised the largest cohort (21%) of residents in Des Moines followed by older adults (65 and older) (18%), and young adults aged 18-29 (16%). Since 2010, adults 65 years and older had the fastest growth increasing 18% followed by young adults aged 18 to 29 which increased by 17%. During this time period, adults aged 50-59 decreased by 27%.

#### Des Moines has grown to be a racially and ethnically diverse community.

- According to ACS, most of Des Moines’ population identify as white (50%) followed by Asian (12%) Black or African American (9%) two or more races (7%), and Native Hawaiian or Pacific Islander (3%). In addition, Des Moines has a large share of its residents that identify as Hispanic or Latino (19%).

- In recent years, persons of color population is growing faster than population overall.

### **Des Moines has gained a large percentage of wealthy residents while losing low- to moderate-income residents.**

- According to ACS, the median household income in Des Moines has increased 18% or \$10,691 between 2010 and 2020. King County overall experienced median incomes rise at a much faster rate of 46% or \$31,093.
- Analyzing ACS data, between 2010 and 2020 Des Moines lost households with low- and middle-incomes (generally those who make less than \$74,999), while gaining households with higher incomes—especially those making more than \$100,000.

### **Des Moines continues to diversify its economy base with substantial growth in Goods Producing industries.**

- According to the U.S. Census Bureau On the Map Application and LEHD Origin-Destination Employment Statistics, Des Moines continues to rely on service producing industries for the majority of its employment (87%) compared to goods producing industries (13%). Despite the good producing sector being less concentrated in Des Moines, it experienced substantial growth (378 jobs) relative to the 661 total jobs in 2019. The service producing sector experienced the highest number of jobs created (402), but only makes up 10% of the total jobs in the sector.

## **Housing Top Trends**

### **Des Moines housing stock is predominately single unit detached homes; however in the past decade multifamily development have delivered the most units.**

- According to ACS, Des Moines had a total of 12,950 housing units in 2020. The majority (56%) of the housing stock in Des Moines is comprised of single unit detached homes, followed by multifamily (5+units). Compared to Washington, Des Moines has a diverse housing stock of attached housing and multifamily both with 2-4 units and more than 5 units—which corresponds to Des Moines large renter population.
- Based on the ACS, a majority of Des Moines housing units are owner-occupied (59%), while 41% are renter occupied. The vast majority of Des Moines' owners (88%) live in single unit detached and attached homes. The majority of Des Moines' renters live in multifamily housing including duplex, triplex, quadplex and apartment buildings with 5 or more units.
- According to HUD User SOCDs Building Permit Database, between 1980 and 2021, a total of 8,308 housing units have been built in Des Moines. About 66% of these units built were multifamily and 34% were single family units.



### **Des Moines households have experienced rising housing costs.**

- Analyzing data from Zillow, between 2012 and 2022, the median priced home has increased by \$455,000 or about 257%, from \$175,000 in 2012 up to \$630,000 in 2022. Des Moines has experienced the largest housing cost increase compared to its neighboring cities like SeaTac, Kent, Tacoma, Burien, Federal Way, and Seattle to name a few.
- Analyzing data from the ACS, household incomes have not kept pace with the rising increase of rental costs in Des Moines. Between 2010 and 2020, the median income in Des Moines increased 18% while the median rent increased 56%.
- According to ACS data, between 2019 and 2020 Des Moines renters experienced rising housing costs leading to a higher rate of cost burden (households that pay 30% or more of their income for housing), while King County and Washington renters have experienced declining cost burden. Cost burden increased in Des Moines from 31% in 2010 to 38% in 2020. Given the rapid increase in sales prices and rents, cost burden likely increased significantly between 2020 and 2022.

### **Des Moines is poised to lose a quarter of its income-restricted housing stock in the next 10 years.**

- In 2022, there were six Low Income Tax Credit (LIHTC) properties in Des Moines with 641 income-restricted units. In the next 10 years the income-restriction will sunset for three properties with a total of 162 units. This represents about 25% of all income-restricted housing stock in Des Moines.

### **Des Moines lacks services that help residents access temporary shelters.**

- An inventory of emergency shelter, transitional housing, and permanent supportive housing revealed that Des Moines does not have any of these continuum of care services which are essential in reducing the risk of people become homeless.

## **Housing Need in Des Moines**

### **Des Moines has a great need of providing housing units to households with incomes at 80% of AMI or less.**

- According to King County Countywide Planning Policies (CPPs), Des Moines needs 3,800 housing units by 2044. King County CPPs requires all jurisdictions within the county to plan for housing affordable for all income segments of the population.
- Based on Des Moines' current household income distribution, 2,629 housing units or 70% of Des Moines housing growth target are needed for households who make 80% or less of the area median income.

- Based on the 2021 King County’s residential land supply and capacity analysis, Des Moines has substantial land supply and capacity to accommodate the planned future housing growth. The majority of Des Moines housing capacity lies in its high- and medium high-density zones that have the capacity for about 7,622 housing units in both zones.

# 1. Introduction

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The Washington Growth Management Act (GMA) requires cities to include a housing element in their comprehensive plans. Specifically, the Housing Goal (RCW 36.70A.020(4)) requires cities to “plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.” Moreover, GMA requires housing elements include the four features:

- 1) an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- 2) goals, policies, objectives and mandatory provisions for the preservation, improvement, and development of housing, including single family residences;
- 3) identification of sufficient land for housing including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, group homes and foster care facilities; and
- 4) adequate provisions for existing and projected needs for all segments of the community.<sup>1</sup>

Moreover, House Bill 1220 requires cities to consider and address barriers to housing availability and begin to undo racially disparate impacts, displacement, and exclusion in housing.

The Washington Administrative Code (WAC) provides additional advisory guidance for completing housing elements.<sup>2</sup> It further recommends that jurisdictions complete an inventory and needs assessment and identifies specific components for analysis. The expectation is that cities should prepare HNAs in advance of comprehensive plan updates and consider population and housing growth targets.

The City of Des Moines was awarded a Housing Action Plan and Implementation Grant in 2022 from the Washington State Department of Commerce to develop a Housing Action Plan. The Housing Action Plan will provide actions and strategies to encourage construction of additional affordable and market rate housing of a variety of housing types that is affordable to households at different income-levels.

The King County Countywide Planning Policies (CPPs) create a shared and consistent framework for growth management planning for all jurisdictions in King County—which includes Des Moines. VISION 2050, is the region’s plan for growth and is a product of a regional planning process led by the Puget Sound Regional Council (PSRC) and association of

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<sup>1</sup> RCW 36.70A.070(2)

<sup>2</sup> WAC 365-196-410

cities, town, four counties (King, Kitsap, Pierce, and Snohomish), ports, tribes, and state agencies.

This Housing Needs Assessment (HNA) provides the quantitative data and analysis required to understand Des Moines’s housing needs and serve as a foundation for policy recommendations to design implementable housing strategies in Des Moines.

The Plan’s content will be informed by two products, the housing needs assessment and the Housing Action Plan that provides guidance to the city on specific actions and initiatives to undertake in order to meet Des Moines housing need.

## 1.1 Data and Methods

ECONorthwest used the methods described in the Washington Department of Commerce “Guidance for Developing a Housing Needs Assessment.”<sup>3</sup> The guidebook provides a detailed description state requirements and recommended methods for preparing HNAs. In this assessment we drew from a variety of data sources to compile a comprehensive understanding of Des Moines’s housing needs. Source citations can be found on each page where quantitative data is presented. One of the key sources for housing and household data is the US Census Bureau. This assessment also leverages other publicly available data sources from federal, state, and local government resources and private sources such as CoStar and Zillow.

## 1.2 Organization of this Report

The remainder of this document is organized into the following sections:

**2. Community Profile** presents demographic information that affect housing choice and needs in Des Moines.

**3. Housing Affordability** describes who can afford to live in Des Moines and the income necessary to buy or rent in Des Moines.

**4. Housing Trends** summaries regional and local housing market trends affecting Des Moines’s housing market.

**5. Housing Needs in Des Moines** presents Des Moines growth targets and underproduction necessary to understand Des Moines overall housing need to accommodate future residents.

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<sup>3</sup> <https://deptofcommerce.app.box.com/s/mop7xrkzh170th1w51ezbag3pmne9adz>

## 2. Community Profile

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### 2.1 Introduction

This chapter describes the characteristics of Des Moines’s population and housing that are essential to understanding the City’s housing needs. This section is organized as follows:

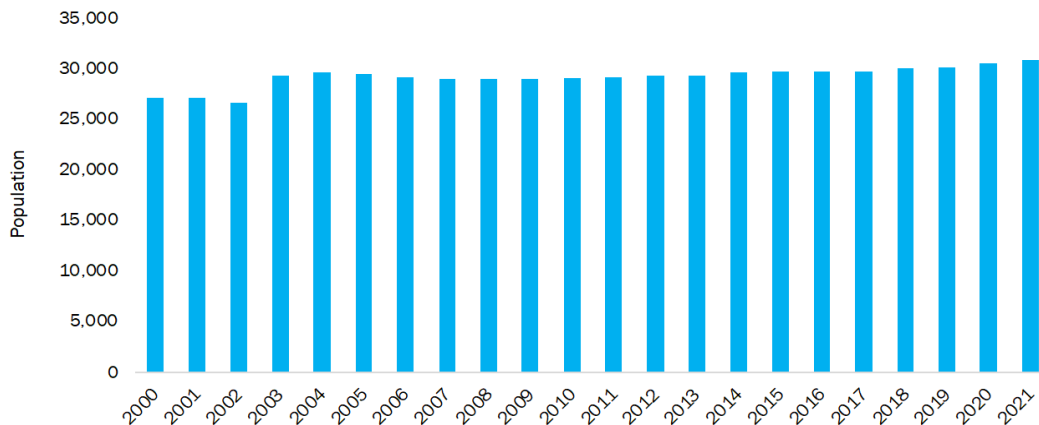
- Population and Household Characteristics
- Income and Employment
- Housing Characteristics
- Housing Costs and Affordability
- Housing Production

### 2.2 Population Characteristics

According to the Washington Office of Finance Management (OFM), Des Moines had an estimated population of 33,100 in 2021 and has experienced a stable population growth since 2010. Des Moines is one of the smaller cities in King County, making up 1.4% of the total county population in 2021.

Exhibit 1. Total Population, Des Moines, 2010-2021

Source: Washington Office of Finance Management (OFM)



Since 2010, Des Moines has grown approximately 12% or 3,427 persons—growing at a slower rate than King County. Des Moines has grown at an annual rate of 1.00% compared to 1.55% in the King County.

**Exhibit 2. Average Annual Population Growth, Des Moines and King County, 2010-2021**

Source: Washington Office of Finance Management (OFM) and ECONorthwest Calculations

Jurisdiction	2010	2021	Change (2010-2021)		AAGR
			Number	Percent	
Des Moines	29,673	33,100	3,427	12%	1.00%
King County	1,931,249	2,287,050	355,801	18%	1.55%

**2.2.1 Age Distribution**

The age characteristics of a community indicate current needs and future trends for housing. Because different age groups have very different housing needs, housing demand correlates to the age of residents. For example, young adult households may choose to occupy apartments, condominiums, and small single-family homes because of affordability, location, and household size/presence of children. Middle-aged adults may prefer larger homes in which to raise families, while seniors may prefer smaller units that have lower costs, less maintenance, and are more proximate to services.

Exhibit 3 shows the age distribution of Des Moines residents in 2020. Compared to King County, Des Moines’s population tends to be younger and closely mirrors Washington’s age distribution. Children ages 0-17 comprised the largest cohort of residents in Des Moines followed by older adults (65 and older), and young adults aged 18-29. Since 2010, adults 65 years and older had the fastest growth increasing 18% followed by young adults aged 18 to 29 which increased by 17%. During this time period, adults aged 50-59 decreased by 27%.

### Exhibit 3. Age Distribution, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



### 2.2.2 Race and Ethnicity

Exhibit 4 shows that a large share of Des Moines’ population identify as white. The second largest race in Des Moines is Asian (12%) followed by Black or African American (9%), two or more races (7%), and Native Hawaiian or Pacific Islander (3%). In addition, approximately 19% of Des Moines’ population identify as Hispanic or Latino. Compared to King County and Washington, Des Moines is more racially and ethnically diverse.

## Exhibit 4. Race and Ethnicity, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates

Race/Ethnicity	Des Moines		King County		Washington	
	Count	Percent	Count	Percent	Count	Percent
White	15,911	50%	1,295,401	58%	5,067,909	67%
Black or African American	2,951	9%	141,566	6%	279,720	4%
American Indian or Alaska Native	109	0%	10,307	0%	75,677	1%
Asian	3,785	12%	405,835	18%	656,578	9%
Native Hawaiian or Pacific Islander	1,077	3%	16,673	1%	49,219	1%
Some other race	92	0%	9,449	0%	23,363	0%
Two or more races	2,135	7%	127,070	6%	388,477	5%
Hispanic or Latino	5,923	19%	218,763	10%	971,522	13%

## 2.3 Household Characteristics

The characteristics of a community's households impact the type of housing needed in that community. This section discusses the household characteristics affecting the housing needs of Des Moines residents.

A household is defined by the U.S. Census Bureau as all persons who occupy a housing unit, which may include families, single persons, and unrelated persons sharing a housing unit (such as roommates). Persons residing in group quarters such as dormitories or retirement homes are not considered households. The characteristics of a community's households serve as important indicators of the type and size of housing needed in the City.

### 2.3.1 Total Households

The city of Des Moines is home to 12,950 households, making up around 1.4% of the households living in King County.



### Exhibit 5. Total Households, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates

	Des Moines	King County	Washington
Households	12,950	952,344	3,150,194

### 2.3.2 Household Size

The average household size in Des Moines is larger than in King County and Washington. Des Moines average household size is 2.56 compared to 2.43 in the County and 2.53 in Washington.

Household size varies more by tenure, the average owner household is larger than the average renter household in Des Moines, King County, and Washington. On average, Des Moines' renter household size is larger when compared to King County and Washington.

### Exhibit 6. Average Household Size, Des Moines, King County, and Washington, 2020

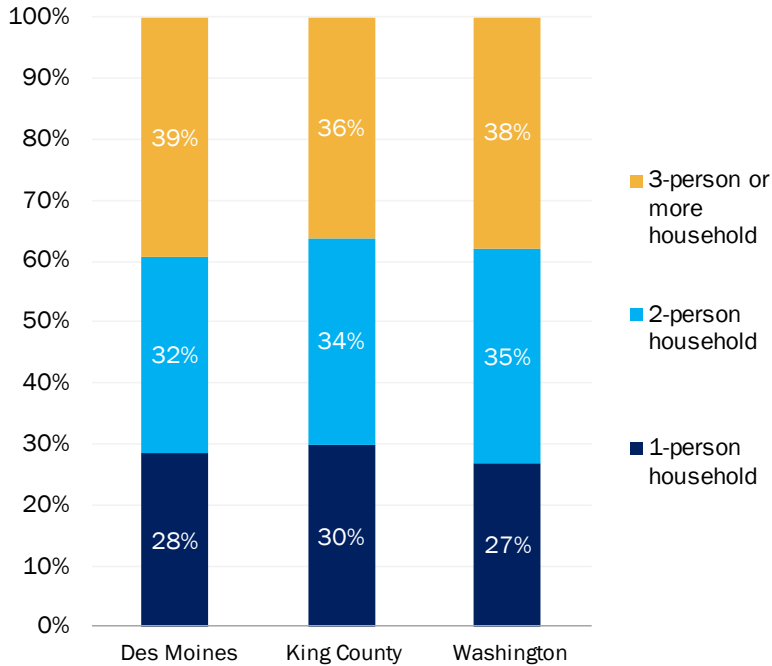
Source: American Community Survey (ACS) 2020 5-year estimates

	Des Moines	King County	Washington
Total	2.56	2.43	2.53
Owner occupied	2.66	2.63	2.65
Renter occupied	2.42	2.17	2.34

Des Moines has a larger share of households with 3 or more persons (39%) than King County (36%) or Washington (38%). This suggests that a large share of Des Moines population are families. Approximately 32% of households are 2-person households, and 28% a 1-person household. Compared to King County, Des Moines has a slightly lower share of single residents.

### Exhibit 7. Household Size, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



### 2.3.3 Year Over Year Percent Change of Select Population Characteristics

Exhibit 9. below shows the year over year percent change of Des Moines’ population, households, non-white population, and household size. Year over year trends show that Des Moines’ non-white population has been increasing at a faster rate year-over-year than the population overall. Household formation growth has remained constant with population growth trends. Household size amongst 1-, 2-, and 3-person or more households has fluctuated in the past decade. In the past five years, net year over year growth has been greater amongst 2-person households (14%), followed by 3 or more households (9%), and 1-person households (2%).

## Exhibit 8. Year Over Year Percent Change of Select Population Characteristics, Des Moines, 2010-2020

Source: American Community Survey (ACS) 2010- 2020, 5-year estimates

Year	Population	Households	Non-white Population	1-person Household	2-person Household	3-person or more Household
2010	—	—	—	—	—	—
2011	1%	-1%	6%	-10%	2%	5%
2012	1%	-1%	10%	0%	-10%	6%
2013	1%	1%	7%	3%	1%	0%
2014	1%	-1%	2%	5%	-4%	-3%
2015	1%	1%	-1%	-8%	11%	1%
2016	1%	2%	1%	5%	3%	-1%
2017	1%	0%	4%	1%	-2%	1%
2018	1%	1%	5%	-1%	0%	2%
2019	1%	3%	1%	-1%	5%	4%
2020	1%	1%	4%	6%	-3%	2%

## 2.4 Income and Employment

The ability of a household to acquire adequate housing is related to household income, whether earned or from other sources. Household income is oftentimes the crucial factor in evaluating the size and type of housing available for any given household. Household income can vary greatly across many demographic factors including race, gender, and household type. While higher income households have more discretionary income to spend on housing, low- and moderate-income households often face limited choices in the housing they can afford.

### 2.4.1 Household Income

As shown in Exhibit 9, the median household income in Des Moines has increased 18 percent or \$10,691 between 2010 and 2020. King County overall experienced median incomes rise at a much faster rate than Des Moines and median incomes in 2020 were more than \$31,000 when

compared to Des Moines.

### Exhibit 9. Median Income, Des Moines and King County, 2010 and 2020

Source: American Community Survey (ACS) 2010 and 2020, 5-year estimates, and ECONorthwest calculations

Jurisdiction	2010	2020	Change (2010-2020)	
			Number	Percent
Des Moines	\$68,065	\$70,268	\$10,691	18%
King County	\$59,577	\$99,158	\$31,093	46%

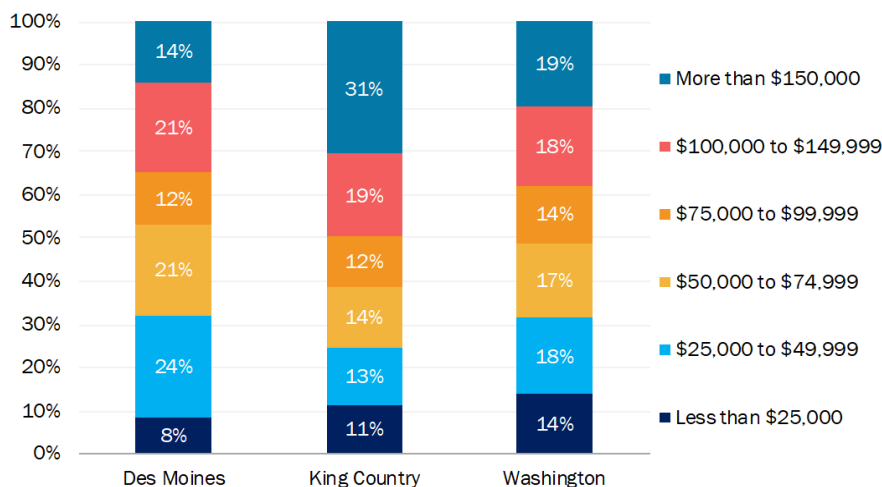
Note: Nominal dollars.

### 2.4.2 Income Distribution

The income distribution of Des Moines shows a higher percentage of residents who make less than \$50,000 than both King County and Washington. The lower annual incomes (\$25,000 - \$49,999) along with middle incomes (\$50,000-\$74,999) were higher than both King County and Washington. Additionally, Des Moines also has a higher percentage of residents who make \$100,000 to \$149,999, but a lower percentage of residents who make more than \$150,000, indicating a lower annual income than King County.

### Exhibit 10. Income Distribution, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



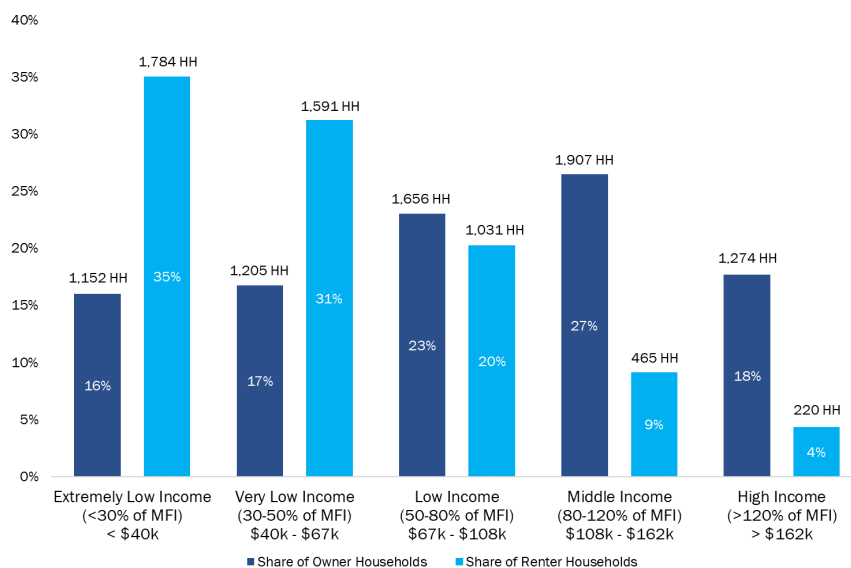
Household incomes in Des Moines have substantially changed since 2010. From 2010 to 2020, there was a steep increase in households making more than \$100,000, connoting a growth in wealthier residents. To supplement this point, there was a 49% decrease in households making less than \$25,000 and a 24% decrease in households making \$75,000 to \$99,999. The increase in income was largely seen in households making over \$100,000 per year. This is primarily due to wealthier households moving to Des Moines; many of these higher income households work in other communities. Since 2010, Des Moines has lost households with low- and middle-incomes (generally those who make less than \$74,999), while gaining households with higher incomes—especially those making more than \$100,000.

### 2.4.3 Households by Median Family Income Level

Typical to most communities, Des Moines’s homeowners are more likely to have higher incomes compared to its renters. The households most likely to struggle to find affordable market rate housing in any community are those with incomes below 80% AMI. Low-income households are more likely to need to sacrifice spending on other essentials to afford housing and are more vulnerable to housing market forces. Des Moines has approximately 4,406 renter households with incomes of 80% AMI and below. Altogether they represent about 87% of Des Moines’ renter households. In Des Moines rental housing is almost exclusively provided to low-income households, whereas owner-occupied housing is generally distributed fairly uniform across all income categories.

Exhibit 11. Share of Households by Median Family Income (MFI) and Tenure, Des Moines, 2020

Source: US Department of HUD, King County, 2022, US Census Bureau, 2016-2020 ACS Table B25118.

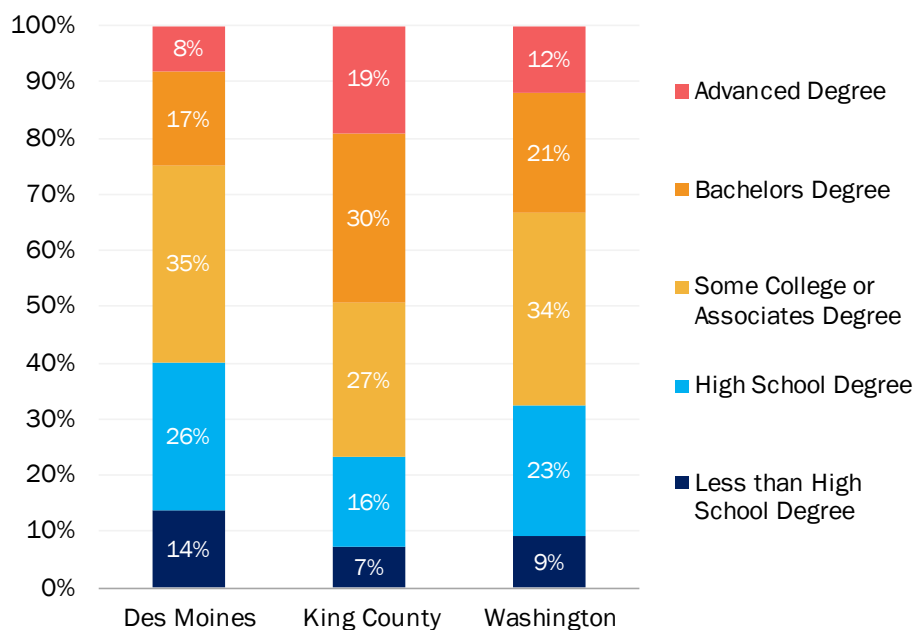


## 2.4.4 Educational Attainment

The educational attainment of Des Moines residents is much lower than in Washington with only 25% of resident with a Bachelor’s degree or higher, compared to 33% in Washington. This suggest that Des Moines has a large share of residents working in the service industry. Generally, populations with a high educational attainment typically work in industries that require a college degree or higher, while populations with lower educational attainment work in the service industry which requires no college degree. King County has a substantially higher share of residents with a Bachelor’s degree or higher at about 49%.

Exhibit 12. Educational Attainment, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



### 2.4.4.1 Employment by Industry

Exhibit 13 compares Des Moines’s job composition by industry for 2010 and 2019. Des Moines continues to rely on service producing industries for the majority of its employment (87%) compared to goods producing industries (13%). Since 2010, Des Moines experienced massive growth in the goods producing sector, while losing jobs in the service producing sector.

Among the industries with the largest employment growth since 2010 in Des Moines was the service industry which gained the most jobs (378), followed by construction and resources (300), wholesale trade (220), manufacturing (78) and government (13).

In 2019, Des Moines had a large concentration of jobs in the services industry, mainly in accommodation and food services as well as health care and social assistance.

**Exhibit 13. Employment by Industry, Des Moines, 2010 and 2019**

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (2019), ECONorthwest

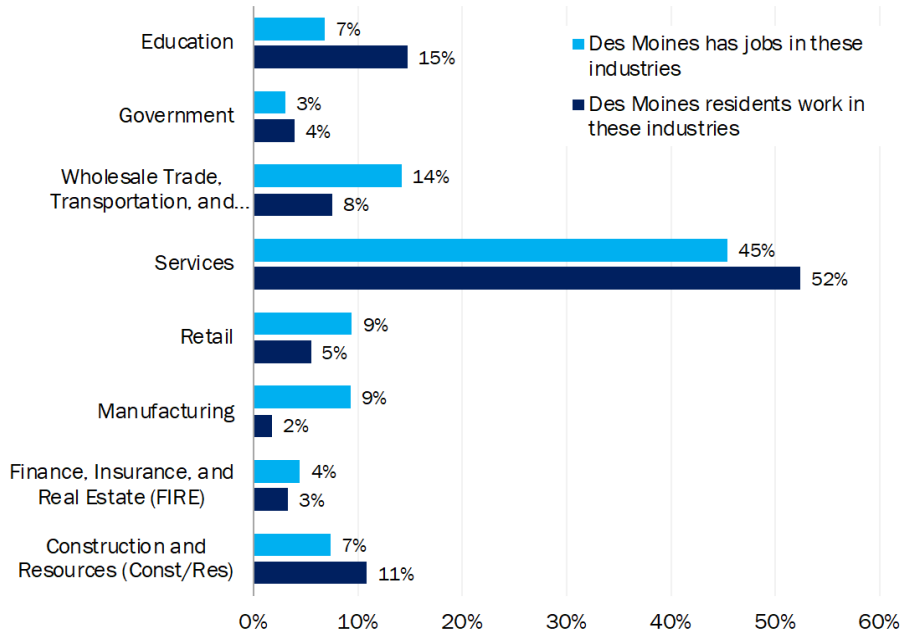
Industry	2010		2019		Percent Change 2010-2019
	Number	Percent	Number	Percent	
Good Producing Sector	283	6%	661	13%	134%
Construction and Resources (Const/Res)	267	6%	567	11%	112%
Manufacturing	16	0%	94	2%	488%
Service Producing Sector	4,184	94%	4,586	87%	10%
Finance, Insurance, and Real Estate (FIRE)	189	4%	173	3%	-8%
Retail	434	10%	287	5%	-34%
Services	2,372	53%	2,750	52%	16%
Wholesale Trade, Transportation, and Utilities (WTU)	178	4%	398	8%	124%
Government	193	4%	206	4%	7%
Education	818	18%	772	15%	-6%
<b>Total Employment</b>	<b>4,467</b>	<b>100%</b>	<b>5,247</b>	<b>100%</b>	<b>17%</b>

More than half of Des Moines residents work in the Services industry, mainly in Accommodation and Food Services as well as Educational Services. The third most popular industry is Construction and Resources with most residents in this group working in construction. The smallest percentage of individuals work in Manufacturing.

Gaps exist between where residents work and the jobs that Des Moines offer. In 2019, there were more jobs in the Manufacturing, Retail, and Finance, Insurance, and Real Estate industries in Des Moines than residents working in those fields. This indicates that there is a mismatch between labor and jobs.

### Exhibit 14. Employment by Industry, Des Moines, 2019

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (2019).



### 2.4.5 Employment Growth

According to the King County Countywide Planning Policies, Des Moines is a High-Capacity Transit Community that is expected to grow by 2,380 jobs between 2019 and 2044. Compared to other High-Capacity Transit Communities, Des Moines has the fourth largest growth target in jobs.



## Exhibit 15. Job Target, Des Moines and King County, 2019-2044

Source: 2021 King County Countywide Planning Policies

Jurisdiction	Job Target (2019-2044)
Des Moines	2,380
Normandy Park	35
SeaTac	14,810
Kent	32,000
Burien	4,770
Auburn	19,520
Federal Way	20,460
King County	490,103

Note: Net new jobs (2019-2044).

### 2.4.6 Jobs-Housing Ratio

In 2019, Des Moines had 5,247 jobs and 12,114 housing units resulting in a jobs/housing ratio of 0.43. This ratio indicates that Des Moines serves primarily as a residential community with most of its residents working elsewhere in the Puget Sound. Generally, a jobs/housing ratio in the range of 0.75 to 1.5 is considered to have a healthy jobs/housing balance which can reduce vehicles miles traveled.<sup>4</sup> Based on Des Moines' job and housing targets for 2044, it is expected that Des Moines will continue to serve as a residential community with mostly service industry jobs to support the population.

## 2.5 Housing Characteristics

### 2.5.1 Housing Type

Des Moines has a total of 12,950 housing units in 2020, of which over half (56%) of the housing stock in Des Moines is comprised of single family detached homes, followed by multifamily.

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<sup>4</sup> Cox, W. 2013. U.S. suburbs approaching jobs-housing balance. New Geography blog. Accessed May 2021.

### Exhibit 16. Housing Type, Des Moines, 2020

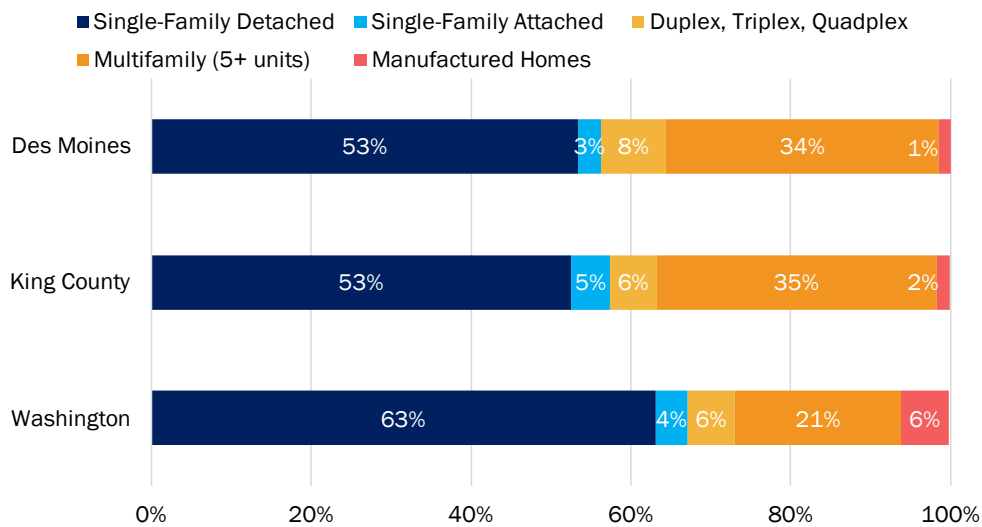
Source: American Community Survey (ACS) 2020 5-year estimates

Housing Type	Des Moines
Single-Family Detached	6,918
Single-Family Attached	366
Duplex, Triplex, Quadplex	1,058
Multifamily (5+ units)	4,418
Manufactured Homes	190
<b>Total Housing Units</b>	<b>12,950</b>

Exhibit 17 below shows the distribution of Des Moines’ housing stock compared to King County and Washington. Compared to Washington, Des Moines has a diverse housing stock of attached housing and multifamily both with 2-4 units and more than 5 units—which corresponds to Des Moines large renter population. The housing stock type between Des Moines and King County is almost identical in the distributional share across both jurisdictions.

### Exhibit 17. Housing Type, Des Moines, King County, and Washington, 2020

Source: American Community Survey (ACS) 2020 5-year estimates

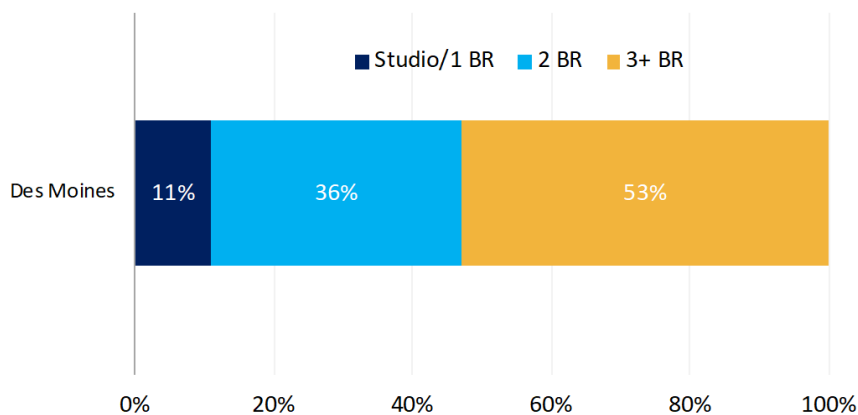


## 2.5.2 Number of Bedrooms

With single family detached units as the most common type of housing, it is not surprising that most units in Des Moines have 2- and 3-bedrooms. A small percentage of Des Moines housing stock are studios or 1-bedrooms. This indicates that most of the single family and multifamily units in Des Moines are supportive of family households than single residents.

Exhibit 18. Number of Bedrooms, Des Moines, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



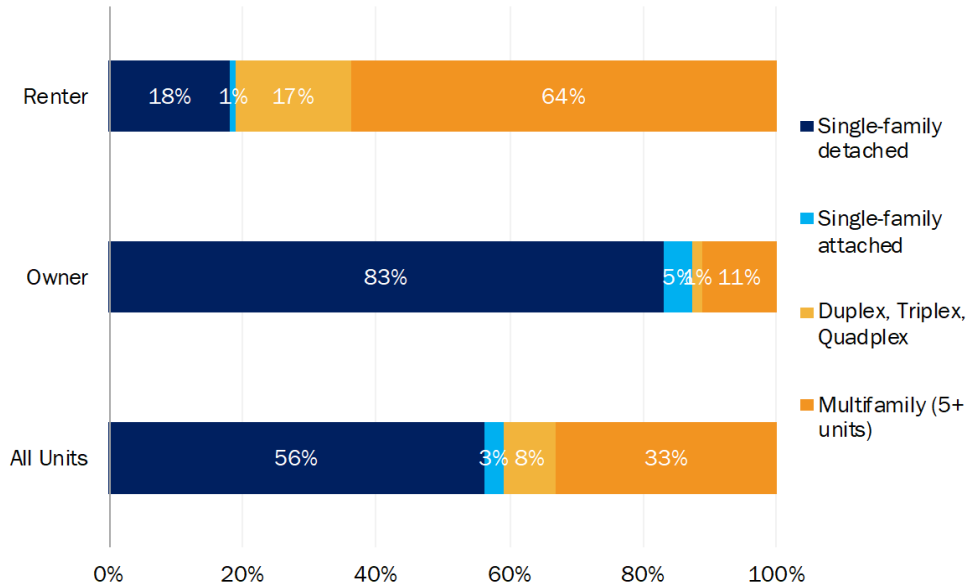
## 2.5.3 Housing Tenure

Household tenure is an important component of housing needs, as it helps to determine whether future housing should be built as ownership units or rental units.

Exhibit 19 shows that the vast majority of Des Moines' owners (88%) live in single family detached and attached homes. The majority of Des Moines' renters live in multifamily housing including duplex, triplex, quadplex and apartment buildings with 5 or more units. Approximately 19% of renters live in single family detached and attached housing in Des Moines. Overall, much of Des Moines housing units are owner-occupied (59%), while 41% are renter occupied.

### Exhibit 19. Housing Tenure by Housing Type, Des Moines, 2020

Source: American Community Survey (ACS) 2020 5-year estimates



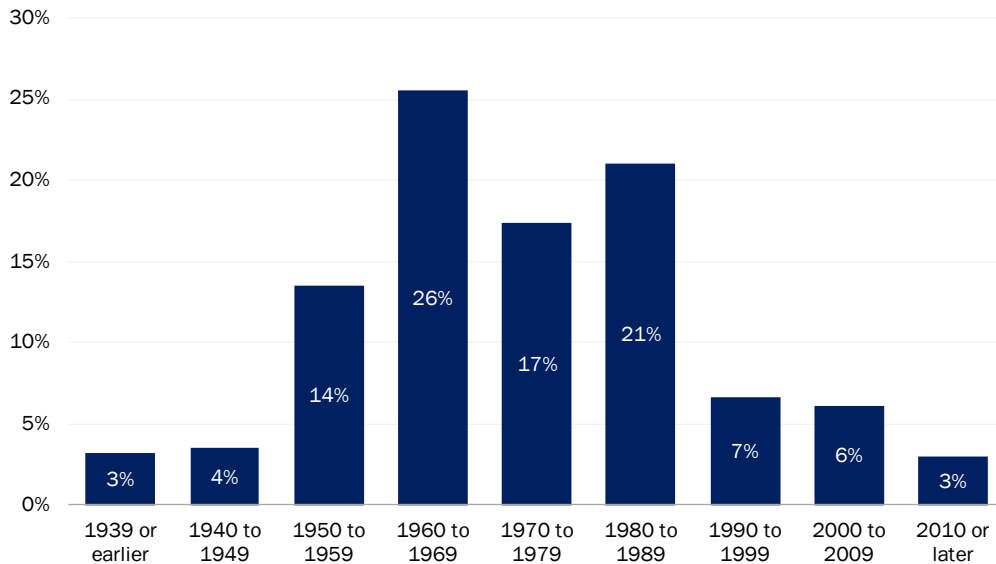
### 2.5.4 Housing Age

Housing age can be an important indicator of housing condition within a community. Like any other tangible asset, housing is subject to gradual physical or technological deterioration over time. If not properly and regularly maintained, housing can deteriorate and discourage reinvestment, depress neighboring property values, and eventually impact the quality of life in a neighborhood. Many federal and state programs also use the age of housing as one factor in determining housing rehabilitation needs. Typically, housing over 30 years of age is more likely to have rehabilitation needs that may include new plumbing, roof repairs, foundation work and other repairs.

Exhibit 20 shows the distribution of housing stock by age. The vast majority (78%) of housing in Des Moines was built between 1950 and 1980. New housing construction in Des Moines slowed after 1980, with only about 16% of the housing stock built in 1990 or later.

## Exhibit 20. Housing Age, Des Moines, 2020

Source: American Community Survey (ACS) 2020 5-Year Estimates. \*Note: Des Moines annexed the town of Zenith in 1982.



## 2.6 Housing Cost and Affordability

Housing cost is a direct relationship of housing accessibility to all economic segments of the community. In general, if housing supply exceeds housing demand, housing costs will decrease. If housing demand exceeds housing supply, housing costs typically increases.

Between 2012 and 2022 housing costs have significantly increased in Des Moines and across the region. Exhibit 21 shows that the median priced home increased from about \$175,000 in 2012 up to \$630,000 in 2022—or 257%. In 2012, Des Moines’ housing market was comparable to a lot of its neighboring cities and over time it has experienced similar increases in housing costs.

## 2.6.1 Home Sale Prices

Exhibit 21. Home Sale Prices, Des Moines, 2012-2022

Source: Zillow and ECONorthwest Calculations

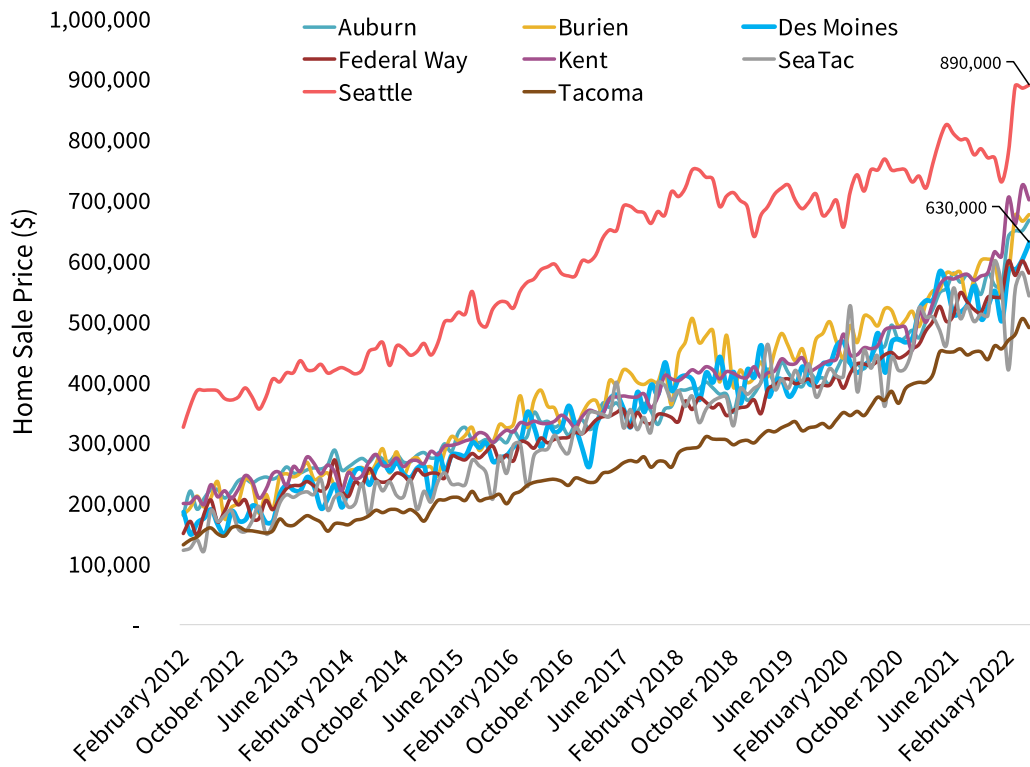


Exhibit 22 shows that since 2012, the median sale price of a home has increased in all comparison cities, with the most significant increase in Des Moines (257%), while SeaTac experienced the second highest increase of 252%.

Exhibit 22. Percent Change in Median Home Sale Prices, Des Moines and comparison cities, 2012-2022

Source: Redfin and ECONorthwest Calculations

Jurisdiction	2012	2022	Change (2012-2022)	
			Number	Percent
Des Moines	\$175,000	\$630,000	\$455,000	257%
Auburn	\$219,950	\$650,000	430,050	196%
Burien	\$202,000	\$665,000	\$463,000	229%
Federal Way	\$182,500	\$580,000	397,500	218%
Kent	\$210,000	701,000	\$491,000	234%
SeaTac	\$157,490	\$554,000	\$396,510	252%
Seattle	\$375,000	\$890,000	\$515,000	137%
Tacoma	\$154,975	\$479,000	\$324,025	209%

Note: Nominal dollars.

### 2.6.2 Rental Costs

Des Moines and King County’s rental market has experienced sharp price increases over the past decades. Exhibit 23 shows that incomes have not kept pace with the rising increase of rental costs in Des Moines. Between 2010 and 2020, the median income in Des Moines increased 18% while the median rent increased 56%. In comparison King County’s median income increased 46% while the median rent increased 70%.

When housing costs increases substantially, residents across all income segments begin to have challenges with affording housing and keeping a shelter over their heads.

### Exhibit 23. Change in Median Rent vs. Median Income, Des Moines and King County, 2010-2020

Source: American Community Survey (ACS) 2010 and 2020 5-year estimates

Jurisdiction	2010	2020	Change (2010-2020)	
			Number	Percent
<b>Des Moines</b>				
Median Rent	\$890	\$1,390	\$500	56%
Median Income	\$59,577	\$70,268	\$10,691	18%
<b>King County</b>				
Median Rent	\$999	\$1,695	\$696	70%
Median Income	\$68,065	\$99,158	\$31,093	46%

Note: Nominal dollars (i.e., not adjusted for inflation).

### 2.6.3 Cost Burden

State and federal standards specify that households spending more than 30% of gross annual income on housing experience a housing cost burden. Housing cost burdens occur when housing costs increase faster than household income. When a household spends more than 30% of its income on housing costs, it has less disposable income for other necessities, including health care, food, and clothing. In the event of unexpected circumstances such as the loss of employment or serious health problems, lower income households with a burdensome housing cost are more likely to become homeless or be forced to double-up with other households. Homeowners with a housing cost burden have the option of selling their homes and become renters. Renters, on the other hand, are vulnerable and subject to constant changes in the housing market.

Exhibit 24 shows that in 2020, over a third (38%) of all renters, approximately 4,615 renter households, are cost burdened in Des Moines. Approximately 1,746 renter households (14% of renters) are severely cost burdened, paying more than 50% of their income on housing costs.

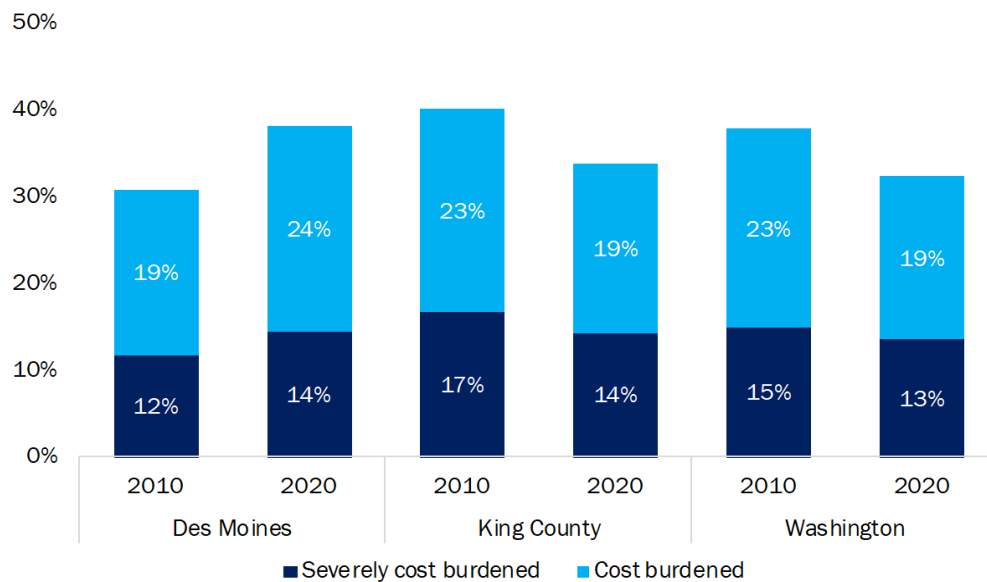
Since 2010, Des Moines renters have experienced rising housing costs where cost burden has risen, while King County and Washington renters have experienced declining cost burden. Cost burden increased in Des Moines from 31% in 2010 to 38% in 2020. Given the rapid



increase in sales prices and rents, cost burden likely increased significantly between 2020 and 2022.

Exhibit 24. Cost Burden, Des Moines, King County, and Washington, 2010-2020

Source: ACS 2010 and 2019, 5-year estimates



Cost burdening is a measure of housing instability and vulnerability to displacement. Policymakers typically focus on renters when assessing cost burdening. It can signal a lack of affordable housing in a region. It is less of a focus for homeowners, because a lender will assess a buyer’s ability to pay for a mortgage before the household can buy a home, and because mortgage payments are typically fixed and do not fluctuate with the larger economy or housing market. While a homeowner’s property taxes can go up with rising home values, they are typically a small share of overall housing costs. For these reasons, homeowners are not as vulnerable to price changes in the housing market as are renters.

### 2.6.4 Housing Affordability

Exhibit 25 illustrates what households in Des Moines can afford to pay in rent or can afford to buy for a home. The median family income for Des Moines—which is HUD calculates it based on King County’s median family income— in 2022 was \$134,370. At this income level, affordable rent prices are \$3,370. An affordable home for this income level would be between \$471,000 and \$538,000. As of May 2022, the median home sale price in Des Moines was

\$630,000. From our calculations, only a household with an annual income between \$157,500 and \$180,000 can afford homes at that price point.

### Exhibit 25. Housing Affordability in Des Moines, 2022

Source: Bureau of Labor Statistics, HUD MFI 2022, ECONorthwest Calculations

IF YOUR HOUSEHOLD EARNS . . .					
<b>\$40,400</b>	<b>\$67,300</b>	<b>\$80,800</b>	<b>\$107,700</b>	<b>\$134,600</b>	<b>\$161,500</b>
<30% OF MFI	50% OF MFI	60% OF MFI	80% OF MFI	100% OF MFI	120% OF MFI
THEN YOU CAN AFFORD . . .					
<b>&lt;\$1,010</b>	<b>\$1,680</b>	<b>\$2,020</b>	<b>\$2,690</b>	<b>\$3,370</b>	<b>\$4,040</b>
PER MONTH	PER MONTH	PER MONTH	PER MONTH	PER MONTH	PER MONTH
<b>OR</b>	<b>OR</b>	<b>OR</b>	<b>OR</b>	<b>OR</b>	<b>OR</b>
<b>\$121K- \$141K</b>	<b>\$202K- \$236K</b>	<b>\$242K- \$283K</b>	<b>\$377K- \$431K</b>	<b>\$471K- \$538K</b>	<b>\$565K- \$646K</b>
HOME SALES PRICE	HOME SALES PRICE	HOME SALES PRICE	HOME SALES PRICE	HOME SALES PRICE	HOME SALES PRICE

The estimates presented in Exhibit 25 are based on income and affordability ratios. They do not consider other household financial characteristics that can affect ability to pay for housing – other debt, including auto loans, credit cards, etc. as well as accumulated assets. A key challenge many lower income households face is competition for affordable housing from higher income households. It is rational for higher income households to choose less expensive housing if it is available and meets household needs. Given entry costs (down payment for owner units, advance rent and deposits for rental units) and required credit reports, lower income households have clear disadvantages in competing for lower cost housing.

## 2.7 Housing Production

A community’s housing stock is defined as the collection of all housing units located within the jurisdiction. The production of houses, including types of housing built as well as the incorporation of subsidized and affordable housing, is an important factor in addressing the housing need of the community. This section details the housing stock characteristics of Des Moines, in an attempt to identify how well the current housing stock meets the needs of the current and future residents of the City.

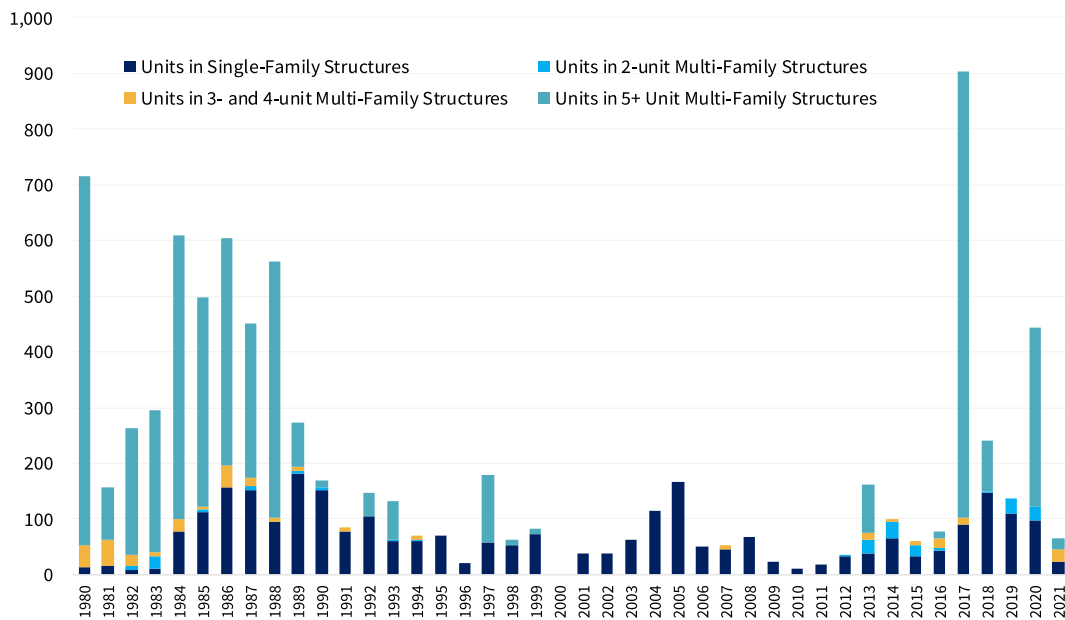
### 2.7.1 Housing Units Built

Since the 1980's, single family housing projects has been the most common housing type built in Des Moines, however multifamily projects have delivered the most units. Between 1980 and 2021, a total of 8,308 housing units have been built in Des Moines. About 66% of these units built were multifamily and 34% were single family units. The peak of multifamily unit development was in 2017 where 812 multifamily units were permitted in multifamily structures with 5 or more units.

Housing development was strong all throughout the 1980's and drastically dropped in the 1990's, early 2010's, and into the early 2010's. Housing development picked up again, but at a slower pace in the mid 2010's. Since 2010, approximately 2,254 housing units were built—mostly comprised of multifamily housing.

Exhibit 26 . Housing Units Built by Type, Des Moines, 1980-2021

Source: HUD User SOCDs Building Permit Database



## 2.8 Assisted Housing

### 2.8.1 Nursing Homes

Des Moines has three nursing homes and rehabilitation facilities with a combine total of 409 beds. According to the US Department of Health and Human Services, there are

approximately 46 nursing homes and residential care beds per 1,000 adults ages 65 and older.<sup>5</sup> In 2022, Des Moines had approximately 41 beds per 1,000, indicating that Des Moines has a slightly lower supply of beds that is generally seen across the nation.

### Exhibit 27. Nursing Homes and Rehabilitation Facilities in Des Moines, 2022

Source: Medicare.org: Providers & Services, The Nursing Home Site

Facility	Number of Bed
Stafford Healthcare	165
Wesley Homes Health Center	148
Judson Park Health Center	96
<b>Total</b>	<b>409</b>

### 2.8.2 housing for homeless individuals: shelters, transitional housing, etc.

An inventory of emergency shelter, transitional housing, and permanent supportive housing revealed that Des Moines does not have any of these continuum of care services which are essential in reducing the risk of people become homeless. The City of Des Moines is considering partnering with local faith-based and other non-profit organizations to support implement these social services within the city limits.

## 2.9 Subsidized and Public Affordable Housing

An important component of any community’s housing inventory is the stock of housing that is affordable to households earning lower incomes. This housing can be regulated or unregulated and is most often rental housing.

Unregulated affordable housing is affordable to lower income households by virtue of its location, age, condition, or amenities. Typically, unregulated affordable housing units are older, smaller, and or lower quality with fewer amenities, older appliances, or older appearances. Often, these properties have some deferred maintenance or capital needs. Because there is not enough regulated affordable housing across the country, unregulated housing is an important part of the housing stock in a community. But because it is unregulated, the rents charged at the properties can change suddenly and can be influenced

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<sup>5</sup> US Department of Health and Human Services, “Long-term Care Providers and Service Users in the United States, 2015-2016”

by the larger real estate market. In addition, these properties can sometimes have habitability issues if they are not well maintained by the landlord.

Regulated affordable housing often has public funding that restricts the maximum incomes of the tenants or restricts the rents that can be charged to ensure that the housing is serving low-income households. This housing is sometimes referred to as government-assisted housing referencing the public funds at the property. These restrictions vary by the type of funding and the affordability level at the property, and typically have a limited duration – the property is affordable for a specified period of time.

### **2.9.1 Low Income Housing Tax Credit (LIHTC)**

Des Moines currently has six properties with 641 income-restricted units, funded by low-income housing tax credits (LIHTC). In the next 10 years the income-restriction will sunset for three properties with a total of 162 units. These units account for about 25% of all income restricted units in Des Moines and without out any city intervention they will soon be lost to market rate housing.

LIHTC program criteria requires that income-restricted units to be affordable to low-income households for a period of at least 30 years. LIHTC units have maximum rents based on income limits and can only be occupied by households earning less than the upper income limit established for the units. Incomes are generally restricted to 30, 50, 60, or 80 percent of the area median family income and depend on the requirements of the funding program used for the development.

There are two types of tax credits, which are designed to subsidize either 30 percent or 70 percent of the low-income unit costs in a project. The 30 percent subsidy, which is also known as the 4 percent tax credit covers new construction that uses additional subsidies or the acquisition costs of existing buildings.

## Exhibit 28. Income-Restricted Units in Des Moines

Source: HUD LIHTC Database

Property Name	Year Built	Credit Type	Income Restricted Units	Total Units
*Silverwood Park Apartments	1996	30% (4% tax credit)	61	63
*Seaview Apartments	1999	30% (4% tax credit)	70	72
*Terrace Apartments	2001	30% (4% tax credit)	26	27
Sea Mar Community Housing	2015	30% (4% tax credit)	42	43
The Adriana Senior Apartments	2018	30% (4% tax credit)	119	119
Waterview Crossing Apartments	2019	30% (4% tax credit)	323	326
<b>Total</b>	—	—	<b>641</b>	<b>650</b>

Note: \*30-year income restriction to expire sometime in the next 10 years.

### 2.9.2 King County Housing Authority

The King County Housing Authority has three properties with a total of 45 subsidized units. All of the housing units are 3-bedrooms and generally served families, seniors 55+ and disabled persons. In total, there are 686 income-restricted housing units in Des Moines which make up roughly 5% of the housing stock.

## Exhibit 29. King County Housing Authority Subsidized Housing Inventory in Des Moines, 2022

Source: King County Housing Authority

Property Name	Total Units	Types of Units	Housing Type
Victorian Wood	15	3-bedroom	Families, Seniors 55+ and Disabled Persons
Shoreham	18	3-bedroom	Families, Seniors 55+ and Disabled Persons
Campus Court 1	12	3-bedroom	Families, Seniors 55+ and Disabled Persons
<b>Total</b>	<b>45</b>	—	—

## 3. Housing Needs in Des Moines

### 3.1 Residential Land Supply and Capacity

According to the King County Urban Growth Capacity Report, between 2006 to 2018, Des Moines has grown at 29% of the pace needed to achieve its growth target of 3,480 housing units. This indicates that Des Moines is underperforming in terms of producing housing units needed by 2035.

Based on King County’s residential land supply and capacity analysis, Des Moines has substantial land supply and capacity to accommodate the planned future housing growth. The majority of Des Moines housing capacity lies in its high- and medium high-density zones that have the capacity for about 7,622 housing units in both zones. Most of these housing units will be constructed on redeveloped land within Des Moines—which can pose development challenges for getting these units constructed due to market forces of high land values and high construction costs.

### Exhibit 30. Residential Land Supply and Capacity in Des Moines, 2022

Source: King County Urban Growth Capacity Report 2021

Density Level	Net Available Acres	Assumed Density (low/ high - units/acre)	Net Capacity (units)
Very Low Density	21.75	1.2 / 3.8	46
Low Density	77.86	4.4 / 8.8	220
Medium Low Density	3.98	12.4	41
Medium High Density	56.88	24.2 /36.3	1,550
High Density	61.91	48.4 / 129.7	6,072
All Zones	222.37	—	7,930
Capacity in Pipeline			456
<b>Total Capacity (units)</b>			<b>8,386</b>
<b>Remaining Target (2018-2035)</b>			<b>3,067</b>
<b>Surplus / Deficit Capacity (units)</b>			<b>5,319</b>

### 3.2 Growth Targets

Under the Growth Management Act, King County in coordination with the cities in King County, adopts growth targets for ensuing 20-year planning period. Growth targets are policy statements about the amount of housing and employment growth each jurisdiction is planning to accommodate within its comprehensive plan. Growth targets are adopted for each jurisdiction and unincorporated urban King County in the Countywide Planning Policies.

According to the King County CPPs Des Moines is categorized as a High Capacity Transit Community and is planned to grow by 3,800 new housing units and 2,380 new jobs by 2044.

#### Exhibit 31. Des Moines Growth Targets, 2019-2044

Source: 2021 King County Countywide Planning Policies

Jurisdiction	Housing Target 2019-2044	Job Target 2019-2044
Des Moines	3,800	2,380



### 3.3 Housing Need by Income Level

Des Moines housing need by income level assumes that the current household income distribution in 2020 will remain constant through 2044. Under this assumption, 2,629 housing units or 70% of Des Moines housing growth target are needed for households who make 80% or less of the area median income.

Exhibit 32. Housing Need in Des Moines by 2044

Source: ECONorthwest Calculations

Household Income Distribution	Need per Des Moines Household Income Share Percent	Housing Units Needed
0-30% AMI (Extremely Low-Income)	23%	878
30-50% AMI (Very Low-Income)	24%	896
50-80% AMI (Low-Income)	23%	866
80-120% AMI (Moderate Income)	18%	702
120%+ AMI (Above Moderate-Income)	12%	459
<b>Total</b>	<b>100%</b>	<b>3,800</b>

## Appendix C: Stakeholder Interviews

**Des Moines HAP Stakeholder Interview**  
**February 1, 2023**  
**African Community Housing & Development**  
**Bree Nicoletto, Director of Community Development**

### Background Information

#### 1. What impact does your organization have on housing in Des Moines?

Started in 2018 and work with African immigrants and refugees. A lot of members in the community live in Des Moines. They've done direct rental assistance through the city and have worked with a lot of key landlords and done a lot with eviction prevention.

#### 2. What do you believe are the biggest housing challenges that Des Moines faces?

Some are unique to the community and others are of the region. There's an increase in folks seeking homelessness support. A lot of families rely on Uber and some industries still haven't recovered since COVID. There is a lack of home ownership opportunities. A really big way of getting homeownerships is missing middle housing. It provides flexibility to have choices like duplexes and ADUs.

#### Subsidy, supply, and stability – it has to be all three

#### 3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?

We get focused on certain things and there is a lack of seeing the full picture. It's hard to compete with people who are able to afford a large down payment. No opportunities for condos and missing middle.

Right now, for the scope of what the Housing Action Plan can deliver – advocating for subsidy and rental protection as well as providing flexible zoning to invest in the City of Des Moines. The biggest thing to do is make it easier to deliver missing middle and affordable housing models. Development can be driven by community and not necessarily market-rate developers.

### Barriers

#### 1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)

All of the above, right now it's very hard to develop and will continue to get tougher. Lenders are not providing loans right now since the market is in a tough spot. As much as we can do to streamline the process is really critical. Have clear consensus with what those housing goals look like and hold developers accountable. No need to redeliberate for every single project if those goals have already been identified.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Heard from people that need clarity around zoning and incentives. We need to do as much as we can to streamline the process. Bringing additional people to the table like Alpha Sharp Development Partners. The housing model in Pierce County/Tacoma supports missing middle models. Affordable 70% AMI is possible with the right tools.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Flexibility in lot size reductions and minimum required parking. It could be good to ask permit desk people; what's a requirement that people don't like doing versus what becomes a barrier?

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

People don't realize how expensive Des Moines is. There are not a lot of affordable options.

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

There are cities that have tried to streamline missing middle. A lot of cities focus on the zoning piece. It would be good to see more rental protection. The City of Burien is a good example for rental protection. Parking and tree ordinances make it difficult.

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

What is the end user going to look for? Affordable homeownership and zoning regulations tied to that.

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

Zoning incentives: missing middle housing development, incentives to allow typologies to maximize density, zero lot lines, reduced parking, more flexible landscape standards, great to see zoning that works within the context of the site depending on site restrictions.

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

Incentivize what you want to see. Think about more than just developers. How are older couples going to pay property taxes? Add flexibility to their backyard [ADUs] should be incentivized. Permitting fees could be waived. Streamlined process that can go straight to building permit. An example is Seattle continuing to not require design review for affordable housing.

**Des Moines HAP Stakeholder Interview  
February 10, 2023  
El Centro de la Raza – Miguel Maestas**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

Miguel is the Housing and Development Director for El Centro de la Raza. Recently became the associate director. He is not involved directly in housing development in Des Moines, but during COVID El Centro helped residents with emergency rental assistance to avoid eviction, which he assumes helped some Des Moines residents. Throughout El Centro's history they have helped folks find and secure affordable housing by providing a variety of programs, such as rental assistance.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

One of the things that Des Moines is different than other areas is that it is away from a lot of the regional public transit corridors, such as light rail or connecting services, and it seems like they are out of the main line of public transportation which is challenging. El Centro sees public transit as a big factor in identifying areas for potential affordable housing. Public transit needs to be within proximity and accessible to affordable housing communities in order for them to be successful.

**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

Analyze the housing needs of the area and identify potential properties for affordable housing development, whether it be privately owned or owned by a regional authority or owned by the city. Analyze the zoning to create density near public transportation hubs or build public transit hubs near affordable housing or areas identified as having potential for affordable housing. Identifying partners to collaborate with in these efforts. In El Centro’s experience, there are a lot of entities in the community that want to help address the affordable housing issues, organizations like nonprofits, community groups, and churches, and a lot of these potential partners already have property. Then it becomes working together and building more capacity to achieve goals. Once land or property with potential for affordable housing has been identified and acquired there is a lot of work to do to develop, operate, and maintain affordable housing and lack of capacity and funding can be difficult in achieving this without partnering.

**Barriers**

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

All of the examples, impact fees, zoning/policy regulations, and the permitting process, all barriers that the City can do something about to change or address the issues. Other things that El Centro seen recently outside of the City’s control is inflation and just the cost of everything, materials, construction, etc., and also interest rates. One example, El Centro is doing an affordable housing development in Columbia City that was budgeted for, but as the project has progressed the prices have gone up and it is now over budget.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Timeliness. Understanding timelines. Whatever the City can do to commit to a clear and definitive timeline. Permitting has a direct correlation to the cost of developments. Timelines run on and project costs go up. Make sure affordable housing developers know the permitting timeline. Timelines are much more crucial to the development of affordable housing now more than ever.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Not familiar with Des Moines land use or zoning.

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

Not aware of any barriers specific to Des Moines (aside from public transit as mentioned before).

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

Seattle is a good example, they have made efforts to raise funds for affordable housing and have made a commitment to developing more affordable housing. There needs to be a conscious effort to plan and a commitment to address affordable housing needs, market rate housing is not going to solve the housing crisis. Ask, what can the city do to support the development of affordable housing? Develop goals and an action plan to attract and promote the development of affordable housing in Des Moines.

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

An inventory of availability of property or land of potential affordable housing sites would be helpful. Build more partnerships between the city and community groups, nonprofits, etc.

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

Look at what other cities have done. What partnerships have other cities formed with nonprofits and community groups to successfully develop or secure affordable housing in their communities?

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

Really making an effort to bring stakeholders to the table that aren't traditionally at the table. Immigrant communities, refugee communities, low income, senior groups, communities of color, single moms, etc. provide childcare, food, time it right, things like that to enable folks who may not traditionally be able to participate. The key to success is to partner with organizations that are already established within and trusted by the community. Don't just ask, pay community organizations to gather folks to bring people to the table, it takes a lot of resources to gather people.

**Des Moines HAP Stakeholder Interview  
February 14, 2023  
Housing Connector – Nick Merriam**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

Nonprofit focused on providing those who have not had access to housing before access to that housing. Work with providers to reduce screening barriers, housing providers goes online, hosted on Zillow, case managers and clients can search that inventory to find housing to meet their needs, our community partners are able to access that inventory and get those folks housing. Most residents have been housed in King County, 548 in King County. 59 housing connections in Des Moines. Most of which look like they were with HNN.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

We need more affordable housing, there's not enough of it. The housing that is available is highly competitive to get into, because of that competition, folks history provides further barriers, .e.g., past evictions, bad credit. There is a fair amount of housing provider reluctance, lots of owners are coming out of the pandemic after moratorium lifted with a lot of debt/arears/unpaid rents. Not a lot of public policy that pushes on providers, not a lot of additional support, which contributes to the hesitancy to engage in the marketplace. One challenge we face, getting into ownership groups. Property manager wants to partner, they see the value because they already have tenants with barriers, decisions made by ownership groups, lots of reluctance to invest in housing connector because they see it as additional risk that they don't want to take on. We need developers and investors, all of them at the table, they have to be at the table. The only other option is public housing, if you don't stimulate private investment in a space it will continue to lag.

**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

Barrier to entry for residence, screening criteria around criminal justice. Criminal justice tough for everybody. When discussing reduced criteria with a housing provider, there is no protocol for addressing criminal history restrictions, lot of housing providers don't want to house RSOs and other folks with criminal backgrounds.

**Barriers**

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

Barriers listed above.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Permitting processes that he is familiar with are Seattle based.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain. No response.**

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

Affordability. Selection around location access to public transportation, public libraries, etc. cities always making choices around building community – make sure folks always have choice in where they live, in terms of unit size, surrounding area. Affordability over time is more about pockets of 150-200 housing units to provide that choice.

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain. No response.**

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

Leveraging multi-family tax exemption, LITCH low-income housing tax credit, MFTE tax credit (federal) help to paint a path or are pathways to success, do some stimulation.

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

No response, “not a developer”.

**4. What do you feel are the most important changes that would need to occur to Des Moines’ permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

No response.

**Anything else you’d like to add that we did not cover?**

No response.



**Des Moines HAP Stakeholder Interview  
February 15, 2023  
Highline Public Schools – Antonio Lewis**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

Highline Public Schools - McKinney-Vento (Federal Foster Care) and Foster Care Liaison for the District. Highline covers five areas: Des Moines, Burien, White Center, SeaTac, and unincorporated King County.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

The biggest issue is cost of living. Increasing high rents is the biggest hurdle. The cost is simply out of their price range for their current economic situation. Larger families making minimum wage with 2, 3, 4 kids, it's very difficult to find housing. Many are looking further south for more affordable housing. Many families are moving into other family members or friends until they're in a place to qualify for their own. Highline usually has one of the higher McKinney-Vento top 5 or top 6 in the State.

**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

The priority has to be building more affordable housing. Look at the demographics, figure out the individuals currently living in the city, what are the current rent prices for 2-bedroom, 3-bedrooms, what do those numbers really reflect? What does the housing stock look like in Des Moines? This would allow more families to avoid leaving the city or state entirely.

**Barriers**

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

From a personal standpoint, he has lived in Des Moines for the past 5 years. When the pandemic hit there were a few vacancies, so those places were unfilled. At that time there were incentives for families to move in, waiving deposits or first and last month's rent. Once the eviction moratorium ended, things went back to normal, which is high rent cost for families. There are also rent increases for existing tenants. Single adults living alone may not face the same rent increases as larger households. Unfortunately, this is the reality of the region's housing market, and landlords know they can raise the rent and charge what they can. For most of the families he serves, they cannot. Many have to go into shelter, leave the district, or leave the state.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

N/A

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

N/A

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

N/A

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

N/A

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

N/A

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

N/A

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

N/A

**Anything else you'd like to add that we did not cover?**

The only other issue, and this has been a recurrent thing state and nation-wide, there has not been enough investment for affordable housing. Shelters are at capacity, and shelters were never designed to be long-term solutions. In the last 3 years, that 30-60 days has turned into 60-90 days or an entire schoolyear of waiting for longer term solutions. Other districts are also losing families because the families simply can't afford to live there anymore. Those things affect funding too. There has to be investment for families to stay there. You have to put affordable housing into action and not just talk about.

He also expressed interest in being a party of record, and I added him to the list.

**Des Moines HAP Stakeholder Interview  
February 2, 2023  
King County Housing Authority – Andrew Calkins**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

King County Housing Authority is a public housing authority that owns housing in King County and also administers vouchers. KCHA owns a property in Des Moines called Salish Place, which currently has 408 vouchers.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

Affordability is the biggest problem. There are a lot of extremely low income households living in Des Moines paying more than half their incomes towards rent and utilities. Traditionally or historically Des Moines, like other south King County cities, has had more affordable rents, but in the last few years the rents have risen rapidly. As the prices go up, affordability becomes even more of an issue and we're seeing a lot of displacement of existing residents in Des Moines. There isn't a lot of restricted or regulated affordable housing in Des Moines.

**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

Preserve the existing rental stock to lock in affordability so residents aren't pushed out. Suggest that the City prioritize existing housing stock and residents. There is also room to fund new affordable housing and the potential to drum up new construction developments by partnering with nonprofits and public housing authorities to create affordable housing in perpetuity. A good example of this in Des Moines is Salish Place.

## Barriers

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

Impact fees, policy regulations, and the permitting process can all contribute to the raise in the cost of housing or housing development, definitely for a lot of private builders and for affordable housing as well. It is really expensive to build right now between utility connection fees and permitting complexities and uncertainty often resulting in lengthy project timelines.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

None that Andrew is aware of, but he hasn't done any new construction in Des Moines nor heard of other nonprofits' experiences in Des Moines.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Zoning and land use for multifamily development can be challenging. Existing zoning can be restrictive by not allowing for multifamily land use or development at times preventing appropriate land uses or getting a good quality project that meet needs in a location.

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

Cannot identify any specific to Des Moines.

## Actions

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

Andrew always encourages cities to make changes to adjust their parking requirements, which can be a barrier in housing rehabilitation, Kirkland is an example where they have run into these issues. Some cities have bonuses for building affordable housing, the City of Seattle has probably done the most on this front including other barrier reductions like getting rid of or limiting design review for affordable housing projects and faith-owned land affordable housing protections.

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

There is no incentive zoning or inclusionary zoning in Des Moines, which could be a good policy if done properly. If you want to encourage multifamily development the incentive programs are great. The MFTE program is not as good at providing affordability. More density bonuses, incentives like limiting impact fees to induce more affordable housing development are good strategies. For a nonprofit it's helpful to have local capitol dollars to develop affordable housing or lend to other orgs to develop affordable housing.

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

Incentive zoning and inclusionary zoning programs, produce more mixed incomes that way. Encourage the city to do it in a way where you get most bang for buck, focus on family housing affordable at 80% of AMI.

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

Smart zoning and land use changes to create opportunities to develop affordable housing. Rezoning around single family residential areas will produce more housing diversity and affordable options.

**Anything else?**

KCHA always encourages cities to identify properties that are at risk of becoming unaffordable. This can happen when these get sold or are upgraded to increase the rent. Identify these properties, be proactive, and develop a plan to preserve affordability and avoid displacement.

**Des Moines HAP Stakeholder Interview**  
**February 15, 2023**  
**Sea Mar Community Health Centers**  
**Seth Lundgaard, Vice President of Housing & Development**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

Hopefully, a positive impact. We have Des Moines family housing project. It's 42 units. There are 1, 2, and 3-bedroom units. The affordability is 60% AMI. It's really nice housing and they don't really raise the rents. It's located in a rough neighborhood, but the housing project itself does well. Very low crime if any. Mostly families live there. Out of all their projects, it has the highest family size. State-wide they have at least 15 housing projects. Most of them they acquired a couple years ago. They also recently acquired two homeless projects in the Beacon Hill. They're permeant supportive housing.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

Not certain about this in Des Moines, but it seems like crime is a serious issue. Crime and raising these kids right are the important issues. Unprecedented time, a lot of funding for affordable housing for the people that want to do it. We're blessed to have the resources we do have.

**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

There is NIMBYism advocacy for affordable housing and the people that live there could be a priority.

**Barriers**

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

Sea Mar builds affordable housing too. Zoning – it is what it is. Permitting process is slow, takes time. Market forces tend to be the factors raising the cost of housing and housing development. The hard costs are getting out of control. It seems like contractors are policing them. For a project in Kent, it did seem like the parking requirements were pretty high.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

Wasn't directly involved but it seemed okay.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

N/A

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

N/A

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

Seattle is more flexible when it comes to parking, but it can also become a problem if for off-street parking. Seattle has early design guideline review. It's a 6-month process. It slows down projects, so they eliminated it for affordable housing projects that serve between 30 and 50 percent AMI.

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

N/A

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

A lot of cities waive a significant amount, maybe the majority, of impact fees for affordable housing. Vancouver waived more than half on one of their projects.

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

Parking, waiving early design requirements, impact fee waivers. Sound Transit offers a lot of surplus land, they issue an RFP, and if a project is occupied by affordable housing they don't charge for the land. They also include a pre-analysis on the zoning and massing; they actually hire an architect to do massing studies. It is helpful to be able to look at an RFP and quickly gauge whether a project is feasible or attractive. If you want affordable housing, people want to be excited about the project and be attractive. If the City has a surplus of land, they could create a feasibility analysis and market it toward affordable housing developers.

**Anything else you'd like to add that we did not cover?**

They're looking at this project for Lynnwood City Center Station TOD. It's an example of a presentation to affordable housing first.

**Des Moines HAP Stakeholder Interview  
February 22, 2023  
South King Housing and Homelessness Partners  
Claire Vanessa Goodwin and Dorsol Plants**

**Background Information**

**1. What organization do you represent and what is the impact it has on housing in Des Moines?**

Claire is executive manager and Dorsol is the program coordinator. Des Moines is a member of SKHHP, made of 11 jurisdictions, 10 cities, plus king county, through an interlocal agreement, formed to create a unified coalition to address our affordable housing needs. Des Moines is right now contributing 1406 house bill revenue to SKHHP to fund affordable housing projects. Most are in Burien. The legislature passed back in 2019 so cities could credit a portion of their state sales tax and keep it for themselves to use for affordable housing. Other things SKHHP does, technical assistance with their planner, convene planners to talk about their periodic comp plan update, etc.

**2. What do you believe are the biggest housing challenges that Des Moines faces?**

Counselor Buckman , representative, she said that preservation of affordable housing is important, there is a fear of displacement of the residents living in affordable units, and residents are worried, what does it mean when developers come in to build more? Repurposing and rebuilding is important, Des Moines is very built out, getting creative, utilizing underutilized buildings, Des Moines cannot go wide, has complications, density, neighborhood character, infrastructure support, the aging population, supporting through preservation to keep the elders in place. Right now there is a lot of focus on the water front, which will have a huge ripple effect across the city.



**3. What do you believe are the most important housing priorities to address in the Des Moines Housing Action Plan?**

One thing, counselor Buckman said, Des Moines has big Latinx population that is growing, consider this specific population to make it culturally relevant, especially with community outreach, engage with the community early, making sure its accessible to everyone.

**Barriers**

**1. What factors have you experienced or identified that tend to raise the cost of housing or housing development? (impact fees, zoning/policy regulations, permitting process, etc.)**

ADU usage, the fact that they do have owner occupancy tied into their ADU requirements creates barriers, whose tracking, how, and is it effective? Is that truly accomplishing what they are attempting to accomplish? Assuming density. Less restrictive ADU regulations would be helpful, specifically DMMC Chapter 18.55.104 accessory living quarters.

**2. Have you experienced or identified any parts of the permitting process in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

No comment.

**3. Have you experienced or identified any land use or zoning regulations in Des Moines that you feel to be barriers to housing development (including affordable housing)? If so, please explain.**

No comment.

**4. Do you feel that there are barriers to housing development (including affordable housing) that exist in Des Moines, but not in other cities in King County or the Puget Sound region? If so, please explain.**

Most recently, Claire came from Tacoma, convened several round tables with developers to talk about changes to MFTE program. The permitting process is too onerous, slow, and even more costly when it's slow. Expedited review for affordable housing is a show of good will for these cities. Look at accelerator programs which have been successful. It's all about the financing for developers, so any incentive that can be provided, is great, MFTE has a net benefit to the city in the long run. Waving impact fees also a great financial incentive. Permitting process too long, some projects in which the COVID vaccine was developed before the city issued any permits. There is a lack of consistency across King County cities, which does not lend itself to small cities close together. A streamlined, consistent process would make things easier and more cost effective. Often times design review can hold up permitting, reviewers get stuck on details like roof color, intent of design review and restrictions becomes unclear. Supply chain shortage is real, costs are still going up. Some developers reported cities wanting affordable housing, developers are building them, but there is no a mechanism to connect affordable housing to those in need. Housing connector only connects renters/rentals, not focused on home ownership. Black home initiative focusses on homeownership through a specific lens.

**Actions**

**1. Do you work in or have you experienced jurisdictions that you feel have successfully implemented strategies to eliminate barriers to housing development (including affordable housing)? If so, please explain.**

Lacey Washington is a gold standard for ADU, they have preapproved designs. City of Tacoma just improved the MFTE program, permit expediter, long-term affordable housing accelerator program.

**2. Are there incentives that you feel work best to facilitate housing development (including affordable housing)? Are any of these incentives not available in Des Moines?**

No answer

**3. In an effort to create more affordable housing in Des Moines, what incentives would you be supportive of?**

No answer

**4. What do you feel are the most important changes that would need to occur to Des Moines' permitting process and/or zoning and land use regulations to develop diverse housing options or to ensure affordable housing in Des Moines?**

Zoning is often an issue, allow for the development, be more flexible. The key corridor in Des Moines has a lot of potential for housing, retail, and restaurants. It will be a long process involving a lot of hand holding with the community. They will need something big to change and accommodate for increased density.

The communication strategy is going to be super important with this project. Des Moines has that sleepy town feel. 1220 needs requirements, there will have to be an emergency shelter. Gaining support for affordable housing and increasing the density for market rate. Multicultural outreach, quickly, and early in the process. Best case study DESC study, Burien, lessons learned from that experience. Often times, there is a concern about how much support being provided and available in a community that hasn't been provided. What does permitted supportive housing really look like? What does that do to the crime rate? Folks are worried that their community will grow like Seattle and there will be long lines at grocery stores.

Recommend to talk to the Des Moines Citizen Committee, which guide human services since Des Moines doesn't have any state service centers, they are contracted.

**Anything else you'd like to add that we did not cover?**

**A G E N D A I T E M**

**BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA**

**SUBJECT:** City Council approval for issuance of a bond (\$26 million) for Marina and Redondo redevelopment

**FOR AGENDA OF:** June 1, 2023

**DEPT. OF ORIGIN:** Finance


**DATE SUBMITTED:** May 25, 2023

**ATTACHMENTS:**

- 1. Draft Ordinance No. 23-022

**CLEARANCES:**

- City Clerk \_\_\_\_\_
- Community Development DEL
- Courts \_\_\_\_\_
- Emergency Management \_\_\_\_\_
- Finance MH
- Human Resources \_\_\_\_\_
- Legal /s/ TG
- Marina SW
- Police \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Public Works adell

**APPROVED BY CITY MANAGER**  
**FOR SUBMITTAL:** 

**Purpose and Recommendation** – This item seeks City Council approval for the City to issue a bond in the amount of \$26 million for elements of Marina and Redondo redevelopment.

**Suggested Motion**

- Motion 1:** “I move to suspend Council Rule 26(a) to pass Draft Ordinance No. 23- 022 on first reading.”
- Motion 2:** “I move to pass Draft Ordinance No. 23-022 providing for the issuance, sale and delivery of not to exceed \$26,000,000 of limited tax general obligation bonds for the purpose of constructing public amenities and capital improvements.”
- Motion 3:** “I move to direct staff to bring to the Council any projects identified in the bond, not yet accounted for in the Capital Improvements Plan (CIP), for inclusion in the CIP.”

**Background** - Marina redevelopment has been discussed, reviewed and analyzed since the early 2000's. Though the process was disrupted by COVID in recent years, significant progress has been made in identifying the contextual dynamic and design for development of key features at the Marina and at Redondo.

**Financial Impact** – The timing of this bond correlates to City receipt of funds from the American Rescue Plan Act (ARPA) from the federal government and funding provided by the Washington State legislature to assist in building certain key aspects of Marina and Redondo redevelopment. As these resources have a finite life, it is incumbent upon the City to move forward in this time frame and utilize these resources totaling several million dollars.

Debt service payments on this proposed bond of \$26 million will be shared on a project basis between City funds; (Real Estate Excise Tax (REET), future parking revenues, one time sales tax, and Marina funds, depending on the project and where the appropriate allocation of funds need to rest, i.e. Marina or City.

Debt service payments for the Marina Dock Replacement (MACIP0005) will be paid by the Marina. Debt service for the Marina Steps & Plaza (New CIP/Subset of MCCIP0022), Redondo Fishing Pier (MCCIP0012) and Restroom (MCCIP0018), Flag Triangle (MCCIP0027), Redondo Paid Parking (TRCIP0017), and Marina, Beach Park Paid Parking (MCCIP0021) will be repaid with a combination REET1 and REET2, One-Time Sales Tax, and Parking Revenue.

Bond issuance and related costs would be proportionately paid for using marina funds and other City resources as needed.

**The City portion of debt service will not include any funds from the City General Fund which means that no property taxes will be used in paying debt service on this bond.**

The City has a strong bonding capacity, currently the City uses approximately 7% of overall available debt capacity. The challenge for the City is not bonding capacity but rather the constraints from debt service, which effectively limits our bonding capacity.

An important dynamic of the City's capacity to issue bonds comes from our high bond rating (AA+) that reduces the cost of money as a result of the bond market's assurance, based on City and Marina finances that the bonds will be successfully paid back.

**Strategic Dynamic:** This bond offering is designed to accomplish a multi-faceted strategic approach, establishing critical public works infrastructure development at both the Marina and Redondo. Below, the implementation dynamic is reviewed. Key elements will be emphasized in the development process to enhance sustainability, mobility and access, and environmental safeguards consistent with existing statutory requirements.

**Implementation Strategy:** The bond proceeds will be used to fund five projects:

1. Marina Dock Replacement (MACIP0005): (L, M, and N docks).
2. Marina Steps & Plaza (New CIP/Subset of MCCIP0022): This project is a critical component of establishing connectivity between the Marina and downtown, accelerating the demand dynamic for local businesses. Before final design is brought to the City Council for approval, the City will engage in public outreach focusing on design alternatives and allowing the community to express their preferences. This community input will be brought forward to City Council in the review and approval process for the Marina Steps & Plaza.

3. Redondo (TRCIP0017) and Marina (MCCIP0021) paid parking: Acquisition and implementation of enhanced, integrated parking system for Marina and Redondo where ideally residents would be able to use their annual pass at either location.
4. Redondo Fishing Pier (MCCIP0012) and Restroom (MCCIP0018): Opportunity to complete those projects with appropriate and complete financing. These two projects are jointly permitted.
5. Flag Triangle (MCCIP0027): Project designed to create an illustrative landscaped gateway at the northern end of the downtown, honoring Veterans and highlighting the entrance to Des Moines. It is anticipated there will be community input regarding the design and also we will encourage input from Veterans for this project.

	Marina Steps	Paid Parking	Redondo Restroom and Pier	Flag Triangle	Dock Replacement	Fund Source Total
ARPA Grant	\$ 1,151			\$ 163		\$ 1,314
WA State Appropriation (Unsecured)	980		980			\$ 1,960
Debt Proceeds	7,869	715	3,665	111	12,740	\$ 25,100
REET 2			957			\$ 957
One-time Tax		25				\$ 25
Department of Commerce Grant (Secured)			277			\$ 277
Marina Revenue					1,600	\$ 1,600
<b>Project Total</b>	<b>\$ 10,000</b>	<b>\$ 740</b>	<b>\$ 5,879</b>	<b>\$ 274</b>	<b>\$ 14,340</b>	<b>\$ 31,233</b>

\*Total Bond proceeds total \$26M, which includes \$900,000 for bond issuance costs.

<p><b>Marina Steps and Promenade</b>      Project # _____</p> <p>----- Previous Project _____</p> <p><b>CIP Category:</b> Waterfront Facility Projects</p> <p><b>Managing Department:</b> Public Works</p> <p><b>Justification/Benefits:</b></p>	<p style="text-align: center;"><i>Summary Project Description:</i></p> <p>This project is the first phase of the larger Marina District Master Plan that includes improvements to S223rd St and other improvements described in SkyLab's Final Presentation to City Council on 1/26/2023. The project will include public access to the Marina Floor from Overlook Park and provide a pedestrian transitional public plaza to the waterfront.</p>
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PROJECT SCOPE				ANNUAL ALLOCATION							
Expenditures	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
Design		861	861			861					
Land & Right of Way			-								
Construction		9,139	9,139				9,139				
Contingency			-								
<b>Total Expenditures</b>		<b>10,000</b>	<b>10,000</b>			<b>861</b>	<b>9,139</b>				
Funding Sources	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	Year 2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
ARPA Grant		1,151	1,151				1,151				
WA State Appropriation (unsecured)		980	980				980				
Debt Proceeds		7,869	7,869			861	7,008				
<b>Total Funding</b>		<b>10,000</b>	<b>10,000</b>			<b>861</b>	<b>9,139</b>				
Funding Shortfall/Excess			-								
OPERATING IMPACT				ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total			12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue			-								
Expenses			-								
<b>Net Impact</b>			-								
CASH FLOW IMPACT				ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total			12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue			10,000				861	9,139			
No Funding Source Identified			-								
Expenses			(10,000)				(861)	(9,139)			
<b>Net Impact</b>			-								
Cash Balance											

<b>Redondo Paid Parking</b>	Project #	<b>TRCIP0017</b>
	Previous Project	<b>319.611</b>

**CIP Category:** Economic Development Projects

**Managing Department:** Marina

**Summary Project Description:**  
 Conduct automated pay parking system feasibility study and implementation with focus on gates, ticket dispensers, for the Redondo Boat Launch parking lot. This system will be similar to Marina, Beach Park Paid Parking Project MCCI0021.

**Justification/Benefits:** Currently this lot operates a seasonal (June - September) "Pay & Display" parking system. This type of parking depends on regular enforcement to make it effective and fair to all who use the lot. Upgrading the lot to a "Pay on Leaving" system where a paid ticket is needed to exit the lot will cut enforcement costs and effectively make the lot a year round operation. Collecting fees all year would increase revenues to help pay for the year round costs of maintaining the facility.

PROJECT SCOPE				ANNUAL ALLOCATION							
Expenditures	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
Design	25	5	30	-	-	30	-	-	-	-	-
Land & Right of Way	-	-	-	-	-	-	-	-	-	-	-
Construction	325	25	350	-	-	350	-	-	-	-	-
Contingency	-	-	-	-	-	-	-	-	-	-	-
<b>Total Expenditures</b>	<b>350</b>	<b>30</b>	<b>380</b>	-	-	<b>380</b>	-	-	-	-	-

Funding Sources				ANNUAL ALLOCATION							
Funding Sources	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
One Time Tax	25	-	25	-	-	25	-	-	-	-	-
Unsecured City Funding	325	(325)	-	-	-	-	-	-	-	-	-
Debt Proceeds	-	355	355	-	-	355	-	-	-	-	-
<b>Total Funding</b>	<b>350</b>	<b>30</b>	<b>380</b>	-	-	<b>380</b>	-	-	-	-	-
Funding Shortfall/Excess	-	-	-	-	-	-	-	-	-	-	-

OPERATING IMPACT			ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total		12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	-	-	-	-	-	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

CASH FLOW IMPACT			ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total		12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue	-	-	-	-	-	25	325	-	-	-
No Funding Source Identified	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	(350)	-	-	(25)	(325)	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Cash Balance	-	-	-	-	-	-	-	-	-	-

<b>Marina, Beach Park Paid Parking</b>	Project #	<b>MCCI0021</b>
	Previous Project	<b>310.407</b>

**CIP Category:** Waterfront Facility Projects

**Managing Department:** Marina

**Summary Project Description:**  
 Upgrade Parking system.

**Justification/Benefits:** Paid Parking was installed throughout the Marina and Beach Park in 2017. The existing equipment has had ongoing problems for quite some time. We feel most of the problems are caused from inadequate machinery, lack of technical support and the harsh outdoor environment. We plan on implementing a user friendly pay and display system, similar to Redondo. The existing equipment will remain in place for tenant access control, along with added afterhours safety and security for our customers and community.

PROJECT SCOPE				ANNUAL ALLOCATION							
Expenditures	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
Design	5	5	10	-	-	10	-	-	-	-	-
Land & Right of Way	-	-	-	-	-	-	-	-	-	-	-
Construction	175	175	350	-	-	350	-	-	-	-	-
Contingency	-	-	-	-	-	-	-	-	-	-	-
<b>Total Expenditures</b>	<b>180</b>	<b>180</b>	<b>360</b>	-	-	<b>360</b>	-	-	-	-	-

Funding Sources				ANNUAL ALLOCATION							
Funding Sources	Current Budget	Requested Change	Total Budget	Project to Scheduled Date 12/31/21	2022	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
One Time Tax	180	(180)	-	-	-	-	-	-	-	-	-
Debt Proceeds	-	360	360	-	-	360	-	-	-	-	-
<b>Total Funding</b>	<b>180</b>	<b>180</b>	<b>360</b>	-	-	<b>360</b>	-	-	-	-	-
Funding Shortfall/Excess	-	-	-	-	-	-	-	-	-	-	-

OPERATING IMPACT			ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total		12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	-	-	-	-	-	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

CASH FLOW IMPACT			ANNUAL OPERATING IMPACT							
Operating Impact	6 Year Total		12/31/21	2022	2023	2024	2025	2026	2027	2028
Revenue	-	-	-	-	-	180	-	-	-	-
No Funding Source Identified	-	-	-	-	-	-	-	-	-	-
Expenses	-	-	(180)	-	-	(180)	-	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Cash Balance	-	-	-	-	-	-	-	-	-	-

Redondo Restroom - Project # MCCIP0018  
 - Previous Project 310.086  
 CIP Category: Park Facility & Playground Projects  
 Managing Department: Plan, Build & PW Admin

**Summary Project Description:**  
 Consistent new restroom across from the current location within boat launch parking lot. This project is permitted jointly with the Redondo Fishing Pier Project MCCIP0018.

**Justification/Benefits:** The existing restrooms is approximately 35 years old and are functionally obsolete. The restrooms are built on a pier with all of the plumbing hanging below the structure where it can and has been destroyed by storms.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	125	(30)	95
Land & Right of Way	-	-	-
Construction	1,100	641	1,741
Contingency	129	(129)	-
<b>Total Expenditures</b>	<b>1,354</b>	<b>482</b>	<b>1,836</b>

ANNUAL ALLOCATION							
Project to Scheduled Date	Scheduled Year	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
12/31/21	2022	20	18	-	-	-	-
		-	250	1,491	-	-	-
		58	268	1,491	-	-	-

FUNDING SOURCES			
Funding Sources	Current Budget	Requested Change	Total Budget
REET 2	100	-	100
Debt Proceeds	-	1,736	1,736
State of Washington Grants (Unsecured)	1,254	(1,254)	-
<b>Total Funding</b>	<b>1,354</b>	<b>482</b>	<b>1,836</b>
Funding Shortfall/Excess	-	-	-

Project to Scheduled Date	Scheduled Year	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
12/31/21	2022	20	-	-	-	-	-
		-	268	1,491	-	-	-
		58	268	1,491	-	-	-

OPERATING IMPACT			
Operating Impact	6 Year Total		
Revenue	-	-	-
Expenses	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-

CASH FLOW IMPACT			
Operating Impact	6 Year Total		
Revenue	-	-	1,354
No Funding Source Identified	-	-	-
Expenses	-	-	(1,354)
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Cash Balance</b>	<b>-</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
58	42	-	1,254	-	-	-	-
(58)	(42)	-	(1,254)	-	-	-	-
-	-	-	-	-	-	-	-

Redondo Fishing Pier - Project # MCCIP0012  
 - Previous Project 310.079  
 CIP Category: Park Facility & Playground Projects  
 Managing Department: Plan, Build & PW Admin

**Summary Project Description:**  
 Replace Redondo Fishing Pier and remove existing timber piles and remove existing restroom facility. This project is permitted jointly with the Redondo Restroom Project MCCIP0018.

**Justification/Benefits:** The fishing pier is now approximately 35 years old and the timber structure and substructure has reached the end of its useful life.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	548	-	548
Land & Right of Way	-	-	-
Construction	2,121	1,374	3,495
Contingency	189	(189)	-
<b>Total Expenditures</b>	<b>2,858</b>	<b>1,185</b>	<b>4,043</b>

ANNUAL ALLOCATION							
Project to Scheduled Date	Scheduled Year	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
12/31/21	2022	148	116	-	-	-	-
		-	-	2,446	1,049	-	-
		284	148	116	2,446	1,049	-

FUNDING SOURCES			
Funding Sources	Current Budget	Requested Change	Total Budget
REET 2	857	-	857
Unsecured City Funding	842	(842)	-
Department of Commerce Grant (Secured)	277	-	277
Washington State Appropriation (Unsecured)	882	98	980
Debt Proceeds	-	1,929	1,929
<b>Total Funding</b>	<b>2,858</b>	<b>1,185</b>	<b>4,043</b>
Funding Shortfall/Excess	-	-	-

Project to Scheduled Date	Scheduled Year	Plan Year 2023	Plan Year 2024	Plan Year 2025	Plan Year 2026	Plan Year 2027	Plan Year 2028
12/31/21	2022	11	264	576	-	-	-
		265	12	-	-	-	-
		-	980	-	-	-	-
		-	-	1,000	929	-	-
		282	276	1,556	1,000	929	-

OPERATING IMPACT			
Operating Impact	6 Year Total		
Revenue	-	-	-
Expenses	-	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-

CASH FLOW IMPACT			
Operating Impact	6 Year Total		
Revenue	-	-	2,858
No Funding Source Identified	-	-	-
Expenses	-	-	(2,858)
<b>Net Impact</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Cash Balance</b>	<b>-</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
282	276	2,300	-	-	-	-	-
(284)	(264)	(2,310)	-	-	-	-	-
(2)	12	(10)	-	-	-	-	-
(2)	10	-	-	-	-	-	-



<b>Des Moines Memorial Flag Triangle</b>	Project #	<b>MCCIP0027</b>
	Previous Project	<b>310.085</b>

**CIP Category:** Park Facility & Playground Projects

**Managing Department:** Plan, Build & PW Admin

**Justification/Benefits:** The current park has issues and problems with the failing irrigation and flag pole foundation systems. The park also serves as a "gateway" entry into the City for the traveling public from Des Moines Memorial Drive.

**Summary Project Description:**  
Install new turf, plantings, and hardscape areas along with improvements to the irrigation system. The planting area would be expanded. Potential "Welcome to Des Moines" sign or other urban design features. Install new flag pole, base, and uplighting.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	12	35	47
Land & Right of Way	-	-	-
Construction	98	129	227
Contingency	9	(9)	-
<b>Total Expenditures</b>	<b>119</b>	<b>155</b>	<b>274</b>

ANNUAL ALLOCATION							
Project to Scheduled Date	2021	2022	2023	2024	2025	2026	2027
12/31/21	-	-	47	-	-	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	227	-	-	-
2024	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>274</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Funding Sources	Current Budget	Requested Change	Total Budget
General Fund Transfer	119	(119)	-
APPA	-	163	163
2023 Bond Proceeds	-	111	111
<b>Total Funding</b>	<b>119</b>	<b>155</b>	<b>274</b>
Funding Shortfall/Excess	-	-	-

Project to Scheduled Date	2021	2022	2023	2024	2025	2026	2027	2028
12/31/21	-	-	-	-	-	-	-	-
2022	-	-	-	-	-	-	-	-
2023	-	-	-	163	-	-	-	-
2024	-	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>274</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

OPERATING IMPACT		6 Year Total
Operating Impact		
Revenue	-	-
Expenses	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
12/31/21	-	-	-	-	-	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	-	-	-	-
2024	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-

CASH FLOW IMPACT		6 Year Total
Operating Impact		
Revenue	-	119
No Funding Source Identified	-	-
Expenses	-	(119)
<b>Net Impact</b>	<b>-</b>	<b>-</b>
Cash Balance	-	-

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
12/31/21	-	-	-	119	-	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	-	-	-	-
2024	-	-	-	(119)	-	-	-
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-

<b>Marina Dock Replacement</b>	Project #	<b>MACIP0005</b>
	Previous Project	<b>403.499</b>

**CIP Category:** Marina Capital Improvements

**Managing Department:** Marina

**Justification/Benefits:** The Des Moines Marinas Docks are now over 50 years old and in need of replacement. This Project is necessary as we move forward with Design, Engineering and discussions on reconfigurations in slip size, styles, and amenities associated with new construction. While all Docks are in need of replacement, due to the infrastructure set in place, M and N Dock will be the first in the replacement process.

**Summary Project Description:**  
This project creates a set aside to accumulate funds for the purchase of a full dock replacement. When sufficient funds are accumulated a replacement dock will be installed. Expenditures currently listed in 2021-2024 are intended for M, N, and possibly L dock replacements.

PROJECT SCOPE			
Expenditures	Current Budget	Requested Change	Total Budget
Design	635	8	643
Land & Right of Way	-	-	-
Construction	9,000	4,697	13,697
Contingency	965	(965)	-
<b>Total Expenditures</b>	<b>10,600</b>	<b>3,740</b>	<b>14,340</b>

ANNUAL ALLOCATION							
Project to Scheduled Date	2021	2022	2023	2024	2025	2026	2027
12/31/21	125	-	518	-	-	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	6,650	7,047	-	-
2024	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-
<b>Total</b>	<b>125</b>	<b>-</b>	<b>518</b>	<b>6,650</b>	<b>7,047</b>	<b>-</b>	<b>-</b>

Funding Sources	Current Budget	Requested Change	Total Budget
Marina Rates	1,600	-	1,600
Bond Proceeds	9,000	3,740	12,740
<b>Total Funding</b>	<b>10,600</b>	<b>3,740</b>	<b>14,340</b>
Funding Shortfall/Excess	-	-	-

Project to Scheduled Date	2021	2022	2023	2024	2025	2026	2027	2028
12/31/21	1,200	200	200	-	-	-	-	-
2022	-	-	-	5,693	7,047	-	-	-
2023	-	-	-	-	-	-	-	-
2024	-	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-	-
<b>Total</b>	<b>1,200</b>	<b>200</b>	<b>200</b>	<b>5,693</b>	<b>7,047</b>	<b>-</b>	<b>-</b>	<b>-</b>

OPERATING IMPACT		6 Year Total
Operating Impact		
Revenue	-	-
Expenses	-	-
<b>Net Impact</b>	<b>-</b>	<b>-</b>

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
12/31/21	-	-	-	-	-	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	-	-	-	-
2024	-	-	-	-	-	-	-
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-

CASH FLOW IMPACT		6 Year Total
Operating Impact		
Revenue	-	10,600
No Funding Source Identified	-	-
Expenses	-	(10,600)
<b>Net Impact</b>	<b>-</b>	<b>-</b>
Cash Balance	-	-

ANNUAL OPERATING IMPACT							
12/31/21	2022	2023	2024	2025	2026	2027	2028
12/31/21	1,200	200	3,200	3,000	3,000	-	-
2022	-	-	-	-	-	-	-
2023	-	-	-	-	-	-	-
2024	(125)	(573)	(3,000)	(3,000)	(3,000)	-	(902)
2025	-	-	-	-	-	-	-
2026	-	-	-	-	-	-	-
2027	-	-	-	-	-	-	-
2028	-	-	-	-	-	-	-
<b>Total</b>	<b>1,075</b>	<b>702</b>	<b>902</b>	<b>902</b>	<b>902</b>	<b>902</b>	<b>-</b>

Two significant factors affect the implementation strategy and elements identified in the bond (please see proposed CIP project worksheets above). The two key strategic considerations are structure of revenue (existing and projected) and site configuration. The recommendation to move forward does not include building the dry stack storage facility at this time. The reasons are as follows: (1) planned replacement of moorage that primarily affect smaller boats will not occur until Phase 2 or Phase 3 which at this time is predicted at approximately 10+ years away, and (2) prior to Phase 2 or Phase 3 dock replacement, the seawall and upland dock utilities between “A” dock to CSR will require replacement to support any new in-water infrastructure. Dry stack storage will remain as a future CIP project for the Marina (All Purpose Building (APB) MACIP0004) as it will be necessary to have this type of facility in place prior to the removal of the smaller slips.

The existing storage sheds provide revenue of approximately \$250,000/annually and the existing small in-water slips provide revenue of approximately \$1,650,000. In order to maximize available revenue, it is not strategic financially to construct a dry stack storage (APB) facility at this time. Additionally, the Marina Steps design needs to be considered from the perspective of spatial allocation. A new dry stack storage facility will take up about 40,000 square feet of space on the Marina floor. It is also intended that the northern portion of that dry stack storage facility, that would be adjacent to the switchbacks providing access to the Marina for walkers, baby strollers, bicyclists, and senior walkers, could include some retail, such as a a coffee shop and other retail outlets.

Design of the Steps which will continue to include community input, may be able to take advantage of Parcel A to the north of the Steps, reducing the Marina Steps footprint to the south and making future options for dry stack storage (APB) more efficient. In the future, costs associated with the dry stack storage facility may be borne from the very strong fund balance retained in the Marina budget and financials, a function of the financial discipline exercised by Marina Administration.

**Recommendation** – City Administration recommends moving forward with City Council approval of this bond issuance that will benefit the City as a whole and specifically the Marina, Redondo, and downtown areas. Additionally, the Redondo Fishing Pier, Restrooms, and Marina Steps have all received grant funding (state appropriations) for construction. Each are currently not fully funded. Without a bond, these projects will not be able to be completed.

**Alternatives** - City Council could decide not to pass this bond.

CITY OF DES MOINES, WASHINGTON

ORDINANCE NO. 23-022

AN ORDINANCE of the City of Des Moines, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$26,000,000 aggregate principal amount of limited tax general obligation bonds in one or more series to provide funds (i) to pay or reimburse a portion of the costs of the design, construction and/or improvement of a new dock and new steps at the City marina and other related public amenities and capital improvements; and (ii) to pay the costs of issuance and sale of the bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City's designated representative to approve the Bond Sale Terms of the sale of each series of the bonds; and providing for other related matters.

Passed \_\_\_\_\_

This document prepared by

STRADLING YOCCA CARLSON & RAUTH, PC  
Seattle, Washington  
(206) 829-3000

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*\*The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

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THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) *"Authorized Denomination"* means \$5,000 or any integral multiple thereof within a maturity of a Series, or such other minimum authorized denominations as may be specified by the Designated Representative in a Bond Purchase Agreement for a Series.

(b) *"Beneficial Owner"* means, with respect to a Bond, the owner of any beneficial interest in that Bond.

(c) *"Bond"* means each bond issued pursuant to and for the purposes provided in this ordinance.

(d) *"Bond Counsel"* means the firm of Stradling Yocca Carlson & Rauth, a Professional Corporation, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(e) *"Bond Purchase Agreement"* means a written offer to purchase a Series of the Bonds pursuant to certain Bond Sale Terms, which offer has been accepted by the Designated Representative on behalf of the City, in accordance with this ordinance. In the case of a competitive sale, the official notice of sale, the Purchaser's bid and the award by the City shall constitute the Bond Purchase Agreement for purposes of this ordinance.

(f) *"Bond Register"* means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of each Bond.

(g) *"Bond Registrar"* means the Fiscal Agent, or any successor bond registrar selected by the City.

(h) “*Bond Sale Terms*” means the terms and conditions for the sale of a Series of Bonds including, but not limited to the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants. The parameters for certain Bond Sale Terms are set forth in Exhibit A.

(i) “*Book-Entry Form*” means a fully registered form in which physical bond certificates are registered only in the name of the Securities Depository (or its nominee), as Registered Owner, with the physical bond certificates held by and immobilized in the custody of the Securities Depository (or its designee), where the system for recording and identifying the transfer of the ownership interests of the Beneficial Owners in those Bonds is neither maintained by nor the responsibility of the City or the Bond Registrar.

(j) “*City*” means the City of Des Moines, Washington, a municipal corporation duly organized and existing as a non-charter code city under the laws of the State.

(k) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

(l) “*Code*” means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(m) “*Continuing Disclosure Agreement*” means a written undertaking to provide continuing disclosure entered into pursuant to Section 14 of this ordinance with respect to a Series of Bonds, in substantially the form set forth in Exhibit B.

(n) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(o) “*Debt Service Fund*” means the Limited Tax General Obligation Bond Debt Service Fund of the City created for the payment of the principal of and interest on the Bonds and other outstanding limited tax general obligation bonds of the City.

(p) “*Designated Representative*” means the officer of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).

(q) “*Finance Director*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(r) “*Fiscal Agent*” means the fiscal agent of the State, as the same may be designated by the State from time to time.

(s) “*Government Obligations*” means, unless otherwise limited in the Bond Purchase Agreement for a particular Series of the Bonds, any government obligation as that term is defined in RCW 39.53.010, as now in effect or as may hereafter be amended.

(t) “*Issue Date*” means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(u) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, substantially in the form on file with the City Clerk, as it may be amended from time to time, and any successor or substitute letter relating to the operational procedures of the Securities Depository.

(v) “*MSRB*” means the Municipal Securities Rulemaking Board.

(w) “*Official Statement*” means an offering document, disclosure document, private placement memorandum or substantially similar disclosure document provided to purchasers and potential purchasers in connection with the initial offering of a Series of the Bonds in conformance with Rule 15c2-12 or other applicable regulations of the SEC.

(x) “*Owner*” means, without distinction, the Registered Owner and the Beneficial Owner.

(y) “*Projects*” means the design, construction and/or improvement of (1) a dock replacement at the City marina; (2) new public steps and plazas adjacent to the City marina; (3) improvements to the Redondo Beach restrooms, parking facilities, and fishing pier; and (4) other related public amenities and capital improvements, as deemed necessary and advisable by the City. Incidental costs incurred in connection with carrying out and accomplishing the Projects, consistent with RCW 39.46.070, may be included as costs of the Projects. The City reserves the right to adjust the timing and specific elements of the Projects, as necessary, in its sole discretion.

(z) “*Project Fund*” means the Capital Projects Fund of the City, or such other fund or account as may be designated or created by the Finance Director for the purpose of carrying out the Projects.

(aa) “*Purchaser*” means KeyBanc Capital Markets of Seattle, Washington, or such other corporation, firm, association, partnership, trust, bank, financial institution or other legal entity or group of entities selected by the Designated Representative to serve as purchaser in a private placement, underwriter or placement agent in a negotiated sale, or awarded as the successful bidder in a competitive sale of any Series of the Bonds.

(bb) “*Rating Agency*” means any nationally recognized rating agency then maintaining a rating on the Bonds at the request of the City.

(cc) “*Record Date*” means the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an interest payment date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9.

(dd) “*Redemption Date*” means the date or dates selected by the Designated Representative for the call, payment and redemption of the Refunded Bonds, as set forth in the Refunding Plan.

(ee) “*Registered Owner*” means, with respect to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the Bonds are held in Book-Entry Form, Registered Owner shall mean the Securities Depository.

(ff) “*Rule 15c2-12*” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(gg) “*SEC*” means the United States Securities and Exchange Commission.

(hh) “*Securities Depository*” means DTC, any successor thereto, any substitute securities depository selected by the City, or the nominee of any of the foregoing. Any successor or substitute Securities Depository must be qualified under applicable laws and regulations to provide the services proposed to be provided by it.

(ii) “*Series of the Bonds*” or “*Series*” means a series of the Bonds issued pursuant to this ordinance.

(jj) “*State*” means the State of Washington.

(kk) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in chapter 3.32 of the Des Moines Municipal Code.

(ll) “*Tax-Exempt Bond*” means any Bond, the interest on which is intended on the Issue Date to be excludable from gross income for federal income tax purposes.

(mm) “*Taxable Bond*” means any Bond, the interest on which is not intended on the Issue Date to be excludable from gross income for federal income tax purposes.

(nn) “*Term Bond*” means each Bond designated as a Term Bond and subject to mandatory redemption in the years and amounts set forth in the Bond Purchase Agreement.

Section 2. Findings and Determinations. The City takes note of the following facts and makes the following findings and determinations:

(a) *The City Marina.* Pursuant to applicable law, including without limitation RCW 35A.11.020, 35.22.280 (25) through (28), 35.23.440(26) and chapter 67.20 RCW, the City is authorized to own and operate the City marina (the “Marina”) and to own and operate the public plazas, parking facilities, recreational facilities and other public amenities that comprise the Projects. The City is now in need of funds to undertake the Projects, described below, to build a new dock and new steps at the Marina.

(b) *Findings with respect to the Projects.*

(1) *Authority and Description of Projects.* The City finds that it is necessary and in the City’s best interest to undertake the Projects. The total expected cost of the Projects is estimated to be approximately \$26 million, which cost is expected to be paid from proceeds of the Bonds and other available money of the City. Because the City does not have sufficient funds currently available and budgeted for the Projects, the City Council finds that it is in the best interests of the City to issue the Bonds to carry out the Projects.

(2) *Debt Capacity.* The maximum amount of additional indebtedness authorized by this ordinance for the Projects is \$26,000,000. Based on the following facts, this amount is to be



issued within the amount permitted to be issued by the City for general municipal purposes without a vote:

(i) The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for collection in the calendar year 2023 is \$6,136,432,826.

(ii) As of June 1, 2023, the City has limited tax general obligation indebtedness, consisting of bonds, notes and leases outstanding in the principal amount of \$6,060,000, which is incurred within the limit of up to 1½% of the value of the taxable property within the City permitted for general municipal purposes without a vote.

(iii) As of June 1, 2023, the City has no unlimited tax general obligation indebtedness outstanding. Such indebtedness is permitted to be incurred for capital purposes only, with the approval of the requisite proportion of the City's qualified voters at an election meeting the minimum turnout requirements, within the limits of: up to 2½% of the value of the taxable property within the City for general municipal purposes (when combined with the outstanding limited tax general obligation indebtedness); 2½% for utility purposes; and 2½% for open space, parks and economic development purposes.

(c) *Plan of Financing.* Pursuant to applicable law, including without limitation chapters 35.37, 35A.40, 39.36, 39.44, 39.46, 39.52 and 39.53 RCW, the City is authorized to issue general obligation bonds for the purposes of financing the Projects and paying the costs of issuance of the Bonds.

(d) *Issuance of the Bonds.* For the purpose of providing the funds necessary to pay or reimburse a portion of the costs of carrying out the Projects and to pay the costs of issuance and sale of the Bonds, the City Council therefore finds that it is in the best interests of the City and its taxpayers to issue and sell the Bonds to the Purchaser, in one or more Series, as Tax-Exempt Bonds or Taxable Bonds, pursuant to the terms set forth in a Bond Purchase Agreement for each Series, as approved by the City's Designated Representative consistent with this ordinance.

Section 3. Authorization and Description of Bonds. The City is authorized to borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing indebtedness, in one or more Series, in the maximum principal amount stated in Exhibit A, to provide funds necessary to carry out the Projects and to pay the costs of issuance and sale of the Bonds. The Bonds may be issued in one or more Series, as Tax-Exempt Bonds or Taxable Bonds, and may be combined with other general obligation bonds (including refunding bonds) authorized separately. The Bonds shall be designated limited tax general obligation bonds, shall be numbered separately, and shall have any name, year and series or other label as deemed necessary or appropriate by the Finance Director.

Section 4. Appointment of Designated Representative; Bond Sale Terms. The City Manager and the Finance Director are each, acting independently, appointed to act as the Designated Representative of the City in connection with the issuance and sale of the Bonds in accordance with RCW 39.46.040 and this ordinance. The Designated Representative is authorized to approve, on behalf of the City, Bond Sale Terms for the sale of the Bonds in one or more Series, as Tax-Exempt Bonds or Taxable Bonds, and in connection with each such sale, to execute a Bond Purchase Agreement (or, in

the case of a competitive sale, a Pricing Certificate) confirming the Bond Sale Terms and such related agreements as may be necessary or desirable, consistent with the parameters set forth in Exhibit A, which is attached and incorporated by this reference.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

(a) *Registration of Bonds.* Each Bond shall be issued only in registered form as to both principal and interest and the ownership of each Bond shall be recorded on the Bond Register.

(b) *Bond Registrar; Duties.* Unless otherwise determined by the Finance Director, the Fiscal Agent is appointed as initial Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on each Bond. The Bond Registrar may become an Owner with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

(c) *Bond Register; Transfer and Exchange.* The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds in any Authorized Denomination of an equal aggregate principal amount and of the same Series, interest rate and maturity. A Bond may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* Unless otherwise determined by the City's Designated Representative, the Bonds initially shall be issued and held fully immobilized in Book-Entry Form by the Securities Depository in accordance with the provisions of the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to participants of the Securities Depository or the persons for whom they act as nominees with respect to the Bonds regarding the accuracy of any records maintained by the Securities Depository or its participants of any amount in respect of principal or interest on the Bonds, or any notice which is permitted or required to be given to Registered Owners hereunder (except such notice as is required to be given by the Bond Registrar to the Securities Depository). Registered ownership of a Bond initially held in Book-Entry Form, or any portion thereof, may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City or such substitute Securities Depository's successor; or (iii) to any person if the Bond is no longer held in Book-Entry Form.

If the Securities Depository resigns from its functions as depository, or upon a determination by the Finance Director to discontinue utilizing the then-current Securities Depository, the Finance

Director may appoint a substitute Securities Depository. If the Securities Depository resigns from its functions as depository and no substitute Securities Depository can be obtained, or if the Finance Director determines not to utilize a Securities Depository, then the Bonds shall no longer be held in Book-Entry Form and ownership may be transferred only as provided herein.

Nothing herein shall prevent the Bond Sale Terms from providing that a Series of the Bonds shall be issued in certificated form without utilizing a Securities Depository, and that the Bonds of such Series shall be registered as of their Issue Date in the names of the Owners thereof, in which case ownership may be transferred only as provided herein.

(d) *Lost or Stolen Bonds.* In case any Bond shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new bond or bonds of like amount, date, tenor, and effect to the Registered Owner(s) thereof upon the Registered Owner(s)' paying the expenses and charges of the City in connection therewith and upon filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such bond or bonds were actually lost, stolen or destroyed and of Registered Ownership thereof, and upon furnishing the City with indemnity satisfactory to both.

(e) *DTC Letter of Representations.* To induce DTC to accept the Bonds as eligible for deposit at DTC, the City approves the Letter of Representations. The Designated Representative is authorized and directed to execute the Letter of Representations, on behalf of the City, and to deliver it to DTC on or before the Issue Date.

Section 6. Pledge of Taxes. The Bonds constitute a general indebtedness of the City and are payable from tax revenues of the City and such other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Bonds. For as long as any of the Bonds are outstanding, the City irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available, to pay principal of and interest on the Bonds as the same become due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of and interest on the Bonds and such pledge shall be enforceable in mandamus against the City.

Section 7. Form and Execution of Bonds.

(a) *Form of Bonds; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on its Issue Date.

(b) *Authentication Required.* Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall be valid or obligatory

for any purpose or entitled to the benefits of this ordinance: “*Certificate of Authentication. This Bond is one of the fully registered City of Des Moines, Washington, Limited Tax General Obligation Bonds, 20\_\_ [Series], described in the Bond Ordinance.*” The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 8. Debt Service Fund; Manner of Payment; Failure to Pay.

(a) *Debt Service Fund.* The Debt Service Fund has been previously created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds and other limited tax general obligation bonds of the City. The principal of and interest on the Bonds shall be paid out of the Debt Service Fund. All amounts allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Debt Service Fund as necessary for the timely payment of amounts due with respect to the Bonds. Bond proceeds (if any) in excess of the amounts needed to pay the costs of the Projects and to pay the costs of issuance shall be deposited into the Debt Service Fund. Until needed to pay principal of and interest on the Bonds, the City may invest money in the Debt Service Fund temporarily in any legal investment, and the investment earnings shall be retained in the Debt Service Fund and used for the purposes of that Fund.

(b) *Manner of Payment.* Principal of and interest on each Bond shall be payable in lawful money of the United States of America on the dates and in the amounts as provided in the Bond Purchase Agreement applicable to that Series. No Bonds of any Series shall be subject to acceleration under any circumstances.

(1) *Bonds Held In Book-Entry Form.* Principal of and interest on each Bond held in Book-Entry Form shall be payable in the manner set forth in the Letter of Representations.

(2) *Bonds Not Held In Book-Entry Form.* Interest on each Bond not held in Book-Entry Form shall be payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. The City, however, is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not held in Book-Entry Form shall be payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar.

(c) *Failure To Pay Bonds.* If the principal of any Bond is not paid when the Bond is properly presented at its maturity or date fixed for redemption, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or date fixed for redemption until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Debt Service Fund, or in a trust account established to refund or defease the Bond, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 9. Redemption Provisions and Purchase of Bonds.

(a) *Optional Redemption.* All or some of the Bonds of any Series may be issued subject to redemption prior to their stated maturity dates at the option of the City at the times and on the terms set forth in the Bond Purchase Agreement, consistent with the parameters set forth in Exhibit A.

(b) *Mandatory Redemption.* All or some of the Bonds of any Series may be designated as Term Bonds, subject to mandatory redemption in principal installment payments, as set forth in the applicable Bond Purchase Agreement. If not redeemed or purchased at the City's option prior to maturity, Term Bonds (if any) must be redeemed, at a price equal to one hundred percent of the principal amount to be redeemed plus accrued interest, on the dates and in the years and principal amounts as set forth in the applicable Bond Purchase Agreement. If the City optionally redeems or purchases a Term Bond prior to maturity, the principal amount of that Term Bond so redeemed or purchased (irrespective of its redemption or purchase price) shall be credited against the remaining mandatory redemption installment payments in the manner as directed by the Finance Director. In the absence of direction by the Finance Director, credit shall be allocated to each mandatory redemption installment payment for that Bond on a *pro rata* basis.

(c) *Extraordinary Redemption Provisions.* All or some of the Bonds of any Series may be issued subject to extraordinary optional or extraordinary mandatory redemption prior to maturity, upon the occurrence of an extraordinary event, at the prices, in the principal amounts, and on the dates set forth in the applicable Bond Purchase Agreement.

(d) *Partial Redemption; Selection of Bonds for Redemption.* If fewer than all of the outstanding Bonds of a Series are to be redeemed at the option of the City, the Finance Director shall select the maturities of the applicable Series of Bonds to be redeemed. If less than all of the principal amount of a maturity of the selected Series is to be redeemed, if such Series is held in Book-Entry Form, the portion of such maturity to be redeemed shall be selected for redemption by the Securities Depository in accordance with the Letter of Representations, and if the Series is not then held in Book-Entry Form, the portion of such maturity to be redeemed shall be selected by the Bond Registrar randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond (or Bonds, at the option of the Registered Owner) of the same Series, maturity and interest rate in any Authorized Denomination in the aggregate principal amount to remain outstanding.

(e) *Notice of Redemption.* Notice of an intended redemption of any Bond then in Book-Entry Form shall be given in accordance with the Letter of Representations. Unless otherwise set forth in the applicable Bond Purchase Agreement, the City must cause notice of any intended redemption of Bond not in Book-Entry Form to be given not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner of each Bond to be redeemed at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Owner of any Bond, and may be waived by the Registered Owner of the Bond to be redeemed. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Continuing Disclosure Agreement), to each Rating Agency, and to such other persons and with such additional information

as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(f) *Rescission of Optional Redemption Notice.* In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and each Bond for which a notice of optional redemption has been rescinded shall remain outstanding.

(g) *Effect of Redemption.* Interest on each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth in Section 9, or money sufficient to effect such redemption is not on deposit in the Debt Service Fund or in a trust account established to refund or defease the Bond.

(h) *Purchase of Bonds.* The City reserves the right to purchase any or all of the Bonds offered to the City at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 10. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the “defeased Bonds”); (b) redeeming the defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the “trust account”), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bonds in accordance with their terms, then all right and interest of the Owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. Thereafter, the Owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds solely from the trust account and the defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bonds to any lawful purpose. Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 11. Deposit and Use of Proceeds.

(a) *Project Fund.* The Project Fund has been previously created for the purpose of paying the costs of the Projects and other capital improvements. On the Issue Date with respect to a Series of Bonds, proceeds received from the sale and delivery of such Series of Bonds shall be deposited into the Project Fund and used to pay or reimburse the City for costs of the Projects. Until needed to pay such costs, the City may invest those proceeds temporarily in any legal investment, and the investment earnings shall be retained in the Project Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn from the Project Fund and used for those tax or rebate purposes.

(b) *Costs of Issuance.* Pending their application to pay costs of issuance, bond proceeds may be deposited in the Project Fund for payment by the City.

Section 12. Tax Covenants; Designation of Bonds as “Qualified Tax Exempt Obligations.” The Designated Representative is authorized to designate each Series of the Bonds as either Tax-Exempt Bonds or Taxable Bonds.

(a) *Preservation of Tax Exemption for Interest on Tax-Exempt Bonds.* For each Series of the Bonds issued as Tax-Exempt Bonds, the City covenants that it will take all actions necessary to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Tax-Exempt Bonds or other funds of the City treated as proceeds of the Tax-Exempt Bonds that will cause interest on the Tax-Exempt Bonds to be included in gross income for federal income tax purposes. The City also covenants that, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Tax-Exempt Bonds, it will take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Tax-Exempt Bonds.

(b) *Post-Issuance Compliance.* The Finance Director is authorized and directed to adopt and implement written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal tax purposes.

(c) *Designation of Tax-Exempt Bonds as “Qualified Tax-Exempt Obligations.”* Any Series of the Bonds may be designated as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code, if the following conditions are met: (1) the Series does not constitute “private activity bonds” within the meaning of Section 141 of the Code; (2) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) that the City and any entity subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Series is issued will not exceed \$10,000,000; and (3) the amount of tax-exempt obligations, including the Series, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Series is issued does not exceed \$10,000,000.

Section 13. Manner of Sale; Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds by negotiated sale or private placement, based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors. In determining the method of sale of a Series and accepting the Bond Sale Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest true interest cost to the City.

(b) *Procedure for Negotiated Sale or Private Placement.* If the Designated Representative determines that a Series of the Bonds is to be sold by negotiated sale or private placement, the

Designated Representative shall select one or more Purchasers with which to negotiate such sale. The Bond Purchase Agreement for each Series of the Bonds shall set forth the Bond Sale Terms. The Designated Representative is authorized to execute the Bond Purchase Agreement on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Preparation, Execution and Delivery of the Bonds.* The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Agreement, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 14. Official Statement; Continuing Disclosure.

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review and, if acceptable to him or her, approve the preliminary Official Statement prepared in connection with each sale of a Series of the Bonds to the public or through a Purchaser as a placement agent. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, if applicable, the Designated Representative is authorized to deem that preliminary Official Statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary Official Statement that has approved by the Designated Representative and been deemed final, if applicable, in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final Official Statement for each Series of the Bonds to be sold to the public in the form of the preliminary Official Statement that has been approved and deemed final in accordance with subsection (a), with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final Official Statement to the Purchaser if required under Rule 15c2-12. The City authorizes and approves the distribution by the Purchaser of the final Official Statement so executed and delivered to purchasers and potential purchasers of a Series of the Bonds.

(c) *Agreement to Provide Continuing Disclosure.* If necessary to meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to the Purchaser acting as a participating underwriter for a Series of the Bonds, the Designated Representative is authorized to execute a Continuing Disclosure Agreement for the benefit of holders of a Series of the Bonds in substantially the form attached as Exhibit B.

Section 15. Supplemental and Amendatory Ordinances. The City may supplement or amend this ordinance without the consent of any Owners of the Bonds only for one or more of the following purposes:

(a) To add covenants and agreements that do not materially adversely affect the interests of Owners, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities, or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Beneficial Owners of the Bonds.



Section 16. General Authorization and Ratification. The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of each Series of the Bonds to the Purchaser thereof and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 17. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 18. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

Ordinance No. 23-022  
Page 16 of 23

PASSED by the City Council of the City of Des Moines, Washington, at an open public meeting thereof, this \_\_\_\_ day of \_\_\_\_\_, 2023, and signed in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Taria Keane, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Bond Counsel

Exhibit A

**PARAMETERS FOR BOND SALE TERMS**

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- (a) Principal Amount. The Bonds may be issued in one or more Series. The aggregate principal amount of the Bonds shall not exceed \$26,000,000.
- (b) Date or Dates. Each Bond shall be dated its Issue Date, as determined by the Designated Representative, which date may not be later than December 31, 2024.
- (c) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations, shall be numbered separately in the manner and shall bear any name (including any additional series or other designation) as deemed necessary or appropriate by the Designated Representative.
- (d) Interest Rate(s). Each Bond shall bear interest from its Issue Date or from the most recent date to which interest has been paid or duly provided for, whichever is later, unless otherwise provided in the Bond Purchase Agreement. One or more rates of interest shall be established for each maturity of each Series of the Bonds, which rate or rates may be fixed or variable. The true interest cost to the City for any Series of the Bonds may not exceed 5.25%.
- (e) Payment Dates. Interest shall be payable on dates acceptable to the Designated Representative, which shall include payment at the maturity of each Bond, on any mandatory redemption date for Term Bonds, and on any other redemption date.
- Principal payments shall commence on a date acceptable to the Designated Representative and shall be payable at maturity and in mandatory redemption installments for Term Bonds on dates acceptable to the Designated Representative.
- (f) Maturities; Final Maturity. The final maturity of the Bonds allocated to the Projects shall mature no later than 30 years after the Issue Date.
- (g) Redemption Prior to Maturity. The Designated Representative may approve in the Bond Purchase Agreement redemption provisions consistent with Section 9 and subject to the following:
- (1) Optional Redemption. Any Bond may be subject to optional redemption prior to its maturity. Any Bond that is subject to optional redemption prior to maturity must be callable on at least one or more date(s) occurring not more than 10½ years after the Issue Date, consistent with Section 9.
  - (2) Mandatory Redemption. Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity in mandatory redemption installment payments of principal, consistent with Section 9.

- (h) Price. The purchase price for any Series of Bonds may not be less than 97% or more than 130% of the stated principal amount of that Series.
- (i) Other Terms and Conditions.
- (1) Debt Capacity. A Series of the Bonds may not be issued if it would cause the indebtedness of the City to exceed the City's legal debt capacity on the Issue Date.
- (2) Expected Life of Capital Facilities. As of the Issue Date of each Series, the Designated Representative must find to his or her satisfaction that the average expected life of the capital facilities to be financed with the proceeds (or allocable share of proceeds) of that Series must exceed the weighted average maturity of such Series (or share thereof allocated to financing those capital facilities).
- (3) Additional Credit Enhancement, Terms, Conditions and Agreements. The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

**Exhibit B**

**[Form of]**

**CONTINUING DISCLOSURE AGREEMENT**

**City of Des Moines, Washington  
Limited Tax General Obligation Bonds, 20\_\_**

For the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds, the City of Des Moines, Washington (the “City”), makes the following written undertaking for the benefit of the Owners of the City’s Limited Tax General Obligation Bonds, 20\_\_.

Capitalized terms used but not defined below shall have the meanings given in Ordinance No. \_\_\_\_ of the City (the “Bond Ordinance”).

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events.

The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the Municipal Securities Rulemaking Board ( the “MSRB”), in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) of this certificate (“annual financial information”). If audited financial statements are unavailable on or before the dates specified in paragraph (b), below, the timely filing of unaudited financial statements shall satisfy the requirements and filing deadlines set forth in paragraph (b), and the City agrees to file audited financial statements if and when they are otherwise prepared and available to the City.
- (ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; (14) appointment of a successor or additional trustee or the

change of name of a trustee, if material; (15) default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation (as such term is defined below) of the City, any of which reflect financial difficulties; and (16) incurrence of a Financial Obligation of the City or agreement to covenants, events of default, remedies, priority rights or other similar terms of a Financial Obligation of the City, any of which affect security holders.

“Financial Obligation” means: (a) a debt obligation; (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a) or (b). The term “Financial Obligation” does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12 and the issuer thereof has entered into a continuing disclosure undertaking for such municipal securities.

- (iii) Timely notice of a failure by the City to provide required annual financial information on or before the dates specified in paragraph (b) below.

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in paragraph (a):

- (i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to local governmental units of the State such as the City, as such principles may be changed from time to time, which statements may be unaudited, provided, that if and when audited financial statements are prepared and available they will be provided; (2) principal amount of general obligation bonds outstanding at the end of the applicable fiscal year; (3) assessed valuation for that fiscal year; (4) property tax levy amounts and rates for that fiscal year; [and (5) a statement of revenues for that fiscal year from any other revenue sources pledged to the Bonds (if any)];
- (ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City’s fiscal year ending December 31, 20\_\_; and
- (iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the Securities and Exchange Commission.

(c) Amendment of Continuing Disclosure Agreement. This Continuing Disclosure Agreement is subject to amendment after the primary offering of the Bonds without the consent of any Owner or holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12, including: (i) the amendment may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted; (ii) the undertaking, as amended, would have complied with the requirements of the rule at the time of the primary offering, after taking into account any amendments or interpretations of the rule, as well as any change in circumstances; and (iii) the amendment does not materially impair the interests of holders, as determined either by parties

unaffiliated with the City (e.g., bond counsel or other counsel familiar with federal securities laws), or by approving vote of bondholders pursuant to the terms of the Bond Ordinance at the time of the amendment. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to this Continuing Disclosure Agreement and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. This Continuing Disclosure Agreement shall inure to the benefit of the City and the Beneficial Owner of each Bond, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Continuing Disclosure Agreement. The City's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Continuing Disclosure Agreement shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Continuing Disclosure Agreement become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of nationally recognized Bond Counsel familiar with federal securities laws delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Continuing Disclosure Agreement. As soon as practicable after the City learns of any material failure to comply with this Continuing Disclosure Agreement, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Continuing Disclosure Agreement shall constitute a default in respect of the Bonds. The sole remedy of any Owner of a Bond shall be to take such actions as that Owner deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with this Continuing Disclosure Agreement.

(g) Designation of Official Responsible to Administer Continuing Disclosure Agreement. The Finance Director or his or her designee is the person designated, in accordance with the Bond Ordinance, to carry out the Continuing Disclosure Agreement of the City in respect of the Bonds set forth in this section and in accordance with Rule 15c2-12, including, without limitation, the following actions:

- (i) Preparing and filing the annual financial information undertaken to be provided;
- (ii) Determining whether any event specified in paragraph (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;
- (iii) Determining whether any person other than the City is an "obligated person" within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person a Continuing Disclosure Agreement to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;
- (iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Continuing Disclosure Agreement; and

- (v) Effecting any necessary amendment of this Continuing Disclosure Agreement.



**CERTIFICATION**

I, the undersigned, City Clerk of the City of Des Moines, Washington (the “City”), hereby certify as follows:

1. The attached copy of Ordinance No. \_\_\_\_ (the “Ordinance”) is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on \_\_\_\_\_, 2023, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City’s official newspaper, which publication date [is/was] \_\_\_\_\_, 2023.

3. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: \_\_\_\_\_, 2023.

CITY OF DES MOINES, WASHINGTON

\_\_\_\_\_  
Taria Keane, City Clerk

**AGENDA ITEM**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: First Reading - City of Des Moines  
City Council Protocol Manual Adoption

FOR AGENDA OF: June 1, 2023

DEPT. OF ORIGIN: Legal


ATTACHMENTS:

1. Draft Resolution No. 23-031
2. City of Des Moines City Council Protocol Manual
3. City Council Rules Reference Document
4. Articles provided by Jurassic Parliament

DATE SUBMITTED: May 24, 2023

CLEARANCES:

- City Clerk SK  
 Community Development \_\_\_\_  
 Courts \_\_\_\_  
 Emergency Management \_\_\_\_  
 Finance \_\_\_\_  
 Human Resources \_\_\_\_  
 Legal /s/TG  
 Marina \_\_\_\_  
 Police \_\_\_\_  
 Parks, Recreation & Senior Services \_\_\_\_  
 Public Works \_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: 

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to consider the *City of Des Moines City Council Protocol Manual* to repeal and replace the *Des Moines City Council Rules of Procedure*. Pursuant to DMMC 4.12.030, two readings are required before the updated rules can be enacted.

**Suggested Motion**

**Motion:** "I move to continue Draft Resolution No. 23-031, adopting the City of Des Moines City Council Protocol Manual, to a second reading on June 8, 2023."

## **Background**

At the June 23, 2022 City Council meeting, Deputy Mayor Buxton sought and received support from three Councilmembers to place a new item on a future agenda. Her request was for a discussion about how to approach the update of the City Council Rules of Procedure.

In July of 2022, an Ad Hoc Rules Committee was created by the Council for the purpose of reviewing the City Council's Rules of Procedure and proposing edits. The Committee, consisting of three Councilmembers, met several times and created a first draft document entitled "City Council Protocol Manual." This draft was forwarded to City staff in October to begin a staff review.

Over the next several months, City staff conducted an in-depth review of the newly drafted City Council Protocol Manual to include analysis of how the new protocols aligned with existing City Codes and policies, reviews of similarly situated agency rules, legal analysis and a practical implementation review of the potential impacts. As a result of this process, staff brought forward an amended version of the Protocol Manual with updates intended to clarify the rules, eliminate repetition, ensure conformity with existing Codes and RCW's, and to ensure the intent of the Council was met.

The Ad Hoc Rules Committee met publicly several more times in 2023 to create an updated draft. That draft was then sent to Ann Macfarlane of Jurassic Parliament for her review and comments. She provided her edits to the Committee and the Committee held a final meeting in May of 2023 to create a draft ready for the full Council to review (Attachment 2).

DMMC 4.12.030 provides that "[a]ny .... amendment or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the Council agenda under the order of new business. A vote of the Council to adopt such a resolution shall occur at a subsequent regular meeting." Accordingly, this Draft Resolution cannot pass on first reading but must be set over for a second reading and approval.

## **Discussion**

The last update of the Council Rules was in November of 2019. From time to time, new issues arise and the Rules need to be updated. Traditionally, for minor alterations to the Rules, staff has been utilized to prepare the necessary amendments and drafts. In this instance, the Council decided to do a comprehensive review of the Rules, as well as to hire a consultant to assist with the work to provide technical expertise.

The Committee modeled the Council Protocol Manual after an existing manual used by another Washington city. The Manual is intended to take the place of the current City Council Rules of Procedure. At the outset of this process, the Committee identified a number of areas of emphasis for updated Council rules. These included:

- Roles and Responsibilities of Council, Staff, Committees, and Public
- Ethical Behavior
- Communication clarity and guidance
- Clarity for Council General Meetings
- Clarity about our form of government
- Detail regarding committees, assignments, qualifications, process
- Financial matters
- Enhanced resources (such as; mission statement, City documents, addenda, etc.)

It is the Committee's unanimous position that this Manual accomplishes the tasks that were identified at the outset of this project.

**Alternatives**

The alternative would be to not adopt the proposed Manual, or to amend the proposed Manual.

**Financial Impact**

None.

**Recommendation**

Staff recommends moving the Draft Resolution to a 2<sup>nd</sup> reading.

**CITY ATTORNEY'S FIRST DRAFT 5/22/2023**

**DRAFT RESOLUTION NO. 23-031**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, repealing the *Des Moines City Council Rules of Procedure* and adopting the *City of Des Moines City Council Protocol Manual*.

**WHEREAS**, DMMC 4.12.10 provides that "rules of procedure governing and regulating meetings of the City Council shall be adopted in resolution form, and shall have the force of law," and

**WHEREAS**, in June of 2022, the City Council created an Ad Hoc Rules Committee to review the Council Rules of Procedure and provide recommendations for updates and/or amendments, and

**WHEREAS**, the Committee members analyzed and reviewed a number of council rules and procedures from various cities in the region, and

**WHEREAS**, the Committee created a Protocol Manual that was reviewed by City staff who provided comments and edits to the Committee for consideration, and

**WHEREAS**, the Protocol Manual has been reviewed by a well-known parliamentarian who provided her expert opinion on the proposal, and whose edits have been incorporated into the Manual, and

**WHEREAS**, the Protocol Manual was submitted for consideration by the City Council in resolution form at the regular meeting held on June 1, 2023 as new business, and

**WHEREAS**, the resolution adopting the Protocol Manual was adopted by an affirmative vote of at least a majority of the whole membership of the City Council at the subsequent regular meeting held on June 8, 2023; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:**

Resolution No. \_\_\_\_  
Page 2 of \_\_\_\_

**Sec 1.** The attached document entitled *City of Des Moines City Council Protocol Manual*, is hereby adopted as the official City Council rules of procedure governing and regulating meetings of the City Council substantially in the form as attached and is effective immediately upon adoption.

**Sec 2.** All prior versions of the *Des Moines City Council Rules of Procedure* are repealed.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this \_\_\_\_ day of \_\_\_\_\_, 2023 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

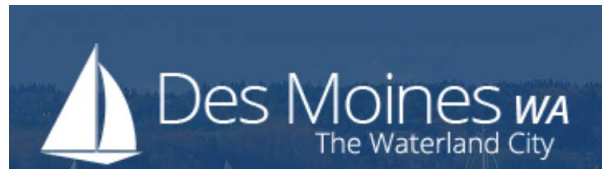
\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

| [5/24/23 2:35 PM](#)~~[5/24/23 1:30 PM](#)~~~~[5/24/23 1:29 PM](#)~~

**CITY OF  
DES MOINES  
CITY COUNCIL PROTOCOL MANUAL**



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## **Foreword**

In the course of serving as a public official, there are a myriad of issues with which you will become involved. This protocol manual attempts to centralize information on common issues related to local government and your role as a member of the Des Moines City Council.

The issues that are addressed in this publication are often complex and subjective. This manual is intended to be a guide and is not a substitute for the counsel, guidance, or opinion of the City Attorney in accordance with the Revised Code of Washington (RCW).

The protocols included in this reference document have been formally adopted by the City Council. Provisions contained herein will be reviewed as needed.

## **CHAPTER 1 INTRODUCTION AND OVERVIEW**

As a City Councilmember, you not only establish important and often critical policies for the community, you are also a Board Member of a public corporation having an annual budget that may exceed one hundred million dollars.

### **1.01 Council-Manager Form of Government**

The City of Des Moines is a Council-Manager form of government. As described in the Municipal Code and Revised Code of Washington, certain responsibilities are vested in the City Council and the City Manager. This form of government establishes that a City Council's role, in this specific form of government is that of a legislative policy-making body which determines not only the local laws that regulate community life, but also determines what public policy is, and gives direction to the City Manager to administer the affairs of the city government.

### **1.02 Purpose of City Council Protocol Manual**

The City of Des Moines has prepared its own protocol manual to assist the City Council by documenting accepted practices and clarifying expectations. This Manual has been formally adopted by the City Council and is binding on all Councilmembers.

### **1.03 Association of Washington Cities and Municipal Research & Services Center of Washington**

[The Code City Handbook, Report No. 37](#), published by the Municipal Research & Services Center (MRSC), provides a wealth of general information on the major functions of a Councilmember's job as a locally elected official. Another publication from MRSC that goes hand in hand with the handbook is, [Knowing the Territory](#). This report discusses basic powers; basic duties, liabilities, and immunities of officers; conflict of interest and appearance of fairness; prohibited uses of public funds, property, or credit; competitive bidding requirements; the Open Public Meetings Act; Open Government-Public Records-Freedom of Information; and immunities from tort liability. These two documents have been included as resources in creating this protocol manual.

### **1.04 Overview of Basic City Documents**

This protocol manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of the City Council. Many other laws, plans, and documents exist which bind the City Council to certain courses of action and practices. The following is a summary of some of the most notable documents that establish City Council direction.

#### **A. [Revised Code of Washington](#)**

The state laws contain many requirements for the operation of city government and administration of meetings of city councils throughout the state. Des Moines is an "optional code city," which means it operates under the general laws of the state. As an optional code city of the State of Washington, Des Moines is vested with all the powers of incorporated cities as set forth in the Revised Code of Washington (RCW), Constitution of the State of Washington, and Des Moines Municipal Code.

#### **B. [Des Moines Municipal Code](#)**

The municipal code contains local laws and regulations adopted by ordinances. Titles 2 and 4 of the code address the role of the City Council, describes the organization of City Council meetings and responsibilities and appointment of certain City staff positions and advisory boards and commissions. In addition to these administrative matters, the municipal code contains a variety of laws including, but not limited to, zoning standards, health and safety

issues, traffic regulations, building standards, and revenue and finance issues.

- C. [Vision/Mission Statement](#)  
[Vision, Mission & Business Plan - City of Des Moines, WA \(desmoineswa.gov\)](#)

- D. [City Budget](#)

The budget is the primary tool and road map for accomplishing the goals of the City. The budget document is the result of one of the most important processes the City undertakes. By adopting the annual budget, the City Council makes policy decisions, sets priorities, allocates resources, and provides the framework for government operations.

**Please note:** The City Manager is required, by state statute, to present a recommended budget to the City Council in October of the preceding year of the budget. The City Council must hold at least two public hearings on the budget before they can approve the budget with any adopted changes.

- E. [Annual Comprehensive Financial Report \(ACFR\)](#)

The annual financial report includes the financial statements of the City for a calendar year. It includes the financial condition of the City as reflected in the balance sheet, the results of operations as reflected in income statements, an analysis of the uses of City funds, and related footnotes. The annual financial report includes statements for the various groups of funds and a consolidated group of statements for the City as a whole.

- F. [Comprehensive Plan](#)

A state-mandated comprehensive plan addresses the City's long-range planning needs relative to land use, transportation, economic development, and other planning elements such as employment and residential growth targets. The City's comprehensive plan, *Imagine Des Moines...* is reviewed on an ongoing basis, but may only be revised once a year, except as provided by State law.

- G. [Six-year Capital Improvement Program](#)

The Six year Capital Improvement Program serves as a guide for determining priorities, planning, financing, and constructing capital projects which add to, support, or improve the physical infrastructure, capital assets, or productive capacity of city services.

#### **1.05 Orientation of New Members**

It is important for the members of the City Council to gain an understanding of the full range of services and programs provided by the City. As new members join the City Council, the City Manager and City Clerk provide an orientation session for new members to meet with key staff within the first quarter of taking office.

Another training opportunity for new members is the Association of Washington Cities-sponsored newly elected officials' orientation. At any time, if there are facilities or programs about which you would like more information, arrangements will be made to increase your awareness of these operations.

#### **1.06 Medical and Religious Exemptions**

The City complies with all requirements of the Americans with Disabilities Act (ADA). Accordingly, exceptions to these Protocols may be granted in accordance with the ADA. A Councilmember who believes he or she needs a reasonable accommodation in order to perform the essential functions of his or her (role as a Councilmember) must submit a request for a reasonable accommodation to the City's Human Resources Department. This request will be processed in accordance with the City Personnel Manual.

A Councilmember, who holds a “sincerely held religious belief, practice or observance” that conflicts with the Protocol requirements, may request a reasonable accommodation. Upon notice of the request, the City will process in the same manner as a reasonable accommodation request as defined by the ADA.

## **CHAPTER 2 DES MOINES CITY COUNCIL: GENERAL POWERS AND RESPONSIBILITIES**

### **2.01 City Council Generally**

Fundamentally, the powers of the City Council are to be utilized for the good of the community and its residents; to provide for the health, safety and general welfare of the citizenry. The City Council is the policy-making and law-making body of the City. State law and local ordinances grant the powers and responsibilities of the Council.

In carrying out their public role and in representing the positions of the Council body, Councilmembers should respect adopted Council policy. In turn, it is staff's responsibility to ensure that the policy of the Council is appropriately executed.

- A. Council Non-Participation in Administration  
[RCW 35A.13.120](#) specifically prohibits interference by Councilmembers in the City's administrative service, including the hiring, firing, and work of city staff, with the exception of the City Manager.
- B. Code of Conduct/Ethics Code DMMC 2.44  
[Chapter 2.44 CODE OF ETHICS \(codepublishing.com\)](#)

### **2.02 Role of Councilmembers**

Members of the Des Moines City Council are collectively responsible for establishing policy, adopting an annual budget, and providing vision and goals to the City Manager. The following outline is a brief description of the various duties of Councilmembers. The description is not intended to be comprehensive, but rather is an effort to summarize the primary responsibilities of the Council.

Summary of Council Duties and Responsibilities as provided in, but not limited to, the Washington Administrative Code and Revised Code of Washington:

- A. Establish Policy:
  - 1. Adopt goals and objectives
  - 2. Establish priorities for public services
  - 3. Approve/amend the operating and capital budgets
  - 4. Approve contracts over \$50k
  - 5. Adopt resolutions
- B. Adopt City Ordinances
- C. Appoint City Manager:
  - 1. Evaluate performance of City Manager
- D. Boards and Commissions:
  - 1. Establish advisory boards and commissions
  - 2. Approve appointments to advisory bodies

3. Provide direction to advisory bodies

E. Provide Public Leadership:

1. Communicate the City's vision and goals to constituents
2. Represent the City's interest at regional, county, state, and federal levels through participation in regional boards and commissions, as appointed by Mayor or Council.
3. Call special elections as necessary
4. Constituent communication to City Manager

F. Decision-Making:

1. Participate in assigned committees
2. Study problems
3. Review alternatives
4. Determine best course of public policy

### **2.03 Role of Mayor**

A. Presiding Officer:

The Mayor serves as the presiding officer and acts as chair at all meetings of the City Council. The Mayor may participate in all deliberations of the Council in the same manner as any other members and is expected to vote in all proceedings, unless a conflict of interest exists. The Mayor does not possess any power of veto.

B. Ceremonial Representative:

Responsibility to act as the City Council's ceremonial representative at public events and functions has been assigned to the Mayor. The Mayor shall have no regular administrative or executive duties.

C. Proclamations:

The Mayor is vested with the authority to initiate and read and sign Council approved proclamations.

D. See also Section 5.04:

[Chapter 5.04 GENERAL PROVISIONS](#)

### **2.04 Role of Deputy Mayor**

In case of the Mayor's absence or temporary disability, the Deputy Mayor shall act as Mayor during the continuance of the absence. When the Deputy Mayor acts as Mayor by participating in preparation of a council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Deputy Mayor shall have authority only to approve the Council meeting agenda or study session worksheet as to form, without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written.

### **2.05 Acting Mayor**

When both the Mayor and Deputy Mayor are absent, the Council may choose from among its members a person to serve with the powers of the Deputy Mayor.

### **2.06 Election of Officers**

Procedures for electing officers are as follows:

A. Biennial Election of Mayor and Deputy Mayor

Biennially, at the first meeting of the new Council, Councilmembers will choose a presiding



officer from their number who will have the title of Mayor. In addition to the powers conferred upon them as Mayor, they will continue to have all the rights, privileges and immunities of a member of the Council. If a permanent vacancy occurs in the Office of Mayor, the members of the Council at their next regular meeting will select a Mayor from their number for the unexpired term. Following the election of the Mayor, if the Deputy Mayor is selected as the new Mayor, there will be an election for Deputy Mayor. The term of the Deputy Mayor will run concurrently with that of the Mayor.

1. Nominations

The election for Mayor shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the City Council shall be permitted to nominate one (1) person who has previously served on the Council for a minimum of two years, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations are then closed. The election for Deputy Mayor shall be conducted by the newly-elected Mayor, and nominations shall be made in the manner previously described for the election of the Mayor. Candidates for Deputy Mayor shall have previously served on the Council for a minimum of one year. The minimum experience condition for candidacy for Mayor or Deputy Mayor may be waived by a vote of five Councilmembers.

B. Casting Ballots

Except when there is only one nominee, election will be by audible vote; each Councilmember declaring a vote into the record. The City Clerk will publicly announce and record the results of the election in the official minutes, stating the name of each voting Councilmember and the manner in which the Councilmember voted. Once a nominee receives a majority vote of the members present, the nominee is declared elected to the position.

C. Unable to Agree

In the event that the Council is unable to agree on a Mayor by majority vote of the members present, the Office of Mayor shall be temporarily filled by an Acting Mayor. The Acting Mayor shall be the Councilmember who just previously served as Mayor; or if such person is not a member of the Council, the Councilmember who just previously served as Deputy Mayor; or if such person is not a member of the Council, the Councilmember with the highest seniority as determined by the City Attorney.

In the event that the Council is unable to agree on a Deputy Mayor, the appointment of Deputy Mayor shall be filled in the same manner as described above.

The Acting Mayor and Acting Deputy Mayor shall continue in office and exercise such authority as is described in Chapter [35A.13 RCW](#) until the members of the Council agree on a Mayor, at which time the Office of Acting Mayor and Acting Deputy Mayor shall cease and terminate.

D. Resignation of Mayor or Deputy Mayor

If the Mayor or Deputy Mayor resign, the City Council will appoint a new Mayor or Deputy Mayor using the procedure outlined above, as soon as practical.

**2.07 Appointment of City Manager**

The City Council is responsible for appointing one position within the City organization, the City Manager. The City Manager serves at the pleasure of the Council.

## **2.08 Council Board and Committee Service**

### **A. Committees of the Council:**

Committees of the Council are comprised of a collaboration of Councilmembers and Staff, and are designed to review, discuss, and vet potential plans and decisions that may come before the Council body. These committees may make recommendations on proposed ordinances, resolutions, or motions within their area of expertise.

The procedures governing all committees of the Council shall be as follows:

1. The following standing committees shall consist of three members of the Council appointed by the Mayor in January following an election, or at such time as new standing committees are authorized; Environment, Municipal Facilities, Public Safety and Emergency Management, Transportation, and Economic Development.
2. In addition to standing advisory committees, special purpose or Ad Hoc committees and task forces may be appointed by the Mayor to address issues of interest or to conduct background work on technical or politically sensitive issues. Special or ad-hoc committees will be dissolved upon completion of the intended task.
3. Minutes shall be kept of each City Council standing and special committee meeting, listing discussion topics, a summary of key points made, without attribution to individuals and any final recommendations.
4. Standing committees of the Council are open public meetings, shall be noticed to the public, and be recorded and available to the public for viewing.
5. During the appropriate portion of the regular City Council meeting, the Committee Chair shall report back to the Council regarding items of discussion, progress, or plans.
6. Councilmembers may be appointed or removed by the Mayor.

Councilmembers shall not serve on appointed City Advisory Bodies concurrent with their term of office as Councilmember.

However, at the discretion of the Mayor, Councilmembers may be appointed as liaison to one or more Council-established Citizen Advisory Bodies or other Community agencies/organizations. In their capacity as a Council liaison, a Councilmember shall:

1. Attend meetings on time and conduct themselves with respect, honoring the chair and members of the appointed or community body.
2. Participate only as requested by the Chair in answering questions or representing the will or opinion of the Council as a whole, and shall not interact as a member of the body by engaging with questions, discussion, or voting.
3. Report back to Staff and/or Council as appropriate with updates, progress and/or questions posed by community members. This should be done in a timely manner and may be done from the dais during Board and Committee Reports as appropriate.

### **B. Regional Boards and Committees:**

Members of the City Council are often requested to serve on outside boards, councils, commissions, or committees. This type of representation serves to facilitate communication and provide interaction with other governmental bodies.

1. Membership appointment to these groups shall be made, or authorized by the Mayor for a 2-year period. If more than one Councilmember desires to serve as a member of a particular outside group, the member will be appointed by the Mayor.
2. Where applicable, the Mayor will appoint an alternate to attend outside boards, councils, commissions, or committees. The main delegate will notify the alternate as soon as possible after they realize they will be unable to attend an upcoming meeting of the outside group.
3. Councilmembers participating in policy discussions at regional meetings will represent the consensus of the Council, except where regional appointment requires regional opinion.

Personal positions, when given, will be identified and not represented as the position of the City.

4. Assignment and direction of staff in relation to regional meetings are at the discretion of the City Manager.

#### **2.09 Citizen Advisory Bodies**

The Council policy regarding Citizen Advisory Bodies is found in DMMC Title 4:  
[Title 4 COUNCILS AND APPOINTIVE COMMITTEES \(codepublishing.com\)](#)

#### **2.10 Incompatibility of Offices**

Councilmembers shall not simultaneously hold any other elected position, an incompatible public office or employment within the City government except as permitted under the provisions of [RCW 42.23](#), [35A.12](#) and [35A.13](#).

### **CHAPTER 3 SUPPORT PROVIDED TO CITY COUNCIL**

#### **3.01 Staff**

The use of City staff to provide support for a Councilmember is limited to that which is authorized by the City Manager.

Councilmembers are responsible to keep their own calendars and make their own appointments.

#### **3.02 Electronic Devices**

A computer and phone will be provided to each Councilmember for the conducting of City business. The IT staff will ensure that all appropriate software is installed and will also provide an orientation in the use of computers and related software. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. Personal media and programs cannot be stored on City computers. Councilmembers must adhere to all policies under the City of Des Moines IT Security Policies.

Throughout Councilmember terms, City equipment is subject to audit. Virus protection software must not be disabled at any time on City equipment and non-city programs or media found during audits will be removed. When individual Councilmembers have completed their term of office, IT staff will retrieve City computers, software, and phones.

#### **3.03 Mail and Deliveries**

Members of the City Council receive mail and other materials that are delivered through the use of mailboxes located at City Hall. Councilmembers are encouraged to check mailboxes often.

### **CHAPTER 4 FINANCIAL MATTERS**

#### **4.01 Council Compensation**

The municipal code provides for payment of a stipend to members of the City Council. A seated City Council may not increase or decrease its own compensation. Councils may only pass an ordinance to adjust the compensation of a future City Council. Currently, Council salaries are set as provided in chapter 4.08 DMMC or [RCW 35.21.015](#).

#### **4.02 Business, Education and Travel**

When determined by the City Council to be in the best interests of the City, Councilmembers may attend conferences and workshops, take part in educational or leadership opportunities, and conduct City business which may require travel, tuition, fees, or registration costs. Councilmembers may be reimbursed for these expenses under the following guidelines:

- A. The Administration will keep account of Councilmember expenses.
- B. When the Councilmember makes arrangements or incurs eligible expenses as determined by the Council, the Councilmember shall provide receipts for reimbursement.

#### **4.03 Financial Disclosure**

Candidates for the office of Councilmember shall file a financial disclosure statement with the State Public Disclosure Commission in accordance with State law. When appointed to fill a vacancy on the Council, the appointee shall file a financial disclosure statement with the Commission, covering the preceding 12-month period, within two weeks of being appointed. Councilmembers are required to file a financial disclosure statement with the Commission on an annual basis after January 1 and before April 15 of each year covering the previous calendar year. Councilmembers whose terms expire on December 31 shall file the statement for the year that ended on that December 31. Statements filed in any of the above cases will be available for public inspection.

Failure to file or filing a false or incomplete financial disclosure statement, if done knowingly, is a Class 1 Misdemeanor. There are also civil penalties for violations.

### **CHAPTER 5 COMMUNICATIONS**

#### **5.01 Overview**

Perhaps the most fundamental role of a Councilmember is communication. This is essential to engage with the public to assess community opinions and needs, and to share the vision and goals of the City with constituents. In addition, connection with the staff provides policy direction and assists in understanding the implications of various policy alternatives.

Because the City Council performs as a body, based on the will of the majority as opposed to individuals, it is important that general guidelines be understood when speaking for the Council. Equally important, when members are expressing personal views and not those of the Council, the public must be advised.

#### **5.02 Councilmember Contact and Information**

A page on the City of Des Moines website will display information about each councilmember for community reference, which will include:

- A. A color photo
- B. A short biography/resume
- C. List of assignments or designations
- D. Phone number and email

### **5.03 Correspondence from Councilmembers**

Councilmembers are committed to open communications in their capacity as elected officials. Individual Councilmembers use a variety of methods to communicate with the public, stakeholders, partners, and the media. Social media platforms offer a way to deliver public information and customer service to constituents and give community members another means to interact with their government.

The purpose of this policy is to establish standards for Council communication with the public, when Councilmembers are acting in their official capacity or commenting on City government matters, either through traditional media outlets or the use of social media platforms or personal accounts or pages.

The Council believes that the following standards will provide consistency in procedures and allow for use of more tools to communicate with the public.

- A. The content and tenor of all public communications shall model the same professional behavior displayed during Council meetings and community meetings, and reflect well on the individual Councilmember, the Council as a whole, and the community.
- B. The following disclaimers shall be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums:
  1. The views expressed represent the views of the author and may not reflect the views of the City of Des Moines or the Des Moines City Council.
  2. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion or other action taken must be held in an open public meeting if a quorum of the Council participates.
  3. Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under chapter [42.56 RCW](#), the Public Records Act.
- C. Media outlets such as newspapers, radio and television news coverage may be used as communications medium by individual Councilmembers provided that the communication clearly states that the views expressed do not represent those of the City Council or the City of Des Moines, but the views of the individual Councilmember.
- D. Communications initiated by Councilmembers. Guest editorials, letters to the editor and blog posts published by Councilmembers should be provided to the full Council at the same time they are delivered to the media outlet. Drafts of guest editorials, letters to the editor or blog posts which may be submitted on behalf of the Council as opposed to an individual Councilmember may not be circulated for comment to a quorum of the Council prior to publication as this may violate the Open Public Meetings Act.
- E. Use of Social Media. Posts to social media sites such as, blogs, Facebook, and Twitter may be used by individual Councilmembers to communicate with the public provided the following guidelines are used:
  1. Blog posts or other posts to social media sites should include, or reference a link which includes the disclaimers listed in Section 5.03.B.
  2. Social media sites are not to be used for the conduct of Council business other than to informally communicate with the public. Public notices, items of legal or fiscal significance that have not been released to the public, and discussion of quasi-judicial matters may not be included in Councilmembers social media posts. Councilmembers are encouraged to maintain social media sites with settings that can restrict users' ability to comment in order to avoid inadvertent discussions of these items. Unsolicited public comments on quasi-

judicial matters must be placed on the record by the Councilmember at the time the matter is before the Council for consideration.

3. In order to demonstrate openness and a willingness to listen to the entire community, Councilmember posts on social media sites should be made through a public-facing page or by marking individual posts as available to the public as a whole.
  4. When commenting on a post or an article published by someone other than a Councilmember, a link to the standard disclaimers in Section 5.03.B should be included within the thread.
- F. If a Councilmember makes a factual error in a public communication, it should be corrected as soon as the error is discovered. Blog posts may be corrected by amending a previous post with a note that a correction was made.
- G. Councilmembers shall not take actions, in writing, speaking, or otherwise, outside the public meeting(s) that undermine the decisions of the body.
- H. Councilmembers may occasionally be asked to prepare letters of recommendation for students or others seeking employment or appointment. In this case, Councilmembers may request City letterhead and their Council titles for such letters, upon approval from the Mayor. City letterhead and staff support cannot be utilized for personal or political purposes.

#### **5.04 Council Representation**

To promote a favorable image of the City and pursue resources or relationships that will benefit the community, the Mayor, or another Councilmember designated by the Council, may take the lead in representing the City of Des Moines to other partners and representatives including, but not limited to; businesses, other local governments, regional agencies and organizations, and state, federal and international governments.

- A. Councilmembers shall not conduct communication or business in this manner without the authorization of the Administration or the City Council.
- B. Neither the Mayor, nor a Councilmember, can commit the City without authorization of a majority of the City Council.
- C. The Mayor, or another Councilmember designated by the City Council, shall be the spokesperson about actions taken by the Council. On behalf of the City Council, the Mayor or designated Councilmember may inform the public, media, and staff about issues affecting the community.

#### **5.05 State Public Disclosure Act**

The City Council is bound by State Public Records Act and City records policies. Please refer to Resolution No. 1185 [142.pdf \(civiclive.com\)](#)

#### **5.06 Open Public Meetings Act**

The City Council is bound the State Open Public Meetings Act. More information can be found at [Open Government Training | Washington State](#)

#### **5.07 Communication with the public**

- A. If a Councilmember receives communication from a member of the community conveying a concern, complaint, or administrative issue, the Councilmember shall not attempt to address it or resolve it individually but will refer that matter directly to the City Manager for their review and/or action. The individual Councilmember may request to be informed of the action or response made to the complaint.

B. Written Communications:

Letters, correspondence, and memoranda received by the City, addressed to a Councilmember or the Council as a body, shall be provided to all City Councilmembers.

C. E-mail:

1. If a community member sends an e-mail to a Councilmember and requests that it be included in the record of a particular public hearing, the Councilmember will forward said e-mail to the City Clerk.
2. If a Councilmember wishes that an e-mail be distributed to a City staff member, the Councilmember will forward said e-mail to the City Manager.
3. E-mail communications that are intended to be shared among four or more Councilmembers, whether concurrently or serially must be considered in light of the Open Public Meetings Act. If the intended purpose of the e-mail is to have a discussion that should be held at an open meeting, the electronic discussion may not occur. Further, the use of e-mail communication to form a collective decision of the Council is illegal.
4. E-mail should be used cautiously when seeking legal advice or if discussing matters of pending litigation or other "confidential" City business. In general, e-mail is discoverable in litigation, even deleted e-mail is not necessarily removed from the system, and councilmembers may not delete official email in violation of the Open Public meetings Act. Confidential e-mail communications should not be shared with individuals other than the intended recipients, or the attorney-client privilege protecting the document from disclosure may be waived:
  - a. E-mail between Councilmembers, and Councilmembers and staff shall not be transmitted to the public or news media unless a public disclosure request has first been filed with the City Clerk.
  - b. City email shall not be used for personal communication.

## **CHAPTER 6 CONFLICTS OF INTEREST, APPEARANCE OF FAIRNESS DOCTRINE, AND LIABILITY OF ELECTED OFFICIALS**

### **6.01 Conflicts of Interest**

In the course of conducting City business, it is essential that Councilmembers understand and are able to identify if and where they may have conflicts of interest. If there is ever a question, Councilmembers should consult with the City Attorney before the meeting at which the issue may be considered.

City Councilmembers are bound by the Conflict of Interest provisions of chapter [2.44 DMMC](#) as well as chapter [42.23 RCW](#).

### **6.02 Appearance of Fairness Doctrine**

Appearance of Fairness Doctrine and its Application.

- A. Appearance of Fairness Doctrine Defined. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." [Zehring v. Bellevue, 99 Wn.2d 488 \(1983\)](#).

B. Types of Hearings to Which Doctrine Applies. The appearance of Fairness Doctrine shall apply only to those actions of the Council which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents of the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [RCW 42.36.010](#). Some examples of quasi-judicial actions which may come before the Council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the Hearing Examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits. City staff is advised to notify the City Council upon receipt of an application or decision which will result in an action before the City Council that is quasi-judicial in nature.

C. Obligations of Councilmembers, Procedure.

1. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should disclose such facts to the City Manager who will seek the opinion of the City Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.

2. Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.
3. The Presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.
4. Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.



D. Specific Statutory Provisions.

1. Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. [RCW 42.36.040](#).
2. A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. [RCW 42.36.050](#).
3. During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. [RCW 42.36.060](#).

**6.03 Liability**

The City must always approach its responsibilities in a manner that reduces appropriate risk to all involved. Nevertheless, with such a wide variety of high profile services (i.e., police, parks, roads, land use), risk cannot be eliminated. To better manage insurance and risk, the City participates in risk- and loss-control activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in the member being personally liable for damages which would not be covered by the City's insurance.

[DMMC 2.24.030](#) identified the exclusions to insurance coverage as follows:

The obligations assumed under this chapter by the city and the city attorney shall not apply to:

- A. Any dishonest, fraudulent, criminal, or malicious act of any official or employee;
- B. Any act of an official or employee which is not performed on behalf of the city;
- C. Any act which is outside the scope of an official's or employee's service or employment with the city; or
- D. Any lawsuit brought by or on behalf of the city.

The determination of whether an official or employee is entitled to a defense by the City under shall be made by the City Attorney. There shall be no appeal from such determination, except to the superior court by means of an action for declaratory judgment.

For more information, see [Chapter 2.24 DMMC](#).

**CHAPTER 7  
INTERACTION WITH CITY STAFF/OFFICIALS**

**7.01 Overview**

City Council policy is implemented through dedicated and professional staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so policies and programs may be implemented successfully. To support effective relationships, it is important that roles are clearly recognized.

The employment relationship between the City Council and City Manager honors the fact that the City Manager is the chief executive of the City. All dealings with the City Manager, whether in public or private, should respect the authority of the City Manager in administrative matters.

#### **7.02 City Manager Performance Evaluation**

In accordance with [DMMC 2.04.050](#), all members of the City Council will be required to participate in a review of the City Manager.

Prior to the process, the City Attorney will distribute evaluation forms to all Councilmembers for review, completion, and return within 14 days of receipt. The forms will be collated into one document for review before the evaluation date.

The members of the Council will use the collated document to review the City Manager during Executive Session.

#### **7.03 City Council/City Clerk Relationship**

The City Clerk is appointed by the City Manager. The City Clerk shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council

#### **7.04 City Council/City Attorney Relationship**

The City Attorney is the legal advisor for the Council, its committees, commissions and boards, the City Manager, and all City officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the City.

It is important to note that the City Attorney does not represent, or advise, individual members of Council, but rather the City Council as a whole.

#### **7.05 Non-Interference**

In accordance with [RCW 35A.13.120](#), the City Council is to work through the City Manager when dealing with administrative services of the City. In no manner, either directly or indirectly, shall a Councilmember become involved in, or attempt to influence or criticize personnel matters or individual staff members, who are under the direction of the City Manager.

Any criticism of staff by Councilmembers shall be directed to the City Manager. It is inappropriate and unethical for Councilmembers to publicly criticize individual staff members.

Individual Councilmembers may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities. Following this RCW is necessary in order to protect staff from undue influence and pressure from individual Councilmembers, and to allow staff to execute priorities given by management and the Council as a whole without fear of reprisal.

The City Council shall not be involved in, or influence, the purchase of any supplies beyond the requirements of the City procurement code/procedures.

If a Councilmember wishes to influence the actions, decisions, recommendations, or priorities of staff, that member must prevail upon the Council to do so as a matter of Council policy

#### **7.06 Access to Information**

The City Manager is the information liaison between Council and City staff. Requests for information from Councilmembers are to be directed to the City Manager. The information requested will be copied to all members of Council so that each member may be equally informed.

There are limited restrictions when information cannot be provided. The City is legally bound to protect certain confidential personnel information. Likewise, certain aspects of police department affairs (i.e., access to restrict or confidential information related to crimes) may not be available to members of the City Council.

No Councilmember shall request or direct the City Manager or Department Directors to initiate any action or prepare any report, or initiate any project or study without the consent of a majority of the Council.

The full City Council retains the authority to accept, reject, or amend the staff recommendation on policy matters.

#### **7.07 Staff Roles**

The Council recognizes the primary functions of staff as executing Council policy and actions taken by the Council. Staff is directed to reject any attempts of individual Councilmembers to unduly direct or otherwise pressure them into making, changing, or otherwise influencing recommendations.

#### **7.08 Councilmember Relationship with Staff**

Staff support and assistance may be provided to advisory boards, commissions, and task forces. Advisory bodies, however, do not have supervisory authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and, ultimately, the City Manager.

When Councilmembers are acting as Liaisons they shall not direct staff.

### **CHAPTER 8 CITY COUNCIL MEETINGS**

The City Council's collective policy and law-making powers are put into action exclusively at the council meetings. It is here that the Council conducts its business. The opportunity for community members to be heard, the availability of local officials to the public, and the openness of council meetings all lend themselves to the essential democratic nature of local government.

#### **8.01 Meeting Schedule**

Council business meetings are generally held the first, second, and fourth Thursdays of each month, convening at 6:00 p.m., in the Council Chambers at Des Moines City Hall, 21630 11<sup>th</sup> Ave S, Suite C, Des Moines WA, 98198. The first Thursday is intended to be reserved as a study session.

If Council Meetings are moved to alternate location or conducted remotely they will be noticed publicly at least 24 hours in advance in accordance with the State law.

#### **8.02 Public Notice of Meetings and Hearings**

Pursuant to [RCW 35.22.288](#), cities are charged with establishing a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. The procedure followed by the City of Des Moines is as follows:

- A. Open to the Public:  
All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in [RCW 42.30.110](#) or [RCW 42.30.140](#).
- B. Notices of Public Hearing:  
Except where a specific means of notifying the public of a public hearing is otherwise provided by law or ordinance, notice of upcoming public hearings before the City Council shall be given by public notice containing the time, place, date, subject, and body before whom the hearing is to be held, using the City's official notification process at least ten (10) days before the date set for the hearing.
- C. Preliminary Agenda of Council Meeting:  
The public shall be notified of the preliminary agenda for the forthcoming regular City Council meeting by posting a copy of the agenda in the following public places in the City at least 24 hours in advance of the meeting:

Des Moines City Hall  
21630 11<sup>th</sup> Ave So  
Des Moines, WA 98198  
Website: The City's Official Website: [desmoineswa.gov](http://desmoineswa.gov)  
Des Moines Libraries  
Des Moines Marina  
Redondo

### **8.03 Special Meetings**

It is the intent of the Des Moines City Council that the procedures of this Council Rule 8.03 are enforceable to the same extent as [RCW 42.30.080](#), as the City's implementation of the Open Public Meetings Act special meeting requirements set forth at [RCW 42.30.080](#). Procedures for setting a special meeting are as follows:

- A. A special meeting may be called by the Mayor or any four members of the Council.
- B. Notice of the special meeting shall be prepared in writing. The notice shall contain the following information about the meeting: time, place, duration of meeting, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Special Council Meeting, except in case of an emergency.
- C. The notice shall be posted on the City's website and Councilmembers will be notified via email of the special meeting. The notice must be delivered at least twenty-four (24) hours prior to the meeting.
- D. When email notice is given to Councilmembers, the City Clerk shall provide confirming follow up of such email notice by making a personal telephone call directly to each Councilmember who has not acknowledged receipt of the email. The City Clerk shall document the date and time of such follow up telephone call.
- E. The notices provided in this section may be dispensed within the circumstances provided by [RCW 42.30.080](#).

#### **8.04 Placing Items on the Agenda**

The Presiding Officer, three Councilmembers, or the City Manager may introduce a new item to the preliminary agenda.

The Presiding Officer shall have the option of postponing any item on the agenda until the next regular Council meeting, unless it was introduced by three Councilmembers.

The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the Council.

After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Regular Council Meeting, except in case of an emergency.

Emergency items may be added to an agenda in accordance with state law.

#### **8.05 Recording and Broadcast of Meetings**

The City Clerk, or designee, shall make and keep audio recordings of all standing committee and business meetings of the Des Moines City Council, except those meetings or portions of meetings conducted in Executive Session.

Recordings and related records of all City Council meetings, except as referenced above, shall be retained by the City in accordance with the Washington State Records Retention Schedule.

All public meetings of a quorum of the City Council not exempt from the Open Public Meetings Act held in the Des Moines City Hall at 21630 11th Avenue South should be video recorded and broadcast within the City.

#### **8.06 Order of Business – Regular Meetings**

The City Council, by adoption of this manual, establishes the general order of meetings. This section details the order of meeting components and gives direction for their conduct. The Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

The components of business and their order are as follows:

- A. Call to Order and Pledge of Allegiance
- B. Roll Call
- C. Correspondence not Previously Received by Council
- D. Comments from the Public
- E. Committee Chair Reports
- F. City Manager Report/Presentations/Briefings
- G. Consent Agenda
- H. Ceremonial Matters, Proclamations (reading)
- I. Public Hearings
- J. Unfinished Business
- K. New Business
- L. New Agenda Items for Consideration
- M. Councilmember Reports
- N. Presiding Officer's Report
- O. Executive Session (as required)
- P. Next Meeting Date

Q. Adjournment

Conduct of Business:

A. Call to Order/Pledge

B. Roll Call:

1. (For procedure to excuse an absence see 8.09.E)

C. Correspondence not previously received by Council.

D. Comments from the Public:

Public Comments are encouraged and appreciated. All Public Comment will be recorded and become part of the Public Record, which is available to the Public on the City website. Public comment is provided as an informational and educational tool for the Council. The information and advice received from citizens helps the City Council make the best possible decisions. Public comment is for the benefit of the Council, and is not provided as an opportunity to speak to, inform, or educate the community.

The following rules have been established in order to ensure that all individuals wishing to address the City Council are fairly heard:

1. The following language will be added to the published agenda under Public Comment: "During this item, the Presiding Officer will invite public comment. Those testifying or providing public comment will be limited to three minutes. Citizens representing a group will be allowed up to five minutes to speak. No speaker may convey or donate their time for speaking time to another speaker.
2. Persons wishing to address the Council, who are not specifically scheduled on the agenda shall first fill out a sign-in sheet, stating their name, City of residence, and public comment topic, and the sign-in sheet shall be submitted to the City Clerk prior to the start of Public Comment.
3. Citizens who have signed in will be invited by the Presiding Officer to the podium. Speakers will first state their name and City of residence and be allowed three minutes to speak.
4. Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated podium and addressed to the Council as a body, and not to individual members, the audience, or the cameras.
5. No person other than the Council and the person having the floor will be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer.
6. The Presiding Officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude their remarks. All speakers are encouraged to submit supplemental or detailed written remarks for Council consideration.
7. Public comments with regard to subjects of a Public Hearing must be made during the Public Hearing portion of the meeting. If information pertaining to a public hearing is presented during the general comment period, the speaker will be ruled, "Out of Order" by the Presiding Officer and asked to save their comments for the Public Hearing.
8. Any person or speaker who engages in behavior that disrupts the meeting so that it may not continue may be ordered to leave the meeting. The Presiding Officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disrupting the meeting and to enforce these rules.
9. At the pleasure of the Presiding Officer or by a motion and agreement of a Council majority, following a public comment, a matter may be placed on a future agenda, or be referred to the administration or a council committee for investigation and report. A vote of a Council majority may also overrule the decision of the Presiding Officer in this

case.

10. Residents are encouraged to supplement correspondence through written submittals. Written correspondence may be submitted to the Council at any time by email, [citycouncil@desmoineswa.gov](mailto:citycouncil@desmoineswa.gov) or mailing or otherwise delivering to the City Clerk, 21630 11<sup>th</sup> Ave So, Des Moines, WA 98198. A copy of all correspondence will be distributed to each Councilmember and will be made part of the public record, but will not be read aloud.

E. Committee Chair Reports:

This is a three-minute opportunity for Chairs of standing committees of the Council to update the Council on Board and committee activities, work plans, and other items of interest.

F. City Manager Report/Presentations/Briefings:

The City Manager's report is an opportunity for the City Manager to brief the Council on the progress or plans with regard to items, projects, issues, relationships, or events of significant interest.

G. Consent Agenda:

The City Manager, in consultation with the Presiding Officer, shall place matters on the Consent Agenda which are considered to be of a routine and non-controversial nature. The individual items on the consent agenda shall be approved, adopted, or enacted by one motion of the Council. Any item may be removed from the Consent Agenda on the request of a single Councilmember. It will be considered at its regular place in the agenda OR It will be considered immediately after the Consent Agenda.

No discussion shall take place regarding any item on the consent agenda beyond asking questions for simple clarification.

H. Ceremonial Matters, Proclamations, Recognitions:

1. Proclamations:

The Mayor and the Council have authority to introduce proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council.

I. Public Hearings – The procedures of a public hearing are as follows:

1. Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the Clerk, giving their names City of residence, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the Council, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).
2. The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting:
  1. All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name

and city of residence. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here.

2. It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent
  3. No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting.
  4. There will be no demonstrations during or at the conclusion of anyone's presentation
  5. These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and that every individual who speaks can do so without ridicule or intimidation. to ensure that no individual is embarrassed by exercising their right of free speech.
- 3.
1. When Council conducts a hearing to which the Appearance of Fairness Doctrine applies (Rule 6.2, and Parliamentary Procedure 11.06B) the Presiding Officer will ask if any Councilmember knows of any reason which would require such member to excuse themselves pursuant to Rule 6.2. The suggested form of the announcement is as follows:  
"All Councilmembers should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Councilmember should answer in the affirmative, then the Councilmember should state the reason for their answer at this time so that the Chair may inquire of Administration as to whether a violation of the Appearance of Fairness Doctrine exists."
  - b. When Council conducts a "quasi-judicial" hearing, the Presiding Officer may require that all persons wishing to provide testimony during the course of such hearing provide an oath, on the record, affirming the truth of their testimony. The suggested form and process for such oath is as follows:  
"The Presiding Officer asks all possible speakers to raise their right hand, asks such individuals to consider the following question and respond "I do", and inquires:  
"Do you affirm under penalty of perjury under the laws of the State of Washington that the testimony you are about to provide is true and accurate to the best of your knowledge?"
  4. At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will call upon City Administration to describe the matter under consideration, including legal standards for approval of the item before the Council, and ask the parties to limit their presentations to information within the scope of the Council standards.
  5. The Presiding Officer calls for proponents in quasi-judicial proceedings (and for speakers in non-quasi-judicial proceedings).
  6. The proponents now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).
  7. The Presiding Officer calls for additional proponents or speakers three times.
  8. In non-quasi-judicial proceedings refer to Public Hearing Rule 10a, otherwise the Presiding Officer calls for opponents by announcing the following:  
"At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation.



The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."

9. Opponents speak.
10. The Presiding Officer calls for additional opponents three times.
11. The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.
12. The Presiding Officer announces:  
"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."
13. The Presiding Officer inquires as to whether any Councilmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Councilmember has questions, the appropriate individual will be recalled to the podium.
14. The Presiding Officer closes the public hearing.
15. After a public hearing is closed, no member of the public shall be permitted to address the Council or the staff. In fairness to members of the public, the City Council shall be considered to be in deliberations from that point forward. Continuance of the item shall place it on the "unfinished business" portion of any forthcoming agenda. Additional public testimony either that evening or at a future meeting would be precluded until public hearing notification procedures required by the Des Moines Municipal Code are concluded.
16. The Presiding Officer inquires if there is a motion by any Councilmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Councilmembers. The Presiding Officer may call on individual Councilmembers in the discussion.
17. The Presiding Officer inquires if there is any further discussion by the Councilmembers.
18. The Presiding Officer inquires if there are any final comments or recommendations from administration.
19. The Presiding Officer inquires of the Councilmembers as to whether they are ready for the question.
20. The Clerk shall conduct a roll call vote.
21. The Presiding Officer directs administration to prepare findings consistent with the action.

J. Unfinished Business.

K. New Business - The following are types of business conducted by the City Council:

1. Ordinances, Resolutions, Proclamations, Contracts:  
All Ordinances, Resolutions, Proclamations and Contracts shall, before presentation to the Council, have been approved as to form and legality by the City Attorney, the applicable Department Head(s), and the City Manager.
2. Draft Preparation:  
Ordinances and resolutions shall be prepared by the City Attorney and presented to the full Council for consideration. Prior to final passage of all ordinances, resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:
  1. Proposed Drafts shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the City Council where a vote is taken directing some official action

or further consideration.

2. Council Drafts shall be documents or proposals which have been presented in open session and voted on by the City Council when the resultant Council action was other than passage or a vote to cease further consideration.
  3. Ordinances:

An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance as required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. If a Councilmember requests that the entire ordinance, certain sections, or the title be read, such requests shall be granted.
  4. Resolutions:

An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution as required by law and in those instances where an expression of policy more formal than a motion is desired.
  5. The title of each resolution shall in all cases be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.
  6. Contracts:

Refer to Addendum B, [Resolution No. 1118](#), policies governing City Council participation in public contracts.
  7. Motions:

A motion is a formal procedure for taking action. To make a motion, a Councilmember must first be recognized by the Mayor.
- L. New Agenda Items for Consideration:  
This portion of the meeting allows a Councilmember to present an idea to their colleagues for consideration in placing the item on a future agenda:
1. A presenter should come to the dais prepared with research and answers to questions, and offer a specific, concise request.
  2. It is not a time for discussion, deliberation, presentation, or research – other than the minimum amount of information necessary to gain needed support.
  3. A minimum of three Councilmembers must agree in order for the item introduced to be placed on a future agenda.
- M. Councilmember Reports:  
This is an opportunity for Councilmembers to comment on agenda items and update each other regarding community events, activities, or notable regional issues:
1. Reports shall be limited to four minutes, unless extended time is granted by the Presiding Officer. The Presiding Officer shall notify the Councilmember when the allotted time has expired.  
Discussion or voting during this time will not be considered a part of their time limit.
- N. Presiding Officer's Report:  
In addition to any special board or committee reports, the Presiding Officer may give a report on any activity participated in as part of the official duties of the Mayor.
- O. Executive Session (as needed):  
At the call of the presiding officer, or with a majority vote, the City Council may recess to Executive Session to privately discuss and consider matters of confidential concern to the well-being of the City. The purposes for which an Executive Session or Closed Session may

be held are identified in [RCW 42.30.110](#) and [RCW 42.30.140](#).

The City Council may also hold an Executive Session to receive confidential advice from the City Attorney under the attorney-client privilege.

Before convening in Executive Session or Closed Session, the presiding officer shall publicly announce the purpose for excluding the public from the meeting place, and the time when the Executive Session/Closed Session will be concluded. An Executive Session/Closed Session may be extended to a stated later time by announcement of the Presiding Officer.

Participants in an executive session have a duty under the Open Public Meetings Act to keep information from the session confidential, Pursuant to Attorney General Opinion ([AGO 2017 No. 5](#)), disclosure of confidential information from an executive session by a municipal officer violates [RCW 42.23.070\(4\)](#) and accordingly may result in the sanction or censure of the violating party.

- P. Next meeting date announced by Presiding Officer.
- Q. Adjournment. No meeting shall be permitted to continue beyond 9:00 p.m. without approval of three-fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 9:00 PM, the items not acted on shall be deferred to the next regular Council meeting as unfinished business, unless the Council, by a majority vote of members present, determines otherwise.

#### **8.07 Order of Business - Study Sessions**

The study session is the forum used by Council to review forthcoming programs of the City, to receive progress reports on current issues, or to receive similar information from the City Manager and others. The purpose of Study Sessions is to allow Councilmembers to do concentrated preliminary work with administration on single subjects of time consuming, complex matters (i.e., budget, complex legislation or reports, research, etc.)

Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. These conditions will allow the Councilmembers to communicate informally about these impending issues. The Presiding Officer retains the option of assuming the function of the Moderator in order to keep the discussion properly focused.

No final Council action on ordinances or resolutions may be taken during a Study Session.

- A. In Preparation for a Study Session, the City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall contain the Discussion Item.
- B. After the proposed Council Study Session worksheet has been approved by the Presiding Officer, a copy of it along with any available supporting materials shall be prepared for Councilmembers, and the meeting will be noticed by close of business Friday prior to the Council Study Session, except in an emergency.
- C. During a Study Session, the Moderator may:
  - 1. Introduce and give background information
  - 2. Identify the discussion goal
  - 3. Act as facilitator to keep the discussion focused
  - 4. Alert the Presiding Officer when/if it is appropriate to call for a motion or other official

direction of the Council

#### **8.08 Order of Business – General Procedures**

A. Forms of Address:

The Mayor shall be addressed as "Mayor (surname)." The Deputy Mayor shall be addressed as "Deputy Mayor (surname)." Members of the Council shall be addressed as "Councilmember (surname)."

B. Seating Arrangement of the Council:

Councilmembers shall occupy the respective seats in the Council Chamber assigned to them by the Mayor.

C. Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions and other documents which have been adopted by the City Council and require an official signature; except when the City Manager has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Deputy Mayor may sign such documents.

D. Quorum:

At all meetings of the Council, four Councilmembers who are present and eligible to vote shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted in accordance with RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered a regular meeting for all purposes.

E. Attendance:

[RCW 35A.12.060](#) provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or City Clerk, who shall convey the message to the Presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes.

F. Remote Attendance:

A Councilmember may participate remotely in all or part of a Council meeting because of an unanticipated event that prevents a Councilmember from attending in person through no fault of their own. In order to receive compensation for a meeting, a formal recognition of remote attendance must be granted by the Mayor or Presiding Officer.

If the basis for the remote participation is due to the Councilmember attending to City business in another capacity, the Councilmember shall be considered physically present for the purposes of [DMMC 4.08.020](#).

In the event that the Mayor seeks to attend a meeting remotely, the Mayor shall seek prior approval from the Deputy Mayor. If approval is granted, the Deputy Mayor shall act as the Presiding Officer for the meeting.

When participating remotely:

1. A Councilmember must be able to be heard.
2. The Councilmember shall have reviewed all of the applicable material and participated in the relevant portion of the Council Meeting related to the topic of the vote. Any technical prohibitions or difficulties that prevent all parties present at the Council Meeting from adequately communicating, will negate any authorization previously given by the Mayor.
3. The remote participant shall notify the Presiding Officer if they are about to disconnect participation.
4. A remote appearance shall count toward a quorum of the Council for all purposes and shall entitle the Councilmember to vote.

G. Minutes:

The City Clerk or designee shall take minutes at all meetings of the City Council. The minutes shall be made available for public inspection.

H. Voting:

Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice or by raise of hand as requested by the Presiding Officer. A roll call vote shall be taken by the Clerk at the request of a Councilmember. The order of the roll call vote shall be determined by the Presiding Officer:

1. Vote requirements include:
  - a. Majority of the fixed membership of the Council (4 votes)
  - b. Two-thirds of the fixed membership of the Council (5 votes)
  - c. Minimum of a majority of members present and voting (if 4 or 5 members present and voting, this is 3. If 6 or 7 members present and voting, this is 4).
2. In case of a tie in votes on any proposal, the proposal shall be considered lost.
3. Every member who was in the Council chambers when the question was put, shall give their vote unless the Councilmember excuses themselves in accordance with Rule 15. If any unexcused Councilmember remains silent, they shall be listed in the record as "abstain."
4. Reconsideration of an item will be taken up by a majority vote of members present and voting. A member of the prevailing side must make a motion for reconsideration after the previous vote was taken, and it can be made no later than the next regular meeting after which the previous vote was taken.
5. The passage of any ordinance, grant or revocation of franchise or license, any resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the fixed membership of the Council (four votes)
6. The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency such as a budget amendment shall require the affirmative vote of at least two-thirds of the fixed membership of the Council (five votes).
7. Only those ordinances, resolutions, or motions that receive an affirmative vote by the majority of members present and voting shall be passed or become effective unless other voting requirements are provided by Washington State law, DMMC, or this Resolution as amended.
8. In order for an ordinance or resolution to become effective immediately, the City Council must declare that an emergency exists and approve the ordinance or resolution by the affirmative vote of two-thirds of the fixed membership of the Council (five votes). (See Chapter 8.G.10E).

**8.09 Open Public Meetings Act**

- A. The Des Moines City Council will comply with all state and federal law in the notice, conduct,

recording, storage and dissemination of meetings and associated information.

B. Actions:

No legal action can be taken by the Council except in a public meeting. At a *Special Meeting*, action can be taken only on those items appearing on the posted agenda, except for emergency items. At a Regular Meeting of the City Council, the Council is free to take action on non-agenda items, subject to applicable notice requirements in state statutes or local ordinances for the subject matter being considered.

## **CHAPTER 9 PROTOCOL ADMINISTRATION**

### **9.01 Biennial Review**

The City Council will review and revise the City Council Protocol Manual every two years, or as needed.

If needed, an Ad Hoc committee may be appointed by the Mayor for the purpose of review and advice to the Council.

### **9.02 Adherence to Protocol**

- A. Each Councilmember shall have the duty and obligation to review this Protocol Manual and understand to be bound by its provisions.
- B. The Mayor will be primarily responsible to ensure that the City Council, staff, and members of the public adhere to the Council's adopted Protocol Manual.
- C. Knowing and/or willful failure to adhere to the provisions of this Protocol Manual may subject a Councilmember to enforcement and sanctions as follows:
  1. Upon determining that there is credible evidence that a Councilmember has, or may have, engaged in knowing and/or willful action or omission that constitutes failure to adhere to the provisions of this Protocol Manual, the Mayor or the Deputy Mayor, in the event that the Mayor is the Councilmember alleged to have engaged in such action or omission, may call upon the Council to determine whether such knowing and/or willful action or omission has occurred, and the sanctions, if any, to be imposed.
  2. Prior to conducting any hearing on an alleged failure to adhere to the provisions of this Protocol Manual, the Mayor or Deputy Mayor shall provide written notice to the Councilmember alleged to have engaged in such failure to adhere at least ten (10) calendar days prior to calling for such hearing. The written notice shall identify the specific provisions of this Protocol Manual with which the Councilmember is alleged to have failed to adhere and the facts supporting such allegation.
  3. Upon call by the Mayor or Deputy Mayor, a majority of the Council shall vote on whether to hold a hearing to determine the existence of an act or omission constituting a failure to adhere and the sanctions, if any, to be imposed. If such hearing is approved by the Council, the hearing shall be held at a time and place specified in the motion approving such hearing.
  4. At such hearing, the Council shall determine whether there is a preponderance of credible and substantial evidence indicating that a Councilmember has knowingly and/or willfully acted or failed to act in a manner constituting a failure to adhere to the provisions of this Protocol Manual. The Councilmember alleged to have failed to adhere to the provisions of this Protocol Manual shall have the right to present evidence and testimony. The finding of the existence of such knowing and/or willful failure to adhere shall be determined by motion approved by a majority of the Council.
  5. Upon finding that a knowing and/or willful failure to adhere to the provisions of this

Protocol Manual has occurred, the Council shall proceed to determine whether the sanctions, if any, should be imposed. Such breaches include, but are not limited to:

- a. Failure to observe respectful rules of discussion
- b. Creating disruption at the dais
- c. Breaching confidentiality of executive session
- d. Failing to observe ethics guidelines
- e. Taking action outside the board meeting which undermines the body.
- f. Appropriate sanctions include, but are not limited to the following:
  1. Verbal warning
  2. Written warning
  3. Public censure
  4. Removal of appointment to extra-territorial boards, committees, or commissions;  
and
  5. Removal of appointment to Council boards or committees

### **9.03 City Attorney as Protocol Advisor**

The City Attorney shall assist the Mayor and serve as an advisor for interpreting the City Council's adopted Protocol Manual.

## **CHAPTER 10 LEAVING OFFICE/FILLING VACANCIES**

### **10.01 Return of Materials and Equipment**

During their service on the City Council, members may have acquired or been provided equipment such as computers, cell phone or other items of significant value. These items are to be returned to the City at the conclusion of a member's term. If an item is lost or unable to be returned, the Councilmember will reimburse the City for the current value of the item.

### **10.02 Filling Council Vacancies**

The purpose of this section is to provide guidance to the City Council when a Des Moines Councilmember position becomes vacant before the expiration of the official's elected term of office. Pursuant to state law, a vacancy shall be filled only until the next regular municipal election, to serve the remainder of the unexpired term.

#### **A. References**

[RCW 42.30.110 \(H\)](#) – Executive Session Allowed to Consider Qualifications of a Candidate for Appointment to Elective office.

[RCW 42.30.060](#) – Prohibition on Secret Ballots.

[RCW 42.12](#) – Vacant Position.

[RCW 35A.13.020](#) – Vacancies – Filling of Vacancies in Council/Manager Form of Government:

1. A Council position shall be officially declared vacant upon the occurrence of any of the causes of vacancy set forth in [RCW 42.12.010](#), and [RCW 35A.13.020](#), including resignation, recall, forfeiture, written or public statement of intent to resign, or death of a Councilmember. The Councilmember who is vacating their position is not allowed to participate in the appointment process.
2. In order to fill the vacancy with the most qualified person available until an election is held, the City Council shall direct staff to begin the Councilmember appointment process and establish an interview and appointment schedule, so that the position is filled at the earliest opportunity:

- a. The City Clerk's Office shall prepare and distribute a public notice as required. This notice shall contain information, including but not limited to, time to be served in the vacant position, election information, salary information, Councilmember powers and duties, the deadline date and time for submitting applications, interview and appointment schedules, and such other information that the City Council deems appropriate.
  - b. The City Clerk's Office shall prepare an application form which requests appropriate information for City Council consideration of the applicants. Applications will be available at City of Des Moines offices and on the City's official website.
  - c. Applications and any attachments received by the deadline date and time will be distributed by the City Clerk's Office, to the Mayor and City Council.
  - d. The City Clerk's Office shall publish the required public notice(s) for the meeting scheduled for interviewing applicants for consideration to the vacant position. This meeting may be a regularly scheduled City Council meeting, or a special City Council meeting.
  - e. The City Clerk's Office shall notify applicants of the location, date and time of City Council interviews, and include instructions about how the interview process will be conducted.
3. Interview Process:  
The Interview process will be determined by a vote of the majority of the Council.
4. Voting:  
Upon completion of the interviews, Councilmembers may convene into Executive Session to discuss the qualifications of the applicants. However, all interviews, deliberations, nominations and votes taken by the Council shall be in open public session:
- a. The Mayor shall ask for nominations from the Councilmembers for the purpose of creating a group of candidates to consider. No second is needed.
  - b. Nominations are closed by a motion, second and majority vote of the Council.
  - c. Councilmembers may deliberate on such matters as criteria for selection and the nominated group of candidates.
  - d. The Mayor shall poll Councilmembers to ascertain that Councilmembers are prepared to vote.
  - e. The City Clerk shall proceed with a roll-call vote.
  - f. Elections will continue until a nominee receives a majority vote of the remaining Councilmembers.
  - g. At any time during the election process, the City Council may postpone elections until a date certain or regular meeting if a majority vote has not been received.
  - h. Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.
  - i. The Mayor shall declare the nominee receiving the majority vote as the new Councilmember and shall be sworn into office by the City Clerk at the earliest opportunity or no later than the next regularly scheduled City Council meeting.
  - j. If the City Council does not appoint a qualified person to fill the vacancy within 90 days of the declared vacancy, the Revised Code of Washington delegates appointment powers to King County.



**CHAPTER 11  
PARLIAMENTARY PROCEDURES**

**Rules of Order not specified by statute, Ordinance or Resolution shall be governed by the most recent edition of *Robert's Rules of Order Newly Revised*.**

**All items of business placed before the Council that require the expenditure of Council and/or administration resources, shall be in the form of an affirmative motion.**

**11.01 Meeting Decorum and Order**

- A. The presiding officer shall preserve decorum and decide all questions of order, subject to appeal by the Council. During Council meetings, Councilmembers shall preserve order and decorum and shall not delay or interrupt the proceedings or refuse to obey the orders of the chair or the rules of protocol.
  
- B. **Courtesy:** Members of the Council, in the discussion, comments or debate of any matter or issue, shall be courteous in the language and demeanor, and shall not engage in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall, at all times, confine their remarks to those facts which are germane and relevant as determined by the Presiding Officer, to the question or matter under discussion.

**Interruption:** No member of the Council shall interrupt or argue with any other member while such a member has the floor

- C. The City of Des Moines is committed to maintaining a drug and alcohol free workplace. Accordingly, members of the Council shall abide by Sections 6(1) and (6)(J)(I) of the City of Des Moines Personnel Manual while serving at the dais.

Any Councilmember may request the presiding officer to enforce the rules of protocol by using the motion "Point of Order." The Presiding Officer rules on whether the Point of Order is well-taken or not. Any Councilmember may appeal the Presiding Officer's ruling. The Council will decide whether to sustain or overrule the Presiding Officer's ruling by majority vote. The Presiding Officer may vote on the appeal. A tie vote sustains the Presiding Officer's decision.

- D. **Dress Code:** For Council Business meetings, Councilmembers shall adhere to a business casual attire and no hats allowed.

**11.02 Obtaining the Floor**

A Councilmember shall address or signal the presiding officer and gain recognition prior to making a motion or engaging in debate. Cross-exchange between Councilmembers and the public should be avoided. This is to prevent general conversation and to keep the order necessary to maintain decorum and accomplish the business of the Council.

After a member has concluded comments and yielded the floor, if two or more members are trying to obtain the floor at the same time, the general rule is that the person who addresses or signals the chair first is entitled to be recognized. When a motion is open to debate, however, there are two instances in which the presiding officer should assign the floor to a person who may not have been the first to address the chair. These are:

- A. The Councilmember who made the motion currently under debate is entitled to be recognized in preference to other members if that individual is claiming the floor and has not already spoken on the question.

- B. No member is entitled to the floor a second time in the meeting on the same motion as long as another member who has not spoken on the motion desires the floor.

### **11.03 Interruptions**

Once recognized, a Councilmember should not be interrupted while speaking, except when another member makes a point of order. If a Councilmember is called to order while speaking, the individual shall cease speaking until the question order is determined.

Upon being recognized by the presiding officer, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the presiding officer.

### **11.04 Discussion Limit**

- A. Councilmembers should not speak more than once on a particular subject until every other Councilmember has had the opportunity to speak. No member of the Council shall speak more than twice on the same motion except by consent of the majority of the Council present.
- B. Questions and answers by the members of the Council are not considered as speaking to the motion.
- C. Each member of the Council shall speak for not more than five minutes per turn unless granted exception by a majority of the Council present.
- D. No member of the Council may give their allotted time to another member unless there is approval of the majority of the Council present.

### **11.05 Suspending the Rules**

A majority vote of members present and voting may suspend any provision of these meeting rules not governed by state law or ordinance without debate. The Councilmember moving the motion will state, "I move that we suspend the rules to [giving the purpose]." The Council may not suspend rules on fundamental principles of parliamentary procedure or those affecting the rights of individual members.

## **CHAPTER 12 ADDITIONAL TRAINING AND RESOURCE MATERIALS**

### **12.01 Association of Washington Cities [(800) 562-8981]**

<https://wacities.org/> The Association is a voluntary, nonpartisan, nonprofit association comprised of all incorporated cities and towns in Washington.

### **12.02 National League of Cities [(202) 626-3000]**

[www.nlc.org](http://www.nlc.org) A non-partisan organization serving municipal governments, the NLC works to establish unified policy positions, advocates those policies forcefully, and shares information that strengthens municipal government throughout the nation.

### **12.03 International City/County Management Association [(202) 289-4262]**

<https://icma.org/> ICMA is a professional and educational association of local government administrators that serves to enhance the quality of local government through professional management and to support and assist professional local government administration. The Association's *Elected Officials Handbook* series can be of great value to Councilmembers. Publications are also available through ICMA concerning every basic city service.

**12.04 Government Finance Officers Association [(312) 977-9700]**

[www.gfoa.org](http://www.gfoa.org) GFOA is a professional association of state and local finance officers. The Association administers a broad range of services and programs related to government financial management.

**12.05 Municipal Research & Services Center of Washington [(206) 625-1300]**

[www.mrsc.org](http://www.mrsc.org) MRSC is a nonprofit, independent organization created in 1969 to continue programs established in 1934 under the Bureau of Governmental Research at the University of Washington. One of the principal services of MRSC is to respond to inquiries on virtually every facet of local government.

Following is the current Rules of Procedure for the City of Des Moines. Notations have been inserted in order to create a reference tool for reviewing the draft Protocol Manual:

- Notations in **Red** refer to the sections of the draft Protocol Manual where the current Council Rule has been addressed or incorporated
- Additional notes have been provided for clarity – **in green**
- A few references may have changed during editing. If you have trouble finding a referenced rule, use the search feature in the draft document.
- Any errors or omissions are oversights and unintended.

# DES MOINES CITY COUNCIL

## RULES OF PROCEDURE



**Adopted Pursuant to DMMC 4.12.010**

Updated 7/89  
Updated 7/90  
Updated 10/90  
Updated 11/90  
Updated 8/91  
Updated 10/91  
Updated 12/91  
Updated 4/92

Updated 2/94  
Updated 3/94  
Updated 8/94  
Updated 6/95  
Updated 9/00  
Updated 5/03  
Updated 9/03  
Updated 8/04

Updated 4/05  
Updated 5/06  
Updated 1/11, Res. 1140  
Updated 4/12, Res. 1189  
Updated 2/17, Res. 1356  
Updated 2/18, Res. 1379  
Updated 11/19, Res. 1409

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**SECTION I  
COUNCIL MEETING - LOCATION**

**RULE 1.** (8.01) All meetings of the City Council shall be held at the location specified in DMMC 4.04.010. (Ord. 329 §1, 1973). *Virtual meetings are addressed in 8.01 as well*\_\_\_

**COUNCIL MEETING - TIME**

**RULE 2.** (8.01) The regular meetings of the City Council shall be held at the times specified in DMMC 4.04.020. (Ord. 1039 §1, 1993).

**COUNCIL MEETINGS - OPEN TO THE PUBLIC**

**RULE 3.** (8.02) All meetings of the City Council and of committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140. (Res. 525 §1, 1988).

**ELECTION OF OFFICERS**

**RULE 4.** Procedures for electing officers are as follows:

(a) (2.06.A) Biennially, at the first meeting of the new Council, the members thereof shall choose a Presiding Officer from their number who shall have the title of Mayor. In addition to the powers conferred upon him/her as Mayor, he/she shall continue to have all the rights, privileges and immunities of a member of the Council. If a permanent vacancy occurs in the Office of Mayor, the members of the Council at their next regular meeting shall select a Mayor from their number for the unexpired term. Following the election of the Mayor, there shall be an election for Deputy Mayor. The term of the Deputy Mayor shall run concurrently with that of the Mayor.

(b) (2.06.A) The election for Mayor shall be conducted by the City Clerk. The City Clerk shall call for nominations. Each member of the City Council shall be permitted to nominate one (1) person who has previously served on the Council for a minimum of two years, and nominations shall not require a second. A nominee who wishes to decline the nomination shall so state at this time. Nominations are then closed. The election for Deputy Mayor shall be conducted by the newly-elected Mayor, and nominations shall be made in the manner previously described for the election of the Mayor. Candidates for Deputy Mayor shall have previously served on the Council for a minimum of one year. The minimum experience condition for candidacy for Mayor or Deputy Mayor may be waived by the vote of five councilmembers.

(c) (2.06 B) Except when there is only one nominee, election shall be by written ballot. Each ballot shall contain the name of the Councilmember who cast it. Each ballot shall include the name of all Councilmembers nominated (unless they have withdrawn). Voting shall continue until a nominee receives a majority of the votes. The City Clerk shall publicly announce the results of the election by reading each ballot into the record, stating the name of each voting Councilmember and the manner in which the Councilmember voted. Thereafter, the City Clerk shall record in the minutes of the meeting the manner in which each voting member of the Council cast his or her ballot. *Paper ballots eliminate<sup>4</sup>*

(d) **(2.06 C)** In the event the Council is unable to agree on a Mayor by majority vote of members present, the Office of Mayor shall be temporarily filled by an Acting Mayor. The Acting Mayor shall be the Councilmember who just previously served as Mayor; or if such person is not a member of the Council, the Councilmember who just previously served as Deputy Mayor; or if such person is not a member of the Council, the Councilmember with the highest seniority as determined by the City Attorney. Ties shall be resolved in a contest by chance. The office of Acting Deputy Mayor shall be filled by the Councilmember who just previously served as Deputy Mayor; or if such person is not a member of the Council, by the Councilmember with the next highest seniority. The Acting Mayor and Acting Deputy Mayor shall continue in office and exercise such authority as is described in Chapter 35A.13 RCW until the members of the Council agree on a Mayor, at which time the Office of Acting Mayor and Acting Deputy Mayor shall cease and terminate. (Res. 525 §1, 1988, amended by Res. 594 §1, 1989, amended by Res. 672, 1991, amended by Res. 754 §1, 1994, amended by Res. 1140, 2011, amended by Res. 1189, 2012, amended by Res. 1356, 2017.)

## PRESIDING OFFICER

**Proposed:** More detail in description of Mayor, Deputy Mayor, City Manager and duties

**RULE 5.** **(2.03, 2.04, 2.05)** The Mayor shall preside at meetings of the Council, and be recognized as the head of the City for all ceremonial purposes. The Mayor shall have no regular administrative or executive duties. In case of the Mayor's absence or temporary disability the Deputy Mayor shall act as Mayor during the continuance of the absence. When the Deputy Mayor acts as Mayor by participating in preparation of a Council meeting agenda or study session worksheet, or by presiding at a meeting of the Council, the Deputy Mayor shall have authority only to approve the Council meeting agenda or study session worksheet as to form without introducing or deleting items of business, and to preside at the meeting by following the approved agenda or study session worksheet as written. In case of the absence or temporary disability of the Mayor and the Deputy Mayor, a Deputy Mayor selected by members of the Council shall act as Mayor during the continuance of the absences or disabilities. The Mayor, or Deputy Mayor, is referred to as "Presiding Officer" from time to time in these Rules of Procedure.

(a) **(8.06-Order of Business, 2.03, 5.04.C)** The Mayor and the Council have authority to introduce proclamations for a variety of purposes, as approved by the Council. No proclamation shall constitute official City actions unless approved or authorized by a majority of the City Council.

(b) **(5.04)** To promote a favorable image of the City and pursue resources that will benefit the community, the Mayor, or another Councilmember designated by the City Council, may take the lead in representing the Des Moines City Council to those from outside the community who are interested in joint ventures and efforts to bring economic development and investments to the City, including other local governments, regional organizations, and federal, state, and international government representatives. Neither the Mayor, nor a Councilmember, can commit the City without authorization of a majority of the City Co

(c) **(5.01, 5.03)** The Mayor, or another Councilmember designated by the City Council, is the spokesperson on actions taken by the Council. On behalf of the City Council, the Mayor or designated Councilmember may inform the public, media, and staff about issues affecting the community.

(Res. 525 §1, 1988, amended by Res. 961 §1, 2003, Res. 1140, 2011, amended by Res. 1356, 2017).

## QUORUM

**RULE 6. (8.05, 8.06.D – General Procedures)** At all meetings of the Council, four Councilmembers who are present and eligible to vote shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted on the exterior Council Chamber doors per RCW 42.30.090. Council meetings adjourned under the previous provision shall be considered a regular meeting for all purposes. (Res. 525 §1, 1988).

## ATTENDANCE, EXCUSED ABSENCES

**RULE 7. (8.08.E & F)** RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Presiding Officer prior to the meeting and state the reason for his/her inability to attend the meeting. If the member is unable to contact the Presiding Officer, the member shall contact the City Manager or City Clerk, who shall convey the message to the Presiding Officer. Following roll call, the Presiding Officer shall inform the Council of the member's absence, state the reason for such absence, and inquire if there is a motion to excuse the member. This motion shall be non-debatable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the Clerk will make an appropriate notation in the minutes. (Res. 525 §1, 1988).

## PARTICIPATION BY TELEPHONIC COMMUNICATION (8.08.F)

**RULE 7.1.** A Councilmember may participate telephonically in all or part of a Council meeting under the following conditions:

(1) Prior approval shall be given by the Mayor for good cause, whose approval shall not be unreasonably withheld.

(2) “Good Cause” is defined as:

(a) Medical reasons that prevent a Councilmember from attending the meeting in person.

(b) Family emergency.

(c) Unexpected travel.

(d) Additional unanticipated event that prevents a Councilmember from attending the meeting in person through no fault of the Councilmember.

(3) Telephonic participation for each Councilmember shall be limited to one (1) Council meetings in a calendar year.

(4) Telephonic participation shall be limited to one (1) Councilmember per meeting. Priority will be given to the first Councilmember to request prior approval and who

meets the requirements under this Rule.

(5) A Councilmember participating telephonically in the meeting must be able to hear and be heard.

(6) The Councilmember participating telephonically shall have reviewed all of the applicable material and participated in the relevant portion of the Council Meeting related to the topic to which the Councilmember is voting on. Any technical prohibitions or difficulties that prevent all parties present at the Council meeting from adequately communicating with one another will negate any authorization previously given by the Mayor.

(7) The Councilmember attending telephonically shall notify the Council if he or she is about to disconnect from the call.

(8) A Councilmember who is attending telephonically shall not be considered to be physically present at the meeting for the purposes of DMMC 4.08.020 unless the basis for the telephonic appearance is due to the Councilmember attending to City business in an official capacity. A telephonic appearance shall count toward a quorum of the Council for all purposes and shall also entitle the Councilmember to vote. A Councilmember voting telephonically may be polled separately to ensure their vote is tallied correctly.

(9) In the event the Mayor seeks to attend a meeting telephonically, the Mayor shall seek prior approval from the Deputy Mayor. If approval is granted, the Deputy Mayor shall act as the Presiding Officer for the meeting. (Res. 1356, 2017, amended by Res. 1409, 2019).

### **SPECIAL COUNCIL MEETINGS (8.03)**

**RULE 8.** It is the intent of the Des Moines City Council that the procedures of this Council Rule 8 are enforceable to the same extent as RCW 42.30.080, as the City's implementation of the Open Public Meetings Act special meeting requirements set forth at RCW 42.30.080. Procedures for setting a special meeting are as follows:

(a) A special meeting may be called by the Mayor or any four members of the Council.

(b) Notice of the special meeting shall be prepared in writing. The notice shall contain the following information about the meeting: time, place, duration of meeting, and business to be transacted. The notice shall be reviewed by the City Attorney for proper legal form. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Special Council Meeting, except in case of an emergency.

(c) (1) The notice shall be delivered by mail, by electronic mail to an address designated by the receiver of the email, or personally to each Councilmember, the City Manager, and the business office of each local newspaper and radio and television station which has on file a written request for notice of special meetings. The notice must be delivered at least twenty-four (24) hours prior to the meeting.

(2) When email notice is given to Councilmembers, the City Clerk shall provide

confirming follow up of such email notice by making a personal telephone call directly to each Councilmember who has made a standing written advance request to the City Clerk for such follow up telephone call. The City Clerk shall document the date and time of such follow up telephone call.

(d) The notices provided in this section may be dispensed within the circumstances provided by RCW 42.30.080; that is:

- (1) As to any member who at, or prior to the time the meeting convenes files with the Clerk a written waiver of notice,
- (2) As to any member who was actually present at the meeting at the time it convenes, and
- (3) In the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. (Res. 525 §1, 1988, amended by Res. 788, 1995, amended by Res. 1011, 2006, amended by Res. 1140, 2011, amended by Res. 1189, 2012, amended by Res. 1356, 2017, amended by Res. 1379 §1, 2018).

## COUNCIL MEETING AGENDA

### (8.04, 8.06.L – Development of Agenda)

**Also included clarity to include Mayor, City Manager and CMs roles as well as New Business Item on agenda)**

**RULE 9.** This rule specifies the method of preparation of a Council meeting agenda for meetings other than study sessions. The Presiding Officer, three (3) Councilmembers, or the City Manager may introduce a new item to the preliminary agenda. The Presiding Officer shall have the option of deleting any item, other than those items introduced by three (3) Councilmembers, from the preliminary agenda until the next regular Council meeting when the full Council shall vote on whether to introduce the item on the agenda for a subsequent Council meeting. The City Clerk, under the direction of the City Manager, shall arrange a list of such matters according to the order of business and prepare a preliminary agenda for the Council. After the preliminary agenda has been approved by the Presiding Officer, a copy of the agenda and supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Regular Council Meeting, except in case of an emergency. ~~Any Councilmember seeking to bring forward a new community event or project for consideration shall provide the details of the proposal to the City Clerk in written format, to include the estimated cost and staff time for the proposal. Once received by the City Clerk, the proposal can be placed on a preliminary agenda in accordance with the requirements of this Rule. (Res. 525 §1, 1988, amended by Res. 961 §2, 2003, amended by Res. 1140, 2011, amended by Res. 1409, 2019).~~ **This last segment was a good idea, but did not achieve its goal.**

S

**RULE 10. (8.07 Order of Business – Study Session)**

5

Regular Council meetings may be designated as Study Sessions by the Presiding Officer. Study Sessions will generally be held the first week of the month as needed. Study Sessions need have no formal agenda and may be conducted informally so long as such informality is not in conflict with these rules. Comments from the public, limited to the items of business on the Study Session agenda, may, at the discretion of the Presiding Officer, be allowed so long as the comments are in accordance with Council Rule 20(f). The purpose of Study Session discussions is to allow Councilmembers to be made aware of impending business and allow informal discussion of issues that might be acted on at a future meeting. These conditions will allow the Councilmembers to communicate informally about these impending issues. No final Council action shall be taken on ordinances and resolutions at Study Sessions. The City Clerk, under the direction of the City Manager, shall arrange a Council Study Session worksheet for the Study Session. The Council Study Session worksheet shall, for each item, contain the Discussion Item, the Discussion Item Moderator, and the Discussion Goal. After the proposed Council Study Session worksheet has been approved by the Presiding Officer, a copy of it along with any supporting materials shall be prepared for Councilmembers, the City Manager, and the press by close of business Friday prior to the Council Study Session, except in an emergency.

During the Council Study Session the Discussion Item Moderator may: 1) introduce the subject and give background information; 2) identify the discussion goal; 3) act as facilitator to keep the discussion focused to the eventual discussion goal; 4) alert the Presiding Officer when it is appropriate to call for a motion or other official direction of the Council. The Presiding Officer retains the option of assuming the function of the Discussion Item Moderator in order to keep the discussion properly focused. (Res. 525 §1, 1988, amended by Res. 659, 1991, amended by Res. 754 §2, 1994, amended by Res. 961 §3, 2003, amended by Res. 1140, 2011, amended by Res. 1409, 2019).

**CITY MANAGER (1.01, 2.01.A, 2.07, 3.01, Chapter 7, 8.04)**

updated without “Asst City Manager”

**RULE 11.** The City Manager, as the chief executive officer and head of the administrative branch of City government or his/her designee, shall attend all meetings of the City Council, unless excused by the Presiding Officer or Council. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City. The City Manager shall recommend for adoption by the Council such measures as he/she may deem necessary or expedient; prepare and submit to the Council such reports as may be required by that body or as the City Manager deems it advisable to submit; keep the Council fully advised as to the business of the City; and shall take part in the Council's discussion on all matters concerning the welfare of the City. In the event that both the City Manager and Assistant City Manager are unable to attend a Council meeting, the City Manager or Assistant City Manager shall appoint a key staff member to attend the meeting as the representative of City Administration. (Res. 525 §1, 1988, amended by Res. 1189, 2012).

**CLERK (7.03)**

**RULE 12.** The City Clerk shall be ex-officio Clerk of the Council and shall keep minutes as required by the Revised Code of Washington and Robert's Rules of Order, including a specific action item section, and shall perform such other and further duties in the meeting as may be required by the Council, Presiding Officer, or City Manager. In the absence of the City Clerk, the City Manager shall appoint a replacement to act as Clerk of the Council. (Res. 525 §1, 1988, amended by Res. 949, 2003, amended by Res. 1140, 2011).

**SECTION II  
DUTIES AND PRIVILEGES OF MEMBERS**

**FORMS OF ADDRESS**

**RULE 13. (8.08.A)** The Mayor shall be addressed as "Mayor (surname)" or "Your Honor." The Deputy Mayor shall be address as "Deputy Mayor (surname)." Members of the Council shall be addressed as "Councilmember (surname)." (Res. 525 §1, 1988, amended by Res. 1356, 2017).

**SEATING ARRANGEMENT**

**RULE 14. (8.08.B)** Councilmembers shall occupy the respective seats in the Council Chamber assigned to them by the Mayor. (Res. 525 §1, 1988).

**APPEARANCE OF FAIRNESS DOCTRINE**

**(Addressed: 2.10)**

Copied and pasted into 6.02

**RULE 15.** Appearance of Fairness Doctrine and its Application. (Res. 571 §1, 1989).

(a) Appearance of Fairness Doctrine Defined. "When the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must *appear* to be so. It is a situation where appearances are quite as important as substance. The test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a boardmember's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided." Zehring v. Bellevue, 99 Wn.2d 488 (1983).

(b) Types of Hearings to Which Doctrine Applies. The appearance of Fairness Doctrine shall apply only to those actions of the Council which are quasi-judicial in nature. Quasi-judicial actions are defined as actions of the City Council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents of the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. RCW 42.36.010. Some examples of quasi-judicial actions which may come before the Council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the Hearing Examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits. City staff is advised to notify the City Council upon receipt of an application or decision which will result in an action before the City Council that is quasi-judicial in nature.

(c) Obligations of Councilmembers, Procedure.

(1) Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict

of interest to the average person. This may involve the Councilmember or a Councilmember's business associate or a member of the Councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether a potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should disclose such facts to the City Manager who will seek the opinion of the City Attorney as to whether a potential violation of the Appearance of Fairness Doctrine exists. The City Manager shall communicate such opinion to the Councilmember and to the Presiding Officer.

(2) Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact. Should such challenge be made prior to the hearing, the City Manager shall direct the City Attorney to interview the Councilmember and render an opinion as to the likelihood that an Appearance of Fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the Presiding Officer shall call a recess to permit the City Attorney to make such interview and render such opinion.

(3) The presiding Officer shall have sole authority to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. Further, if two (2) or more Councilmembers believe that an Appearance of Fairness violation exists, such individuals may move to request a Councilmember to excuse himself/herself on the basis of an Appearance of Fairness violation. In arriving at this decision, the Presiding Officer or other Councilmembers shall give due regard to the opinion of the City Attorney.

(4) Notwithstanding the request of the Presiding Officer or other Councilmembers, the Councilmember may participate in any such proceeding.

(d) Specific Statutory Provisions.

(1) Candidates for the City Council may express their opinions about pending or proposed quasi-judicial actions while campaigning. RCW 42.36.040.

(2) A candidate for the City Council who complies with all provisions of applicable public disclosure and ethics laws shall not be limited under the Appearance of Fairness Doctrine from accepting campaign contributions to finance the campaign, including outstanding debts. RCW 42.36.050.

(3) During the pendency of any quasi-judicial proceeding, no Councilmember may engage in ex parte (outside the hearing) communications with proponents or opponents about a proposal involved in the pending proceeding, unless the Councilmember: (a) places on the record the substance of such oral or written communications; and (b) provides that a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication shall be made at each hearing where action is taken or considered on the subject.



This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made a part of the record, when it pertains to the subject matter of a quasi-judicial proceeding. RCW 42.36.060. (Amended Res. 1140, 2011, amended by Res. 1409, 2019).

## DISSENTS AND PROTESTS

**(Addressed in: 5.03, 11.05)**

**RULE 16.** Any Councilmember shall have the right to express dissent from or protest against any ordinance or resolution of the Council and have the reason therefore entered in the minutes. (Res. 525 §1, 1988).

## ADMINISTRATIVE INTERFERENCE BY COUNCILMEMBERS

**(1.01 and Chapter 2.01, 5.07.A, Chapter 7)**

**RULE 17.** Neither the Council, nor any of its committees or members shall direct or request the appointment of any person to, or his/her removal from, any office by the City Manager or any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative branch solely through the City Manager and neither the Council nor any committee or member thereof shall give any orders to any subordinate of the City Manager, either publicly or privately; provided, however, that nothing herein shall be construed to prohibit the Council, while in open session, from fully and freely discussing with the City Manager anything pertaining to appointments and removals of City officers and employees and City affairs. (RCW 35A,13.120) (Res. 525 §1, 1988, amended by Res. 1140, 2011, amended by Res. 1189, 2012).

## SECTION III COUNCIL PROCEDURES

### RULES OF ORDER

**(8.06, 8.07, 8.08, Chapter 11)**

**RULE 18.** Rules of order not specified by statute, ordinance, or resolution shall be governed by the most recent edition of Robert's Rules of Order.

(a) **(11.01)**Courtesy. Members of the Council, in the discussion, comments, or debate of any matter or issue, shall be courteous in their language and demeanor and shall not engage in derogatory remarks or insinuations in respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant, as determined by the Presiding Officer, to the question or matter under discussion.

(b) **(11.01)**Interruption. No member of the Council shall interrupt or argue with any other member while such member has the floor.

(c) **(11.01)** The City of Des Moines is committed to maintaining a drug and alcohol free workplace. Accordingly, Members of the Council shall abide by Sections 6(I) and (6)(J)(I) of the City of Des Moines Personnel Manual as well.

(Res. 525 §1, 1988, amended by Res. 618, 1990, amended by Res. 1140, 2011, amended by Res. 1409, 2019).

**\*\*MOTIONS**

**RULE 19. (Chapter 11 intro)** All items of business placed before the Council that require the expenditure of Council and/or administration resources, shall be in the form of an affirmative motion.

(a) **(11.04)** Rule 19(a) – **Speaking to Motion.** No member of the Council shall speak more than twice on the same motion except by consent of the majority of the Council Members present at the time the motion is before the Council. After the motion is put and before the next item is read, a member shall be able to speak briefly to the previous motion. Questions and answers by members of the Council are not considered as speaking to the motion.

(b) **(11.04)** Rule 19(b) – **Time Limit.** Each member of the Council shall speak for no more than five (5) minutes unless granted an exemption by the majority of the Council.

(c) **(11.04)** Rule 19(c) – **Donation of Time.** No member of Council may give his allotted time to another member unless there is approval of the majority of the Council.

(Res. 525 §1, 1988, amended by Res. 1140, 2011, amended by Res. 1409, 2019).

**ORDER OF BUSINESS AND PUBLIC COMMENT RULES (8.06)**

We rearranged order a bit, additional segments for reports and recognitions,  
clarity re “disruptions”

**RULE 20.** The business of all regular meetings of the Council shall be transacted as follows; provided, however that the Presiding Officer may, during a Council meeting, rearrange items on the agenda to conduct the business before the Council more expeditiously. Any ruling by the Presiding Officer relative to rearrangement of items on the agenda may be overruled by a vote of a majority of members present.

- (a) Call to order by the Presiding Officer.
- (b) Pledge of Allegiance.
- (c) Invocation (Presiding Officer's discretion).
- (d) Roll call (See Rule 7 for procedure to excuse an absence).
- (e) Correspondence not previously received by the Council.

(f) **(8.06.D)** Comments from the public (non-public hearing topics). Public comments are encouraged and appreciated. The information and advice received from citizens helps the City Council make the best possible decisions.

- (1) Procedure.

(A) Citizens are encouraged to supplement verbal comments through written submittals.

(B) All citizens desiring to address Council during the Public Comment period shall first fill out a sign-in sheet, stating their name, address, and public comment topic, and the sign-in sheet shall be submitted to the City Clerk prior to the start of Public Comments.

(2) Scope of Comments.

(A) Subjects not on the current agenda. Any member of the public may request time to address the Council after first stating their name and City of residence. The Presiding Officer may then allow the comments subject to such time limitations as referenced in Rule 20(f)(3)(A) or as the Presiding Officer deems necessary. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to administration or a Council committee for investigation and report.

(B) Subjects on the current agenda. Any member of the public who wishes to address the Council on an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. The Presiding Officer shall rule on the appropriateness of public comments as the agenda item is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e.) proponents, opponents, adjacent owners, vested interests, etc.).

(C) Subjects of a Public Hearing. Comments made during the Public Comment period on a topic set for a public hearing by the City Council shall be out of order. To ensure a fair hearing to applicants or matters that are subject to a public hearing before the City Council, the Presiding Officer may rule public comments made outside the scope of a public hearing record to be out of order.

(D) Any ruling by the Presiding Officer relative to the preceding two subsections may be overruled by a vote of a majority of members present.

(3) Rules of Conduct. A minimum number of basic rules are established to ensure that all individuals wishing to address the City Council are fairly heard.

(A) Each person addressing the Council shall step up to the indicated speakers table, give his or her name and city of residence, and shall limit comments to three (3) minutes. Groups may be allotted five (5) minutes by the Presiding Officer.

(B) Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated speaking table and addressed to the Council as a body and not to individual members, the audience or the television cameras.

(C) The Presiding Officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude his or her remarks. All speakers are encouraged to submit supplemental or detailed written remarks for Council

consideration.

(D) Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be ordered to leave the meeting. The Presiding Officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct and to enforce these rules.

(E) The Presiding Officer may rule “out of order” any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

(F) Any person whose comments have been ruled out of order by the Presiding Officer shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from personal, inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the Presiding Officer may subject the individual to removal from the Council Chambers.

(g) **(8.06.E, M)** Board and Committee reports and Councilmember Comments.

(1) Procedure. Councilmembers and the Presiding Officer may give reports regarding boards or committees to which they have been appointed or may comment on other subjects of importance and/or respond to citizen comments.

(2) Scope and Time Limits.

(A) The Presiding Officer may rule “out of order” any comments made during this portion of the meeting that do not pertain to the activities of the Councilmembers’ boards or committees or other subjects of importance.

(B) Board and committee reports and Councilmember comments shall be limited to four (4) minutes unless extended time is granted by the Presiding Officer for matters of significant importance. The Presiding Officer or designee shall notify the Councilmember when the allotted time has expired and the Councilmember shall promptly conclude his/her report.

(h) Presiding Officer's report. In addition to any special board or committee reports, the Presiding Officer may give a report on any activity participated in as part of the official duties of the Mayor.

~~(i) — Reserved~~

(j) Administration reports.

(k) Consent Calendar.

(1) The City Manager, in consultation with the Presiding Officer, shall place

matters on the Consent Calendar which have been: (a) previously discussed by the Council, or (b) based on the information delivered to members of the Council by administration that can be reviewed by a Councilmember without further explanation, or (c) are so routine or technical in nature that passage is likely, or (d) as directed by the City Council.

(2) The Clerk shall read the subject of each Consent Calendar item.

(3) The proper Council motion on the Consent Calendar is as follows: "I move adoption of the Consent Calendar." This motion shall be non-debatable and will have the effect of moving to adopt all items on the Consent Calendar. Since adoption of any item on the Consent Calendar implies unanimous consent, any member of the Council shall have the right to remove any item from the Consent Calendar. Therefore, prior to the vote on the motion to adopt the Consent Calendar, the Presiding Officer shall inquire if any Councilmember has a question, wishes to comment on an item or for an item to be withdrawn from the Consent Calendar. If any matter is withdrawn, the item withdrawn from the consent calendar shall be the next business in order following the conclusion of the consent calendar.

(l) Public Hearings **(8.06.I)** (see Rule 21 for procedural details).

(m) ~~Old~~ Unfinished Business.

(n) New Business.

(o) Executive Session (as required). Participants in an executive session have a duty under the Open Public Meetings Act to keep information from the session confidential. Pursuant to Attorney General Opinion (AGO 2017 No. 5), disclosure of confidential information from an executive session by a municipal officer violates RCW 42.23.070(4).

(p) Next meeting date announced by Presiding Officer.

(q) Adjournment. No meeting shall be permitted to continue beyond 10:00 PM without approval of three-fourths of the Councilmembers who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to 10:00 PM, the items not acted on shall be deferred to the next regular Council meeting as old business, unless the Council, by a majority vote of members present, determines otherwise. (Res. 525 §1, 1988, amended by Res. 894 §1, 2000, amended by Res. 961 §4, 2003, amended by Res. 977, 2004, amended by Res. 1189, 2012, amended by Res. 1356, 2017, amended by Res. 1409, 2019).

#### **ACTIONS FOR A PUBLIC HEARING (8.06.I copied in entirety)**

**RULE 21.** The procedures for a public hearing are as follows:

(a) Prior to the start of the "Comments from the Public" portion of the public hearing, the Presiding Officer may require that all persons wishing to be heard shall sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent,

opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing all persons who have signed in and wish to be heard shall be heard. However, the Presiding Officer shall be authorized to establish speaker time limits and otherwise control presentations to avoid repetition. In public hearings that are not of a quasi-judicial nature, the Presiding Officer, subject to concurrence of the majority of the Council, may establish time limits and otherwise control presentations. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, vested interests, etc.).

(b) The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting.

(1) "All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments shall first give their name and city of residence. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here."

(2) "It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent."

(3) "No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting."

(4) "There will be no demonstrations during or at the conclusion of anyone's presentation."

(5) "These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech."

(c) (1) When Council conducts a hearing to which the Appearance of Fairness Doctrine, (Rule 15) applies, the Presiding Officer, or in the case of a potential Rule 15 violation by that individual, the Deputy Mayor, will ask if any Councilmember knows of any reason which would require such member to excuse themselves pursuant to Rule 15. The suggested form of the announcement is as follows:

"All Councilmembers should now give consideration as to whether they have: (1) a demonstrated bias or prejudice for or against any party to the proceedings; (2) a direct or indirect monetary interest in the outcome of the proceedings; (3) a prejudgment of the issue prior to hearing the facts on the record; or (4) ex parte contact with any individual, excluding Administrative staff, with regard to an issue prior to the hearing. If any Councilmember should answer in the affirmative, then the Councilmember should state the reason for their answer at this time so that the Chair may



inquire of Administration as to whether a violation of the Appearance of Fairness Doctrine exists."

(2) When Council conducts a "quasi-judicial" hearing, the Presiding Officer may require that all persons wishing to provide testimony during the course of such hearing provide an oath, on the record, affirming the truth of their testimony. The suggested form and process for such oath is as follows:

The Presiding Officer asks all possible speakers to raise their right hand, asks such individuals to consider the following question and respond "I do", and inquires:

"Do you affirm under penalty of perjury under the laws of the State of Washington that the testimony you are about to provide is true and accurate to the best of your knowledge?"

(d) At the outset of each public hearing or meeting to consider a zoning amendment or zoning reclassification the Presiding Officer will call upon City Administration to describe the matter under consideration, including legal standards for approval of the item before the Council, and ask the parties to limit their presentations to information within the scope of the standards.

(e) The Presiding Officer calls for proponents in quasi-judicial proceedings and for speakers in non-quasi-judicial proceedings.

(f) The proponents or speakers now speak. (Note: If the City of Des Moines is the proponent, a member or members of the administration shall be designated to give proponent and rebuttal testimony).

(g) The Presiding Officer calls for additional proponents or speakers three times.

(h) In non-quasi-judicial proceedings refer to Rules 21(l), otherwise the Presiding Officer calls for opponents by announcing the following:

"At this time the opponents will have an opportunity to speak. Should any opponent have questions to ask of the proponents, ask the questions during your presentation. The proponents shall note the question asked, and answer such questions when the proponent speaks in rebuttal. The proponent shall be required to answer any reasonable question, provided that the Presiding Officer reserves the right to rule any question out of order."

(i) Opponents speak.

(j) The Presiding Officer calls for additional opponents three times.

(k) The Presiding Officer calls for proponents to speak in rebuttal. A proponent speaking in rebuttal shall not introduce new material. If the proponent does, or is allowed to do so, the opponents shall also be allowed to rebut the new elements.

(l) The Presiding Officer announces the following:

"At this time I will inquire of the administration as to whether there have been any mis-statements of fact or whether the administration wishes to introduce any material as to subjects raised by the proponents or opponents or alter in any regard its initial recommendations."

(m) The Presiding Officer inquires as to whether any Councilmembers have any questions to ask the proponents, opponents, speakers, or administration. If any Councilmember has questions, the appropriate individual will be recalled to the podium.

(n) The Presiding Officer closes the public hearing.

(o) The Presiding Officer inquires if there is a motion by any Councilmembers. If a motion is made, it shall be in the form of an affirmative motion. Following the motion and its second, discussion occurs among Councilmembers. The Presiding Officer may call on individual Councilmembers in the discussion.

(p) The Presiding Officer inquires if there is any further discussion by the Councilmembers.

(q) The Presiding Officer inquires if there are any final comments or recommendations from administration.

(r) The Presiding Officer inquires of the Councilmembers as to whether they are ready for the question.

(s) The Clerk shall conduct a roll call vote.

(t) The Presiding Officer directs administration to prepare findings consistent with the action.

(Res. 571 §2, 1989, amended by Res. 894 §2, 2000, amended by Res. 1140, 2011, amended by Res. 1356, 2017).

**VOTING**  
**( 8.08.H)**

**RULE 22.** The votes during all meetings of the Council shall be transacted as follows:

(a) Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice, except that at the request of any Councilmember, a roll call vote shall be taken by the Clerk. The order of the roll call vote shall be determined by the Presiding Officer.

(b) In case of a tie in votes on any proposal, the proposal shall be considered lost.

(c) Every member who was in the Council chambers when the question was put, shall give their vote unless the Councilmember excuses himself or herself in accordance with Rule 15. If any unexcused Councilmember refuses to vote "aye" or "nay", their vote shall be counted as a "nay" vote.

(d) The passage of any ordinance, grant or revocation of franchise or license, any

resolution for the payment of money, any approval of warrants, and any resolution for the removal of the City Manager shall require the affirmative vote of at least a majority of the whole membership of the Council.

(e) The passage of any public emergency ordinance (an ordinance that takes effect immediately), expenditures for any calamity or violence of nature or riot or insurrection or war, and provisions for a lesser emergency such as a budget amendment shall require the affirmative vote of at least a majority plus one of the whole membership of the Council.

(f) The passage of any motion or resolution not subject to the provisions of RCW, DMMC, or this Resolution as amended, shall require the affirmative vote of at least a majority of the membership of the Council who are present and eligible to vote. (Amended by Res. 1140, 2011).

**COMMITTEES (2.08, 2.09, 2.10)**

detail added about Councilmember responsibility and conduct, regional appointments,

**RULE 23.** The procedures governing all committees of the Council shall be as follows:

(a) The following standing committees shall consist of three members of the Council appointed by the Mayor in January of each year or at such time as new standing committees are authorized: Environment, Municipal Facilities, Public Safety & Emergency Management, Transportation, and Economic Development.

(b) Council Committees for a particular purpose may be formed by motion of Council and members shall be appointed by the Mayor.

(c) Committees shall make a recommendation on proposed ordinances, resolutions and motions, within their area of responsibility before action is taken by the Council. Minutes shall be kept of each City Council standing and special committee meeting, listing discussion topics, comments made, and any final recommendations.

The Committee Chair shall present the recommendations of the committee to the City Council at a regular City Council meeting during the discussion of the item of business. (Res. 575 §1, 1989, amended by Res. 602, 1990, amended by Res. 633, 1990, amended by Res. 664, 1991 amended by Res. 685, 1992, amended by Res. 754 §3, 1994, amended by Res. 931 §1, 2002, amended by Res. 940 §1, 2002, amended by Res. 1140, 2011, amended by Res. 1379 §2, 2018).

**ENACTED ORDINANCES, RESOLUTION AND MOTIONS**

**(8.06.K, 8.08.C & H, 11.01)**

**RULE 24.** An enacted ordinance is a legislative act prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance when required by law, or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. An enacted resolution is an administrative act which is a formal statement of policy concerning matters of special or temporary character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired. An enacted motion is a form of action taken by the Council to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law. (Res. 525 §1, 1988).

**RESOLUTIONS (8.06.K, 8.08.C & H, 11.01)**

**RULE 25.** A resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall in all cases be read prior to its passage; provided, should a Councilmember request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting. (Res. 525 §1, 1988).

## **ORDINANCES (8.06.J, 8.08.C & H, 11.01)**

**RULE 26.** The procedure for ordinances is as follows:

(a) All ordinances shall have two separate readings. At each reading, if a Councilmember requests that the entire ordinance, certain sections, or the title be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.

(b) The provision requiring two separate readings of an ordinance may be temporarily suspended at any meeting of the Council by a majority vote of all members present.

(c) If a Motion to pass an ordinance to a second reading fails, the ordinance shall be considered lost.

(Res. 525 S1, 1988, amended by Res. 1140, 2011, amended by Res. 1379 §3, 2018.)

## **PERMISSION REQUIRED TO ADDRESS THE COUNCIL**

**RULE 27. (8.06)** Persons other than Councilmembers and administration shall be permitted to address the Council upon introduction by the Presiding Officer. (Res. 525 §1, 1988, amended by Res. 1140, 2011).

## **RECONSIDERATION**

**RULE 28. (8.08.H)** Any action of the Council, including final action on applications for changes in land use status; but excluding a reconsideration of any action previously reconsidered, motions to adjourn, motions to suspend the rules, an affirmative vote to lay on the table or to take from the table, or a vote electing to office one who is present and does not decline; shall be subject to a motion to reconsider. Such motions can only be made by a member of the prevailing side on the original action. A motion to reconsider must be made no later than the next succeeding regular Council meeting. A motion to reconsider is debatable only if the action being reconsidered is debatable. Upon passage of a motion to reconsider, the subject matter is returned to the table anew at the next regular Council meeting for any action the Council deems advisable. (Res. 525 §1, 1988).

## **LEGISLATIVE PROCESS, PREPARATION, INTRODUCTION AND FLOW OF ORDINANCES AND RESOLUTIONS AND MOTIONS**

**RULE 29. (8.07.K)** Ordinances and resolutions shall be prepared, introduced, and proceed in the manner described on the flow chart attached hereto as Exhibit "A", and by this reference incorporated herein. Prior to final passage of all ordinances, resolutions or motions, such documents or proposals shall be designated as DRAFTS as follows:

(a) PROPOSED DRAFTS shall contain the name of the group, organization, committee or individual originating, initiating or sponsoring the proposal prior to the first presentation to the City Council where a vote is taken directing some official action or further consideration.

(b) COUNCIL DRAFTS shall be documents or proposals which have been presented in open session and voted on by the City Council when the resultant Council action was other than passage or a vote to cease further consideration. (Res. 525 §1, 1988).

## **COUNCIL RELATIONS WITH BOARDS, COMMISSIONS AND COUNCIL CITIZEN ADVISORY BODIES**

**RULE 30. (2.08, 2.09, 2.10, 7.08)** All statutory boards and commissions and Council citizen advisory bodies shall provide the Council with copies of minutes of all meetings. Reports to the City Council shall be made during Administration Reports as needed to keep the Council apprised of the actions of the body. Not less than one time per year, the board, commission or citizen advisory body shall have a representative provide an update to the Council of the body's activities. (Res. 525 §1, 1988, amended by Res. 1409, 2019). **Proposed: More detail on expectations of CMs role, responsibility, reporting, etc.**

## **COMPLAINTS AND SUGGESTIONS TO COUNCIL**

**RULE 31. (5.07, 8.06.D)** When citizen complaints or suggestions are brought before the City Council not on an agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

(a) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to a committee, Administration or the Council of the whole for study and recommendation.

(b) If administrative and a complaint regarding administrative staff performance, administrative execution of legislative policy or administrative policy within the authority of the City Manager, the Presiding Officer should then refer the complaint directly to the City Manager for his/her review if said complaint has not been so reviewed. The City Council may direct that the City Manager brief or report to the Council when his/her response is made. (Res. 525 §1, 1988).

## **ADMINISTRATIVE COMPLAINTS MADE DIRECTLY TO INDIVIDUAL COUNCILMEMBERS**

**RULE 32. (5.07)** When administrative policy or administrative performance complaints are made directly to individual Councilmembers, the Councilmember may then refer the matter directly to the City Manager for his/her view and/or action. The individual Councilmember may request to be informed of the action or response made to the complaint. (Res. 525 §1, 1988).

## **FILLING COUNCIL VACANCIES**

**RULE 33. (Chapter 10)** If a vacancy occurs in the office of Councilmember, the Council will follow the procedures outlined in RCW 35A.13.020. In order to fill the vacancy with the most qualified person available until an election is held, the Council will widely distribute and publish a notice of the vacancy, the procedure and any application form for applying. The Council will draw up an application form which contains relevant information to answer set questions posed by the Council. The application forms will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Councilmember. (Res. 525 §1, 1988). **Proposed: More detail about notice, application, interview and voting process – would appreciate staff input.**

**PHOTOGRAPHS, MOTION PICTURES, VIDEO TAPE --  
PERMISSION REQUIRED FOR ARTIFICIAL ILLUMINATION**

**Proposed:** the following three combined, update wording eliminates  
“tape.”

**RULE 34. (8.05)** No photographs, motion pictures, or video tapes that require the use of flash bulbs, electronic flashes, flood lights, or similar artificial illumination shall be made at City Council Meetings without the consent of the Presiding Officer or a majority of the Council. (Res. 525 §1, 1988).

**AUDIO RECORDINGS OF MEETINGS**

**RULE 35. (8.05)** All meetings of the City Council should be recorded by the City Clerk on an audio recording device. (Res. 657, 1991, amended by Res. 1140, 2011).

**VIDEO RECORDING AND BROADCAST**

**RULE 36. (8.05)** All public meetings of a quorum of the City Council not exempt from the Open Public Meetings Act held in the Des Moines City Hall at 21630 11th Avenue South should be video recorded and cablecast within the City. (Res. 772, 1994, amended by Res. 1140, 2011, amended by Res. 1189, 2012, amended by Res. 1356, 2017).

**SPIRIT OF DES MOINES AWARD PROGRAM**

**not part of Protocol, include as special recognition (8.06.H)**

**RULE 37.** It is the intent of the Des Moines City Council that a Spirit of Des Moines Awards Program be enacted by the Council to honor the commitment and dedication of its named recipients. Awards will be of two kinds; an annual award or lifetime achievement award. The awards shall be made in accordance with the Spirit of Des Moines Awards Policy and attached to these City Council Rules as Appendix A. (Res. 1140, 2011).

**REFERENCES TO DES MOINES MUNICIPAL CODE (DMMC) AND  
REVISED CODE OF WASHINGTON (RCW)**

DMMC 4.04.010 Council Meetings - City Hall Location.

All meetings of the City Council shall be held at 21630 11th Avenue South, which is designated as the location of the City Hall, except that, when necessary, the City Council may hold meetings at other places.

DMMC 4.04.020 Council Meetings - Time.

(1) The regular meetings of the City Council are held every Thursday, with the meetings convening at 7:00 p.m.; except when the regular meeting date falls on a legal holiday the meeting is canceled and the City Council shall not meet.

(2) The Presiding Officer may cancel a regular meeting at the Presiding Officer's discretion as the business of the City Council requires; except the City Council shall meet at least once each month.

RCW 35A.12.050 and 12.060 Forfeiture of Office.

The office of a Mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of Mayor or in the council shall be filled as provided in chapter 42.12 RCW. An incumbent councilmember is eligible to be appointed to fill a vacancy in the office of Mayor. A Councilmember shall forfeit his office if he fails to attend three consecutive regular meetings of the Council without being excused by the Council.

RCW 35A.13.020 Election of Councilmembers - Eligibility - Terms - Vacancies - Forfeiture of Office - Council Chair.

In council-manager code cities, eligibility for election to the Council, the manner of electing councilmembers, the numbering of council positions, the terms of councilmembers, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a Mayor pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060 and 35A.12.065 relating to the council of a code city organized under the Mayor-council plan, except, that in council-manager cities where all council positions are at-large positions, the City Council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one shall be the Council Chair and shall carry out the duties prescribed by RCW 35A.13.030.

RCW 42.30.080 Special Meetings.

A special meeting may be called at any time by the Presiding Officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body.

Written notice shall be deemed waived in the following circumstances:



(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

RCW 42.30.090 Adjournments.

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.030.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

RCW 42.30.110 Executive Sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting.

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when the governing body elects to take final action hiring, setting the salary or an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public.

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the Presiding Officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the Presiding Officer.

RCW 42.30.140 Chapter Controlling - Application. If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: *Provided*, that this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation or profession or to any disciplinary proceedings involving a member of such business, occupation or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

RCW 42.36.010 Local Land Use Decisions.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

RCW 42.36.040 Public Discussion by Candidate for Public Office.

Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17A.005 no public discussion by expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

RCW 42.36.050 Campaign Contributions.

A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.

RCW 42.36.060 Quasi-judicial Proceedings - Ex Parte Communications Prohibited, Exceptions.

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

- (1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and
- (2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

**REFERENCES TO RESOLUTION NO. 1118 POLICIES GOVERNING CITY  
COUNCIL PARTICIPATION IN PUBLIC CONTRACTS**

1. Interlocal Agreements. Chapter 39.34 RCW requires the governing bodies of participating public agencies to take appropriate action by ordinance, resolution or otherwise before interlocal agreements may enter into force. All interlocal agreements should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

2. Franchise Agreements. Franchise agreements such as Comcast, PSE, water, sewer, and the like require City Council approval. Franchise agreements should be referred to an *Ad Hoc* Council Committee for the study and recommendation prior to presentation to the City Council for approval.

3. Public Works (small works roster).

(a) MRSC rosters. The City wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to adopt for City use those state-wide electronic databases for small works roster and consulting services developed and maintained by MRSC and authorizes the City Manager to sign that contract. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments.

(b) Small works rosters. The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155:

(i) Cost. The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000.00), which includes the costs of labor, material, equipment, and sales and/or use taxes as applicable. Instead, the City may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a small works roster.

(iii) Telephone or written quotations. The City shall obtain telephone, written, or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350(2).

(A) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

(B) Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five (5) contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from One Hundred Fifty Thousand Dollars (\$150,000.00) to Three Hundred Thousand Dollars (\$300,000.00), the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The City has the sole option of determining whether this notice to the remaining contractors is made by:

- (1) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;
- (2) Mailing a notice to these contractors; or
- (3) Sending a notice to these contractors by facsimile or email.

(C) At the time bids are solicited, the City representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.

(D) A written record shall be made by the City representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(c) Limited public works process.

(i) If a work, construction, alteration, repair, or improvement project is estimated to cost less than Thirty-Five Thousand Dollars (\$35,000.00), the City may award such a contract using the limited public works process provided under RCW 39.04.155(3). For a limited public works project, the City will solicit electronic or written quotations from a minimum of three (3) contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

(ii) For limited public works projects, the City may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(iii) The City shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

(iv) Determining the lowest responsible bidder. The City Council shall

award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the City may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the City.

(v) Award. The City Manager or his designee shall present all telephonic quotations/bids, and recommendation for award of the contract to the lowest responsible bidder to the City Council. However, for public works projects under Fifty Thousand Dollars(\$50,000.00), the City Manager shall have the authority to award public works contracts without City Council approval. For public works projects over Fifty Thousand Dollars (\$50,000.00), the City Council shall award all public works contracts.

(c) Consulting services rosters.

(i) Consulting services. Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the City who can provide further details as to the City's projected needs for consulting services. Firms or persons providing consulting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a consulting services roster.

(iii) Professional architectural and engineering services. The MRSC rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate City documents.

4. Public Works (Subject to Bid). Public work projects exceeding \$200,000 are subject to bid laws and shall be processed in accordance with the Revised Code of Washington. After opening of bids, results shall be submitted to the Council Committee of origin for study and recommendation prior to being presented to the City Council for approval and if there is no Council Committee of origin, shall be considered by the Council as a whole. Action taken by the City Council in awarding the bid and directing the City Manager to sign contracts should include authority granted to the City Manager to expend funds in the amount of the bid award plus ten percent.

5. Purchase of Supplies, Material, Equipment, and Non-Professional Services. For code cities of a population of 20,000 or greater there are no bidding requirements for purchases of supplies, material, equipment, or services which are not purchased in connection with a public work. For such purchases, the City Manager shall adopt written guidelines, subject to City Council approval, to ensure that purchases are made at the lowest possible price from a responsible vendor.

6. Architectural and Engineering Services. Chapter 39.80 RCW provides that in selecting architect and engineer consultants the City shall conduct discussions with one or more firms and shall select the firm deemed the most highly qualified to provide the services required for the proposed project. The Attorney General of the State of Washington has issued an opinion precluding cities from considering price when selecting architects and engineers, except for a final price negotiation after the most qualified architect or engineer has been selected. The following process shall govern awarding of contracts to architects or engineers:

- (a) The City Manager shall advertise the architectural and engineering requirements;
- (b) The City Manager shall thereafter enter into discussion with several firms and select the most qualified architect or engineer;
- (c) The City Manager shall then negotiate the scope of work and price with the architect or engineer selected; and
- (d) If the contract amount does not exceed \$50,000 and has been previously budgeted, the City Manager shall be authorized to sign a contract for such services without approval by the City Council or any committee thereof. If the contract amount exceeds \$50,000, the Contract should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.
- (e) In case of a disaster, emergency, or immediate City need, including assistance on Capital Improvement Program projects and general engineering services previously approved by the Council, the City Manager shall be authorized to sign Task Order Assignments on multi-year "on-call" civil engineering services consultant contracts, which have been previously approved by the Council for services if the Task Order Assignment does not exceed \$50,000.
- (f) The City Manager shall, as part of the City Manager's monthly report, provide the City Council with a list of contracts with consultants that have been approved by the City Manager pursuant to this resolution.
- (g) The City Manager shall not allow task order assignments for a specific single project that cumulatively add up to an amount greater than \$50,000.00 without being approved by the City Council.

7. Leases of City Real Property. Leases of City real property are subject to review and approval by the City Council. The Mayor shall have discretion to submit any such lease to a standing or ad hoc committee for study and recommendation prior to being presented to the City Council for approval.

8. Contracts for General Professional Services. Contracts for general professional services, which do not involve architects or engineers, are not subject to the bid laws of the State of Washington. Examples of such services are computer consultants, financial consultants, management consultants, and the like. The process for awarding general professional services contracts shall be as follows:

- (a) The City Manager shall research the persons and firms that are available to such professional services, taking into consideration recommendations from any source.
- (b) The City Manager shall then negotiate a contract with the party selected, including scope of work and price.



(c) If the contract amount exceeds \$50,000, the contract should appear on the consent calendar, subject to removal in accordance with the *City Council Rules of Procedure*.

9. Administrative Contracts. Administrative contracts are contracts which do not fall into any other category described in this rule, and are for services previously budgeted by the City Council. Examples of administrative contracts are agreements with the Sexual Assault Center, VanGo, Senior Nutrition, D.A.W.N., and the like. The City Manager is authorized to execute administrative contracts, and the same shall not be subject to approval by the City Council or any committee thereof.

## **APPENDIX A**

### **THE SPIRIT OF DES MOINES AWARDS PROGRAM POLICY**

The spirit of any community is its citizens, community leaders, volunteers and donors. We are all bettered by the commitment and dedication they exhibit in keeping or enhancing those things that make the City of Des Moines special to us. We are remiss if we don't, from time to time, acknowledge those efforts. That is the impetus behind the Spirit of Des Moines Awards.

#### **PURPOSE**

The Spirit of Des Moines Award is given to publicly acknowledge the efforts and accomplishments of individuals' civic and community service to the betterment of the community of Des Moines, Washington – both over the course of a year, and over a lifetime.

#### **ELIGIBILITY**

Up to two individuals may be acknowledged in both the annual award, and lifetime award categories. Nominees for the award need not be Des Moines residents, but must have shown a consistent commitment and dedication to the betterment of Des Moines. Any person is eligible for the annual Spirit of Des Moines Award. Any person is eligible for the lifetime Spirit of Des Moines Award who has demonstrated at least two decades of civic and community service, or who has performed an extraordinary service to the community with long-lasting implications. An annual award recipient is eligible to be considered for future Spirit of Des Moines awards. A lifetime award recipient is ineligible to be considered for future Spirit of Des Moines awards.

#### **NOMINATIONS**

The community shall be solicited for nominees for the annual and lifetime Spirit of Des Moines Awards. Nominations shall be reviewed by a community-based review committee, and finalists will be chosen based on the eligibility criteria and any materials submitted to support the nomination. There will be at least two finalists for each position.

#### **REVIEW COMMITTEE**

A community-based review committee shall be established to review nominations from the community for the Spirit of Des Moines Awards. The review committee shall have no more than nine (9) members, and no fewer than five (5) members. The members of the review committee, who must be residents of Des Moines, shall be chosen from a cross-section of the Des Moines community – both geographically and in terms of the activities of the community. The Deputy Mayor and two other Des Moines City Councilmember shall serve on the committee, and the Deputy Mayor will be entrusted with choosing the remaining committee members. The Deputy Mayor shall chair the review committee. Meeting notes shall be taken by the review committee, and those notes shall be kept and maintained by the City of Des Moines.

**REVIEW PROCESS**

Nominations are solicited from the community in September of even numbered years. The review committee shall meet following receipt of nominations and finalists shall be chosen by the committee by January 1, or as soon thereafter as reasonably possible. Recipients shall be chosen by the Council from the group of finalists.

**PUBLIC ACKNOWLEDGEMENT**

The Spirit of Des Moines Awards shall be given out at a public meeting or event by the Mayor and the City Council upon the earliest date possible following the selection of the recipients. The physical awards reflect the connection of Des Moines, Washington to Puget Sound, and the official City of Des Moines theme of “the Waterland Community.”

**CONTRIBUTIONS AND SPONSORSHIPS**

Contributions and sponsorships may be solicited to offset the cost of presenting the Spirit of Des Moines Awards. Any funds collected in excess of the direct cost of presenting the awards shall be shared equally among Award recipients, and given as donations in their name to a local charity of their choosing.

**ORGANIZATION AWARD**

An honorary award may be given, at the recommendation of the review committee, to recognize the activities of an organization that has demonstrated a consistent commitment and dedication to the betterment of Des Moines.

(Res. 1140, 2011, amended by Res. 1409, 2019).

## Criticizing a board decision in public



It is a basic principle of parliamentary procedure that the decision of the majority, voting at a properly called meeting, is the decision of the body as a whole. The members whose views did not prevail are bound to go along with the majority. This goes back deep in time, to the origins of our entire system of democratic governance.

It follows from this principle that the minority members of a body may not take action that would tend to undermine the decision. What does “undermine” mean? It means trying to prevent the decision from being carried out.

*Robert's Rules of Order Newly Revised, 11th edition*, says this: “An organization or assembly has the ultimate right to make and enforce its own rules, and to require that its members refrain from conduct injurious to the organization or its purposes” (p. 643). In another book, Robert gives this example: If a club has planned a course of lectures, club members who are unhappy about it may not talk against the course so as to interfere with the sale of tickets (*Parliamentary Law*, pp. 329-330).

They may not do so because their loyalty to the body transcends their individual views. In becoming part of a club, a group of people, they agree to submit their personal judgment to the will of the group. This is an unnatural thing to do! However, it is essential if any group is going to function.

Of course a board member is free, within certain limits, to try during meetings to persuade their colleagues to change the decision. If that doesn't work, and the member remains deeply opposed to the decision, the member may have to consider resigning.



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Let's look at three different situations where this question may occur.

**1. Criticizing a board decision in a private nonprofit**

Private nonprofit boards will sometimes establish a policy that the board “speaks with one voice.” Members are encouraged to be as vocal as they like inside the meeting. Once the decision has been made, however, they are bound not to criticize it in public. For charitable nonprofit boards, this certainly make sense.

**2. Criticizing a board decision in a membership organization**

Jurassic Parliament believes that membership organizations such as professional associations may choose not to impose this restraint, depending on the nature of their members and their organization. If board members are allowed to say in public that they disagree with a decision, and to explain why, they are still obliged not to try to undermine the decision.

**3. Criticizing a board decision in local government**

Local governments and public bodies are different from private organizations. It seems obvious to us that under the First Amendment to the Constitution, elected officials and citizen volunteers have the right to speak out when they hold a different view from the body. At the same time, they may not try to undermine the body's decision.

We encountered an example some years ago when a city council majority took a position with regard to a local environmental issue. The minority members subsequently wrote a letter to the responsible state department stating that they felt that the council's position was wrong — they preferred a different position. This was improper, because the action was intended to influence the state department's decision. The minority members were in violation of their duty to the council and their duty to uphold democratic principles.

When there are strongly divided views in local government, the difference between “stating a view” and “undermining a decision” can be challenging. We encourage minority members of local government to do some soul-searching before criticizing a board action in public. Is the action merely a statement of personal views, or is it an attempt to undermine or counteract the board's decision? As Cornell Clayton of Washington State University said, “The willingness to engage in honest debate and lose on issues you care deeply about reaffirms your commitment to common citizenship.”

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*This information is provided for educational purposes and does not constitute legal advice.*

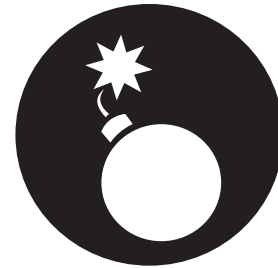
**Criticizing a board decision in public**

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P.O. Box 77553, Seattle, WA 98177  
TEL 206.542.8422 | EMAIL [info@jurassicparliament.com](mailto:info@jurassicparliament.com)  
[www.jurassicparliament.com](http://www.jurassicparliament.com)

# Lost the vote? Don't sabotage the council's action



We've had inquiries recently about elected officials who lost a vote, and then actively worked against the outcome. This amounts to trying to sabotage the council. It is wrong, wrong, wrong.

## THE MAJORITY RULES

General Henry Martyn Robert, the original author of *Robert's Rules of Order*, expresses it this way:

*The great lesson for democracies to learn is for the majority to give to the minority a full, free opportunity to present their side of the case, and then for the minority, having failed to win a majority to their views, gracefully to submit and to recognize the action as that of the entire organization, and cheerfully to assist in carrying it out, until they can secure its repeal.*

—Quoted in *Robert's Rules of Order Newly Revised*, 12th edition, p. xlvii

This is a fundamental principle of our system of government. It is embedded in our common law heritage, and our entire society. Government and its administration cannot function optimally, cannot best serve the citizens, and cannot advance, if the very people who are elected to serve choose to pursue their own private views against the decision of the body they belong to. When elected officials “go rogue” and work against their organization's action, they are violating their fiduciary duties of loyalty and obedience. Even more, they are assaulting the foundation of our democracy.

For these reasons, we consistently tell officials: If you lost the vote, you have an obligation to accept the vote as the decision of your body. Your agreement to serve as a public official carries with it the duty to support the fundamental principle of our system of government. You may express your disagreement in public (see our article [Criticizing a board decision in public](#)). However, you should not take a single step to undermine the decision, because that would harm the organization which you have a duty to serve.



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### IS SOMEBODY TRYING TO SABOTAGE YOUR COUNCIL?

If you are dealing with such a situation, we recommend getting advice from your attorney about the law in your state. Review your bylaws and this quotation from *Robert's Rules of Order*:

*An organization or assembly has the ultimate right to make and enforce its own rules, and to require that its members refrain from conduct injurious to the organization or its purposes.*

—*Robert's Rules of Order Newly Revised, 12th edition, 61:1*

Once you are armed with the law and the rules, discuss the matter with the independent-minded member in private (if the sunshine laws in your state allow two members to have a private conversation). They may need help understanding the issue. Explain what is wrong with their attempt at sabotage, and show the importance of allowing the body's action to stand. If that doesn't work, it may be necessary to bring it up at a public meeting of your council or board. And if public shaming fails to have any effect, you may have to sanction the member (see our article, [Sanctioning rogue board members](#)).

### BEING ELECTED LIMITS ACTIONS YOU MAY TAKE

American individualism is a great thing, but when you accept election to a local governmental body, you give up some of your First Amendment rights and some of your freedom of action. You agree to put the welfare of the organization above your own interest. You agree to compromise. You agree to follow the rules your body has adopted. And you agree that the entire body chooses its course of action, not any one self-interested individual. It ain't easy! But it's the American way.

### EXAMPLES OF ATTEMPTS TO SABOTAGE

Here are instances I have encountered of attempted sabotage:

- A planning commissioner publishes letters opposing the decisions of the commission and complaining about the members.
- A city council takes a position on the status of the wetlands in response to a request from the state department of ecology. Three minority members send a letter to the department saying that they disagree with the city's position.
- The school board has approved a large bond issue. A member who disagrees publishes an Op-Ed in the local newspaper urging citizens to vote against the bond.

Have you had to deal with attempted sabotage? [Let us know!](#)

**Lost the vote? Don't sabotage the council's action**

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P.O. Box 77553, Seattle, WA 98177

TEL 206.542.8422 | EMAIL [info@jurassicparliament.com](mailto:info@jurassicparliament.com)

[www.jurassicparliament.com](http://www.jurassicparliament.com)

# DANGER WILL ROBINSON: ADVISING CITY COUNCILS ON ENFORCEMENT OF COUNCIL RULES OF DECORUM<sup>1</sup>

“The city that silences a critic will injure itself as much as it injures the critic, for the gadfly’s task is to stir into life the massive beast of the city, to ‘rouse each and every one of you, to persuade and reproach you all day long.’”

*Dowd v. City of Los Angeles*, 2013 WL 4039043 (C.D Cal. 2013)(citing Plato, Five Dialogues, Hackett, 2dEd., Trans. GMA Grube, 35 (Apology)).

Brett C. Vinson, Weed Graafstra and Associates (Municipal Law)  
110 Cedar Avenue, Shohomish WA 98290  
[brettv@snohomishlaw.com](mailto:brettv@snohomishlaw.com)  
253.258.9622

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<sup>1</sup> The case law in this paper was last reviewed in 2017 and is being provided to Jurassic Parliament for its use and distribution. While the author believes the case law is still ‘good law’, further research and review is encouraged.



Brett has 20 years of experience serving the Cities of Kent, Bremerton, Puyallup, and Sumner. Prior to joining Weed Graafstra, he served 11 years as the Sumner City Attorney. Brett has extensive experience in advising municipal clients in all facets of municipal law, including risk management, land use and planning, public works, public records, code enforcement, open public meetings, real estate transactions, and employment. He has also worked as a municipal prosecutor and has managed various criminal prosecution departments and provided legal advice to police departments. Having worked for cities of various sizes, Brett has developed a talent for finding creative solutions to complex issues within the resources available. He is a graduate of Brigham Young University and Seattle University School of Law.

As City Attorneys we frequently face questions for which there is no clear answer. Situations are sometimes so fact specific that reliance on case law gives little comfort when providing off-the-cuff advice during a meeting. One such situation is managing comments from the public and councilmembers during council meetings.

***AFTER REVIEW OF RECENT CASE LAW, REVIEW OF COUNCIL RULES REGARDING PUBLIC COMMENT IS STRONGLY ENCOURAGED TO REVISE RULES THAT SEEK TO RESTRICT/REGULATE NON-DISRUPTIVE SPEECH AND BEHAVIOR.***

**A. NO CONSTITUTIONAL RIGHT TO SPEAK AT A PUBLIC MEETING EXISTS BUT YOU HAVE GIVEN THE PUBLIC THAT OPPORTUNITY TO SPEAK – NO WHAT!**

Fundamentally case law has consistently developed a clear principle that a citizen has *no Constitutional right* to speak at a public meeting. “The Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy.”<sup>2</sup> Accordingly, it is only when citizens are afforded an opportunity to speak, that their speech is subject to *limited* constitutional protection.<sup>3</sup>

If public comment is allowed, then the traditional public forum analysis must be reviewed to determine the extent and breadth of the authority to manage public comments during council meetings. The first step in the public forum analysis is to determine the nature of the forum at issue. The Supreme Court has created a set of categories under

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<sup>2</sup> *Minn. State Bd. for Cmty. Colleges. v. Knight*, 465 U.S. 271, 283 (1984).

<sup>3</sup> *City of Madison Joint School District v. Wisconsin Employment Relations Commission*, 429 U.S. 167, 175-76 (1976).

which different levels of constitutional scrutiny are applied -- depending upon the context of the speech. Speech in a “traditional public forum” -- such as a street corner or a park -- is subject to expansive protections.<sup>4</sup> On the other hand, the “non-public forum” is afforded very limited protections. These are areas -- such as military bases -- that have no historic tradition of speech, nor has the government taken steps to “open them up” for expressive activity.<sup>5</sup>

City councils are permitted to confine public comment to certain specified topics.<sup>6</sup> It is not in anyone’s interest to allow unfettered “free speech” at public meetings because it can be disruptive and prevent the orderly conduct of the Council meeting. In addressing a First Amendment challenge to a mayor removing a citizen from a city commission meeting, the Eleventh Circuit provided:

[T]he mayor’s actions resulted not from disapproval of Jones’ message but from Jones’ disruptive conduct and failure to adhere to the agenda item under discussion. Jones began by admonishing the commission to act more prudently in its spending habits, particularly with respect to its spending on waste disposal. The commissioners’ general fiscal habits were not the topic of debate, however, and the mayor quickly directed Jones to speak only on the relevant issue. Jones’ retort--that his comments were germane and that it was the mayor’s “problem” if he failed to recognize this--was also irrelevant, and Jones was warned that any further outbursts would result in his removal. Jones responded, “I don’t think you’re big enough,” and was expelled.<sup>7</sup>

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<sup>4</sup> *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45 (1983).

<sup>5</sup> See, e.g., *Int’l Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 679 (1992) (airport terminal); *Greer v. Spock*, 424 U.S. 828 (1976) (military base); *Lehman v. City of Shaker Heights*, 418 U.S. 298 (1974) (exterior of a city bus).

<sup>6</sup> “Plainly, public bodies may confine their meetings to specified subject matter....” *City of Madison*, 429 U.S. at 175 n.8; see also. *Jones v. Heyman*, 888 F.2d 1328, 1332 (11th Cir. 1989)

<sup>7</sup> *Jones v. Heyman*, 888 F.2d 1328, 1332 (11th Cir. 1989)

In the Ninth Circuit, a citizen can be stopped for speaking out of order. In *Kindt v. Santa Monica Rent Control Bd.*<sup>8</sup>, a citizen brought § 1983 claims arising out of his conduct at a series of Rent Control Board meetings. The plaintiff alleged that he was not permitted to address all of the topics discussed, his comments were relegated to the end of the meetings, and on occasion, the citizen was ejected for being disruptive. He sued alleging a First Amendment violation. The Ninth Circuit rejected his claims, reasoning that there was not invidious regulation of speech and content was not a factor. The “need for civility and expedition in the carrying out of public business... meetings of a public body do not become free-for-alls simply because the body goes beyond what a member of the public believes (even correctly) to be the body’s proper purview.”<sup>9</sup>

In *White v. City of Norwalk*, the 9<sup>th</sup> Circuit held that the moderator at a public meeting that allows citizen input possesses authority to control the agenda and to conduct the business of government:

[A] City Council meeting is still just that, a governmental process with a governmental purpose. The Council has an agenda to be addressed and dealt with. Public forum or not, the usual First Amendment antipathy to content-oriented control of speech cannot be imported into the Council chambers intact. In the first place, in dealing with agenda items, the Council does not violate the first amendment when it restricts public speakers to the subject at hand. While a speaker may not be stopped from speaking because the moderator disagrees with the viewpoint he is expressing, it certainly may stop him if his speech becomes irrelevant or repetitious.<sup>10</sup>

In *White*, the Ninth Circuit affirmed the dismissal of claims arising out of plaintiffs’ ejections from council meetings after they had been deemed “out of order” for being repetitive and irrelevant. A city guideline that prohibited “loud, threatening,

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<sup>8</sup> 67 F.3d 266, 271 (9th Cir. 1995).

<sup>9</sup> *Id.* at 272.

<sup>10</sup> *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9<sup>th</sup> Cir. 1990)

personal or abusive language, or... any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any Council meeting” was also upheld.<sup>11</sup> However, given the recent development in this area of the law, caution should be taken before removing an individual whose conduct or speech is not creating an actual disruption.

Recently, in *Norse v. City of Santa Cruz*, a citizen was ejected from a council meeting after he gave a “Nazi salute” in support of another disruptive member of the audience.<sup>12</sup> The mayor characterized the actions as a disturbance -- which offended and distracted the council -- and enforced the rules of order accordingly. The citizen countered that his free speech rights were limited as a consequence of his viewpoint. The district court agreed with the mayor, and affirmed dismissal of the citizen’s claims. It emphasized the case law affording discretion to council moderators and the need to conduct council business.

However, on appeal the 9<sup>th</sup> Circuit court of appeals reversed and held that rules of decorum are constitutional if they only permit a presiding officer to eject an attendee for *actually* disturbing or impeding a meeting. In discussing the necessity that an actual disruption must occur prior to removal the Court stated: “Actual disruption means actual disruption. It does not mean constructive disruption, technical disruption, virtual disruption, nunc pro tunc disruption, or imaginary disruption.”<sup>13</sup> The Court held that there had not clearly been a disruption when a man “gave the Council a silent Nazi salute” and could not be the reaction of a Councilmember who felt offended or attacked.

This thread of actual disruption was further augmented again by the Ninth Circuit

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<sup>11</sup> *White*, 900 F.2d at 1424.

<sup>12</sup> *Norse v. City of Santa Cruz*, 629 F.3d 966, 975, (9<sup>th</sup> Cir. 2010)

<sup>13</sup> *Id.* at 976.

in *Benito Acosta v. City of Costa Mesa*<sup>14</sup> where the Court provided additional insight into the parameters of council rules seeking to regulate public comment. In *Benito Acosta* the court held a council rules as unconstitutionally overbroad when it prohibited “personal, impertinent, profane, insolent, or slanderous remarks.” Benito Acosta, an activist appealed a U.S. District Court for the Central District of California dismissal of a First Amendment facial challenge to Costa Mesa, Cal., Mun. Code § 2-61 (making disorderly, insolent, or disruptive behavior at city council meetings a misdemeanor), and further appealed a partial summary judgment to defendants city and police officers on a Fourth Amendment claim. A jury returned a defense verdict on remaining claims.

On appeal, the Court held that the applicable rule of decorum was facially invalid because it prohibited "insolent" conduct that could fall well below the level of behavior that actually disturbed or impeded a meeting. However, the Court determined that the rule was constitutionally applied because the jury implicitly found the Benito Acosta actually disrupted the meeting. As the facts read like a good novel, I have provided a detailed recitation of the facts surrounding Acosta’s eventual arrest from the Court’s decision.

In December 2005, the Mayor proposed that the City enter into an agreement with Immigration and Customs Enforcement ("ICE") to have its police officers designated immigration agents with the authority to enforce federal immigration laws in the City. The proposal was placed on the City Council's December 6, 2005, agenda and passed by a vote of three to two. Members of the public were permitted to comment on the ICE agreement.

Acosta, a U.S. citizen of Mexican descent is a founding member of an

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<sup>14</sup> *Benito Acosta v. City of Costa Mesa*, 718 F.3d 800 (9<sup>th</sup> Cir 2013)

organization that represents the rights of undocumented and immigrant workers and their families and believed an agreement with ICE would undermine public safety because it would deter undocumented workers from reporting crimes against them for fear of deportation. He attended the December 6<sup>th</sup> council meeting to express his opposition to the proposal. Toward the end of his comments he called the Mayor a "racist pig," at which point the Mayor told Acosta to stop. Acosta repeated his slur, which prompted the Mayor to cut Acosta's speaking time short by calling for a recess. Acosta then responded by calling the Mayor a "fucking racist pig." The Council subsequently passed the proposal.

Due to significant media attention and a large number of demonstrations the City Council decided to consider the ICE agreement again at the next council meeting. During the public comment portion of the meeting a total of twenty-five speakers addressed the City Council, fifteen in favor of the agreement and ten against and the council chambers was filled to capacity.

Early into his remarks, Acosta turned away from the council and toward the audience to ask members who agreed with his viewpoint to stand similar to a previous speaker in favor of the agreement had asked. The Mayor interrupted him, saying, "No, we're not going to do that." In defiance of that order, still facing the audience, Acosta nonetheless said, "Do it," three times. Approximately twenty to thirty people stood up in response to his urging and some began clapping. The Mayor then abruptly recessed the meeting and indicated the council would return in a few minutes.

Acosta was then approached by an officer and he was asked to step down from the podium and leave the chambers and as you could imagine, Acosta did not

immediately comply. The officers then had to forcibly remove him from the chambers and take him outside of City Hall. Once outside, however, the officers encountered a large crowd and Acosta increased his efforts to resist the officers. When the officers attempted to move Acosta back into the City Hall and away from the volatile crowd of demonstrators outside City Hall (some of whom threw objects at the police), Acosta wrapped his legs and arms around a pole in an attempt to prevent the officers from moving him. The officers separated him from the pole and began moving him toward the City Hall. Acosta continued to resist, causing himself and an officer to fall to the ground.

The Costa Mesa rule relied upon by the Mayor in support of his actions provided:

Rule 2-16 Propriety of conduct while addressing the council.

(a) The presiding officer at a meeting may in his or her discretion bar from further audience before the council, or have removed from the council chambers, any person who commits disorderly, insolent, or disruptive behavior, including but not limited to, the actions set forth in (b) below.

(b) It shall be unlawful for any person while addressing the council at a council meeting to violate any of the following rules after being called to order and warned to desist from [\*\*16] such conduct:

(1) No person shall make any personal, impertinent, profane, insolent, or slanderous remarks.

(2) No person shall yell at the council in a loud, disturbing voice.

(3) No person shall speak without being recognized by the presiding officer.

(4) No person shall continue to speak after being told by the presiding officer that his allotted time for addressing the council has expired.

(5) Every person shall comply with and obey the lawful orders or directives of the presiding officer.

(6) No person shall, by disorderly, insolent, or disturbing action,



speech, or otherwise, substantially delay, interrupt, or disturb the proceedings of the council.

Costa Mesa, Cal., Mun. Code § 2-61 (2012) (emphasis added)

In analyzing this rule upheld it's prior ruling in *Norse* and stated that “[a]n ordinance that governs the decorum of a city council meeting is "not facially overbroad [if it] only permit[s] a presiding officer to eject an attendee for actually disturbing or impeding a meeting.”<sup>15</sup> The Acosta court also upheld its prior holding that in *Norse Norwalk* that actually disturbing or impeding a meeting means and actual disruption of the meeting; and that a municipality cannot merely define disturbance in any way it chooses such as simply defining that any violation of the council rules of decorum constitutes a disturbance.

Finally, the Acosta court further emphasized its ruling in *Norwalk*, that a speaker may create a disturbance and be stopped if his speech becomes” irrelevant or repetitious," even in a limited public forum however, a speaker may not be stopped from speaking because the moderator disagrees with the viewpoint he is expressing. The Court considered two jury instruction indicating that actual disruption is measured by an effect on the audience and that profanity without more is not an actual disruption:

“Whether a given instance of alleged misconduct substantially impairs the effective conduct of a meeting depends on the actual impact of the conduct on the course of the meeting. A speaker may not be removed from a meeting solely because of the use of profanity unless the use of profanity actually disturbs or impedes

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<sup>15</sup> *Norse v. City of Santa Cruz*, 629 F.3d 966, 976, (9<sup>th</sup> Cir. 2010)

the meeting.<sup>16</sup>

Therefore, in light of this ruling, council rules governing public comment should be carefully reviewed and be narrowly tailored to ensure that the rules only prohibit actual disruptive conduct. In review of the cases, however, extreme caution should be taken if a speaker's comments are becoming repetitive or "irrelevant" (that would play out nicely – the Mayor thought your comments were irrelevant so he cut your time short) but those comments are being made within the allowed time frame for public comment, it could be possible that a court could deem that not an "actual disruption".

**B. THE GOOD OLD U.S. SUPREME COURT'S PORNOGRAPHY STANDARD OF 'WE CAN'T DEFINE IT BUT WE KNOW IT WHEN WE SEE IT' AS APPLIED TO AN "ACTUAL DISRUPTION".**

The 9<sup>th</sup> Circuit clearly has set the standard that to survive constitutional facial validity scrutiny rules of decorum must be drafted in such a manner as to only allow a person to be ejected when that person is actually disturbing a meeting. A review of the relevant case law does not readily equate to a precise legal standard or definition of what constitutes an "actual disruption.

However, an attempt to synthesize the case law was made by a 9<sup>th</sup> circuit district court in *Dowd v. City of Los Angeles*.<sup>17</sup> The primary issue in question in *Dowd* was a challenge to the City of Los Angeles' lottery permit system for assigning vendors and street performers space along the tourist heavy Venice Beach Boardwalk. LA for several years had attempted to regulate activity along the boardwalk and sought to enforce regulations requiring permits. Dowd and other plaintiffs were street performers and

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<sup>16</sup> *Acosta*, 718 F.3d at 810

<sup>17</sup> *Dowd v. City of Los Angeles*, 2013 WL 4039043 (C.D. Cal. 2013)

artists who made their living singing, dancing, etc. and selling various items or accepting donations. During the course of discussions about existing and proposed ordinances regulating activity along the boardwalk, Dowd and others frequently spoke at council meetings. Frequently, comments contained the use of profanity.

Dowd and others frequently spoke at council meetings and would direct their comments specifically at certain councilmembers and the council president. In one instance the council president was called “pathetic and hopeless” and that she is “not doing a very good job and you need to get together and loser her. During one comment, a plaintiff known as Zuma Dogg challenged the City Attorney’s use of outside legal counsel and spending millions and millions and that the permit regulations take money away from him by stating;” [the city attorney] can spend millions and millions and millions and millions of dollars [and] outside counsel can drag it out and I only want a fraction. As Matt Dowd would say that is fucked up.” In another instance, Dogg was allowed without interruption to sing a rendition of a Whitney Houston song to express his love for a certain councilmember, but is ejected when he says, “as Matt Dowd would say that is fucked up.” Occasionally, Dowd or Zuma Dogg were removed from a meeting when they were perceived to not be on topic. There was to be a Christmas Parade that was to be funded by the City and that would benefit a specific councilmembers district. Dogg started his public comment by saying “ My public comment is that I want to discuss the legality of this when you’ve got a criminal taking the money.” Dowd came to the podium and had a discussion with a councilmember about the relevance of Dogg’s and Dowd’s comments to the agenda item of the Christmas parade. Dowd kept saying that he wanted to speak about Councilmember Alarcon’s performance as a

councilmember. The debating councilmember kept insisting the topic was the Christmas Parade and Dowd kept insisting he wanted to speak about Alacron's performance and his alleged criminal activities and Dowd was quickly removed by the Sergeant of Arms. Other incidents that involved removal of Dowd or Zuma Dogg were similar in nature.

The Court in *Dowd*, attempted to synthesize the prior ruling related to an actual disruptions. The Dowd court cited to *Norwalk* for the proposition that an actual disruption need not resemble a breach of the peace or fighting words,<sup>18</sup> and that "a speaker may disrupt a council meeting by speaking too long, by being unduly repetitions, or by extended discussion of irrelevancies. The meeting is disrupted because the Council is prevented from accomplishing its business in a reasonably efficient manner."<sup>19</sup> The Dowd court noted a potential conflicting result where in *Kindt v. Santa Monica Rent Control Bd.*, and *Norse*. In *Kindt*, 67 F.3d 266 (9<sup>th</sup> Cir 1995), the court held that it was permissible to remove a man who had previously disrupted proceeding of the same meeting when his frequent partner in disruptive behavior made an obscene gesture which the board believed threatened to start the disruption all over again.<sup>20</sup> However, in *Norse* the court held that there had not clearly been a disruption when Norse gave a silent Nazi salute and was then ejected and arrested, rejecting the City's definition of disturbance as any violation of its decorum rules.

The *Dowd* court applied the principles discussed above to the incidents when Dowd or Dogg were removed. The Court held that while the evidence demonstrated significant tolerance of citizen speech on the part of the members of the City Council and the frequent comments by Dowd and Dogg, it did not mitigate for the relatively few

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<sup>18</sup> *Norwalk*, 900 F.2d at 1425.

<sup>19</sup> *Id.* at 1426

<sup>20</sup> *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266 (9<sup>th</sup> Cir 1995)

instances that Dowd and Dogg were unconstitutionally removed. The court held that in relation to the incidents identified that an actual disruption did not occur beyond the mere breach of the Rules of Decorum. Specifically, personal attacks and profanity did not rise to the level of an actual disruption. In fact, the Council appeared to deem the use of profanity as an actual disruption per se.

**C. CONCLUSION:**

It is clear that council rules can regulate public comment. However, council rules that are overbroad, that include the prohibition of the use of profanity, or prohibit personal attacks without the qualification of actually disrupting the meeting will likely be held unconstitutional. Additionally, when enforcing the rules of decorum, an actual disruption of the business of the council is necessary prior to removing the speaker.

# The First Amendment is not the last word



In this country today, the First Amendment to the United States Constitution is the foundation of our civil liberty. The freedoms that it lists are crucial to our society. When we read accounts of how these freedoms, in other nations, can be abridged, limited or ignored, we react with horror. And yet it is also important to acknowledge that in the matter of free speech, the First Amendment is not the last word.

*“Congress shall make no law...abridging the freedom of speech...”*

These 10 words have been interpreted to allow words and actions of an extraordinary breadth and variety. And sometimes, in our public meetings, people engage in hateful, vicious, personal and wide-ranging attacks on institutions and individuals, waving the banner of free speech. They sometimes take actions, defended as free speech, which physically disrupt the meeting.

We would like to offer a framework for consideration of free speech at public meetings, in the hope that it will be helpful to elected officials and local governments struggling with these issues. Our examples are from Washington State. Refer to your state law for the specifics that apply to your situation.

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1. It is important to distinguish between legal concerns and parliamentary procedure. I am not an attorney and this article does not constitute legal advice. These thoughts are offered from the point of view of parliamentary procedure, which is a part of the common law with its own special history and perspective. Taking the parliamentary view into consideration, you will want to be guided by your attorney.
2. A governing body has the right to establish rules for the conduct of its business. This principle is enshrined in Washington state law (see, e.g., [RCW 35A.12.120](#)), in *Robert's Rules of Order*, and in common parliamentary law as affirmed by the courts.
3. We recommend that every council, commission, or other public body establish its own rules of procedure. From our perspective, it makes sense to adopt *Robert's Rules of Order*, and then add your own special additional rules that meet the requirements of your particular situation.
4. Including a time limit on remarks is essential if a body is to conduct its business effectively.
5. A governing body may prohibit offensive speech, personal attacks, insult, etc. by its own members.
6. A member who breaks this rule may be reprimanded, censured, or asked to leave the meeting. Such punishment can be inflicted only by the body itself, not by the chair acting alone. Including such consequences in the rules of procedure, though it may not seem necessary when you adopt them, can prove very helpful if your situation changes.
7. In Washington State, the public has the right to attend meetings, but does not have the right under the state constitution or by statute to speak at them. However, most public bodies have created this right by consistently giving the public an opportunity to speak.
8. In its rules, the body may authorize the chair to make a brief response to a speaker. The chair may state that the body will take the views into consideration during its discussion and may offer to provide information or a response later. (Of course, if you say this, be sure to follow up!)
9. However, the right to speak and ask questions does not, in and of itself, include the right to an answer. It is important for the chair not to get involved in a back-and-forth exchange with members of the public. We all have a natural impulse to defend ourselves when attacked, but remaining calm and moving on the next item of business may be the most prudent and appropriate response.
10. This also prevents the unfortunate situation wherein the chair makes statements that are then interpreted as the position of the whole body, when perhaps they have not been adopted by the body, leading to further wrangling and recrimination.
11. In creating its rules, a council may impose restrictions pertaining to the way in which public comment is offered. It is fine to impose time limits. If state law allows, you may require that remarks be germane (relevant) to the subject at hand, or confine public comment to specified topics. All such restrictions must be viewpoint-neutral.

12. Members of the public may not disrupt the meeting. However, the courts have found that words alone do not constitute disruption. The body may request that speakers be courteous and refrain from profanity, personal attacks, and so on, but it cannot require them to do so.
13. In Washington State, if members of the public who are present actually disrupt the meeting, or physical violence is threatened, they can be ordered to leave, the meeting room may be cleared, or the body itself can adjourn the meeting and reconvene in a different place, without the presence of the public but with the presence of the media. ([RCW 42.30.050.](#)) We advise caution in considering whether to order someone to leave. Consult your attorney and be sure that your actions are defensible under the First Amendment.

It is clear from current research into how the human brain functions that when people get loud, offensive, and insulting, a group is not able to do its work. When the amygdala sends out signals of fear and rage, the prefrontal cortex, the part of the brain that is capable of reflecting on and making decisions about complex issues, stops functioning. This means that angry emotions and disruptive actions can have the effect of hijacking a meeting.

► **HONOR THE FIRST AMENDMENT, ESTABLISH RULES, BE PREPARED TO ACT**

Sometimes that's what protesters want. It means, though, that those same protesters are stealing from the public. They are preventing our officials from doing the work that they were elected or appointed to do. We encourage you to be proactive and definite. Honor the First Amendment, establish rules that will protect your group to the best of your legal ability, and be prepared to act when disruption threatens. To do otherwise is to run the risk of wasting your time and the public's resources.

*Thank you for your interest in running effective meetings using Robert's Rules of Order. Visit our website, [www.jurassicparliament.com](http://www.jurassicparliament.com), for much more information on how to do this. Or contact us at [info@jurassicparliament.com](mailto:info@jurassicparliament.com) or 206-542-8422. We look forward to hearing from you!*

**The First Amendment is not the last word**

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P.O. Box 77553, Seattle, WA 98177  
TEL 206.542.8422 | EMAIL [info@jurassicparliament.com](mailto:info@jurassicparliament.com)  
[www.jurassicparliament.com](http://www.jurassicparliament.com)