

Council Bill/General Ordinance No. 3019-2023

Sponsor: \_\_\_\_\_

AN ORDINANCE

AMENDING Chapter 22, "OFFENSES-MISCELLANEOUS," of the Moline Code of Ordinances, by repealing Chapter 22 in its entirety and enacting in lieu thereof one new Chapter 22 dealing with the same subject matter.

WHEREAS, the City is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution; and

WHEREAS, City staff has decided to do a complete review of all chapters of the Moline Code of Ordinances to correct those items that are merely housekeeping in nature; and

WHEREAS, staff finds that a number of housekeeping changes are necessary in Chapter 22 of the Moline Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1** – That Chapter 22, "OFFENSES - MISCELLANEOUS," of the Moline Code of Ordinances, is hereby amended by repealing Chapter 22 in its entirety and enacting in lieu thereof one new Chapter 22 dealing with the same subject matter, which shall read as attached (additions in underline; deletions in strikethrough):

**Section 2** – All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give effect to the provisions of this Ordinance.

**Section 3** – This ordinance and every provision thereof shall be considered severable. If any word, phrase, clause, sentence, paragraph, provision, section, or part of this Ordinance is found to be void, unconstitutional, or otherwise unenforceable, all remaining portions of this Ordinance not so declared void, unconstitutional, or unenforceable shall remain in full force and effect.

**Section 4** – This Ordinance will be in full force and effect upon passage, approval and publication in pamphlet form in the manner provided by law.


CITY OF MOLINE, ILLINOIS

DocuSigned by:  
  
\_\_\_\_\_  
Mayor

June 20, 2023  
\_\_\_\_\_  
Date

Passed: June 20, 2023

Approved: July 11, 2023

Attest:   
\_\_\_\_\_  
City Clerk

## CHAPTER 22

### OFFENSES - MISCELLANEOUS

#### Art. I. In General

Div. 1. Miscellaneous Offenses, §22-1100 - §22-1111

Div. 2. Drug Paraphernalia, §22-1200 - ~~§22-1206~~1205

Div. 3. Parental Responsibilities, §22-1300 - ~~§22-1305~~1304

Div. 4. ~~Motor Vehicle Responsibilities~~Truancy, §22-1400 - §22-14101402

Div. 5. Endangering the Life or Health of a Child, §22-1500

Div. 6. Neglected and Delinquent Children Offenses, §22-15001600 - §22-~~1504~~1603

Div. ~~6~~7. Look-Alike Substances - ~~§22-1600~~ - ~~§22-1603~~1700 - ~~§22-1702~~

Div. ~~7~~8. Registration of Certain Offenders, §22-17001800 - §22-~~1704~~1805

Art. II. Disorderliness and Offenses Against a Person, §22-2100 - ~~§22-2103~~2106

Art. III. Offenses Against Property, §22-3100 - §223108~~7~~

Art. IV. Weapons, §22-4100 - §22-4103

Art. V. Gambling, §22-5100 - §22-5102

Art. VI. Littering, §22-6100 - §22-6102

Art. VII. Offenses Against Public Decency

Div. 1. ~~In General~~Prostitution, §22-7100 - §22-7104

Div. 2. Obscenity, §22-7200 - §22-7202

~~Art. VIII. Vandalism, §22-8100 - §22-8104~~

Art. VIII. Authority to Impound Fleeing Vehicles, §22-8100 - §22-8104

## ARTICLE 1. IN GENERAL

### DIVISION 1. MISCELLANEOUS OFFENSES

#### SEC. 22-1100. IMPERSONATING CITY OFFICER OR POLICE OFFICER.

(a) Whoever shall falsely represent to be an officer of the City, or shall without authority exercise or attempt to exercise any powers, duties or functions of any city officer, or whoever, not being a member of the police department of the City shall wear or be in possession of any police officer's badge with the intent thereby to pose as a police officer, shall be guilty of an offense.

(b) ~~Penalty.~~ A violation of this section shall be punishable by imprisonment in a place other than a penitentiary for a term not to exceed six (6) months, or be fined a mandatory fine of not less than two hundred fifty dollars (\$250.00) plus court costs nor more than seven hundred fifty dollars (\$750.00), or both.

(Ord. No. 2002-08-11; Sec. 22-1100 (b) repealed; new Sec. 11-1100 enacted; 09/10/02)

#### SEC. 22-1101. RESERVED.

(Ord. No. 3023-2006; Sec. 22-1101, "Fortunetelling," repealed in its entirety; Sec. 22-1101 reserved for future use; 05/23/06)

#### SEC. 22-1102. CURFEW: IMPOSED UPON MINORS; DUTIES OF PARENTS; ENFORCEMENT.

(a) ~~It shall be unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least eighteen (18) years of age approved by a parent or legal guardian, or unless engaged in a business or occupation which the laws of the state authorize a person less than seventeen (17) years of age to perform, or unless engaged in, or traveling to or from, an activity involving the exercise of those rights protected by the First Amendment to the United States Constitution and Sections 3, 4 and 5 of the Illinois State Constitution, or both, such as the freedom of speech and the right of assembly:~~

(1) ~~Between 12:01 a.m. and 6:00 a.m. Saturday.~~

~~(2) Between 12:01 a.m. and 6:00 a.m. Sunday.~~

~~(3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.~~

~~(Ord. No. 3024-2004; Sec. 22-1102 (a) repealed; new Sec. 22-1102 (a) enacted; 05/11/04)~~

~~(b) It is unlawful for a parent, legal guardian or other person to allow or permit a person in the custody or control of such person to violate subsection (a) of this section.~~

~~(c) Any police officer finding a minor child violating the provisions of subsection (a) shall warn the minor to immediately desist from the violation and shall promptly report the violation to said officer's superior officer or arrest the violator. The superior officer may cause a written notice to be mailed or served upon the parent, guardian or other adult person having the care and custody of the minor.~~

~~(d) Any person violating Section 22-1102(a) or (b), as a first offense, shall be subject to a mandatory fine of not less than twenty five dollars (\$25.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1102(a) or (b), as a second offense, shall be subject to a mandatory fine of not less than fifty dollars (\$50.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1102(a) or (b), as a third or subsequent offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00), plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

~~(Ord. No. 2000-06-04; new Sec. 22-1102 (d) enacted; 06/06/2000)~~

**(a) Curfew offenses:**

(1) A minor commits a curfew offense when he or she remains in any public place or on the premises of any establishment during curfew hours.

(2) A parent or guardian of a minor or other person in custody or control of a minor commits a curfew offense when he or she knowingly permits the minor to remain in any public place or on the premises of any establishment during curfew hours.

(b) **Curfew defenses.** It is a defense to prosecution under subsection (a) that the minor was:

(1) Accompanied by the minor's parent or guardian or other person in custody or control of the minor;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a government or governmental agency, a civic organization, or another similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or is an emancipated minor under the Emancipation of Minors Act.

(c) **Enforcement.** Before taking any enforcement action under this Section, a law enforcement officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (b) is present.

(d) **Definitions.** In this Section:

(1) "Curfew hours" means:

(a.) Between 12:01 a.m. and 6:00 a.m. on Saturday;

(b.) Between 12:01 a.m. and 6:00 a.m. on Sunday; and

(c.) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(2) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile crash, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) "Establishment" means any privately-owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

(4) "Guardian" means:

(a.) A person who, under court order, is the guardian of the person of a minor; or

(b.) A public or private agency with whom a minor has been placed by a court.

(5) "Minor" means any person under 17 years of age.

(6) "Parent" means a person who is:

(a.) A natural parent, adoptive parent, or step-parent of another person; or

(b.) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(7) "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(8) "Remain" means to:

(a.) linger or stay; or

(b.) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(9) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ord. No. 3024-2004; Sec. 22-1102 (a) repealed; new Sec. 22-1102 (a) enacted; 05/11/04)

(Ord. No. 2000-06-04; new Sec. 22-1102 (d) enacted; 06/06/2000)

### **SEC. 22-1103. CLINGING TO RAILROAD CARS AND OTHER VEHICLES.**

(a)—No person shall seize, hang upon, get upon, hold, tie or fasten to any railroad car, engine, or other vehicle or conveyance, or attempt to do so, or attach to any such vehicle or conveyance any sleigh or sled, and ride thereon, unless such person shall be acting in compliance with the law and such person's duty.

(b) ~~**Penalty**. Any person in violation of this section shall be subject to a mandatory fine of not less than seventy-five dollars (\$75.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; Sec. 22-1103 repealed; new Sec. 22-1103 enacted; 09/10/02)

### **SEC. 22-1104. ABANDONED REFRIGERATORS AND SIMILAR APPLIANCES.**

(a)—It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under such person's control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid with a snap lock or other locking device which cannot be readily released from the inside, ~~[CD1]of a capacity of one and one-half cubic feet or more~~ without first removing the door, lid, snap lock or other locking device.

(b) ~~**Penalty**. Any person in violation of this section shall be subject to a mandatory fine of not less than one hundred fifty dollars (\$150.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; Sec. 22-1104 repealed; new Sec. 22-1104 enacted; 09/10/02)

### **SEC. 22-1105. TOBACCO PRODUCTS, TOBACCO ACCESSORIES, SMOKING HERBS AND ALTERNATIVE NICOTINE PRODUCTS.**

(a) **Definitions.** For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

(1) **Alternative nicotine product** means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. "Alternative nicotine product" excludes cigarettes, smoking tobacco, or other tobacco products as these terms are defined herein and any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

(2) **Bidi Cigarette** means a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Department or Public Health of the State of Illinois that is similar in appearance or characteristics to the temburni or tendu leaf.

(3) **Electronic Nicotine Delivery Systems ("ENDS")** means and includes vapes, vaporizers, vape pens, hookah pens, electronic cigarettes, e-cigs, e-cigars, or e-pipes. ~~Electronic cigarette or E-Cigarette~~ means a battery-operated device that contains a combination of nicotine, flavor, or chemicals or any combination thereof that is turned into vapor which is inhaled by the user.~~[KJ2]~~

(4) **Smoking herbs** means all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and

wild lettuce, which are processed or sold primarily for use as smoking materials.

(5) **Tobacco accessories** means cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items, designed primarily for the smoking, inhaling, or ingestion of tobacco products or of substances made illegal under any Illinois state statute or this chapter or of substances whose sale, gift, barter, or exchange is made unlawful under this Section.

(6) **Tobacco products** means any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe, tobacco, snuff, chewing tobacco or dipping tobacco.

(7) **Vending machine** means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS**, or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~**ENDS**.

(b) **License required.** It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS**, or any alternative nicotine products within the City without having first obtained a tobacco dealer's license therefore pursuant to this Chapter.

(c) **License application.** Application for a license hereunder shall be made in writing to the accounts and finance officer and shall be processed in accordance with this Code and in accordance with procedures adopted by the accounts and finance officer.

(d) **Licensee fee.** The license fee for a tobacco dealer's license shall be not less than one hundred dollars (\$100.00) when issued, with an annual renewal fee of not less than one hundred dollars (\$100.00) thereafter. The license year will begin on May 1 of each year.

(Ord. No. 3033-2017; Sec. 22-1105(d) repealed in its entirety; new Sec. 22-1105(d) enacted; 10/17/17)

(e) **Prohibited sales, delivery – signs .**

(1) It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS**, or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~**ENDS** to any person under the age of twenty-one (21) years.

(2) Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS**, or any alternative nicotine products, and on or upon every vending machine which offers tobacco products, tobacco accessories, smoking herbs, electronic cigarettes or any alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

**"THE SALE OF TOBACCO PRODUCTS, TOBACCO ACCESSORIES, SMOKING HERBS, ~~ELECTRONIC CIGARETTES~~**ENDS**, OR ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW."**

Additionally, signs warning the public of the health implications of smoking shall be posted by every licensee at or near every display of tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS** or any alternative nicotine products and on or upon every vending machine which offers tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS** or any alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

**"SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH AND LOW BIRTH WEIGHT."**

The text of such signs shall be in red letters on a white background, said letters to be at least one (1) inch high.

(3) It shall be unlawful for any person, including any licensee, to possess, sell, offer for sale, give away or deliver a bidi cigarette to another person.

(f) **Minimum age to sell tobacco products.** It shall be unlawful for any person, any licensee or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any other person under eighteen (18) years of age to sell tobacco products, tobacco accessories, smoking herbs, ~~electronic~~**BR3**~~cigarettes~~**ENDS** or any alternative nicotine products in any licensed premises or any other premises.

(g) **Purchase by persons under the age of 21 prohibited.** It shall be unlawful for any person under the age of twenty-one (21) years to purchase any tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS** or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~**ENDS**, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS** or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~**ENDS**.

(h) **Possession by persons under the age of 21 prohibited.** It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~**ENDS** or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~**ENDS**; provided that the possession by a person under the age of twenty-one (21) years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home

shall not be prohibited.

(i) **Proximity to certain institutions.** It shall be unlawful for any person including any licensee to sell, offer for sale, give away or deliver tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~ENDS or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~ENDS, within one hundred (100) feet from the property line of any school, child care facility or other premises used for educational or recreational programs for persons under the age of eighteen (18) years.

(j) **Certain free distributions prohibited.** It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~ENDS or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~ENDS, or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~ENDS or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~ENDS, free of charge to any person on any right-of-way, park, playground or other property owned by the City, any school district, any park board, or any public library.

(k) **Vending machines - locking devices.**

(1) It shall be unlawful for any person or any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products, tobacco accessories, smoking herbs, ~~electronic cigarettes~~ENDS or any alternative nicotine product, or any cartridge or component of an alternative nicotine product or ~~electronic cigarette~~ENDS, by use of a vending machine, unless such vending machine is equipped with a manual, electric or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of twenty-one (21) years.

(2) Any premises where access by persons under the age of twenty-one (21) years is prohibited by law, ~~or premises where the public is generally not permitted and where vending machines are strictly for the use of employees of the business located at such premises,~~ shall be exempt from the requirements of Sec. 22-1105(k)(1) above.

(l) **Responsibility for agents and employees.** Every act or omission of whatsoever nature, constituting a violation of ~~any of the provisions of this chapter~~Section 22-1105 by an officer, director, manager or other agent or employee of any person or any licensee shall be deemed and held to be the act of such person or licensee; and such person or licensee shall be punished in the same manner as if such act or omission had been done or omitted by the person or licensee personally.

(m) **Suspension; revocation of license; fines, costs.**

(1) The mayor or designee shall be charged with the administration of this ~~chapter~~section. The mayor or designee may suspend or revoke any license issued under the provisions of this ~~chapter~~ section, if the mayor or designee determines that the licensee has violated any of the provisions of this ~~chapter~~section. For a violation of subsection (b) of this section, the person shall be ineligible to receive a license hereunder for a period of thirty (30) days from the date of the offense. The first time a licensee violates any provision of this section, the licensee shall be subject to a fine of not less than two hundred fifty dollars (\$250.00). The second time a licensee violates any provision of this section, the license shall be suspended for a period of not less than three (3) days. The third time a licensee violates any provision of this section, the license shall be suspended for a period of not less than fifteen (15) days. The fourth time a licensee violates any provision of this section, the license shall be suspended for a period of not less than thirty (30) days. The fifth or subsequent time a licensee violates any provision of this Section, the license shall be revoked, and no licensee shall thereafter be eligible to apply for a new license under this section to conduct business at the premises described in the revoked license for a period of six (6) months. In addition to suspension or revocation of a license, the mayor or designee may levy a fine on the licensee. The fine imposed shall not exceed seven hundred fifty dollars (\$750.00) for each violation. Each day on which a violation continues shall constitute a separate violation.

(2) However, no such license shall be suspended or revoked except after a public hearing by the mayor or designee with a seven (7) day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provisions shall begin the day following delivery by certified mail or by personal service.

(3) If the mayor or designee determines after such hearing that licensee has violated any of the provisions of this section, the mayor or designee shall      within seven (7) days after the hearing state the reason for such determination in a written order and state the amount of the fine, if any, and the period of suspension or that the license has been revoked, and serve a copy of such order within the seven (7) days upon the licensee.

(4) Any licensee determined by the mayor or designee to have violated any of the provisions of this ~~chapter~~ Section shall pay to the City the costs of the hearing before the mayor or designee on such violation. The mayor or designee shall determine the costs incurred by the City for said hearing, including, but not limited to: court reporter's fees, the costs of transcripts or records, attorneys' fees in an amount not less than one hundred dollars (\$100.00), the cost of preparing the mailing notices and orders and all other miscellaneous expenses incurred by the City or such lesser sum as the mayor or designee may allow.

(5) The licensee shall pay said costs to the City within thirty (30) days of notification of the costs by the mayor or designee. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter and may be cause for license suspension or revocation, or the levy of an additional fine.

(n) **Penalties-Ongoing offenses.** Each day during which or on which any person or licensee violates any provision of

this Section 22-1105 shall be deemed a separate offense.

(o) **Offenses on school grounds.** Any person violating Section 22-1105(h), on School Grounds, shall be first admonished by the school through the course of school discipline policies. Any violation of this section shall not apply for the purposes of city ordinance until school discipline has been applied twice. Therefore, a citation for Section 22-1105(h) on School Grounds shall be prima facie evidence of a third offense.

~~(1) Any person violating Section 22-1105(e), as a first offense, shall be subject to a fine of not less than two hundred fifty dollars (\$250.00). Any person violating Section 22-1105(e), as a second or subsequent offense, shall be subject to a fine of not less than five hundred dollars (\$500.00), plus court costs.~~

~~(2) Any person violating Section 22-1105(g) or (h), as a first offense, shall be subject to a citation, which citation shall be paid at the City of Moline accounts and finance office in the amount of fifty one hundred dollars (\$50.00100.00), or \$75 fine and complete an educational course, if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating Section 22-1105(g) or (h), as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline accounts and finance office in the amount of one hundred fifty dollars (\$100150.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days shall thereafter be subject to an action in circuit court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated Section 22-1105(g) or (h) shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00), plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. Each day during which or on which any person violates Section 22-1105(g) or (h) shall be deemed a separate offense. In lieu of any citation payment or any fine mentioned herein for a first offense, a person may notify the City of Moline accounts and finance office of their intention to complete a "tobacco use" class or other similar class put on by the American Lung Association, Youth Service Bureau, or similar agency, at such person's sole cost and expense, and if such person shall successfully complete such class and provide proof of completion to the City of Moline accounts and finance office, then any such citation payment or fine for first offense shall be waived/reduced.~~

~~(3) Except for violations of Section 22-1105 (e), (g) or (h), all violations of this Section 22-1105 shall be punishable as provided in Section 1-1107 of this Code. Each day during which or on which any person violates Section 22-1105 shall be deemed a separate offense.~~

(Ord. No. 3020-2019; 8/6/19; Ord. No. 2002-06-16; Sec. 22-1105 repealed; new Sec. 22-1105 enacted; 06/25/02; Ord. No. 3042-2006; Sec. 22-1105(m) and (n) repealed; new Sec. 23-1105(m) and (n) enacted; 09/23/06; Ord. No. 3002-2015; Sec. 22-1105 repealed; new Sec. 22-1105 enacted; 01/27/15)

#### **SEC. 22-1106. POSSESSION OF CANNABIS.**

(a) **Definitions.** All the terms and phrases used herein shall have the same meaning as ascribed to them in the Cannabis Control Act (720 ILCS 550/1 et seq.) and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.

(b) **Offense of possession of cannabis.** A person commits the offense of possession of cannabis by knowingly possessing ten (10) grams or less of any substance containing cannabis unless permitted or authorized to do so pursuant to the Cannabis Control Act (720 ILCS 550/1 et seq.).

~~(c) **Penalty.** Any person violating Section 22-1106(b), as a first offense, shall be subject to a mandatory fine of not less than two hundred fifty dollars (\$250.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1106(b), as a second offense, shall be subject to a mandatory fine of not less than five hundred dollars (\$500.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1106(b) as a third or subsequent offense, shall be subject to a mandatory fine of not less than seven hundred fifty dollars (\$750.00), plus court costs.~~

(Ord. No. 2000-06-04; Sec. 22-1106 (c) repealed; new subsection (c) enacted; 06/06/2000)

#### **SEC. 22-1107. USE/SALE OF INTOXICATING COMPOUNDS PROHIBITED.**

(a) No person shall breathe, inhale or drink any compound, liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cello acetate, cyclohexanone, the alkaloids atropine, hyoscyamine, or scopolamine, or any other substance for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis or irrational behavior, or in any manner changing, distorting or disturbing the auditory, visual or mental processes. For the purposes of this section, any such condition so induced shall be deemed to be an intoxicated condition.

(b) No person shall knowingly sell or offer for sale, deliver or give to any person under ~~seventeen~~ twenty-one (1721) years of age, unless upon written order of such person's parent or guardian, any compound liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cello acetate, cyclohexanone, or any other substance which will induce an intoxicated condition, as defined herein, when the seller, offeror or deliverer knows or has reason to know that such compound is intended for use to induce such condition.

(c) This section shall not apply to any person who commits any act described herein pursuant to the direction or

prescription of a practitioner authorized to so direct or prescribe. For purposes of this Section, practitioner shall mean any person authorized by law to practice medicine in all its branches in this state, to practice dentistry in this state, to practice veterinary medicine in this State, or to practice chiropractic in this state.

(Ord. No. 95-10-2; new subsection 22-1107 enacted 10-10-95)

~~(d) **Penalty**. Any person violating this section shall be subject to a mandatory fine of not less than three hundred dollars (\$300.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; new Sec. 22-1107 (d) enacted; 09/10/02)

### **SEC. 22-1108. SWIMMING IN RIVERS—PROHIBITED.**

(a) No person shall swim or bathe in the Mississippi River or Rock River where posted on or adjoining public property.

(b) It shall be unlawful to violate a contract (executed between the City and the owner of property to which said contract applies) concerning the embarking or disembarking from shore, swimming, bathing, or otherwise entering the Mississippi River or Rock River on private property or from private property; ~~provided, said contract has been recorded with the Recorder of Deeds, and provided that signs are posted and provide notice of the applicable contract provision.~~

(c) Nothing herein shall be held to repeal, impact, or affect, in any manner, rules and regulations of the Park and Recreation Board or Chapter 23 of the Moline Code of Ordinances.

~~(d) **Penalty**. Any person violating Section 22-1108(a) or (b), as a first offense, shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of fifty dollars (\$50.00), or if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating Section 22-1108(a) or (b), as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of one hundred dollars (\$100.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days, shall thereafter be subject to an action in Circuit Court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated Section 22-1108(a) or (b) shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00), plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. Each day during which or on which any person violates Section 22-1108(a) or (b) shall be deemed a separate offense.~~

~~(e) Contracts in force and effect are listed in Appendix 1 hereto, which Appendix is incorporated herein by this reference thereto.~~

(Ord. No. 2000-07-03; Sec. 22-1108 (d) repealed; new subsection (d) enacted, 07/05/00)

(Ord. No. 96-10-1; new subsection 22-1108 enacted; 10/01/96)

### **SEC. 22-1109. UNLAWFUL USE/POSSESSION OF LASER POINTING DEVICE.**

(a) As used in this Code, the term "Laser Device" shall mean **Definitions.** For the purposes of this section:

~~(1) Any of several devices that convert incident electromagnetic radiation of mixed frequencies to one or more discrete frequencies of highly amplified and coherent visible radiation."Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes;~~

~~(2) Any other such device operating on the principle of light amplification by stimulated emission of radiation;~~

~~(2) A device that emits light which simulates the appearance of a laser."Laser" means both of the following:~~

~~(a.) Any device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum and when discharged exceeds one milliwatt continuous wave;~~

~~(b.) Any device designed or used to amplify electromagnetic radiation by simulated emission that is visible to the human eye.~~

~~(3) "Laser pointer" means a hand-held device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.~~

~~(4) "Laser sight" means a laser pointer that can be attached to a firearm and can be used to improve the accuracy of the firearm.~~

~~(b) It is unlawful for any person to focus, point, direct or shine a laser beam from a laser pointing device directly or indirectly; on another person or animal in such a manner as to harass, annoy, alarm, disturb or injure said person or animal~~

~~(1) On another person or animal in such a manner as to harass, annoy, alarm, disturb or injure said person or animal;~~

~~(2) A person commits disorderly conduct with a laser or laser pointer At a person he or she knows or reasonably should know to be a peace officer; or~~

~~(3) aims and discharges a laser or other device that creates visible light Into the cockpit of an aircraft that is in the process of taking off, landing, or is in flight.~~



~~(b)(c)~~ It shall be unlawful for any person under the age of eighteen (18) years to possess a laser pointing device.

~~(e)(d)~~ A person under eighteen (18) years shall not be in violation of this section if the person's possession of a laser pointing device is necessary for the person's trade or occupation and it is necessary for the laser pointing device to be carried on his or her person.

(Ord. No. 99-9-6; new §22-1109 enacted; 09/21/99)

~~**SEC. 22-1110. ENDANGERING THE LIFE OR HEALTH OF A CHILD.**~~

~~(a) It is unlawful for any person to willfully cause or permit the life or health of a child under the age of eighteen (18) to be endangered or to willfully cause or permit a child to be placed in circumstances that endanger the child's life or health, except that it is not unlawful for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act.~~

~~(b) There is a rebuttable presumption that a person committed the offense if he or she left a child six (6) years of age or younger unattended in a motor vehicle for more than ten (10) minutes.~~

~~(c) "Unattended" means either:~~

~~(1) not accompanied by a person fourteen (14) years of age or older; or~~

~~(2) if accompanied by a person fourteen (14) years of age or older, out of sight of that person.~~

~~(d) Any person violating this section as a first offense shall be subject to a mandatory fine of not less than two hundred fifty dollars (\$250.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating this section as a second or subsequent offense shall be subject to a mandatory fine of not less than five hundred dollars (\$500.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs, and shall be sentenced to serve a term of conditional discharge of not less than six (6) months, with terms and conditions prescribed by the court designed to deter and prevent any future violations from occurring.~~

(Ord. No. 2002-10-06; new Sec. 22-1110, "ENDANGERING THE LIFE OF A CHILD," enacted; 10/22/02)

**SEC. 22-1111. SMOKING.**

(a) **Definitions.** For the purposes of this section, the following terms shall have the meanings respectively ascribed to them:

(1) **Bar.** Means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10% of its gross revenue from the sale of food consumed on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

(2) **Department.** Means the Illinois Department of Public Health.

(3) **Employee.** Means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

(4) **Employer.** Means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity, that employs the services of one or more individual persons.

(5) **Enclosed area.** Means all space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

(6) **Enclosed or partially enclosed sports arena.** Means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

(7) **Gaming equipment or supplies.** Means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

(8) **Gaming facility.** Means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

(9) **Healthcare facility.** Means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. "Healthcare facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

(10) **Place of employment.** Means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in subsection (g) of this section, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a "place of employment."

(11) **Private club.** Means a not-for-profit association that (1) has been in active and continuous existence for at least 3 years prior to the effective date of this Ordinance, whether incorporated or not, (2) is the owner, lessee, or occupant of a

building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, "private club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

(12) **Private residence.** Means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

(13) **Public place.** Means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the City of Moline, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in subsection (g) of this section, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the City of Moline or City subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

(14) **Restaurant.** Means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. "Restaurant" includes a bar area within the restaurant.

(15) **Retail tobacco store.** Means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

(16) **Smoke or Smoking.** Means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

(b) **Prohibited Acts.** No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or ~~to a in any~~ place of employment. No person may smoke in any vehicle owned, leased, or operated by the City or any political subdivision of the City. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by subsection (f) of this section.

(c) **Posting of Signs; Removal of Ashtrays.**

(1) "No Smoking" signs or the international "No Smoking" symbol, consisting of pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Ordinance by the owner, operator, manager, or other person in control of that place.

(2) Each public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(3) All ashtrays shall be removed from any area where smoking is prohibited by this Ordinance by the owner, operator, manager, or other person having control of the area.

(d) **Smoking Prohibited in Student Dormitories.** Notwithstanding any other provision of this Ordinance, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restroom, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

(e) **Designation of Other Nonsmoking Areas.** Notwithstanding any other provision of this Ordinance, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is prohibited provided that such employer, owner, lessee, or occupant shall conspicuously post signs prohibiting smoking in the manner described in subsection (c) of this section.

(f) **Exemptions.** Notwithstanding any other provision of this Ordinance, smoking is allowed in the following areas:

(1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any

other home-based business open to the public.

(2) Retail tobacco stores as defined in subsection (a) of this section in operation prior to the effective date of this Ordinance. The retail tobacco store shall annually file with the Department and the local liquor control commissioner for the City of Moline by January 31<sup>st</sup> an affidavit stating the percentage of its gross income during the prior calendar year that derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of this Ordinance may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.

(4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be continuous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

(g) **Entrances, Exits, Windows, and Ventilation Intakes.** Smoking is prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this Ordinance so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

~~(h) **Violations.**~~

~~(h) **Ongoing Offenses.** Each day during which or on which any person violates a provision of this Section 22-1110 shall be deemed a separate offense.~~

~~(1) A person, corporation, partnership, association or other entity who violates subsection (b) of this section shall be fined pursuant to this section. Each day that a violation occurs is a separate violation.~~

~~(2) A person who smokes in an area where smoking is prohibited under subsection (b) of this section shall be fined in an amount that is not less than \$100 and not more than \$250. A person who owns, operates, or otherwise controls a public place or place of employment that violates subsection (b) of this section shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$2,500 for each additional violation within one year after the first violation.~~

(i) **Injunctions.** The Department, a State-certified local public health department, the City of Moline, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this Ordinance.

(j) **Authority of Ordinance.** This Ordinance shall supersede any ordinances, resolutions or motions, or parts of ordinances, resolutions or motions in conflict with any part herein, any such sections or parts thereof, are hereby repealed.

(k) **Severability.** If any section or paragraph of this Ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any remaining provisions of this ordinance.

(Ord. No. 3003-2008; new Sec. 22-1111 enacted; 12/18/07)

**SEC. 22-1111. PENALTIES FOR VIOLATIONS OF MISCELLANEOUS OFFENSES (§22-1100-§22-1110)**

(a) **Penalty.** Any person violating Section 22-1100 through Section 22-1110, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-1100 through Section 22-1110, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-1100 through Section 22-1110, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(b) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(c) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

**SEC. 22-1200. DEFINITION OF DRUG PARAPHERNALIA.**

(a) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq. It includes but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used or intended for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use, in cutting controlled substances;

(7) Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

(10) Containers and other objects used or intended for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;

(12) Objects used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Carburetion tubes and devices;

c. Water pipes;

d. Smoking and carburetion masks;

e. Roach clips; meaning paper clips, alligator clips, hairpins, or other similar objects that have been altered by the defendant or prior to or while in the possession of the defendant so that there exists a handle attached to said object at an angle between forty-five (45) degrees and one hundred thirty-five (135) degrees so that the alteration would facilitate a person's holding of burning materials such as a marijuana cigarette that has become too small or too short to be held by the fingers and so that the alteration prohibits the use of said object for its normal function;

f. Cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bonds;

m. Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation, by the object's owner or person in control of the object, of 720 ILCS 550/1 et seq., and 720 ILCS 570/100 et seq.;

(4) The proximity of the object to controlled substances owned by the object's owner or person in control of the object.

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom said owner or person in control knows intend to use the object to facilitate a violation of 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq.; the innocence of an owner, or of anyone in control of the object, as to a direct violation of 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq., shall not prevent a finding that the object is intended for use, or designed for use, or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;

(12) Expert testimony concerning its use.

### **SEC. 22-1201. POSSESSION OF DRUG PARAPHERNALIA.**

~~(a)~~ It is ~~an offense-unlawful~~ for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq.

~~(a)(b)~~ It shall not be unlawful, other than individuals under 21 years of age, to possess cannabis paraphernalia as prescribed in 410 ILCS 705/10-5.

~~(b)(c)~~ Penalty. Any person violating Section 22-1201(a), as a first offense, shall be subject to a mandatory fine of not less than three hundred fifty dollars (\$350.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1201(a), as a second offense, shall be subject to a mandatory fine of not less than five hundred fifty dollars (\$550.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating Section 22-1201(a), as a third or subsequent offense, shall be subject to a mandatory fine of not less than seven hundred fifty dollars (\$750.00), plus court costs.

(Ord. No. 2000-06-04; Sec. 22-1201 repealed; new Sec. 22-1201 enacted; 06/06/00)

### **SEC. 22-1202. MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.**

~~(a)~~ It is unlawful for any person to manufacture, deliver or possess with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of 720 ILCS 550/1 et seq. and 720 ILCS 570/100 et seq.

~~(a)(b)~~ This section shall not apply to the lawful purchase, manufacture or delivery of cannabis paraphernalia as allowed under 410 ILCS 705/10-25 so long as the delivery of said paraphernalia is to an individual 21 years of age or older.

~~(b)(c)~~ Penalty. Any person violating Section 22-1202(a), as a first offense, shall be subject to a mandatory fine of not less than three hundred fifty dollars (\$350.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-1202(a), as a second offense, shall be subject to a mandatory fine of not less than five hundred fifty dollars (\$550.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-1202(a), as a third or subsequent offense, shall be subject to a mandatory fine of not less than seven hundred fifty dollars (\$750.00) plus court costs.

(Ord. No. 2002-08-11; Sec. 22-1202 repealed; new Sec. 22-1202 enacted; 09/10/02)

### **SEC. 22-1203. DELIVERY OF DRUG PARAPHERNALIA TO A MINOR.**

Any person eighteen (18) years of age or over who violates Section 22-1202 by delivering drug paraphernalia to an individual under eighteen (18) years of age who is at least three (3) years junior to such person is guilty of a special offense and upon conviction therefor may be punished by imprisonment in a place other than a penitentiary for a term not to exceed six (6) months, or subject to a mandatory fine of not less than four hundred dollars (\$400.00) plus costs nor more than seven hundred fifty dollars (\$750.00), or both.

(Ord. No. 2002-08-11; Sec. 22-1203 repealed; new Sec. 22-1203 enacted; 09/10/02)

### **SEC. 22-1204. ADVERTISEMENT OF DRUG PARAPHERNALIA.**

(a) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication offered for sale within the City, any advertisement, knowing that the purpose of the advertisement is to promote the sale within the City of objects designed or intended for use as drug paraphernalia.

(b) **Penalty.** Any person violating Section 22-1204 shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.

(Ord. No. 2002-08-11; Sec. 22-1204 repealed; new Sec. 22-1204 enacted; 09/10/02)

**~~SEC. 22-1205. PENALTY.~~**

~~Except for violation of Sections 22-1201 and 22-1203, all violations of this division shall be punishable as provided in Section 1-1107 of this Code.~~

(Ord. No. 2000-06-04; Sec. 22-1205 repealed; new Sec. 22-1205 enacted; 06/06/00)

**~~SEC. 22-1206~~SEC. 22-1205. FORFEITURE.**

All drug paraphernalia as defined by Section 22-1200 of this Code shall be subject to forfeiture as provided in 720 ILCS 550/12 and 720 ILCS 570/505.

**DIVISION 3. PARENTAL RESPONSIBILITIES**

**SEC. 22-1300. PURPOSE.**

This ordinance is declared necessary for the preservation of the public peace, health, safety and welfare of the people of the City of Moline, and is intended to address situations where parents have failed to act responsibly and reasonably in the supervision of their minor children to the detriment of the general public.

**SEC. 22-1301. DEFINITIONS.**

(1) **Delinquent Acts.** Those acts which violate the laws of the United States, or the statutes of the State of Illinois or the ordinances of the City of Moline or those acts which would cause or tend to cause the minor to come under the jurisdiction of the Juvenile Division, the Department of Children and Family Services, County Court Services or the Juvenile Court but this definition shall not include traffic violations.

~~(2) **Minor.** For the purpose of this ordinance "Minor" shall include persons who are above the age of seven (7) years, but not yet eighteen (18) years of age.~~

~~(3) **Parent.** A mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the minor.~~

~~(4) **Illegal Drugs.** Controlled substances obtained without a legal prescription.~~

~~(5) **Juvenile Delinquent.** Those minors whose behavior interferes with the rights of others or menaces the welfare of the community.~~

~~(6) **Recklessly.** Conduct engaged in by a person in conscious disregard of a substantial and justifiable risk that circumstances exist or that a result will follow which constitutes an offense under this section and where such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.~~

~~(7) **Committee.** In this division and in Division 4, "Committee" shall mean the Committee-of-the-Whole" of the City Council.~~

~~(8)(2) **Legal Guardian.** A person appointed guardian, or given custody, of a minor by a circuit court of the State, but does not include a person appointed guardian, or given custody, of a minor under the Juvenile Court Act or the Juvenile Court Act of 1987.~~

~~(9)(3) **Minor.** A person who is above the age of 11 years, but not yet 19 years of age pursuant to 740 ILCS 115/2.~~

(Ord. No. 2003-05-05; reference to standing committees changed to City Council or Committee-of-the-Whole throughout the Code; 05/13/03)

**SEC. 22-1302. PARENTAL DUTIES.**

(a) It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act.

(b) Included (without limitation) in this continuous duty of reasonable parental control are the following duties:

(1) To keep illegal drugs or illegal firearms out of the home and legal firearms locked in places that are inaccessible to the minor.

(2) To know the Curfew Ordinance (Chapter 22, Article I, Section 22-1102) of the City of Moline, and to require the minor

to observe the Curfew Ordinance.

(3) To require the minor, if sixteen (16) years of age or younger, to attend regular school sessions and to forbid the minor to be absent from class without parental or school permission (Truancy - Chapter 22, Article II, Division 4, Sections 22-24031400-1402).

(4) To arrange proper supervision for the minor when the parent must be absent.

(5) To take the necessary precautions to prevent the minor from maliciously or willfully destroying real, personal, or mixed property which belongs to the City of Moline, or is otherwise located in the City of Moline.

(6) To forbid the minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary.

### **SEC. 22-1303. PARENTAL VIOLATION AND PENALTY.**

(a) No parent or guardian of any minor under the age of eighteen (18) years shall fail to exercise reasonable parental control over such minor. An adjudication that said minor has committed a felony, misdemeanor or violation of an ordinance which is deemed a civil infraction as identified in Section 22-1302 (b), may be considered as evidence that said parent or guardian failed to exercise reasonable parental control.

~~(b) Pursuant to the violation of this ordinance, t~~The parent/guardian of a minor shall be held civilly responsible for the damages caused by the commission of any delinquent act within the City of Moline pursuant to 740 ILCS 115/3, et seq.

~~(c) Upon the first adjudication of a minor of committing a felony, misdemeanor, or ordinance violation the notice sent to the parent/guardian shall be considered as a warning. In addition to the civil liability or responsibility set forth within 740 ILCS 115/3 et seq., the parent or guardian, upon a violation hereof, shall face penalties or fines as set forth within Section 22-1111(a).~~

~~(d) Upon any subsequent adjudication of a minor within two (2) years of his or her first adjudication, as provided above, following the mailing of the aforesaid notice of parent/guardian, a first violation of this ordinance will be deemed to have occurred and the parent/guardian shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of fifty dollars (\$50.00), or if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating Section 22-1303 as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of one hundred dollars (\$100.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days, shall thereafter be subject to an action in Circuit Court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated Section 22-1303 shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00), plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. In addition to any fine imposed, the parent/guardian shall be sentenced to conditional discharge with the condition that the parent/guardian participate in, through completion, a City approved community based treatment program (such as parenting skills, family services, employment and training, etc.).~~

(Ord. No. 2000-07-03; Sec. 22-1303 (d) repealed; new subsection (d) enacted; 07/05/00)

~~(e)(d)~~ In lieu of any citation payment penalty or any fine mentioned herein for a first offense, a parent/guardian may notify the chief of police, in writing, of their intention to complete a "Parenting" course provided by an acceptable organization recognized locally and/or nationally to provide such a course. The cost and expense relating to attendance at such a course shall be the responsibility of the parent/guardian. If parent/guardian provides proof of completion to the chief of police, the chief of police shall have the authority to waive any such citation or fine for the first offense.

~~(f) Upon the second offense of a violation of this ordinance, the parent/guardian shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00) and, in addition, shall be sentenced to probation with the condition that the parent/guardian participate in, through completion, a City approved, community based treatment program (such as parenting skills, family services, employment and training, etc.).~~

~~(g) Upon the third or subsequent offense of a violation of this ordinance, the parent/guardian shall be subject to a fine of not less than two hundred dollars (\$200.00), nor more than seven hundred fifty dollars (\$750.00).~~

### **SEC. 22-1304. NOTIFICATION OF PARENTS; RECORD OF NOTIFICATION.**

~~(a)~~ Whenever a minor is apprehended or detained for a delinquent or reckless act, the parent or legal guardian shall receive written notice thereof, either by certified or registered mail, return receipt requested, or by personal service, with a certificate of personal service returned, from the police department of the City of Moline following said adjudication or nonjudicial sanction, and

~~(b)~~ A record of such notification shall be maintained by the Records Division of the Moline Police Department.

### **SEC. 22-1305. LIABILITY OF PARENTS; RECORD OF NOTIFICATION.**

~~(a) Injuring or destroying property or acts of vandalism~~ . It shall be unlawful for any person to willfully or maliciously break, deface, injure or destroy any property within the City of Moline, whether such property is owned by the state, county,

City or any other governmental body, or owned by any private person. It shall be a violation of this section for any person to commit an act of vandalism.

(b) ~~**Liable for actual damages**~~. The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian is liable for actual damages for the willful or malicious acts of such minor which cause injury to a person or property.

(c) ~~**Recovery**~~. No recovery under this section may exceed one thousand dollars (\$1,000.00) actual damages for each person or legal entity for each occurrence of such willful or malicious acts by the minor causing injury, in addition to taxable court costs. In determining the damages to be allowed in an action under this article for personal injury, only medical, dental and hospital expenses may be recovered.

(d) ~~**Other liability**~~. This article shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law or statutory basis.

(Ord. No. 97-1-4; new Div. 3 of Article I enacted; 01/21/97)

## **DIVISION 4. MOTOR VEHICLE RESPONSIBILITIES**

### ~~**SEC. 22-1400. CAR OWNER RESPONSIBILITY ASSIGNMENT.**~~

This ordinance is declared necessary for the preservation of the public peace, health, safety and welfare of the people of the City of Moline, and is intended to address a public nuisance created by individuals operating motor vehicles upon the streets and highways of this City.

### ~~**SEC. 22-1401. PUBLIC NUISANCE.**~~

(a) ~~A motor vehicle that is used in the violation of any of the provisions contained in this section shall be declared a public nuisance and be subject to the following described lengths of impoundment and the driver or person in possession of such vehicle shall also be liable to the City for the following described fines. The owner of record of such vehicle shall also be liable to the City for an administrative fee of two hundred fifty dollars (\$250.00) in addition to fees for the towing and storage of the vehicle.~~

(1) ~~Driving or otherwise being in possession of a motor vehicle while the sound emanating from such vehicle's radio or other type of sound system can be heard from a distance of seventy-five (75) or more feet from the vehicle (Illinois Vehicle Code 625 ILCS 5/12-611 or Sec. 20-4120, "SOUND AMPLIFICATION REGULATION," of the Moline Code of Ordinances) if the driver or person otherwise in possession of the motor vehicle has previously been charged with violating the SOUND AMPLIFICATION REGULATION.~~

(2) ~~The driver or any other person in possession of a motor vehicle is then truant from school if the driver or person otherwise in possession of the motor vehicle has previously been charged with truancy while driving or in possession of said vehicle.~~

(3) ~~The driver or any other person in possession of a motor vehicle while being twenty (20) years of age or younger is in possession of alcohol whether by physical possession or consumption.~~

(4) ~~The driver or any other person in possession of a motor vehicle is then in violation of any state or City curfew statute or ordinance.~~

(5) ~~The driver or any other person in possession of a motor vehicle is in possession of any amount of cannabis.~~

(6) ~~The driver or any other person in possession of a motor vehicle is in possession of any controlled substance as defined by the Illinois Criminal Code, as amended.~~

(7) ~~The driver or any other person in possession of a motor vehicle is in possession of a handgun.~~

(8) ~~The driver or any other person in possession of a motor vehicle is in possession of a firearm and/or ammunition for a firearm, other than a handgun, and does not have a currently valid Firearms Owner Identification Card on his or her person.~~

(9) ~~The discharge of a firearm from a motor vehicle has occurred or the motor vehicle has been used to flee the scene where a firearm has been discharged.~~

(10) ~~The motor vehicle has been used in or for the fleeing from the commission of criminal gang activity as defined in and by the ILLINOIS STREETGANG TERRORISM OMNIBUS PREVENTION ACT, 740 ILCS 147/10.~~

(11) ~~The windows of the motor vehicle are obstructed in violation of the Illinois Vehicle Code 625 ILCS 5/12-503 (a) and (b).~~

(b) ~~The driver or other person in possession of the motor vehicle shall be arrested or cited for the violation(s) of state statute(s) or City ordinance(s), as indicated in Sec. 22-1401(a)(1-11), as appropriate.~~

(Ord. No. 2003-11-08; Sec. 22-1401 repealed; new Sec. 22-1401 enacted; 11/18/03)

### ~~**SEC. 22-1402. LENGTH OF IMPOUNDMENT.**~~

(a) ~~Whenever a vehicle is used in violation of Sec. 22-1401(a), the lengths of impoundment of a motor vehicle and penalty imposed for a violation of this ordinance are:~~



~~(1) Violation of Sections 22-1401(a)(1) or 22-1401(a)(11), motor vehicle impounded for three (3) days and a fine of one hundred dollars (\$100.00).~~

~~(2) Violation of Sections 22-1401(a)(2) or 22-1401(a)(4), motor vehicle impounded for seven (7) days and a fine of one hundred fifty dollars (\$150.00).~~

~~(3) Violation of Section 22-1401(a)(3), motor vehicle impounded for fourteen (14) days and a fine of two hundred dollars (\$200.00).~~

~~(4) Violation of Section 22-1401(a)(5), motor vehicle impounded for twenty (20) days and a fine of two hundred fifty dollars (\$250.00).~~

~~(5) Violation of Sections 22-1401(a)(7), 22-1401(a)(8), 22-1401(a)(9) or 22-1401(a)(10), motor vehicle impounded for thirty (30) days and a fine of three hundred dollars (\$300.00).~~

~~(6) Violation of Section 22-1401(a)(6), motor vehicle impounded for thirty (30) days and a fine of five hundred dollars (\$500.00).~~

#### **~~SEC. 22-1403. FINES AND SUBSEQUENT VIOLATIONS.~~**

~~All lengths of impoundment and fines imposed shall double upon any subsequent violation of this ordinance, to a maximum of seven hundred fifty dollars (\$750.00), plus court costs.~~

#### **~~SEC. 22-1404. SEIZURE, IMPOUNDMENT AND HEARINGS REQUEST.~~**

~~Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, and the owner of said vehicle of the fact of the seizure and of the vehicle owner's right to post a cash bond, as indicated in Sec. 22-1409(a)(1) through (6), to retrieve possession of their vehicle pending a hearing to be held by the City's code hearing officer.~~

~~(Ord. No. 2003-11-08; Sec. 22-1404 repealed; new Sec. 22-1404 enacted; 11/18/03)~~

#### **~~SEC. 22-1405. RESERVED FOR FUTURE USE.~~**

~~(Ord. No. 2003-11-08; Sec. 22-1405 "Preliminary Hearing Procedure" repealed in its entirety and reserved for future use; 11/18/03)~~

#### **~~SEC. 22-1406. FINAL HEARING AND NOTIFICATION.~~**

~~(a) Within ten (10) days after a vehicle is impounded pursuant to the section, the City shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted pursuant to this section.~~

~~(b) The hearing shall be scheduled and held, unless continued by order of the City's code hearing officer, no later than thirty (30) days after the vehicle was impounded. All interested persons shall be given a reasonable opportunity to be heard at the hearing. If, after the hearing, the City's code hearing officer determines by a preponderance of the evidence that the vehicle was used with the permission, express or implied, of the owner, the City's code hearing officer shall enter an order requiring the vehicle to continue to be impounded for the applicable length of time provided for under Sec. 22-1402 and until the owner pays the applicable fees imposed under Sec. 22-1402, plus fees for towing and storage of the vehicle and fines, if any, assessed by the City's code hearing officer. If the City's code hearing officer determines that the vehicle was used without the permission, express or implied, of the owner, the vehicle or cash bond will be returned without penalty or other fees.~~

~~(c) In the event the defendant wishes to appeal the decision of the City's code hearing officer under the provisions of the Administrative Review Act, said defendant shall pay the cost of the preparation and transcription of the record of the hearing and shall appeal to the circuit court.~~

~~(d) The penalty and fees shall be a debt due and owed to the City. However, if a cash bond has been posted, the bond shall be applied to any such penalty and fees. If a bond has been posted and the owner has possession of the vehicle, the fees imposed shall be in accordance with Sec. 22-1402, regardless if the vehicle was actually held for the time period specified in Section 22-1402.~~

~~(e) Notwithstanding any other provisions of this section, whenever a person with a lien of record against a vehicle impounded under this section has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund to the City the net proceeds of any foreclosure sale, less any amounts necessary to pay all lienholders of record, up to the total amount of penalties and fees imposed under this division.~~

~~(Ord. No. 2003-11-08; Sec. 22-1406 repealed; new Sec. 22-1406 enacted; 11/18/03)~~

#### **~~SEC. 22-1407. UNCLAIMED VEHICLES.~~**

~~Any motor vehicle that is not reclaimed within thirty (30) days after the expiration of the time during which the owner of~~

~~record may seek judicial review of the City's action under this section, or the time at which a final judgment is rendered in favor of the City, or the time a final administrative decision is rendered against an owner of record who is in default, may be disposed of as an unclaimed vehicle as provided by law. As used in this ordinance, the "owner of record" of a vehicle means the record title holder.~~

#### **~~SEC. 22-1408. FEES AND STORAGE.~~**

~~Fees for towing and storage of a vehicle under this ordinance shall be the same as those charged per the contract for towing service with the City in effect at the time of same violation.~~

#### **~~SEC. 22-1409. BONDING PROCEDURE.~~**

~~Whenever the owner of a vehicle seized pursuant to this section wishes to retrieve their vehicle prior to the evidentiary hearing specified in Sec. 22-1406, they may do so by posting a cash bond at police headquarters in the amount indicated herein. Once the bond has been posted the vehicle shall be released without charge until an evidentiary hearing is held by the City's code hearing officer.~~

~~(1) Violation of Sections 22-1401(a)(1) or 22-1401(a)(11), bond of one hundred forty five dollars (\$145.00).~~

~~(2) Violation of Sections 22-1401(a)(2) or 22-1401(a)(4), bond of two hundred fifteen dollars (\$215.00).~~

~~(3) Violation of Section 22-1401(a)(3), bond of three hundred dollars (\$300.00).~~

~~(4) Violation of Section 22-1401(a)(5), bond of three hundred eighty dollars (\$380.00).~~

~~(5) Violation of Sections 22-1401(a)(7), or 22-1401(a)(8), or 22-1401(a)(9), or 22-1401(10), bond of four hundred eighty dollars (\$480.00).~~

~~(6) Violation of Section 22-1401(a)(6), bond of six hundred eighty dollars (\$680.00). (Ord. No. 2003-11-08; Sec. 22-1409 repealed; new Sec. 22-1409 enacted; 11/18/03)~~

#### **~~SEC. 22-1410. AUTHORITY TO IMPOUND FLEEING VEHICLES.~~**

~~(a) A motor vehicle involved in an unlawful attempt to flee or elude police officers shall be subject to impoundment under the procedures of this section.~~

~~(b) A police officer shall, if possible, record the vehicle make and color and the issuing state and number of the license plate of a vehicle that the officer has attempted to stop through use of the emergency signal equipment on the officer's vehicle. If the operator of the other vehicle fails or refuses to stop, and if the police officer forgoes or abandons pursuit of the other vehicle for reasons of public safety, the officer shall report the recorded information as directed by the chief of police for delivery to the appropriate City departments responsible for impoundment and towing of vehicles.~~

~~(c) The police department shall send a notice of intent to impound the vehicle described in the police officer's report to the registered owner of the vehicle. The notice shall be sent either by first-class mail or by messenger to the address of the registered owner of the vehicle. The notice shall include the following: a statement that the operator of the vehicle failed or refused to stop when ordered to do so by a Moline police officer; the date, approximate time and approximate location of the event; the description of the vehicle as contained in the officer's report; and notice of an opportunity to contest eligibility for impoundment. A copy of the notice shall be forwarded to the City's code hearing officer. A notice is presumed delivered upon being deposited with the United States postal service with proper postage affixed.~~

~~(d) An owner of record who receives a notice pursuant to subsection (c) of this section may contest eligibility for impoundment by written request delivered to the City's code hearing officer, postmarked within fourteen (14) days after the delivery of the notice. The City's code hearing officer shall set a date for a hearing on the eligibility of the vehicle for impoundment, and shall notify the owner of the date, time and place of hearing. The hearing date must be no more than thirty (30) days after the request for a hearing has been filed. In order to disprove the vehicle's eligibility for impoundment, the owner of record must prove that: 1) at the time and date of the attempted stop as described in the police officer's report, the described vehicle was not operated within the City of Moline; or 2) at the time and date of the attempted stop, the vehicle had been reported stolen; or 3) the license information described in the report does not match the listed make of the described vehicle. If the owner of record prevails, the notice of intent to impound the owner's vehicle shall be withdrawn and the vehicle shall not be eligible for impoundment under this section.~~

~~(e) If the vehicle owner receives a notice pursuant to subsection (c) of this section and: 1) fails to contest eligibility under subsection (d) of this section, or 2) does not prevail in the contest of eligibility, the vehicle described in the notice shall be eligible for impoundment if found on the public way or within a parking lot under city ordinance control or parking lot open to the general public or in a parking lot or on the public way of another city with whom the City has an intergovernmental agreement to provide assistance in conjunction with an incident involving multi-jurisdictional problems within twelve (12) months following the conclusion of the contest, if a contest was requested, or following the last date to request a contest if none was requested.~~

~~(f) The owner of a vehicle impounded under this section shall be subject to an administrative penalty of five hundred dollars (\$500.00) plus the cost of towing and storage of the vehicle.~~

~~(Ord. No. 3003-11-08; new Sec. 22-1410, "AUTHORITY TO IMPOUND FLEEING VEHICLES" enacted; 11/18/03)~~

### **DIVISION 4. TRUANCY**

#### **SEC. 22-1400. DEFINITIONS.**

(a) A "truant" is defined as a child who is subject to compulsory school attendance and who is absent without valid cause, as defined hereunder, from such attendance for more than 1% but less than 5% of the past 180 school days.

(b) "Valid Cause" for absence shall be illness, including the mental or behavioral health of the student, attendance at a verified medical or therapeutic appointment, appointment with a victim services provider, observance of a religious holiday, death in the immediate family, or family emergency and shall include such other situations beyond the control of the student as determined by the board of education or such other circumstances which cause reasonable concern to the parent for the mental, emotional, or physical health or safety of the student. For purposes of a student who is an expectant parent, or parent, or victim of domestic violence or sexual violence, "valid cause" for absence includes (i) the fulfillment of a parenting responsibility, including, but not limited to, arranging and providing child care, caring for a sick child, attending prenatal or other medical appointments for the expectant student, and attending medical appointments for a child, and (ii) addressing circumstances resulting from domestic or sexual violence, recovering from physical or psychological injuries, seeking medical attention, seeking services from a domestic or sexual violence organization, seeking psychological or other counseling, participating in safety planning, temporarily or permanently relocating, seeking legal assistance or remedies, or taking any other action to increase the safety or health of the student or to protect the student from future domestic or sexual violence.

(c) "Chronic or habitual truant" shall be defined as a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days.

(d) "Truant minor" is defined as a chronic truant to whom supportive services, including prevention, diagnostic, intervention and remedial services, alternative programs and other school and community resources have been provided and have failed to result in the cessation of chronic truancy, or have been offered and refused.

(e) A "dropout" is defined as any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student's death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation or completion of a program of studies and who has not been transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country.

(f) "Religion" for purposes of this Division, includes all aspects of religious observance and practice, as well as belief.

#### **SEC. 22-1401. PARENTAL RESPONSIBILITY FOR COMPULSORY ATTENDANCE**

(a) Whoever has custody or control of a child (i) between the ages of 6 and 17 years (unless the child has already graduated from high school) shall cause such child to attend some public school in the district wherein the child resides the entire time it is in season during the regular school term and during a required summer school program; provided that the following children shall not be required to attend the public schools:

1. Any child attending a private school or a parochial school where children are taught the branches of education taught to children of corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;

2. Any child who is physically or mentally unable to attend school, such disability being certified by a competent medical provider licensed in Illinois to practice medicine; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends, with absence for cause by illness being required to include the mental or behavioral health of a child for up to 5 days for which the child need not provide a medical note, in which case the child shall be given the opportunity to make up any school work missed during the mental or behavioral absence and, after the second mental health day used, may be referred to the appropriate school support personnel.

3. Any child necessarily and lawfully employed according to the provisions of the law regarding child labor may be excused from attendance at school by the county superintendent of schools or the superintendent of the public school which the child should be attending, on certification of the facts by and the recommendation of the school board of the public school district in which the child resides.

4. Any child over 12 and under 14 years of age while in attendance at confirmation classes.

5. Any child absent from a public school on a particular day or days or at a particular time of day for the reason that he is unable to attend classes or to participate in any examination, study, or work requirements on a particular day or days or at a particular time of day because religious reasons, including the observance of a religious holiday or participation in religious instruction, or because the tenets of his religion forbid secular activity on a particular day or days or at a particular time of day. A school board may require the parent or guardian of a child who is to be excused from attending school because of religious reasons to give notice of the child's absence to the school principal or other school personnel. It shall be the responsibility of the teachers and of the administrative officials of each public school to make available to each child who is absent from school because of the observance of a religious holiday an equivalent opportunity to make up any examination, study or work requirements which he or she has missed because of such absence. No special fees shall be charged to the child for making available such equivalent opportunity. No adverse or prejudicial effects shall result to any child because of him or her availing themselves of the provisions hereof.

6. Any child 16 years of age or older who (i) submits to a school district evidence of necessary and lawful employment and (ii) is enrolled in a graduation incentives program or an alternative learning opportunities program.

7. A child in any of grades 6 or through 12 absent from a public school on a particular day or days or at a particular time of day for the purpose of sounding "Taps" at a military honors funeral held in this State for a deceased veteran. In order to be excused under this paragraph 7, the student shall notify the school's administration with the date, time, and location of the military honors funeral. A student whose absence is excused under this paragraph 7 must be allowed a reasonable time to make up school work missed during the absence. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance and he or she may not be penalized for that absence.

8. Any child absent from a public school on a particular day or days at a particular time of day for the reason that his or her parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from,

or has immediately returned from deployment to a combat zone or combat-support postings. Such a student shall be granted 5 days of excused absences in any school year and, at the discretion of the school board, additional excused absences to visit the student's parent or legal guardian relative to such leave or deployment of the parent or legal guardian. In the case of excused absences pursuant to this paragraph 8, the student and parent or legal guardian shall be responsible for obtaining assignments from the student's teacher or prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his or her return to school from such period of excused absence.

9. Any child from a public middle school or high school shall be permitted by a school board one school day-long excused absence per school year for the child who is absent from school to engage in a civic center. The school board may require that the student provide reasonable advance notice of the intended absence to the appropriate school administrator and require that the student provide documentation of participation in a civic event to the appropriate school administrator.

## **SEC. 22-1402. PUNITIVE ACTION**

(a) No punitive action, including out of school suspensions, expulsions, or court action, shall be taken against truant minors for such truancy unless appropriate and available supportive services and other school resources have been provided to the student. A truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available supportive services, compel the student to return to school.

(b) A school district may not refer a truant, chronic truant, or truant minor to any other local public entity for that local public entity to issue the child a fine or a fee as punishment for his or her truancy.

(c) A school district may refer any person having custody or control of a truant, chronic truant, or truant minor to any other local public entity for the issuance of a fine or fee for the child's truancy only if the school district's truant officer, regional office of education, or intermediate service center has been notified of the truant behavior and the school district, regional office of education, or intermediate service center has offered all appropriate and available supportive services and other school resources to the child. Before a school district may refer a person having custody or control of a child to a municipality or local public entity the school district must provide the following appropriate and available services:

1. For any child who is a homeless child, a meeting between the child, the person having custody or control of the child, relevant school personnel, and a homeless liaison to discuss any barriers to the child's attendance due to the child's transitional living situation and to construct a plan that removes these barriers.

2. For any child with a documented disability, a meeting between the child, the person having custody or control of the child, and relevant school personnel to review the child's current needs and address the appropriateness of the child's placement and services.

3. For any child currently being evaluated by a school district for a disability or for whom the school has a basis of knowledge that the child is a child with a disability, the completion of the evaluation and determination of the child's eligibility for special education services.

(d) Before a school district may refer a person having custody or control of a child to a local public entity under this Section, the school district must document any appropriate and available supportive services offered to the child. In the event a meeting under this Section does not occur, a school district must have documentation that it made reasonable efforts to convene the meeting at a mutually convenient time and date for the school district and the person having custody or control of the child and, but for the conduct of that person, the meeting would have occurred.

## **DIVISION 5. ENDANGERING THE LIFE OR HEALTH OF A CHILDMINOR**

### **SEC. 22-1500. ENDANGERING THE LIFE OR HEALTH OF A CHILDMINOR PROHIBITED.**

(a) A person commits endangering the life or health of a child when he or she knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes or permits a child to be placed in circumstances that endanger the child's life or health. It is not a violation of this Section for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act.

(b) A trier of fact may infer that a child 6 years of age or younger is unattended if that child is left in a motor vehicle for more than 10 minutes.

(c) "Unattended" means either: (i) not accompanied by a person 14 years of age or older; or (ii) if accompanied by a person 14 years of age or older, out of sight of that person.

(d) A violation of this Division is a Class A Misdemeanor. A second or subsequent violation of this Division is a Class 3 Felony. A violation of this Division that is a proximate cause of the death of the child is a Class 3 Felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years. A parent, who is found to be in violation of this Division with respect to his or her child, may be sentenced to probation for this offense.

(Ord. No. 2002-10-06; new Sec. 22-1110, "ENDANGERING THE LIFE OF A CHILD," enacted; 10/22/02)

## **DIVISION 56. NEGLECTED AND DELINQUENT CHILDREN OFFENSES**

### **SEC. 22-45001600. PURPOSE.**

This ordinance is declared necessary for the furtherance of and preservation of the public peace, health, safety and

welfare of the people of the City of Moline, and is intended to address situations where parents have contributed to the dependency or neglect of their minor children and where persons have contributed to a child's delinquency.

### **SEC. 22-45041601. DEFINITIONS.**

(1) **Dependent or Neglected Child.** Any child who, while under the age of eighteen (18) years, for any reason is destitute, homeless or abandoned; or dependent upon the public for support; or does not have proper parental care or guardianship; or habitually begs or receives alms; or is found living in any house of ill fame or with a vicious or disreputable person; or has a home which by reason of neglect, cruelty or depravity on the part of the child's parents, guardian or any other person in whose care the child may be, is an unfit place for such child; and any child who, while under the age of ten (10) years, is found begging or peddling, or selling any articles or singing or playing any musical instrument for any gain upon a street or giving any public entertainment or accompanies or is used in aid of any person so doing.

(2) **Delinquent Child.** Any minor who, prior to his or her seventeenth (17<sup>th</sup>) birthday, has violated or attempted to violate, regardless of where the act occurred, any federal or state law or municipal ordinance, or any person enrolled in any public, private or parochial school in any grade, kindergarten through grade twelve (12), who has violated or attempted to violate Section 22-2403 of the Moline Code of Ordinances pertaining to truancy. ~~Any minor who prior to his or her 17<sup>th</sup> birthday has violated or attempted to violate, regardless of where the act occurred, any federal or state law or county or municipal ordinance, any minor prior to his or her 18<sup>th</sup> birthday has violated or attempted to violate, regardless of where the act occurred, any federal or state law or county or municipal ordinance classified as a misdemeanor offense.~~ Any minor prior to his or her 18<sup>th</sup> birthday has violated or attempted to violate, regardless of where the act occurred, any federal or state law or county or municipal ordinance classified as a misdemeanor or felony.

(3) **Parent.** A mother, father, legal guardian or any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the minor.

### **SEC. 22-45021602. CONTRIBUTING TO THE DEPENDENCY OR NEGLECT OF A CHILD.VIOLATION.**

(a) **Violation .** Any parent of a child under the age of eighteen (18) years, who knowingly or willfully causes, aides or encourages such child to be or to become a dependent or neglected child, as defined in Section 22-15601 (1), who knowingly or willfully does acts which directly tend to render any such child so dependent and neglected, or who knowingly or willfully fails to do that which will directly tend to prevent such state of dependency or neglect, is guilty of an offense.

~~(b) **Penalty .** Any parent found guilty of the offense set forth in subsection (1) above, shall be subject to a fine of not more than seven hundred fifty dollars (\$750.00) plus court costs as set forth in Section 1-1107 of this Code, and, additionally, shall be sentenced to a period of conditional discharge not to exceed six (6) months, as set forth in Section 1-1108 (1) of this Code.~~

### **SEC. 22-45031603. CONTRIBUTING TO THE DELINQUENCY OF A MINORCHILD.**

~~**Violation .** Any person who knowingly or willfully causes, aids or encourages any child to be or to become a delinquent child, or who knowingly or willfully does acts which directly tend to render any such child so delinquent, is guilty of an offense.~~

~~(a) **Contributing to the Delinquency of a MinorChild.** A person commits contributing to the delinquency of a minorchild when he or she knowingly: (1) causes, aids, or encourages a minorchild to be or to become a delinquent minorchild; or (2) does acts which directly tend to render any minorchild so delinquent.~~

~~(b) **Contributing to the Criminal Delinquency of a MinorChild.** A person of the age of 21 years and upwards commits contributing to the criminal delinquency of a minor when he or she, with the intent to promote or facilitate the commission of an offense solicits, compels or directs a minor in the commission of the offense that is either: (i) a felony when the minor is under the age of 17 years; or (ii) a misdemeanor when the minor is under the age of 18 years. A person of the age of 21 years and upwards commits contributing to the criminal delinquency of a child when he or she, with the intent to promote or facilitate the commission of an offense, solicits, compels, or directs a child in the commission of the offense that is classified as a misdemeanor or felony.~~

~~(c) **Penalty .** Any person found guilty of the offense set forth in subsection (1) above shall be subject to a fine of not less than one hundred dollars (\$100.00) plus costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs, as set forth in Section 1-1107 of this Code.~~

### **SEC. 22-4504. SPOUSE COMPETENT WITNESS.**

~~The spouse of the defendant shall be a competent witness to testify in any case brought under Sections 22-1502 and 22-1503 and to any and all matters relevant thereto.~~

(Ord. No. 2000-03-10; new Div. 5 of Article I enacted; 03/21/00)

## **DIVISION 67. LOOK-ALIKE SUBSTANCES**

### **SEC. 22-46001700. DEFINITIONS.**

For purposes of this division, the following words and phrases have the meanings stated below, unless the context indicates otherwise:

(a) **Controlled Substance** means a drug, substance, or immediate precursor set forth in the Schedules of Article II of the

Illinois Controlled Substances Act, 720 ILCS 570/101 et seq., as currently enacted or as may be amended from time to time (hereinafter referred to in this division as “the Act”), including the most recently republished Schedules promulgated by the Illinois Department of Human Services. The controlled substances listed or to be listed in the Schedules in Sections 204, 206, 208, 210 and 212 of the Act are included in this definition by whatever official, common, usual, chemical, or trade name designated. All substances and compounds excluded from the definition of “controlled substance” in the Act are hereby excluded from this definition of “controlled substance.”

(a)(b) **Look-alike substance** means a substance, other than a controlled substance which:

(1) By overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, except that this clause (1) of this subsection (b) shall not apply to a non-controlled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble; or

(2) Is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of this subsection (b), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

- (a) statements made by the owner or person in control of the substance concerning its nature, use or effect;
- (b) statements made to a buyer or recipient that the substance may be resold for profit;
- (c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether any distribution or attempted distribution of the substance included an exchange of or demand for money or other property as consideration, and whether the amount of consideration paid for the substance was substantially greater than the reasonable retail market value of the substance.

(c) **Nurse** means a registered nurse licensed under the Nursing and Advanced Practice Nursing Act, 225 ILCS 65/5-1 et seq., as currently enacted or as may be amended from time to time.

(d) **Pharmacist** means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987, 225 ILCS 85/1 et seq., as currently enacted or as may be amended from time to time.

(e) **Practitioner** means a physician licensed to practice medicine in all its branches, dentist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

## **SEC. 22-16011701. SCOPE OF DIVISION.**

Nothing in this division limits the lawful authority granted to practitioners and others by the Medical Practice Act of 1987, 225 ILCS 60/1 et seq., the Nursing and Advanced Practice Nursing Act, 225 ILCS 65/5-1 et seq., or the Pharmacy Practice Act of 1987, 225 ILCS 85/1 et seq., all as currently enacted or as may be amended from time to time. Nothing in this division prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) as currently enacted or as may be amended from time to time.

## **SEC. 22-16021702. VIOLATIONS AND PENALTIES.**

(a) It is unlawful for any person knowingly to possess a look-alike substance. Any person who violates this subsection (a) is guilty of an offense. Except as provided in subsection (b) of this section, any person convicted of a first offense under this subsection (a) shall pay a fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00). Any person convicted of a second offense under this subsection (a) shall pay a fine of not less than two hundred dollars (\$200.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00). Any person convicted of a third or subsequent offense under this subsection (a) shall pay a fine of not less than four hundred dollars (\$400.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00).

(b) Any person convicted of a violation of subsection (a) of this section who knowingly possessed a look-alike substance within one thousand (1000) feet of any property owned or leased by any public or private elementary, middle or secondary school, public park, public housing authority, church or other religious organization shall pay a fine of twice the amount stated in subsection (a) above.

(c) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the look-alike substance actually to be a controlled substance.

(d) Nothing in this section applies to:

(1) The manufacture, processing, packaging, distribution or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research;

(2) Persons acting in the course and legitimate scope of their employment as law enforcement officers;

(3) The retention of production samples of noncontrolled substances produced prior to the effective date of this amendatory Act of 1982, where such samples are required by federal law;

(4) Nothing in this section or in this division applies to the lawful manufacture, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

**~~SEC. 22-1603. SEPARABILITY CLAUSE.~~**

~~Each section and each provision or requirement of any section or subsection, each section or subsection, and each paragraph or sentence of this ordinance shall be considered separable, and the invalidity for any reason of any portion or portions of this ordinance shall not affect the validity or enforcement of any other remaining portion thereof.~~

(Ord. No. 2000-01-02; new Division 6 "LOOK-ALIKE SUBSTANCES" enacted; 01/23/01)

**DIVISION 78. REGISTRATION OF CERTAIN OFFENDERS.**

**~~SEC. 22-1700~~1800. PURPOSE.**

The purpose of this ordinance is to implement provisions of the Illinois law requiring persons convicted of certain offenses to register their residences and other information with their local law enforcement agency.

(Ord. No. 3012-2020; Sec. 22-1700 enacted; 4/21/20)

**~~SEC. 22-1701~~1801. DEFINITIONS.**

(1) **Sex offender** means any person subject to the Illinois Sex Offender Registration Act (730 ILCS 150/1, et seq.).

(2) **Violent offender against youth** means any person subject to the Illinois Murderer and Violent Offender Against Youth Registration Act (730 ILCS 145/1, et seq.).

(Ord. No. 3012-2020; Sec. 22-1701 enacted; 4/21/20)

**~~SEC. 22-1702~~1802. REGISTRATION OF SEX OFFENDERS.**

It is the duty of sex offenders residing or temporarily domiciled in the City of Moline to register with the chief of police as required by the Illinois Sex Offender Registration Act.

(Ord. No. 3012-2020; Sec. 22-1702 enacted; 4/21/20)

**~~SEC. 22-1703~~1803. REGISTRATION OF VIOLENT OFFENDERS AGAINST YOUTH.**

It is the duty of violent offenders against youth residing or temporarily domiciled in the City of Moline to register with the chief of police as required by the Illinois Murderer and Violent Offender Against Youth Registration Act.

(Ord. No. 3012-2020; Sec. 22-1703 enacted; 4/21/20)

**~~SEC. 22-1704~~1804. FEES IMPOSED.**

The following fees shall be collected by the chief of police for registration as required by this division:

- Sex Offender Registration Fee. One hundred dollar (\$100.00) initial registration; one hundred dollar (\$100.00) annual renewal registration.
- Violent Offenders Against Youth Registration Fee. Twenty dollar (\$20.00) initial registration; ten dollar (\$10.00) annual renewal registration.
- The chief of police or designee thereof may waive the registration fee or fees set forth in this section if the chief of police or designee thereof determines that the registrant is indigent and unable to pay the registration fee or fees. Alternatively, the chief of police or designee thereof may approve a payment plan for the registrant that is not to exceed one hundred eighty (180) days.

(Ord. No. 3012-2020; Sec. 22-1704 enacted; 4/21/20)

**~~SEC. 22-1705~~1805. PENALTY.**

Any person violating this division, upon conviction, shall be subject to a fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs, ~~as set forth in Section 1-1107 of this Code.~~

(Ord. No. 3012-2020; Sec. 22-1705 enacted; 4/21/20)

**ARTICLE II. DISORDERLINESS AND OFFENSES AGAINST A**

**PERSON****SEC. 22-2100. DISORDERLY CONDUCT.**

(a) ~~In General.~~ A person commits disorderly conduct when said person knowingly:

- (1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- (2) Transmits or causes to be transmitted in any manner to the police department or fire department of the City, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or
- (3) Transmits or causes to be transmitted in any manner to the fire department of the City a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or
- (4) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poisonous gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or container holding poisonous gas, deadly biological or chemical contaminant or radioactive substance is concealed in such place; or
- (5) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being committed, or has been committed; or
- (6) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or
- (7) Enters upon a public street, sidewalk, building, park, parking lot, property or right-of-way in a state of inebriation; there shall be a presumption of inebriation if said person appears intoxicated and/or has an odor of alcohol on or about their person and fails a standard or normal sobriety field test(s); or
- (8) Without legal justification fights while upon a public street, sidewalk, building, park, parking lot, property or right-of-way;
- (9) Exposes his or her sex organs, buttocks, anus or any portion of the breast at or below the upper edge of the areola thereof of any female person, not covered by an opaque covering, while on a public street, sidewalk, building, park, parking lot property or right-of-way or in such a manner as to be visible from a public street, sidewalk, building, park, parking lot, property or right-of-way; provided that it shall not be a violation of this section if a female's breast is displayed while breast feeding an infant; or
- (10) Urinates or defecates while on a public street, sidewalk, building, park, parking lot, property or right-of-way or in such a manner as to be visible from a public street, sidewalk, building, park, parking lot, property or right-of-way; or
- (11) Transmits or causes to be transmitted a false report to any public safety agency without reasonable grounds to believe that transmitting such a report is necessary for the safety and welfare of the public; or
- (12) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency.

~~(b) **Intimidation.** It shall be unlawful for any person, with intent to cause another to perform or fail to perform any act, to communicate to another, whether in person, by telephone, by electronic or regular mail, a threat to perform without lawful authority any of the following acts:~~

- ~~(1) Inflict physical harm on the person threatened or any other person or on property; or~~
- ~~(2) Subject any person to physical confinement or restraint; or~~
- ~~(3) Accuse any person of a crime or offense; or~~
- ~~(4) Expose any person to hatred, contempt or ridicule.~~

(b) **Penalty.** Any person violating Section 22-2100, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2100, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2100, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the



Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

### **SEC. 22-2101. INTIMIDATION**

(a) A Person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he or she communicates to another, directly or indirectly by any means, a threat to perform without lawful authority any of the following acts:

(1) Inflict physical harm on the person threatened or any other person or on property; or

(2) Subject any person to physical confinement or restraint; or

(3) Commit a felony or Class A Misdemeanor; or

(4) Accuse any person of an offense; or

(5) Expose any person to hatred, contempt or ridicule; or

(6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or

(7) Bring about or continue a strike, boycott or collective action.

(b) Sentence. Intimidation is a Class 3 Felony for which an offender may be sentenced to a term of imprisonment of not less than two years and not more than ten years.

~~(c) **Harassment by Telephone.** This subsection (c) applies only to unsolicited telephone calls made to persons at their private residences or in other similar locations where they would reasonably expect a substantial degree of privacy, which may include a workplace or other telephone, if indicated by the circumstances. As used in subsections (c)(3) and (c)(4), the required "intent to harass" must exist at the time the telephone call was initiated. The phrase "intent to harass" encompasses any behavior intended to cause psychic, mental or emotional distress to the recipient of the call. The phrase "sole intent to harass" means that the telephone call must have been made with the exclusive purpose of harassment and that said purpose must have remained exclusive for the duration of the call. The phrase "make a telephone call" means to intentionally dial the telephone and allow the telephone to ring, and includes instances where the caller requests a return call from the recipient and upon receipt of the return call commences to engage in behavior prohibited by this ordinance or any state statute, operator-assisted calls, and calls made by mechanical, electronic, or computer devices under human control. The phrase "non-consenting recipient" does not include those persons involved in intimate personal relationships with the caller, unless it may be shown that under the circumstances prevailing at the time the call was initiated, the caller could not have reasonably believed that the recipient would consent to the manner of the call or the language used. "Intimate personal relationships" includes relationships between spouses, unmarried cohabitants, and intimate friends or relatives. The phrase "repeated telephone calls" means more than one call in close enough proximity to rightly be termed a single episode. Under subsection (c)(4), the calls need not be made to the same recipient.~~

~~It shall be unlawful for any person to:~~

~~(1) Make a telephone call with the sole intent to harass the recipient of the call; or~~

~~(2) Make a telephone call, with the intent to harass the recipient of the call, without disclosing one's true identity; or~~

~~(3) Make a telephone call to a non-consenting recipient, with the intent to harass or offend, using obscene language or making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent; or~~

~~(4) Make repeated telephone calls to a non-consenting recipient, with the intent to harass, during which conversation ensues; or~~

~~(5) Make a telephone call when the recipient of the call or other person at the called number has previously instructed [MN4]the caller not to call again.~~

### **SEC. 22-2102. HARRASSMENT BY TELEPHONE.**

(a) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes.

(1) Making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;

(2) Making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;

(3) Making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;

(4) Making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;

(5) Making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense; or

(6) Knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

(b) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING". All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this ArticleSection.

(c) Penalty. Any person violating Section 22-2102, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2102, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2102, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

~~(d) **(d) Harassment by Electronic Communications.** As used in this subsection (d), "electronic communication" means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. This subsection (d) applies only to unsolicited electronic communication made to persons at their private residences or in other similar locations where they would reasonably expect a substantial degree of privacy. As used in subsections (d)(3) and (d)(4), the required "intent to harass" must exist at the time the electronic communication was initiated. The phrase "intent to harass" encompasses any behavior intended to cause psychic, mental or emotional distress to the recipient of the call. The phrase "sole intent to harass" means that the electronic communication must have been made with the exclusive purpose of harassment. The phrase "non-consenting recipient" does not include those persons involved in intimate personal relationships with the electronic communication sender, unless it may be shown that under the circumstances prevailing at the time the electronic communication was sent, the sender could not have reasonably believed that the recipient would consent to the language used. "Intimate personal relationships" includes relationships between spouses, unmarried cohabitants, and intimate friends or relatives. The phrase "repeated electronic communications" means more than one electronic communication in close enough proximity to rightly be termed a single episode. Under subsection (d)(4), the electronic communication need not be sent to the same recipient.~~

~~— It shall be unlawful for any person to:~~

~~(1) Send an electronic communication with the sole intent to harass the recipient; or~~

~~(2) Send an electronic communication, with the intent to harass the recipient, without disclosing one's true identity; or~~

~~(3) Send an electronic communication to a non-consenting recipient, with the intent to harass or offend, using obscene language or making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent; or~~

~~(4) Send an electronic communication to a non-consenting recipient, with the intent to harass, during which an electronic "instant messenger" or similar conversation ensues; or~~

~~(5) Send an electronic communication when the intended recipient or other recipient has previously instructed the sender not to send electronic communications again.~~

## **SEC. 22-2103. HARASSMENT BY ELECTRONIC COMMUNICATIONS**

(a) A person commits harassment through electronic communications when he or she uses electronic communication for any of the following purposes:

- (1) Making any comment, request, suggestion or proposal which is obscene with an intent to offend;
- (2) Interrupting, with the intent to harass, the telephone service or the electronic communication service of any person;
- (3) Transmitting to any person, with the intent to harass and regardless of whether the communication is read in its entirety or at all, any file, document, or other communication which prevents that person from using his or her telephone service or electronic communications device;
- (4) Transmitting an electronic communication or knowingly inducing a person to transmit an electronic communication for the purpose of harassing another person who is under 13 years of age, regardless of whether the person under 13 years of age consents to the harassment, if the defendant is at least 16 years of age at the time of the commission of the offense;
- (5) Threatening injury to the person or to the property of the person to whom an electronic communication is directed or to any of his or her family or household members; or
- (6) Knowingly permitting any electronic communications device to be used for any of the purposes mentioned in this subsection (a).

(b) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(c) Penalty. Any person violating Section 22-2103, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2103, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2103, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

~~(e) (e) Minors involved in electronic dissemination of indecent visual depictions.~~

## **SEC. 22-2104 MINORS INVOLVED IN ELECTRONIC DISSEMINATION OF INDECENT VISUAL DEPICTIONS**

(a) For the purposes of this Section:

(1) "Computer" has the meaning ascribed to it in Section 17-0.5 of the Illinois Criminal Code of 2012.

(2) "Electronic communication device" means an electronic device, including but not limited to a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures.

(3) "Indecent visual depiction" means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person.

(4) "Minor" means a person under eighteen (18) years of age.

(2a) A minor shall not distribute or disseminate an indecent visual depiction of another minor through the use of a computer or electronic communication device.

(3b) Nothing in this Section shall be construed to prohibit a prosecution for public indecency, child pornography, a violation of Article 26.5 Harassing and Obscene Communication of the Illinois Criminal Code of 2012, bringing an action pursuant to 705 ILCS 405/3-40, or any other applicable provision of law.

(d) ~~(f)~~ **Penalty.** Any person violating Section 22-2104, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2104, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2104, including all subparts thereof, as a third or subsequent

offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

~~(1) Any person violating Section 22-2100(a)(1), (a)(7) or (a)(10) shall be subject to a mandatory fine as follows: not less than fifty dollars (\$50.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a first offense, not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a second offense, and not less than three hundred fifty dollars (\$350.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a third or subsequent offense.~~

~~(2) Any person violating Section 22-2100(a)(6), (a)(8), (a)(9), or Section 22-2100(b), (c), (d) or (e) shall be subject to a mandatory fine as follows: not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a first offense, not less than two hundred dollars (\$200.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a second offense, and not less than four hundred dollars (\$400.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a third or subsequent offense.~~

~~(3) Any person violating Section 22-2100(a)(5), (a)(11) or (a)(12) shall be subject to a mandatory fine as follows: not less than two hundred fifty dollars (\$250.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a first offense, not less than five hundred dollars (\$500.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a second or subsequent offense.~~

~~(4) Any person violating Section 22-2100(a)(2), (a)(3) or (a)(4) shall be subject to a mandatory fine as follows: not less than five hundred dollars (\$500.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs for a first or subsequent offense. In addition to the mandatory fine set forth herein, any person violating Section 22-2100(a)(2), (a)(3) or (a)(4) shall be required to pay restitution to the City of Moline for its reasonable costs incurred in responding to the false report. Such restitution shall not exceed seven hundred fifty dollars (\$750.00).~~

(Ord. No. 2002-01-03; Sec. 22-2100 repealed; new Sec. 22-2100 enacted; 01/15/02) (Ord. No. 3015-2015; new Sec. 22-2100 (e) and (f) enacted (sub (f) "Penalty" was previously sub (e)); 05/05/15)

## **SEC. 22-21012105. ASSAULT.**

(a) No person shall commit the offense of assault.

~~(b)~~ (a) A person commits an assault when, without lawful authority, said person engages in conduct which places another in reasonable apprehension of receiving battery.

**(b) Penalty.** Any person violating Section 22-2105, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2105, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2105, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall

~~be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating Section 22-2101, as a first offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-2101, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-2101 as a third or subsequent offense, shall be subject to a mandatory fine of not less than three hundred dollars (\$300.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; new Sec. 22-2101 enacted; 09/10/02)

**SEC. 22-21022106. BATTERY.**

~~(a) No person shall commit the offense of battery. A person commits battery if said person intentionally or knowingly without legal justification and by any means, causes bodily harm to an individual; or makes physical contact of an insulting or provoking nature with an individual.~~

~~(b) A person commits battery if said person intentionally or knowingly without legal justification and by any means:~~

~~(1) Cause bodily harm to an individual; or~~

~~(2) Makes physical contact of an insulting or provoking nature with an individual.~~

~~(b) -Penalty. Any person violating Section 22-2106, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-2106, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-2106, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.~~

~~(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.~~

~~(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.~~

~~Any person violating Section 22-2102, as a first offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-2102, as a second offense, shall be subject to a mandatory fine of not less than three hundred fifty dollars (\$350.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-2102 as a third or subsequent offense, shall be subject to a mandatory fine of not less than five hundred fifty dollars (\$550.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

~~(c)~~

(Ord. No. 2002-08-11; new Sec. 22-2101 enacted; 09/10/02)

**SEC. 22-2103. TRUANCY PROHIBITED.**

~~(a) **Truancy prohibited.** It shall be unlawful for any person younger than sixteen (16) years of age who is required by law to attend school and who is subject to the compulsory attendance requirements of the Illinois School Code and/or enrolled in a public, private (including a home school) or parochial school, to absent himself or herself from attendance at school during the hours in which she/he is enrolled without valid cause, as defined by the Illinois School Code and specifically found at 105 ILCS 5/26-2a, and any amendment thereto. Any person who shall so absent himself or herself shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in subsection (c) of this section.~~

~~(b) **Truancy prohibited.** It shall be unlawful for any person sixteen (16) years of age and older, but younger than eighteen (18) years of age, who is required by law to attend school and who is subject to the compulsory attendance requirements of the Illinois School Code and/or enrolled in a public, private (including a home school) or parochial school, to absent himself or herself from attendance at school during the hours in which she/he is enrolled without valid cause, as defined by the Illinois School Code and specifically found at 105 ILCS 5/26-2a, and any amendments thereto. Any person who shall so absent himself or herself shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in subsection (c) of this section.~~

~~(c) **Parental responsibility**. It shall be unlawful for any parent, legal guardian or other person to permit a person in his or her custody or control to commit the offense of truancy.~~

~~(d) **Contributing to truancy**. It shall be unlawful for any person seventeen (17) years of age or older to perform any act of commission or omission which act encourages or contributes to the truancy of any person.~~

~~(e) **Penalties**.~~

~~(1) Any person violating Section 22-2103(a) or (b), as a first offense, shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of fifty dollars (\$50.00), or if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating Section 22-2103(a) or (b), as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline Accounts and Finance Office in the amount of one hundred dollars (\$100.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days, shall thereafter be subject to an action in Circuit Court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated Section 22-2103(a) or (b) shall be subject to a fine of not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00), plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. Each day during which or on which any person violates Section 22-2103(a) or (b) shall be deemed a separate offense.~~

~~(2) Any person violating Section 22-2103(c) or (d), as a first offense, shall be subject to a fine of not less than fifty dollars (\$50.00), plus court costs. Any person violating Section 22-2103(c) or (d), as a second offense, shall be subject to a fine of not less than one hundred dollars (\$100.00), plus court costs. Any person violating Section 22-2103(c) or (d), as a third or subsequent offense, shall be subject to a fine of not less than two hundred dollars (\$200.00), plus court costs.~~

~~(Ord. No. 2001-04-01; Sec. 22-2103 repealed; new Sec. 22-2103 enacted; 04/10/01; Ord. No. 3041-2006; Sec. 22-2104 repealed in its entirety; 09/26/06)~~

### **ARTICLE III. OFFENSES AGAINST PROPERTY**

#### **SEC. 22-3100. CRIMINAL DAMAGE AND VANDALISM TO PROPERTY.**

(a) **Offense**. A person commits the offense of criminal damage to property when said person knowingly:

(1) Damages any property of another without said other's consent; or

(2) Recklessly, by means of fire or explosive, damages property of another; or

(3) Starts a fire on the land of another without said other's consent; or

(4) Injures a domestic animal of another without said other's consent; or

(5) Deposits on the land or in the building of another, without said other's consent, any stink bomb or any offensive smelling compound or any disruptive material, property or item and thereby intends to interfere with the use by another of the land or building; or

(6) Damages any property with intent to defraud an insurer.

(b) **Penalty**. Any person violating Section 22-3100(a), as a first offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-3100(a), as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-3100(a) as a third or subsequent offense, shall be subject to a mandatory fine of not less than three hundred dollars (\$300.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.

~~(c) **Restitution**. In addition to or in lieu of the above-referenced penalties, restitution or reparation may be required to be made to the victim or owner of the damaged property.~~

~~(d) Liability of Parent or Legal Guardian of Minor Offender.~~

~~(1) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this article, provided that said minor has not paid said fine or made restitution or reparation within the time ordered by the court, further provided that said parent or legal guardian has been served with summons or notice to appear in the original cause as provided by law.~~

~~(2) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be a necessary party to any proceeding under this article.~~

~~(Ord. No. 2002-08-11; Sec. 22-3100 repealed; new Sec. 22-3100 enacted; 09/10/02)~~

#### **SEC. 22-3101. CRIMINAL TRESPASS TO VEHICLES.**

~~Whoever knowingly and without authority enters any vehicle, aircraft, or watercraft or any part thereof of another without said others' consent commits an offense.~~

(a) **Offense.** A person commits criminal trespass to vehicles when he or she knowingly and without authority enters any part of or operates any vehicle, aircraft, watercraft or snowmobile.

(b) **Penalty.** Any person violating Section 22-3101, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-3101, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-3101, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

—(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating this section, as a first offense, shall be subject to a mandatory fine of not less than fifty dollars (\$50.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating this section, as a second offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. Any person violating this section, as a third or subsequent offense, shall be subject to a mandatory fine of not less than two hundred fifty dollars (\$250.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs.

(Ord. No. 2000-06-04; Sec. 22-3101 repealed; new Sec. 22-3101 enacted; 06/06/00)

#### **SEC. 22-3102. CRIMINAL TRESPASS TO LAND.**

~~(a) Whosoever enters upon the land or any part thereof of another, after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart, commits an offense.~~

(a) **Offense:** A person commits criminal trespass to land when he or she:

- (1) knowingly and without lawful authority enters or remains within or on a building;
- (2) enters upon the land of another, after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden;
- (3) remains upon the land of another, after receiving notice from the owner or occupant to depart;
- (4) presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land;
- (5) intentionally removes a notice posted on residential real estate as required by subsection (l) of Section 15-1505.8 of Article XV of the Code of Civil Procedure before the date and time set forth in the notice;
- (6) enters a field used or capable of being used for growing crops, an enclosed area containing livestock, an agricultural building containing livestock, or an orchard in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered vehicle) after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart.

(b) **Penalty.** Any person violating this section, as a first offense, shall be subject to a citation, which citation shall be paid at the City of Moline, ~~Accounts and Finance Office~~ department of finance, in the amount of fifty dollars (\$50.00), or if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating this section as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline, ~~Accounts and Finance Office~~ department of finance, in the amount of one hundred dollars (\$100.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days, shall thereafter be subject to an action in Circuit Court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated Section 22-3102 shall be subject to a fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. Each day during which or on which any person violates Section 22-3102 shall be deemed a separate offense.

(c) A person has received notice from the owner or occupant within the meaning of subsection (a) if such person has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

(d) This Section shall also apply, in its entirety, to the unlawful trespass on or in lands and buildings supported in whole or in part with City funds, or funds administered or granted through City agencies.

(Ord. No. 2002-09-05; Sec. 22-3102 (a) repealed; new Sec. 22-3102 (a) enacted; 09/17/02)

### **SEC. 22-3103. UNLAWFUL DAMAGE TO CITY SUPPORTED PROPERTY.**

(a) A person commits the offense of unlawful damage to City supported property when said person knowingly:

(1) Damages, by any and all means, any property supported in whole or in part with City funds administered or granted through a City agency without the consent of the City; or

~~(2) By means of fire or explosive, damages property supported in whole or in part with City funds administered or granted through City agencies; or~~

~~(3) Starts a fire on property supported in whole or in part with City funds administered or granted through City agencies without the consent of the City; or~~

~~(4)(2) \_\_\_\_\_ Deposits on land or in a building supported in whole or in part with City funds, or funds administered or granted through City agencies without the consent of the City, any stink bomb or any offensive smelling compound or any disruptive material property or item and thereby intends to interfere with the use by another of the land or building.~~

(b) Penalty. Any person violating Section 22-3103, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-3103, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-3103, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating Section 22-3103, as a first offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-3103, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-3103 as a third or subsequent offense, shall be subject to a mandatory fine of not less than three hundred dollars (\$300.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.

(Ord. No. 2002-08-11; Sec. 22-3103 repealed; new Sec. 22-3103 enacted; 09/10/02)

### **SEC. 22-3104. UNLAWFUL TRESPASS ON CITY SUPPORTED LANDS.**

~~(a) Whoever enters upon land supported in whole or in part with City funds, or funds administered or granted through City agencies or any building on such land, after receiving, immediately prior to such entry, notice from the City or its representative that such entry is forbidden, or remains upon such land or in such building after receiving notice from the City or its representative to depart, and who thereby interferes with another person's lawful use or enjoyment of such building or land, shall be punished as prescribed in Section 1-1107 of this Code.~~

~~(b) A person has received notice from the City within the meaning of subsection (a) if such person has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry to said person or a group of which said person is a part, has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.~~

### **SEC. 22-31053104. THEFT.**

~~(a) **Definitions.** All the terms and phrases used herein shall have the same meaning as ascribed to them in Articles 15 and 16 of the Criminal Code of 1961 (720 ILCS 5/15-1 et seq., and 720 ILCS 5/16-1 et seq.) and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who~~



~~have attained the age of thirteen (13) years or more.~~

~~(b)(a)~~ **Offense of theft.** A person commits the offense of theft when said person knowingly:

- (1) Obtains or exerts unauthorized control over property of the owner; or
- (2) Obtains by deception control over property of the owner; or
- (3) Obtains by threat control over property of the owner; or
- (4) Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce said person to believe that the property was stolen; or
- (5) Intends to deprive the owner permanently of the use or benefit of the property; or
- (6) Knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
- (7) Uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit.

~~(c) **Exceptions.** It shall not be an offense under this section whenever the property involved is a firearm or exceeds three hundred dollars (\$300.00) in value or whenever the property is obtained by the theft from a person.~~

~~(d)(b)~~ **Penalty.**

- (1) Any person violating Section 22-31053104~~(ba)~~, as a first offense, shall be punished as follows: If the value of the owner's property equals less than fifty dollars (\$50.00), the person shall be subject to a mandatory fine of not less than fifty dollars (\$50.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. If the value of the owner's property equals fifty dollars (\$50.00) or more, the person shall be subject to a mandatory fine of not less than double the value of said property, plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs.
- (2) Any person violating Section 22-31053104~~(ba)~~, as a second or subsequent offense, shall be punished as follows: If the value of the owner's property equals less than fifty dollars (\$50.00), the person shall be subject to a mandatory fine of not less than one hundred fifty dollars (\$150.00), plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs. If the value of the owners' property equals fifty dollars (\$50.00) or more, the person shall be subject to a mandatory fine of not less than three times the value of said property, plus court costs nor more than seven hundred fifty dollars (\$750.00), plus court costs.

(Ord. No. 2000-06-04; Sec. 22-3105 (d) repealed; new subsection (d) enacted; 06/06/00)

## **SEC. 22-31063105. THEFT FROM COIN-OPERATED MACHINES.**

~~(a) **Definitions.** All the terms and phrases used herein shall have the same meaning as ascribed to them in Articles 15 and 16 of the Criminal Code of 1961 (720 ILCS 5/15-1 et seq. and 720 ILCS 5/16-1 et seq.) and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.~~

~~(b)(a) **Offense of theft from coin-operated machines.** A person commits the offense of theft from coin-operated machines when said person knowingly and without authority and with intent to commit a theft from such machine, opens, breaks into, tampers with, or damages a coin-operated machine. This offense includes the use of slugs and counterfeit coins or currency to gain possession of property from a coin-operated machine.~~

~~(b) **Penalty.** Any person violating Section 22-3105, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-3105, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-3105, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.~~

~~(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.~~

~~(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating Section shall be subject to a mandatory fine of not less than one hundred fifty dollars (\$150.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; Sec. 22-3106 (c) repealed; new Sec. 22-3106 (c) enacted; 09/10/02)

**SEC. 22-31073106. RETAIL THEFT.**

~~(a) **Definitions.** All the terms and phrases used herein shall have the same meaning as ascribed to them in Article 16A of the Criminal Code of 1961 (720 ILCS 5/16A-1 et seq.) and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.~~

~~(b)~~**(a) Offense of retail theft.** A person commits the offense of retail theft when said person ~~he or she~~ knowingly:

(1) Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the full retail value of such merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart; or

(6) Represents to a merchant that he or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or

(7) Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise; or

~~(8) Obtains or exerts unauthorized control over property of the owner and thereby intends to deprive the owner permanently of the use or benefit of the property when a lessee of the personal property of another fails to return it to the owner, or if the lessee fails to pay the full retail value of such property to the lessor in satisfaction of any contractual provision requiring such, within 10 days after written demand from the owner for its return. A notice in writing, given after the expiration of the leasing agreement, by registered mail, to the lessee at the address given by the lessee and shown on the leasing agreement shall constitute proper demand.~~

~~However, it is not an offense hereunder when the full retail value exceeds three hundred dollars (\$300.00).~~

~~(c)~~**(b) Theft by emergency exit.** A person commits the offense of theft by emergency exit when he or she commits a retail theft, ~~as defined in Section 22-3107(b),~~ and to facilitate the theft he or she leaves the retail mercantile establishment by use of a designated emergency exit.

~~(d)~~**(c) Presumption.** If any person conceals upon said person's body or among said person's belongings, unpurchased merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment and removes that merchandise beyond the last known station for receiving payments for that merchandise in that retail mercantile establishment; such person shall be presumed to have possessed, carried away, or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use, or benefit of such merchandise without paying the full retail value of such merchandise.

~~(e)~~**(d) Detention.** Any merchant who has reasonable grounds to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(1) To request identification;

(2) To verify such identification;

(3) To make reasonable inquiry as to whether such person has in such person's possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;

(4) To inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;

(5) When such person is a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor of this detention and to surrender custody of such minor to such person. A merchant may make a detention as permitted hereinabove off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

~~(f)(e)~~ **Affirmative defense.** A detention performed pursuant to and in accordance with this section does not constitute an arrest or an unlawful restraint, and this section may be pleaded in any way of an affirmative defense to false arrest, false imprisonment, or any other cause of action for damages or liability where the essence of said cause is the detention made pursuant hereto.

~~(g)(f)~~ **Penalty.**

(1) Any person violating Section 22-3407-3106 (a) or (b), as a first offense, shall be punished as follows: If the value of the owner's merchandise equals less than fifty dollars (\$50.00), the person shall be subject to a mandatory fine of not less than fifty dollars (\$50.00), plus court costs, nor more than seven hundred fifty dollars (\$750.00), plus court costs. If the value of the owner's merchandise equals fifty dollars (\$50.00) or more, the person shall be subject to mandatory fine of not less than double the value of said merchandise, plus court costs, nor more than seven hundred fifty dollars (\$750.00), plus court costs.

(2) Any person violating Section 22-3407-3106 (a) or (b), as a second or subsequent offense, shall be punished as follows: If the value of the owner's merchandise equals less than fifty dollars (\$50.00), the person shall be subject to a mandatory fine of not less than one hundred fifty dollars (\$150.00), plus court costs, nor more than seven hundred fifty dollars (\$750.00), plus court costs. If the value of the owner's merchandise equals fifty dollars (\$50.00) or more, the person shall be subject to a mandatory fine of not less than three times the value of said property, plus court costs, nor more than seven hundred fifty dollars (\$750.00), plus court costs.

(Ord. No. 3008-2007; new Sec. 22-3107 enacted; 03/06/07)

**SEC. 22-3108-3107. THEFT OF LOST OR MISLAID PROPERTY.**

~~(a) Definitions.~~ All the terms and phrases used herein shall have the same meaning as ascribed to them in Articles 15 and 16 of the Criminal Code of 1961 (720 ILCS 5/15-1 et seq., and 720 ILCS 5/16-1 et seq.) and amendments thereto; except, should the term "person" be limited therein to natural persons who have attained the age of seventeen (17) years or more, said limitation is specifically excluded herein, and the term "person" is made applicable to all natural persons who have attained the age of thirteen (13) years or more.

~~(b)(a)~~ **Offense.** A person commits the offense of theft of lost or mislaid property when said person:

- (1) Knows or learns the identity of the owner, or knows, or is aware of, or learns of, a reasonable method of identifying the owner; and
- (2) Fails to take reasonable measures to restore the property to the owner; and
- (3) Intends to deprive the owner permanently of the property; or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner permanently of such use or benefit.

~~(c)(b)~~ **Penalty.** Any person violating Section 22-3107, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-3107, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-3107, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. A person convicted of the offense of theft of lost or mislaid property shall be punished by a fine of not less than twenty-five dollars (\$25.00) plus court costs, and not more than seven hundred fifty dollars (\$750.00) plus court costs.

(Ord. No. 2000-06-02; new Sec. 22-3108, "THEFT OR LOST OR MISLAID PROPERTY" enacted; 06/06/00)

**ARTICLE IV. WEAPONS**

**SEC. 22-4100. UNLAWFUL USE OF WEAPONS.**

(a) A person commits the offense of unlawful use of weapons when said person knowingly possesses or carries any of the following items on public property or public right of way, including, but not limited to, streets, sidewalks, alleys, parks, and parkways:

- (1) an air gun, spring-loaded gun, bludgeon, blackjack, slungshot, slingshot, sand-club, sandbag, or throwing star;

(2) metal knuckles or other knuckle weapon regardless of its composition;

(3) a switchblade knife, also known as an automatic knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, unless said person possesses a currently valid Firearm Owner's Identification Card previously issued in said person's name by the Department of State Police or to a person or entity engaged in the business of selling or manufacturing switchblade knives;

(4) a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas;

(5) a dagger, dirk, billy, spring gun, or any other dangerous or deadly weapon or instrument of like character;

(6) a stun gun or taser, meaning 1) any device which is powered by electrical charging units, such as, batteries, and which fires one (1) or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning, or 2) any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning;

(7) a tear gas gun projector or bomb or any object containing noxious liquid gas or substance, other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense carried by a person eighteen (18) years of age or older;

(8) any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device;

(9) a machine gun, which shall be defined for the purposes of this subsection as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one (1) shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon;

(10) any rifle having one (1) or more barrels less than sixteen (16) inches in length or a shotgun having one (1) or more barrels less than eighteen (18) inches in length or any weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than twenty-six (26) inches;

(11) any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter (1/4) ounce for like purposes, such as, but not limited to, black powder bombs and Molotov cocktails or artillery projectiles.

(b) A person commits the offense of unlawful use of weapons when said person knowingly sells an air gun to a person under eighteen (18) years of age.

(c) A person commits the offense of unlawful use of weapons when said person knowingly carries or possesses any type of knife, razor blade or box cutter, other than those that are possessed or carried for use in furtherance of a school-sanctioned activity, in or on any school building or property, including buildings or property used for extracurricular activities, administration, or education.

(d) **Exceptions.**

(1) The possession and transportation of paintball markers, also known as paintball guns, is allowed on public property and public right of way, as long as the following requirements are met:

(a) The paintball marker/gun is not loaded, and the hopper, which holds the paintballs, is removed from the paintball marker/gun;

(b) The barrel plug is in place;

(c) The propellant (i.e., CO<sub>2</sub>, compressed air or other propellant) is removed from the paintball marker/gun;

(d) The paintball marker/gun, and any and all accessories, is enclosed in a carrying case or other storage device at all times except when being used at a City-approved facility specifically designed for paintball marker/gun use.

(e) If transporting the paintball marker/gun, the marker/gun and any and all accessories must be stored outside the passenger compartment (i.e., in the trunk) of any vehicle.

If any one of these requirements is not met, a person commits the offense of unlawful use of weapons, unless the paintball marker/gun is being used at a City-approved paintball facility for the purpose for which it is intended.

(2) This section does not apply to police or public safety officers otherwise authorized to possess or carry weapons.

**(e) Penalty.** Any person violating Section 22-4100, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-4100, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-4100, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or

a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating Section 22-4100, as a first offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-4100, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-4100 as a third or subsequent offense, shall be subject to a mandatory fine of not less than three hundred dollars (\$300.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs."

(Ord. No. 3018-2007; Sec. 22-4100(12) repealed; new Sec. 22-4100(12) and (13) enacted; 05/08/07) (Ord. No. 3030-2008; Sec. 22-4100(12) and (13) repealed; new Sec. 22-4100(12), (13), (14) enacted; 04/01/08) (Ord. No. 3004-2015; Sec. 22-4100 repealed in its entirety; new Sec. 22-4100 enacted; 03/03/15) (Ord. No. 3006-2019; Sec. 22-4100(a)(3) repealed; new Sec. 22-4100(a)(3) enacted; 03/12/19)

### **SEC. 22-4101. UNLAWFUL SALE OF FIREARMS.**

(a) A person commits the offense of unlawful sale of firearms when said person knowingly:

(1) Sells or gives any firearm of a size which may be concealed upon the person to any person under eighteen (18) years of age; or

(2) Sells or gives any firearm to a person under twenty-one (21) years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; or

(3) Sells or gives any firearm to any narcotic addict; or

(4) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this state or any other jurisdiction; or

(5) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past five (5) years; or

(6) Sells or gives any firearm to any person who is mentally ~~retarded~~ retarded disabled; or

(7) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least seventy-two (72) hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least twenty-four (24) hours after application for its purchase has been made. However, this subsection shall not apply to:

a. The sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to such person's employment as a bank guard, armed truck guard, or other similar employment; or

b. A mail order sale of a firearm to a nonresident of the state under which the firearm is mailed to a point outside the boundaries of the state; or

c. The sale of a firearm to a nonresident of the state while at a showing or display recognized by the state department of public safety; or

d. The sale of a firearm when another firearm is traded-in for the firearm purchased, in whole or in part; or

e. The sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States.

(b) **Penalty.** Any person violating Section 22-4101, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-4101, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-4101, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service

~~Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating Section 22-4101, as a first offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-4101, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-4101, as a third or subsequent offense, shall be subject to a mandatory fine of seven hundred fifty dollars (\$750.00) plus court costs.~~

(Ord. No. 2002-08-11; Sec. 22-4101 repealed; new Sec. 22-4101 enacted; 09/10/02)

#### **SEC. 22-4102. CONFISCATION AND DISPOSITION OF WEAPONS.**

(a) Upon conviction of a violation of this article, any weapon seized shall be confiscated by the City or the trial court.

(b) Any ~~stolen~~ weapon so confiscated, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall be preserved as property of the City or destroyed by the City at its sole and exclusive discretion.

#### **SEC. 22-4103. DISCHARGE OF WEAPONS.**

(a) It shall be unlawful for any person to discharge any firearm in the City.

(b) It shall be unlawful for any person to discharge a bow and arrow, spring-loaded gun, sling, slingshot, air gun or any other weapon on public property or public right of way in the City.

(c) The provisions of subsections (a) and (b) shall not apply to the following:

(1) To a peace officer in the performance of an official duty;

(2) To law enforcement personnel and other individuals receiving training, practicing or in competition on a firearms range, either public or private, approved by the City Council;

(3) To a person using a paintball marker, also known as a paintball gun, at a public field or facility specifically designed for holding paintball events and approved by the City.

(d) It shall be unlawful for any person to discharge any bow and arrow, spring-loaded gun, sling, slingshot, air gun or any other weapons on any private parcel of land or residence in such a manner that the pellet, paintball, dart, slingshot, BB shot, rock, missile, or other projectile may reasonably be expected to traverse any ground or space beyond the lot lines of such private parcel of land or in such a manner that persons or property may be endangered.

(e) The provisions of subsection (d) shall not apply to archery hunting on private property within the City as long as it is performed in compliance with ~~the all municipal code requirements, set forth in Code Sec. 7-1109A, "DEER HUNTING."~~

(f) **Penalty.** Any person violating Section 22-4103, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-4103, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-4103, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due. Any person violating this section as a first offense shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.

(Ord. No. 3018-2007; Sec. 22-4103(d) repealed; new Sec. 22-4103(d) and (e) enacted; 05/08/07; Ord. No. 3004-2015; Sec. 22-4103 repealed in its entirety; new Sec. 22-4103 enacted; 03/03/15)

(Ord. No. 3018-2017; Sec. 22-4103 repealed; new Sec. 22-4103 enacted; 11/21/17 – re: bow and arrow hunting of deer within City limits)

(Ord. No. 3033-2018; Sec. 22-4103 repealed; new Sec. 22-4103 enacted; 08/07/18 – re: bow and arrow hunting of deer repealed from Sec. 22-4103 and enacted new as Sec. 7-1109A)

## ARTICLE V. GAMBLING

(Ord. No. 3019-2012; Art. V. repealed; new Art. V. enacted, 07/17/12; see separate subsections for prior amendment references)

### SEC. 22-5100. DEFINITIONS.

As used in this article, the following terms shall have the meanings ascribed to them:

(1) **Gambling device** is any clock, tape machine, slot machine or other machines or device for the reception of money or other thing of value on chance or skill or upon the action of which money or other thing of value is staked, hazarded, bet, won or lost or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. A "gambling device" includes, but is not limited to, any simulated video gaming device such as a video poker machine, video or mechanical slot machine, video or mechanical bingo machine, or other device which involves any game of chance or amusement based upon poker, blackjack, dog racing, or horse racing, craps, any card or dice game, or any similar device operated by means of the insertion of a coin, token, slug currency, or similar object. A "gambling device" does not include:

- a. Authorized video gaming terminals as defined in the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.;
- b. Any of the following, as more specifically defined in 720 ILCS 5/28-2(a)(1) through (a)(5):
  - i. A coin-in-the-slot operated mechanical device played for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no money, property or other thing of value or the right to receive money or property or other thing of value;
  - ii. Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard;
  - iii. Crane games;
  - iv. Redemption machines; or
  - v. Internet computer service or system.

(2) **Lottery** is any scheme or procedure whereby one (1) or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win the prizes, whether the scheme or procedure is called a lottery, raffle, gift, sale or some other name.

(3) **Policy game** is any scheme or procedure whereby a person promises or guarantees by any instrument, bill, certificate, writing, token or other device that any particular number, character, ticket or certificate shall in the event of any contingency in the nature of a lottery entitle the purchaser or holder to receive money, property or evidence of debt.

(Ord. No. 3016-2004; Sec. 22-5100 repealed; new Sec. 22-5100 enacted; 03/19/04)

### SEC. 22-5101. GAMBLING DECLARED AN OFFENSE; ACTS CONSTITUTING GAMBLING ENUMERATED.

- (a) A person commits the offense of gambling when said person does any of the following acts:
- (1) Plays a game of chance or skill for money or other thing of value, unless permitted per subsection (b) below.
  - (2) Operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device, unless permitted per subsection (b) below.
  - (3) Makes a wager upon the result of any game, contest or any political nomination, appointment or election.
  - (4) Contracts to have or give said person or another the option to buy or sell or contracts to buy or sell, at a future time, any grain or other commodity whatsoever, or any stock or security of any company, where it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised or the contract resulting therefrom, shall be settled, not by the receipt or delivery of the property, but by the payment only of differences in prices thereof; however, the issuance, purchase, sale, exercise, endorsement or guarantee, by or through a person registered with the secretary of state pursuant to the Illinois Securities Law of 1953, or by or through a person exempt from such registration under that law of a put, call, or other option to buy or sell securities which have been registered with the secretary of state or which are exempt from such registration under the Illinois Securities Law of 1953 is not gambling within the meaning of this subsection.
  - (5) Knowingly owns or possesses any book, instrument or apparatus by means of which bets or wagers have been or are, recorded or registered or knowingly possesses any money which said person has received in the course of a bet or wager.
  - (6) Sells pools upon the result of any game or contest of skill or chance, political nomination, appointment or election.
  - (7) Sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery, unless permitted per subsection (b) below.
  - (8) Sets up or promotes any policy game or sells, offers to sell or knowingly possesses or transfers any policy ticket, slip, record, document or other similar device.

(9) Knowingly advertises any lottery or policy game or drafts, prints or publishes any lottery ticket or share, or any policy ticket, slip, record, document or similar device or any advertisement of any lottery or policy game, unless permitted per subsection (b) below.

(10) Knowingly transmits information as to wagers, betting odds, or chances in betting odds by telephone, telegraph, radio, semaphore or similar means or knowingly installs or maintains equipment for the transmission or receipt of such information, except that nothing in this subsection prohibits transmission or receipt of such information for use in news reporting of sporting events or contests.

(b) Participants in any of the following activities shall not be convicted of gambling:

(1) Agreements to compensate for the loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance.

(2) Offers of prizes, award or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such contest.

(3) Pari-mutuel betting as authorized by the law of this state.

(4) Video gaming as authorized by the Video Gaming Act, 230 ILCS 40/1 et seq.

(5) Manufacture of gambling devices, including the acquisition of essential parts therefor and the assembly thereof pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., and/or for transportation in interstate or foreign commerce to any place outside this state when such transportation is not prohibited by any applicable federal law.

(6) The game commonly known as "bingo" when conducted in accordance with "An Act making lawful the conducting of bingo by certain not-for-profit organizations, requiring licensing and prescribing regulations therefor," as authorized by the law of this state, and when conducted pursuant to license issued hereunder.

(7) Any lottery conducted and authorized by the law of this state.

(8) Any lottery commonly known as a raffle which is licensed pursuant to Article IX of Chapter 17 of this Code.

(9) Any charitable game including but not limited to roulette, blackjack, poker, pull tabs, craps, bang, beat the dealer, big six, gin rummy, five card stud poker, chuck-a-luck, keno, hold-em poker and merchandise wheel conducted pursuant to and in strict compliance with the Charitable Games Act, 230 ILCS 30/1 as now enacted or hereafter amended.

(c) **Penalty.** Any person violating any provisions of Section 22-5101(a) shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 22-5101, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-5101, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-5101, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.

(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.

(e) (2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.

(Ord. No. 3022-2006; Sec. 22-5101(b)(7) repealed; new Sec. 22-5101(b)(7) enacted; 05/23/06)

(Ord. No. 2002-08-11; new Sec. 22-5101 (c) enacted; 09/10/02)

## **SEC. 22-5102. SEIZURE OF GAMBLING DEVICES AND GAMBLING FUNDS.**

(a)-Every gambling device which is incapable of lawful use is contraband and shall be subject to seizure, confiscation and destruction pursuant to the rules and regulations of the Illinois Gaming Board as authorized by the Video Gaming Act, 230 ILCS 40/1 et seq. As used in this section, a "gambling device which is incapable of lawful use" includes any slot machine, and includes any machine or device constructed for the reception of money or other thing of value and so constructed as to return on chance to the player thereof money, property or a right to receive money or property.

(Ord. No. 3019-2012; Art. V. repealed; new Art. V. enacted, 07/17/12; see separate subsections for prior amendment references)



## ARTICLE VI. LITTERING

### SEC. 22-6100. PROHIBITED ON PUBLIC PROPERTY.

No person, or the agent or employee of any person, shall throw, drop, place, deposit, discard or let fall, or cause such to be done, on any public street, highway, roadway, thoroughfare, sidewalk, pathway, lawn, park, parkway, waterway, stream, brook, parking lot, cemetery or other public place or public building within the City any paper, glass, plastic, wood, metal, solid or liquid vegetable or animal compound, rubbish, garbage, waste, effluent, junk, debris, litter, any solid, or any combination thereof, other than in a trash receptacle or official landfill site of the City.

### SEC. 22-6101. WHEN PROHIBITED ON PRIVATE PROPERTY.

No person, or the agent or employee of any person, shall throw, drop, place, deposit, discard or let fall or cause any littering prohibited by this article on public property, or any private property within the City where the litter is likely to blow, flow, move, drain, scatter or be blown, moved, drained, or scattered onto public property or public water under normal or predictable weather or environmental conditions in the City; however, this section does not apply to home garbage disposals, or to commercial garbage disposals where permits have been issued by the City.

(Ord. No. 2002-09-05; Sec. 22-6101 repealed; new Sec. 22-6101 enacted; 09/17/02)

### SEC. 22-6102. VIOLATIONS OF THIS ARTICLE DECLARED TO BE A NUISANCE.

(a) Any act prohibited by this section is also declared to be a nuisance, and may be a nuisance.

(b) Any person violating this article, as a first offense, shall be subject to a citation, which citation shall be paid at the City of Moline ~~Accounts and Finance Office~~ department of finance in the amount of fifty dollars (\$50.00), or if paid within seven (7) calendar days, twenty-five dollars (\$25.00). Any person violating this article as a second or subsequent offense, shall be subject to a citation, which citation shall be paid at the City of Moline ~~Accounts and Finance Office~~ department of finance in the amount of one hundred dollars (\$100.00), or if paid within seven (7) calendar days, fifty dollars (\$50.00). Any person who fails to make payment as outlined above within thirty (30) days, shall thereafter be subject to an action in Circuit Court which may be commenced in accordance with the requirements of the Illinois Municipal Code, 65 ILCS 5/1-1-1 et seq., and any person found to have violated this article shall be subject to a fine of not less than one hundred dollars (\$100.00) plus court costs, nor more than seven hundred fifty dollars (\$750.00) plus court costs, plus reimbursement to the City for the costs the City incurred in serving the person with process. Each day during which or on which any person violates this article shall be deemed a separate offense.

~~(c) Any person or property violating this article shall, in addition to any other fine, penalty or requirement of this Code, pay the City no less than seventy-five dollars (\$75.00) administrative fee or the complete and actual costs, charges and expenses incurred by the City in remedying or alleviating such violation or nuisance, whichever amount is greater.~~

~~(c) **Penalty.** Any person violating Section 22-6102, including all subparts thereof, shall be subject to a mandatory fine of not less than one hundred dollars (\$100), plus court costs, nor more than five hundred dollars (\$500), plus court costs. Any person violating Section 22-6102, including all subparts thereof, as a second offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs. Any person violating Section 22-6102, including all subparts thereof, as a third or subsequent offense, shall be subjected to a mandatory fine of not less than two hundred fifty dollars (\$250), plus court costs, nor more than seven hundred fifty dollars (\$750), plus court costs.~~

~~(1) In lieu of the above-referenced fines, a first time offender under 18 years of age may notify legal counsel for the City or a Moline Police Department representative of their intention to enroll and complete a class, curriculum or program coordinated by the Youth Service Bureau, or a similar approved agency, to address the offender's violation. Such participation shall be at the Offender's sole cost and expense. Upon appropriate evidence the offender has satisfactorily completed the approved program, the charge and any resulting court or administrative proceeding shall be dismissed without payment of any fine being due.~~

~~(2) In lieu of the above-referenced fines, an offender under 18 years of age may elect to complete a Public Service Employment ("PSE") sentence to be coordinated by counsel for the City or a local probation office. PSE sentences shall be for a minimum of 10 hours per offense and completed at an approved agency or organization. Upon receipt of satisfactory proof the PSE sentence has been timely completed, the charge and any resulting court or administrative proceeding shall be closed and satisfied without payment of any fine being due.~~

(Ord. No. 2002-09-05; Sec. 22-6102 repealed; new Sec. 22-6102 enacted; 09/17/02)

## ARTICLE VII. OFFENSES AGAINST PUBLIC DECENCY

### DIVISION 1. IN-GENERAL PROSTITUTION

#### SEC. 22-7100. PROSTITUTION.

Any person who performs, offers or agrees to perform any of the following acts for money, commits the offense of prostitution:

(1) Any act of sexual intercourse.

- (2) Any act of deviate sexual conduct.

#### **SEC. 22-7101. PATRONIZING A PROSTITUTE.**

Any person who performs any of the following acts with a person not said person's spouse commits the offense of patronizing a prostitute:

- (1) Engages in an act of sexual intercourse or deviate sexual conduct with a prostitute.
- (2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

(Ord. No. 94-6-1; §22-7101 repealed; new §22-7101 enacted; 06/07/94)

#### **SEC. 22-7102. SOLICITING FOR A PROSTITUTE.**

Any person who performs any of the following acts commits the offense of soliciting for a prostitute:

- (1) Solicits another for the purpose of prostitution;
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution;
- (3) Directs another to a place knowing the direction is for the purpose of prostitution.

#### **SEC. 22-7103. PIMPING.**

Any person who receives money or other property from a prostitute, not for a lawful consideration, knowing it was earned in whole or in part from the practice of prostitution, commits the offense of pimping.

#### **SEC. 22-7104. PANDERING.**

Any person who performs any of the following acts for money commits the offense of pandering:

- (1) Compels a person to become a prostitute; or
- (2) Arranges or offers to arrange a situation in which a person may practice prostitution.

(Ord. No. 94-6-1; Sec. 22-7104 repealed; new Sec. 22-7104 enacted; 06/07/94)

### **DIVISION 2. OBSCENITY**

#### **SEC. 22-7200. "OBSCENE" DEFINED.**

As used in this division, material is "obscene" when:

- (1) It depicts or describes any of the following types of sexual conduct:
  - a. Ultimate sexual acts, normal or perverted, actual or simulated;
  - b. Masturbation;
  - c. Excretory functions; or
  - d. Lewd exhibition of the genitals; and
- (2) To the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to the prurient interest in sex;
- (3) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

#### **SEC. 22-7201. ACTS CONSTITUTING OBSCENITY ENUMERATED.**

A person commits obscenity when, with knowledge of the nature of contents thereof, or recklessly failing to exercise reasonable inspection which would disclose the nature of contents thereof:

- (1) Such person sells within the City, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide;
- (2) Such person offers or attempts to sell within the City, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide;
- (3) Such person distributes or gives away within the City, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, photograph record, film strip or slide;
- (4) Such person offers to or attempts to give away within the City, any obscene book, magazine, pamphlet, paper, photograph, drawing, motion picture film, phonograph record, film strip or slide;
- (5) Such person prints or publishes within the City, any obscene book, magazine, pamphlet, paper, photograph, drawing,

motion picture film, film strip or slide;

(6) Such person exhibits or shows within the City, any obscene photograph, drawing, motion picture, film strip or slide;

(7) Such person produces, directs, or plays a part within the City, in any obscene play;

(8) Such person advertises for sale within the City, any obscene book, magazine, pamphlet, paper, photograph, motion picture film, phonograph record, film strip or slide;

(9) Such person advertises for viewing within the City, any obscene motion picture, play, film strip or slide;

(10) Such person publicly performs an obscene act or otherwise publicly presents an obscene exhibition of such person's body within the City;

(11) Such person buys or procures in the City, for resale in the City, any obscene book, magazine, pamphlet, paper, photograph, motion picture film, film strip, slide or phonograph record;

(12) Such person buys, leases or produces in the City, for showing in the City for gain, any obscene motion picture, film strip or slide;

(13) Such person sells, purchases, rents, leases, or displays within the City, any obscene video, video tape, motion picture film, laser disc, compact disc, cassette tape, digital audio tape, slide(s) transferred to tape, or any similar product;

(14) Such person sells, purchases, rents, leases, or displays within the City, any obscene product of technological advances beyond those enumerated in subsection (13) above;

(15) For the purpose of enforcing subsections (13) and (14) above, any law enforcement officer has the right to enter upon any business property within the City limits, during the hours such business is open to the public or its customers, for purposes of inspection to determine whether there are any violations of said subsections;

(16) With respect to displaying of material pursuant to subsection (13), if the material displayed does not involve minor children, it shall not be deemed a violation of this section for a person to display material which would otherwise be classified as obscene when such display is entirely within the confines of the person's private residence; provided that the material is displayed only to residents or guests therein, and provided further that there is no transfer of money, goods, services or other consideration of any type or kind whatsoever between resident(s) and guest(s), if any, in exchange for said display.

(Ord. No. 94-6-5; §22-7201 amended by adding new subsections (13) through (16); 06/28/94)

#### **SEC. 22-7202. PENALTY FOR VIOLATION OF ARTICLE.**

Any person who violates any provision of this article shall be guilty of an offense which shall be punishable by a fine in an amount not to exceed seven hundred fifty dollars (\$750.00).

(Ord. No. 94-6-1; §22-7202 repealed; new §22-7202 enacted; 06/07/94; Ord. No. 98-2-6; §22-7202 repealed; new §22-7202 enacted; 02/03/98)

### **~~ARTICLE VIII. VANDALISM~~**

#### **~~SEC. 22-8100. DEFINITIONS.~~**

~~For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them:~~

~~(1) **Person** shall include any individual, firm, partnership, association, corporation, company, or organization of any kind.~~

~~(2) **Property** shall include any real estate including improvements thereon, and tangible personal property.~~

~~(3) **Legal Guardian** shall include a person appointed guardian, or given custody, of a minor by a circuit court of this state, but does not include a person appointed guardian, or given custody of a minor under the Illinois Juvenile Court Act.~~

~~(4) **Minor** shall include a person who has attained twelve (12) years of age but who has not yet reached eighteen (18) years of age.~~

#### **~~SEC. 22-8101. OFFENSES.~~**

~~Within the corporate limits of the City no person shall:~~

~~(1) Knowingly or recklessly damage any property of another person without such person's consent; or~~

~~(2) Knowingly and without authority enter into or obtain control over any motor vehicle, bicycle, aircraft or watercraft or any part thereof of another person without such person's consent.~~

#### **~~SEC. 22-8102. PENALTY.~~**

~~Every person found guilty of an offense shall be subject to the following penalties:~~

~~(1) A fine not in excess of seven hundred fifty dollars (\$750.00); or~~

~~(2) A period of conditional discharge not to exceed one (1) year;~~

- ~~a. The conditions of conditional discharge shall include that the defendant:~~
- ~~1. Not violate any criminal statute or quasi-criminal ordinance of any jurisdiction; and~~
  - ~~2. Report to and appear in person before such person or agency as directed by the court.~~
- ~~b. The conditions of conditional discharge may, in addition, require that the defendant:~~
- ~~1. Pay a fine not in excess of seven hundred fifty dollars (\$750.00);~~
  - ~~2. Work or pursue a course of study or vocational training;~~
  - ~~3. Undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism;~~
  - ~~4. Make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss;~~
  - ~~5. If a minor:~~
    - ~~i. Resides with said minor's parent or in a foster home;~~
    - ~~ii. Attends school;~~
    - ~~iii. Attends a nonresidential program for youth;~~
    - ~~iv. Contributes to said minor's own support at home or in a foster home.~~
- ~~c. When a court orders restitution or reparation as a condition of conditional discharge, the court shall determine the amount and conditions of payment. When the conditions of payment have not been satisfied, the court, at any time prior to the expiration or termination of the period of conditional discharge may impose an additional period of not more than two (2) years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the original conditions and to revoke the penalty of conditional discharge if the conditions of payment are violated during such additional period.~~
- ~~d. Violation, modification or revocation of conditional discharge:~~
- ~~1. When a petition is filed charging a violation of a condition, the court may:~~
    - ~~i. Order a summons to the offender to appear;~~
    - ~~ii. Order a warrant for the offender's arrest where there is danger of said offender fleeing the jurisdiction or causing serious harm to others or when the offender fails to answer a summons.~~
- ~~The issuance of such warrant or summons shall stay the sentence of conditional discharge until the final determination of the charge, and the term conditional discharge shall not run so long as the offender has not answered the summons or warrant;~~
- ~~2. The court shall conduct a hearing of alleged violation. The court may admit the offender to bail pending the hearing;~~
  - ~~3. The City has the burden of going forward with the evidence and proving the violation by the preponderance of the evidence. The evidence shall be presented in open court with the right of confrontation, cross-examination, and representation by counsel;~~
  - ~~4. Conditional discharge shall not be revoked for failure to comply with conditions of a sentence which imposes financial obligations upon the offender unless such failure is due to this willful refusal to pay;~~
  - ~~5. If the court finds that the offender has violated a condition at any time prior to the expiration or termination of the period, it may continue said offender on the existing period, with or without modifying or enlarging the conditions, or may impose any other penalty that was available at the time of the initial penalty;~~
  - ~~6. The conditions of conditional discharge may be modified by the court on motion of the City or on its own motion or at the request of the offender after notice to the defendant and a hearing;~~
  - ~~7. A judgment revoking probation or conditional discharge is a final appealable order.~~

~~(Ord. No. 98-2-6; §22-8102 repealed; new §22-8102 enacted; 02/03/98)~~

**~~SEC. 22-8103. LIABILITY OF PARENT OR LEGAL GUARDIAN OF MINOR OFFENDER.~~**

~~(a) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be liable for any fine or condition of restitution or reparation imposed by a court upon a minor for violation of this article, provided that said minor has not paid said fine or made restitution or reparation within the time ordered by the court, further provided that said parent or legal guardian has been served with summons or notice to appear in the original cause as provided by law.~~

~~(b) The parent or legal guardian of an unemancipated minor defendant who resides with such parent or legal guardian shall be a necessary party to any proceeding under this article.~~

**~~SEC. 22-8104. SEVERABILITY.~~**

~~If any provision of this article or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect other provisions of applications of this article which can be given effect without the invalid provision or application and to this end, the provisions of this article are declared to be severable.~~

## **ARTICLE VIII. AUTHORITY TO IMPOUND FLEEING VEHICLES**

### **SEC. 22-8100. FLEEING VEHICLE AND IMPOUNDMENT PROCEDURES**

(a) Declared A Nuisance: A vehicle involved in an unlawful attempt to flee and elude a peace officer that is not immediately stopped by the police and the driver placed under arrest is declared to be a public nuisance and said vehicle is subject to being immediately towed and impounded by the police.

(b) Vehicle Subject To Seizure And Impoundment: Whenever a police officer has observed a vehicle engaged in an unlawful attempt to flee and elude and believes that there exists probable cause to tow and impound said vehicle, and locates said vehicle on a public thoroughfare or within a parking lot under City ordinance control or a parking lot open to the general public within the City before the end of his or her watch, then said vehicle may be seized and impounded. Notice shall be given to the person in control of the vehicle and the owner of the vehicle as described herein.

(c) Incident Report: Whenever a police officer has observed a vehicle engaged in an unlawful attempt to flee and elude and said vehicle is not located by the police before the end of his or her watch, said officer shall at the end of his or her watch prepare a written incident report which provides a record, if possible, of the make, model, year, color, state of registration, license plate number, identification of the driver, location of the incident and the date and time of the incident. Said report shall include information sufficient to support the determination of probable cause to tow and impound, including information of the officer's attempts to stop the vehicle at the time of the occurrence, and that the driver failed or refused to stop after the officer activated the squad car's emergency signal equipment and that pursuit of the vehicle was abandoned for public safety reasons.

(d) Interim Seizure: Upon completion of the report, the officer shall give the report to the shift commander or his or her designee for interim seizure and impoundment authorization of said vehicle. Once authorized, said vehicle may be seized and impounded by police based upon the reporting officer's probable cause for a period of ninety six (96) hours prior to the filing of a Notice of Intent to Impound as described herein. If said vehicle is towed within the ninety six (96) hour period and before a Notice of Intent to Impound is filed, notice shall be given to the person in control of the vehicle and the owner of the vehicle as described herein.

(e) Notice of Intent to Impound: If said vehicle is not located within ninety six (96) hours, the police department may file a Notice of Intent to Impound with the administrative clerk of MUNICES. Once filed, said vehicle may be seized and impounded by police if located on a public thoroughfare or within a parking lot under city ordinance control, or a parking lot open to the general public within the City, pending a MUNICES hearing as described herein. The Notice of Intent to Impound shall include the following information:

(1) A statement that the operator on the date, time, and approximate location of the incident in question failed or refused to stop operation of the vehicle when ordered to do so by the police officer;

(2) A description of the vehicle as contained in the police officer's report;

(3) Notice that a hearing on the merits to contest the eligibility for impoundment of the motor vehicle shall be scheduled on a specified date before the MUNICES hearing officer;

(4) Notice that if said vehicle, as described in the Notice of Intent to Impound, is located on a public thoroughfare or within a parking lot under city ordinance control or a parking lot open to the general public within the City, at any time prior to the scheduled MUNICES hearing, that said vehicle is subject to immediate impoundment and seizure; and

(5) That the owner is entitled to post a cash bond to retrieve the vehicle prior to the scheduled MUNICES hearing.

(f) Delivery of Notice: Upon filing the Notice of Intent to Impound with the administrative clerk of MUNICES, notice shall be sent by regular mail to the vehicle's owner of record. The notice is presumed delivered upon it being deposited with the United States postal service with proper postage being affixed thereto.

(g) This Article VIII., including all sections thereof, also applies when the vehicle at issue is located on a public thoroughfare or within a parking lot under City ordinance control of another City with whom the City has an intergovernmental agreement to provide assistance relating to multi-jurisdictional problems or issues. The vehicle described in the notice shall be eligible for impoundment if found on the public way or within a parking lot under city ordinance control or parking lot open to the general public or in a parking lot or on the public way of another city with whom the city has an intergovernmental agreement to provide assistance in conjunction with an incident involving multi-jurisdictional problems within twelve months.

### **SEC. 22-8101. BONDING PROCEDURE AND AMOUNT OF BOND**

Whenever the owner of a vehicle seized pursuant hereto wishes to retrieve their vehicle prior to the MUNICES hearing, they may do so by posting a cash bond at the City's department of finance or through the City's online payment options. On the first instance a vehicle is impounded, the cash bond amount shall be \$500.00. On the second instance a vehicle is impounded, the cash bond amount shall be \$750.00. For each subsequent instance a vehicle is impounded, the cash bond amount shall not be less than \$1,000.00.

### **SEC. 22-8102. HEARING**

(a) Within ten (10) business days after a vehicle is seized and impounded pursuant hereto or a Notice of Intent to Impound is issued, the administrative clerk of MUNICES shall notify by certified mail, return receipt requested, the owner of record, any lienholders or other legally entitled persons of the date, time and location of a MUNICES hearing. When the City does not know the identity of the registered owner, lienholder or other legally entitled person, the City will cause the vehicle registration records of the State of Illinois to be searched for purposes of obtaining the required ownership information.

(b) A hearing shall be scheduled and held, unless continued by order of the MUNICES hearing officer, on the City's next scheduled MUNICES hearing date following the day the vehicle was seized or a Notice of Intent to Impound was issued, whichever is later, if not within ten (10) days. If said MUNICES hearing would fall within ten (10) days of either the impoundment of the vehicle or issuance of a Notice of Intent to Impound, the MUNICES hearing shall be set for the City's next scheduled MUNICES hearing date. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The MUNICES hearing rules and procedures shall apply to any such hearing.

(c) If, after the hearing, the MUNICES hearing officer determines by a preponderance of the evidence that the vehicle had been stolen prior to the alleged violation, he shall enter an order dismissing the matter. If, however, he determines by a preponderance of the evidence that the vehicle was not stolen prior to the violation, he shall enter an order requiring the vehicle to be impounded for the applicable length of time provided for herein and until the owner pays the applicable fines and MUNICES costs if the vehicle is still in the custody of the City. If the vehicle is not in the City's custody, because a cash bond has been posted, then subsection (d) shall apply.

(d) If a cash bond has been posted and the owner has possession of the vehicle, the MUNICES hearing officer shall enter an order deducting the fine and any MUNICES costs imposed as if the vehicle was actually held for the time period specified from the cash bond that was posted.

(e) In the event the defendant wishes to appeal the decision of the MUNICES hearing officer under the provisions of the administrative review act, said defendant shall pay the cost of the preparation and transcription of the record of the hearing and shall appeal to the Circuit Court of Rock Island County.

(f) If the MUNICES hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other costs.

(g) The fine and costs shall be a debt due and owed to the City. However, if a cash bond has been posted the bond shall be applied to the fine and costs. If the MUNICES hearing officer determines that the vehicle was not used with the permission, express or implied, of the owner, he shall order the return of the vehicle or cash bond. In the event it shall become necessary for the City to collect the debt by filing an action in the Circuit Court of Rock Island County, the City shall be entitled to recover, in addition to the amount due, court costs and reasonable attorney fees.

(h) Notwithstanding any other provisions hereof, any lienholder of record may obtain possession of any seized and impounded vehicle they have a legal lien interest in by: 1) submitting to the City verified proof that they have commenced foreclosure proceedings against the registered owner of said vehicle; 2) payment of the towing and storage fees for the period of time said vehicle was held; and 3) providing a written agreement to refund to the City the net proceeds of any foreclosure sale, over and above the amount necessary to satisfy any liens, to be applied by the City to satisfy any fines and costs imposed.

### **SEC. 22-8103. LENGTH OF IMPOUNDMENT AND FINES**

(a) Any vehicle involved in an unlawful attempt to flee and elude a peace officer in violation hereof shall be impounded for not less than seven (7) days and a fine shall be imposed against the registered vehicle owner in the amount of not less than two hundred fifty dollars (\$250.00).

(b) The length of impoundment and fine imposed shall double upon a second violation hereof involving the same vehicle, resulting in an impoundment of not less than fourteen (14) days and a fine of not less than five hundred dollars (\$500.00).

(c) A third violation hereof involving the same vehicle shall result in an impoundment of not less than twenty one (21) days and a fine of not less than seven hundred fifty dollars (\$750.00).

(d) In addition to the foregoing fines, the vehicle owner shall be responsible for all MUNICES costs incurred.

(e) Fees for towing and storage of a vehicle hereunder shall be the responsibility of the vehicle's owner of record and shall be payable in the same amount as those charged per the contract for towing and storage services with the City in effect at the time of the violation.

**SEC. 22-8104. UNCLAIMED VEHICLES**

Any motor vehicle that is not reclaimed may be disposed of according to state statute and the age of the vehicle after the expiration of the period of impoundment, the conclusion of a MUNICES hearing or the judicial review of the actions taken hereunder.