

CHAPTER 1
GENERAL PROVISIONS

SEC. 1-1100. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Moline Code of Ordinances" and may be so cited.

SEC. 1-1101. RULES OF CONSTRUCTION AND DEFINITIONS.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

- (1) **Generally.** All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

- (2) **City** shall mean the City of Moline, Illinois.
- (3) **City Council, Council.** Whenever the words "Council" or "City Council" are used, they shall be construed to mean the City Council of the City of Moline.
- (4) **Computation of time.** The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this state, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.
- (5) **Corporate or City limits.** The term "corporate limits" or "City limits" shall mean the legal boundaries of the City of Moline, except as otherwise provided by law.
- (6) **County.** The words "the county" or "this county" shall mean the County of Rock Island in the State of Illinois.
- (7) **Delegation of authority.** Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
- (8) **Gender.** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

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- (9) **Joint authority.** All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (10) **Mayor** shall mean the mayor of the City.
- (11) **Month.** The word "month" shall mean a calendar month.
- (12) **Non-technical and technical words.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (13) **Number.** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (14) **Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
- (15) **Officers generally** whenever any officer is referred to by title, such as "clerk," "chief of police," etc., such reference shall be construed as if followed by the words "of the City of Moline."
- (16) **Owner.** The word "owner," applied to building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.
- (17) **Person.** The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.
- (18) **Personal property** includes every species of property except real property, as herein described.
- (19) **Preceding, following.** The words "preceding" and "following" mean next before and next after, respectively.
- (20) **Property.** The word "property" shall include real and personal property.
- (21) **Quorum.** The word "quorum" shall mean a majority of the members of a board, commission or committee holding office, unless otherwise specifically provided in this Code.
- (22) **Real property** shall include lands, tenements and hereditaments.
- (23) **Shall.** The word "shall" is mandatory.
- (24) **Sidewalk.** The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians, excluding parkways.
- (25) **Signature or subscription** includes a mark when the person cannot write.
- (26) **State.** The words "the state" or "this state" shall be construed to mean the State of Illinois.
- (27) **Street.** The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the City, and shall include all areas thereof embraced between the property lines and dedicated to the public use.

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- (28) **Tenant or occupant.** The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.
- (29) **Tense.** Words used in the past or present tense include the future as well as the past and present.
- (30) **Wholesale, wholesaler, etc.** In all cases where the words "wholesale," "wholesaler," or "wholesale dealer" are used in this Code, unless otherwise specifically defined, they shall be understood and held to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for purposes of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.
- (31) **Written or in writing.** "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
- (32) **Year.** The word "year" shall mean a calendar year.

SEC. 1-1102. CATCHLINES OF SECTIONS.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

SEC. 1-1103. AMENDMENTS TO CODE.

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

SEC. 1-1104. UNAUTHORIZED ALTERATIONS OR TAMPERING WITH CODE.

It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

SEC. 1-1105. EFFECT OF REPEAL OF ORDINANCES.

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

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SEC. 1-1106. SEVERABILITY OF PARTS OF CODE.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**SEC. 1-1107. GENERAL PENALTY FOR VIOLATION OF CODE;
CONTINUING VIOLATIONS.**

Violations of this Code shall be triable as a civil case whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than seven hundred fifty dollars (\$750.00). Each day any willful violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense. (Ord. No. 98-2-6; §1-1107 repealed; new §1-1107 enacted; 02/03/98)

SEC. 1-1108. OTHER AUTHORIZED PENALTIES.

A court may impose as a sentence, in addition to or as an alternative to the sentence authorized in Section 1-1107, the following:

- (1) A period of conditional discharge not to exceed six (6) months under the terms and conditions set forth in 730 ILCS 5/5-6-3.
- (2) A period of supervision not to exceed two (2) years under the terms and conditions set forth in 730 ILCS 5/5-6-3.1.
- (3) Restitution as set forth in 730 ILCS 5/5-5-6.
- (4) A period of supervision shall not be ordered in any case in which the defendant has been previously placed on supervision by any jurisdiction in the two-year period prior to the date of the offense for which sentence is being imposed upon the defendant.

SEC. 1-1109. PUBLIC SERVICE WORK.

It is the intent of the City Council that the court considers a defendant's ability to pay when imposing a fine, including the ability to pay any fine in installments which are expressly authorized. If the court finds that a defendant does not possess an ability to pay the fine imposed, the court shall order the defendant to a period of conditional discharge or supervision and order the defendant to perform public service work in lieu of any fine. The court in determining the amount of public service work shall be guided by the following principles:

- (1) The defendant's physical and mental ability to perform available public service work;
- (2) The availability of suitable public service work;
- (3) The amount of the fine that would be appropriate for the offense and a corresponding credit equal to the state's minimum wage for each hour worked; and
- (4) The fact that the defendant will not be convicted of the offense whenever supervision is ordered.

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SEC. 1-1110. CREDIT FOR INCARCERATION.

Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of five dollars (\$5.00) for each day so incarcerated upon application of the defendant. The clerk of the court shall notify the defendant in writing of this provision of the act at the time such person is convicted. However, in no case shall the amount so allowed or credited exceed the amount of the fine.

SEC. 1-1111. ENFORCEMENT OF ORDINANCES; INSTITUTION AND SERVICE.

(a) All actions brought to enforce any fine, imprisonment, penalty, or forfeiture under any ordinance of the City shall be brought in the name of the City, as plaintiff, by the filing of an information or complaint.

(b) No prosecution, recovery, conviction, or acquittal for the violation of any ordinance shall constitute a defense to any other prosecution of the same party for any other violation of the same or any other ordinance although the different causes of action existed at the same times and, if united, would not have exceeded the jurisdiction of the court.

(c) In all actions for the violation of any ordinance the first process shall be by summons or a warrant. A warrant for the arrest of any accused person may issue upon the affidavit of any person that an ordinance has been violated and that the affiant has reasonable grounds to believe that the accused is guilty thereof.

(d) In all actions for violation of any municipal ordinance where the maximum fine that can be imposed for the offense does not exceed seven hundred fifty dollars (\$750.00) and where no jail term can be imposed, service of summons may be by certified mail, return receipt requested, whether service is to be within or without the state.

(e) Nothing herein is intended to prohibit the use of "notices to appear" and hang-on summons and complaints authorized pursuant to Supreme Court Rules.

SEC. 1-1112. OFFICERS, EMPLOYEES NOT LIABLE TO FINE FOR FAILURE TO PERFORM DUTIES.

No provision of this Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this Code for a failure to perform such duty, unless the intention of the City Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

SEC. 1-1113. ACCOUNTABILITY FOR CONDUCT OF ANOTHER.

(a) A person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself or herself, or that of another and he or she is legally accountable for such conduct as provided in subsection (b), or both.

(b) A person is legally accountable for the conduct of another when:

(1) Having a mental state described by the ordinance defining the offense, he or she causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state; or

(2) The ordinance defining the offense makes him or her so accountable; or

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- (3) Either before or during the commission of an offense, and with the intent to promote or facilitate such commission, he or she solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense. However, a person is not so accountable, unless the statute defining the offense provides otherwise, if:
- a. He or she is a victim of the offense committed; or
 - b. The offense is so defined that his or her conduct was inevitably incident to its commission; or
 - c. Before the commission of the offense, he or she terminates his or her effort to promote or facilitate such commission, and does one of the following: wholly deprives his or her prior efforts of effectiveness in such commission, or gives timely warning to the proper law enforcement authorities, or otherwise makes proper effort to prevent the commission of the offense.

(Ord. No. 20002-06-07; new Sec. 1-1113, "ACCOUNTABILITY FOR CONDUCT OF ANOTHER," enacted; 06/25/02)

SEC. 1-1114. ATTEMPT.

(a) Elements of the Offense. A person commits an attempt when, with intent to commit a specific offense, he or she does any act which constitutes a substantial step toward the commission of that offense.

(b) Impossibility. It shall not be a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused person to commit the offense attempted.

(c) Sentence. A person convicted of an attempt is subject to the same penalty provided for the offense attempted. (Ord. No. 2002-06-24; new Sec. 1-1114, "ATTEMPT," enacted; 06/25/02)

SEC. 1-1115. SOLICITATION.

(a) Elements of the offense. A person commits solicitation when, with intent that an offense be committed, he or she commands, encourages or requests another to commit that offense.

(b) Penalty. A person convicted of solicitation is subject to the same penalty provided for the offense solicited. (Ord. No. 2002-06-08; new Sec. 1-1115, "SOLICITATION," enacted; 06/25/02)

SEC. 1-1116. CONSPIRACY.

(a) Elements of the offense. A person commits conspiracy when, with intent that an offense be committed, he or she agrees with another to the commission of that offense. No person may be convicted of conspiracy to commit an offense unless an act in furtherance of such agreement is alleged and proved to have been committed by him or her or by a co-conspirator.

(b) Co-conspirators. It shall not be a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (1) Has not been prosecuted or convicted; or
- (2) Has been convicted of a different offense; or
- (3) Is not amenable to justice; or
- (4) Has been acquitted; or
- (5) Lacked the capacity to commit an offense.

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(c) Sentence. A person convicted of a conspiracy is subject to the same penalty provided for the offense the person conspired to commit. (Ord. No. 2002-06-09); new Sec. 1-1116, "CONSPIRACY," enacted; 06/25/03)

SEC. 1-1117. REINSTATEMENT FEES.

Any licensee licensed by any part of the Moline Code of Ordinances or other act of the City Council who fail to renew applicable licenses by the due date will be charged a reinstatement fee equal to the amount of the license or two hundred dollars (\$200.00), whichever is less. (Ord. No. 2002-06-06; new Sec. 1-1117, "REINSTATEMENT FEES," enacted; 06/25/02)