

CHAPTER 11

FIRE PREVENTION AND PROTECTION

- Art. I. Fire Prevention, §11-1100 - §11-1104
- Art. II. The Fire Department, §11-2100 - §11-2118
- Art. III. Spiller Pays Ordinance, §11-3100 - §11-3107

ARTICLE I. FIRE PREVENTION

SEC. 11-1100. FIRE CODE ADOPTED.

The International Fire Code, 2003 Edition, as published by the International Code Council, including all International Fire Standards, 2003 Edition, and all International Fire Code Appendices, 2003 Edition, published therewith, is hereby adopted by reference as the “Moline Fire Code” as if set out in haec verba at this point. Three copies of such Code shall be kept on file in the City Clerk’s office for inspection and shall remain on file therein for such purpose. (Ord. No. 3081-2004; Sec. 11-1100 repealed; new Sec. 11-1100 enacted; 10/05/04)

SEC. 11-1101. LOCAL AMENDMENTS TO FIRE CODE.

The Moline Fire Code adopted in this article by reference is specifically amended as follows:

(a) **101.1 Title**

Insert “the City Of Moline” for [NAME OF JURISDICTION]

(b) **[EB] 102.3 Change of use or occupancy.**

Replace entire section with:

“No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the *International Building Code*. Subject to the approval of the fire marshal, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all of the requirements of this code and the *International Building Code* for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.”

(c) **102.4 Application of building code.**

Replace entire section with:

“The design and construction of new structures shall comply with the *International Building Code*, and any alterations, additions, changes in use, or changes in structures required by this code, which are within the scope of the *International Building Code*, shall be made in accordance therewith.”

(d) **[EB] 102.5 Historic Buildings.**

Replace entire section with:

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“The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings and structures shall be provided in accordance with an approved fire protection plan.”

(e) **103.4 Liability.**

Replace entire section with:

“**103.4 Liability.** Subject to Sec. 2-1109, “INDEMNIFICATION,” of the Moline Code of Ordinances, the code official or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.”

(f) **103.4.1 Legal defense.**

Replace entire section with:

“**103.4.1 Legal Defense.** Subject to Sec. 2-1109, “INDEMNIFICATION,” of the Moline Code of Ordinances, any suit instituted against any official or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of fire prevention, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.”

(g) **107 Maintenance.**

Add one new subsection 107.6 which shall read as follows:

“**107.6 Citations.** Any person operating or maintaining any occupancy, premises or vehicle subject to this Code who shall permit any fire hazard to exist on premises under said person's control or who shall fail to take immediate action to abate a fire hazard when ordered or notified to do so by the chief or duly authorized representative thereof shall be guilty of an offense.”

(h) **108.1 Board of Appeals.**

Replace entire section with:

“**108.1 Board of Appeals.**

- a. Any person aggrieved by an order of decision of the fire marshal or other duly authorized person acting pursuant to the Moline Fire Code may appeal said decision or order to the Board of Appeals as defined herein by giving written notice of appeal to the fire marshal within five (5) days of receipt of said order or decision. The Board of Appeals, upon hearing, may sustain, modify, or revoke the order of decision from which appeal was taken and may interpret the provisions of the Moline Fire Code, if required. The Board's decision shall be in writing and a copy thereof shall be provided the city clerk, the fire marshal, and all interested parties having filed an appearance before the Board.

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- b. Any decision and order of the committee shall be final and binding, and any person aggrieved thereby may pursue said remedies provided by law or equity to have said decision reviewed. However, no decision may be reviewed unless notice of review is filed with the city clerk within ten (10) days after receipt of said decision or order, and any action of review is commenced within thirty-five (35) days from the date that a copy of the decision sought to be reviewed is served upon the party affected by the decision, in accordance with the Illinois Administrative Review Act.
- c. No decision or order of the Board of Appeals shall be stayed by the filing of a notice of review; however, the Board of Appeals or court upon proper motion may stay the effect of any such decision or order upon a showing that the public interest will not be harmed thereby.
- d. Should no notice of appeal or notice of review be filed within the time prescribed above, a person aggrieved by any decision or order shall be deemed to have waived any rights to have the decision or order reviewed; and such decision or order may not be collaterally attacked in an action to enforce said decision or order.”

(i) **109.3 Violation Penalties.**

Replace entire section with:

“109.3 Violation penalties. Violation penalties are as follows:

- 1. Any person violating any provision of the Moline Fire Code or any order issued there under shall be guilty of an offense punishable by a fine of not less than ten dollars (\$10.00) nor more than seven hundred fifty dollars (\$750.00). The imposition of a penalty for any such violation shall not excuse the violation or permit it to continue, and any such person shall be required to correct or remedy such violations or defects within a reasonable time not to exceed thirty (30) days. When not otherwise specified, each day that such violation exists or is maintained shall constitute a separate offense.
- 2. The application of the above penalty shall not be construed as a bar to the enforced removal of prohibited conditions under any section of the Moline Fire Code or any other Code or ordinance provision of the City of Moline.”

(j) **201.3 Terms defined in other codes.**

Replace entire section with:

“Section 201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Fuel Gas Code*, *International Mechanical Code* or the *Moline Plumbing Code as amended*, such terms shall have the meanings ascribed to them in such codes. All references to the International Plumbing Code in this and all other adopted supporting codes are to be interpreted as meaning the *Moline Plumbing Code as amended*, unless explicitly stated otherwise.”

(k) **202 General Definitions.**

Amend by adding two new definitions, **“BOARD OF APPEALS”** and **“DEPUTY CODE OFFICIAL”** and amending the definitions of **“CODE OFFICIAL”** and **“FIREWORKS,”** which shall read as follows:

“BOARD OF APPEALS shall be known as the Moline Building Board of Appeals.

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CODE OFFICIAL shall be known as the Fire Chief, or a duly authorized representative of the Fire Department, or other designated authority charged by the applicable governing body with the duties of administration and enforcement of the code, or a duly authorized representative.

DEPUTY CODE OFFICIAL shall be known as the Fire Marshal.

FIREWORKS are any combustible or explosive composition of any substance or combination of substances or device prepared for the purpose of producing a visible or an audible effect by combination, explosion, deflagration or detonation and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, sky-rockets, Roman candles, dago bombs, or other devices of like construction and any devices containing an explosive substance, except that the term "fireworks" shall not include any auto flares; paper caps containing not in excess of an average of twenty-five-hundredths of a grain of explosive content per cap; and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times, and sparklers.”

(1) **307.2.1 Authorization**

Replace entire section and add three new subsections 307.2.3, 307.2.4 and 307.2.5, which shall read as follows:

“307.2.1 Authorization.

1. **Leaves and lawn and landscape waste.** The burning of leaves and lawn and landscape, including, without limitation, shrubs, bushes and brush, is expressly prohibited within the jurisdiction of the City of Moline with the exception of controlled burns performed by governmental entities upon the approval of the fire chief. Said governmental entities shall hold a valid State of Illinois or federal EPA permit to burn materials within the City of Moline in accordance with the provisions set forth in Section 307.2.4, “State or federal permits,” below.

2. **Other waste.** The burning of waste matter other than leaves and lawn and landscape waste shall be prohibited unless the person, corporation or other entity, which proposes to burn, holds a valid State of Illinois or federal EPA permit to burn materials within the City of Moline in accordance with the provisions set forth in Section 307.2.4, “State or federal permits,” below.

307.2.2 Permits not required. Recreational fires are allowed without permit, but safety precautions as herein set forth shall apply. Recreational fires shall be made of dry wood only, excluding building material. Wood or logs shall not exceed twelve (12) inches in diameter. Fires shall not exceed five (5) feet in diameter and shall be no more than three (3) feet in height. Recreational fires shall be allowed between the hours of 12:00 p.m. (noon) and 12:00 a.m. (midnight). All recreational fires shall be fully and properly extinguished no later than 12:00 a.m. (midnight).

307.2.3. Extinguishment authority. The fire chief, or designee, may order the immediate suspension and extinguishment of any burning which may be permitted, when due to atmospheric or other conditions such burning contributes substantially to a hazard to the health and welfare of the public and/or when further such burning contributes substantially to fire hazard and suspension of such burning is reasonably necessary for the protection of persons or property. The fire chief, or designee thereof, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

307.2.4 State or federal permits. The provisions of this Sec. 307.2 as hereby amended shall not apply to any person, corporation, City department or other entity which holds a valid State of Illinois

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or federal EPA permit to burn materials within the City of Moline for the production of energy or for the training of municipal employees in areas of public safety, so long as the materials prohibited from burning by this Code are not also prohibited from burning under such state or federal EPA permit.

307.2.5 Violations. It shall be a violation of this Fire Code to burn any materials prohibited from burning pursuant to this Section 307.2. Any person violating Sec. 307.2 as a first offense shall be subject to a citation, which citation shall be paid at the City of Moline Accounts & Finance Department in the amount of twenty-five dollars (\$25.00), or if paid within forty-eight hours, fifteen dollars (\$15.00). Any person who fails to make payment as outlined above within thirty (30) days, or any person violating this section after the first offense shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00), exclusive of court costs. Each day during which or on which any person violates Sec. 307.2 hereof shall be deemed a separate offense.”

(m) **307.3 Location**

Replace entire section with:

“307.3 Location restricted. No person shall kindle or maintain any bonfire or recreational fire, or authorize any such fire to be maintained or kindled unless the location is at least twenty-five (25) feet from any combustibles or adjoining property and adequate provision is made to prevent the fire from spreading to any structure or adjoining property.

Exception: Recreational fires in approved containers made of brick or metal that are not less than fifteen (15) feet from a structure.

(n) **308.3 Open Flame**

Add one new subsection 308.3.7, which shall read as follows:

“308.3.7 Portable heating appliances. The use of listed portable un-vented oil burning heating appliances shall be limited to use in an occupancy during the construction process when such use is necessary for the construction and the use does not represent a hazard to life or property.”

(o) **603.4 Portable unvented heaters.**

Replace the “Exception” listed therein with the following:

“Exceptions: Listed and approved unvented fuel-fired heaters in one- and two-family dwellings; the use of listed portable unvented oil burning heating appliances limited solely to use in an occupancy during the construction process when such use is necessary for the construction and the use does not represent a hazard to life or property.”

(p) **901.4.5 Mandatory licensing required.**

“901.4.5 Mandatory licensing required. All contractors performing installation, service or maintenance on fire protection systems, including but not limited to, fire extinguishers, sprinkler systems, commercial kitchen extinguishing systems or any other automatic extinguishing systems, shall be licensed by the office of the Illinois State Fire Marshal.”

(q) **1008.1.9 Panic and fire exit hardware.**

Replace entire section with:

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“1008.1.9 Panic and fire exit hardware. Where panic and fire exit hardware is installed, it shall comply with the following:

1. The actuating portion of the releasing device shall extend at least one-half of the door leaf width.
2. The maximum unlatching force shall not exceed 15 pounds (67 N).

Each door in a means of egress from a Group A or E occupancy having an occupant load of 50 or more and any Group H occupancy shall not be provided with a latch or lock unless it is panic hardware or fire exit hardware.

Exception: A main exit of a Group A occupancy in compliance with Section 1008.1.8.3, Item 2.

Electrical rooms with equipment rated 1,200 amperes or more and over 6 feet (1829 mm) wide that contain overcurrent devices, switching devices or control devices with exit access doors must be equipped with panic hardware and doors must swing in the direction of egress.

If balanced doors are used and panic hardware is required, the panic hardware shall be the push-pad type and the pad shall not extend more than one-half the width of the door measured from the latch side.”

(r) **3404.2.12. Testing**

Replace entire section with:

“Section 3404.2.12 Testing. Tank testing shall comply with Sections 3404.2.12.1, 3404.2.12.2 and 3404.2.12.3.”

(s) **3404.2.12.3 Periodic testing.**

Add new section:

“Section 3404.2.12.3 Periodic testing. In addition to the testing required by the above subsections, all underground storage tanks and piping are subject to the following:

1. All underground storage tanks must conform to 40 CFR Parts 280 and 281 Underground Storage Tanks; Technical Requirements and State Program Approval, Final Rules as published in the Federal Register, Friday, September 23, 1988, and 40 CFR Parts 280 and 281, Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements and State Program Approved Objective; Final Rule as published in the Federal Register, Wednesday, October 26, 1988, which documents are hereby adopted by the reference thereto, and which documents shall be on file in the city clerk/legal records' office for public inspection for at least thirty (30) days prior to adoption hereof.
2. Any and all reports required by the United States Environmental Protection Agency, the Illinois Environmental Protection Agency, or any other state regulatory body concerned with underground storage tanks will also be sent to the Moline Fire Department within five (5) days of filing with the appropriate regulatory agency.

(t) **Chapter 45 Referenced Standards**

Delete “NFPA 101-97” and replace it with “NFPA 101-2000.

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(Ord. No. 2003-03-03; Sections 11-1100 and 11-1101 repealed; new Sections 11-1100 and 11-1101 enacted; 03/04/03; Ord. No. 2003-08-04, as amended; Sec. 11-1101(h) repealed; new Sec. 11-1101(h) enacted; 08/19/03; Ord. No. 3081-2004; Sec. 11-1101(m) repealed, new section (l) enacted and the current subsection (l) renamed as subsection (m); 10/05/04; Ord. No. 3029-2008; Sec. 11-1101 repealed; new Sec. 11-1101 enacted; 04/01/08; scrivener's error correction to Sec. 11-1101(l) pursuant to omission from Ord. No. 3029-2008; 09/11/08; Ord. No. 3016-2009; Sec. 11-1101(l) and (m) repealed; new Sec. 11-1101(l) and (m) enacted, effective 09/18/09; adopted 09/08/09; Ord. No. 3021-2010; Sec. 11-1101(l) and (m) repealed; new Sec. 11-1101(l) and (m) enacted; 04/20/10; Ord. No. 3033-2011; new subsection (p) enacted & remaining subsections consecutively renamed; 09/29/11)

SEC. 11-1101.1. FEES.

(a) The annual permit fee for the sale of department-approved fireworks shall be fifty dollars (\$50.00), subject to subsection (c) hereinbelow.

(b) The annual permit fee for the sale of department-approved fireworks at multiple sites of the same permittee shall be fifty dollars (\$50.00) for the initial site and five dollars (\$5.00) per each additional site, subject to subsection (c) hereinbelow.

(c) As part of the application for permit hereunder, applicants shall demonstrate compliance with Chapter 17, Article X, or, conversely, the non-applicability of said Article. If a fee has been paid pursuant to Sec. 17-10206, then no additional fees shall be due pursuant to subsections (a) and (b) hereinabove.

(d) Pyrotechnic permit fee of \$100.00 (indoor and outdoor) plus on-site personnel costs of \$45.00 per hour.

Pyrotechnic Firing Fees:

- 1 - 100 Devices..... one firefighter
- 101 - 250..... two firefighters
- over 250 devices..... subject to review

(e) The annual permit fee for department-approved multiple in-house events shall be five hundred dollars (\$500.00), or fifty dollars (\$50.00) per event, whichever is less; and a fee of two hundred fifty dollars (\$250.00) per day for on-site storage of explosives prior to all events which includes fireworks.

(f) The annual fee for an explosives permit, as provided for in Sec. 7701.3.1 of the 1997 Uniform Fire Code, shall be five hundred dollars (\$500.00).

(g) The following table lists the hazardous material with the quantity ranges and corresponding annual permit fees:

| UN Category | Substances | Notes | Range 1 | Range 2 | Range 3 | Range 4 | Range 5 |
|-------------|----------------------------|------------------|---------|---------|---------|---------|---------|
| 3 | Combustible Liquids | See Sec.105.6.17 | \$50 | \$100 | \$150 | \$200 | \$250 |
| 8 | Corrosive Materials | | | | | | |
| 2 | Gases | See Sec.105.6.9 | X | X | X | X | X |
| 8 | Liquids | > 55 Gallons | \$0 | \$50 | \$100 | \$150 | \$200 |
| 8 | Solids | > 1000 lbs. | \$0 | \$50 | \$100 | \$150 | \$200 |
| | Flammable Materials | | | | | | |
| 2 | Gases | See Sec.105.6.9 | X | X | X | X | X |
| 3 | Liquids | See Sec.105.6.17 | \$100 | \$200 | \$300 | \$400 | \$500 |
| 4 | Solids | >100 lbs. | \$50 | \$100 | \$150 | \$200 | \$250 |
| | Highly Toxics | | | | | | |
| 2 | Gases | See Sec.105.6.9 | X | X | X | X | X |
| 6 | Liquids | Any Amount | \$100 | \$200 | \$300 | \$400 | \$500 |

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| 6 | Solids | Any Amount | \$100 | \$200 | \$300 | \$400 | \$500 |
| | Oxidizing Materials | | | | | | |
| 2 | Gases | See Sec.105.6.9 | X | X | X | X | X |
| 5 | Liquids | Table 105.6.21 | \$50 | \$100 | \$150 | \$200 | \$250 |
| 5 | Solids | Table 105.6.21 | \$50 | \$100 | \$150 | \$200 | \$250 |
| 5 | Organic Peroxides | Table 105.6.21 | \$50 | \$100 | \$150 | \$200 | \$250 |
| | Pyrophoric Materials | | | | | | |
| UN Category | Substances | Notes | Range 1 | Range 2 | Range 3 | Range 4 | Range 5 |
| 2 | Gases | See Sec.105.6.9 | \$100 | \$200 | \$300 | \$400 | \$500 |
| 3 | Liquids | Any Amount | \$100 | \$200 | \$300 | \$400 | \$500 |
| 4 | Solids | Any Amount | \$100 | \$200 | \$300 | \$400 | \$500 |
| | Toxic Materials | | | | | | |
| 2 | Gases | See Sec.105.6.9 | X | X | X | X | X |
| 6 | Liquids | > 10 Gallons | \$75 | \$100 | \$125 | \$150 | \$175 |
| 6 | Solids | > 100 lbs. | \$100 | \$200 | \$300 | \$400 | \$500 |
| | Unstable (Reactive) | | | | | | |
| | Materials - 4 Classes | Table 105.6.21 | | | | | |
| 1 | Liquids - Class 4 & 3 | Not Allowed | | | | | |
| 1 | Liquid - Class 2 | > 5 Gallons | \$100 | \$200 | \$300 | \$400 | \$500 |
| 1 | Liquid - Class 1 | > 10 Gallons | \$100 | \$200 | \$300 | \$400 | \$500 |
| 1 | Solids - Class 4 & 3 | Not Allowed | | | | | |
| 1 | Solids - Class 2 | > 50 lbs. | \$100 | \$200 | \$300 | \$400 | \$500 |
| 1 | Solids - Class 1 | > 100 lbs. | \$100 | \$200 | \$300 | \$400 | \$500 |
| | Water-reactive | | | | | | |
| | Materials - 3 Classes | Table 105.6.21 | | | | | |
| 1 | Liquid - Class 3 | Not Allowed | | | | | |
| 3 | Liquid - Class 2 | > 5 Gallons | \$50 | \$100 | \$150 | \$200 | \$250 |
| 3 | Liquid - Class 1 | > 55 Gallons | \$0 | \$100 | \$150 | \$200 | \$250 |
| 1 | Solids - Class 3 | Not Allowed | | | | | |
| 4 | Solids - Class 2 | > 50 lbs. | \$50 | \$100 | \$150 | \$200 | \$250 |
| 4 | Solids - Class 1 | > 500 lbs. | \$0 | \$100 | \$150 | \$200 | \$250 |
| | Compressed Gases | | | | | | |
| 2 | Corrosives | See Sec.105.6.9 | \$0 | \$100 | \$150 | \$200 | \$250 |
| 2 | Flammables | See Sec.105.6.9 | \$100 | \$200 | \$300 | \$400 | \$500 |
| 2 | Highly Toxics | Any Amount | \$100 | \$200 | \$300 | \$400 | \$500 |
| 2 | Inerts | See Sec.105.6.9 | \$0 | \$0 | \$50 | \$75 | \$100 |
| 2 | Oxidizing | See Sec.105.6.9 | \$0 | \$100 | \$150 | \$200 | \$250 |
| 2 | Toxics | Any Amount | \$50 | \$100 | \$150 | \$200 | \$250 |
| | Cryogenics | | | | | | |
| 2 | Flammables | See Sec.105.6.11 | \$100 | \$200 | \$300 | \$400 | \$500 |
| 2 | Inerts | See Sec.105.6.11 | \$0 | \$25 | \$50 | \$75 | \$100 |
| 2 | Oxidizing | See Sec.105.6.11 | \$75 | \$100 | \$125 | \$150 | \$175 |
| 2 | LPG | See Sec.105.6.9 | \$50 | \$100 | \$150 | \$200 | \$250 |
| 4 | Underground Tanks | See Sec.105.6.17 | \$0 | \$0 | \$100 | \$150 | \$200 |
| | Quantity Ranges: | | | | | | |
| | Range #1 | Up to and including 500 pounds for solids, 55 gallons for liquids and 200 cubic feet at NTP for compressive gasses. | | | | | |

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| Range #2 | Between 500 and 5,000 pounds for solids, 55 and 550 gallons for liquids and 200 to 2,000 cubic feet at NTP for compressed gasses. |
| Range #3 | Between 5,000 and 25,000 pounds for solids, 550 and 2,750 gallons for liquids and 2,000 to 10,000 cubic feet at NTP for compressed gasses. |
| Range #4 | Between 25,000 and 50,000 pounds for solids, 2,750 and 5,500 gallons for liquids and 10,000 to 20,000 cubic feet at NTP for compressed gasses. |
| Range #5 | More than 50,000 pounds for solids, 5,500 gallons for liquids and 20,000 cubic feet at NTP for compressed gasses. |

(h) The finance director shall collect the above fees; however, said director may designate in writing a person or persons, either in the City service or otherwise, as the agent of the City for purposes of collecting said fees. (Ord. No. 2002-08-02; new Sec. 11-1101.1 enacted; 08/20/02; Ord. No. 3081-2004; Sec. 1101.1 amended by renaming subsection (g) as subsection (h) and enacting one new subsection (g); 10/05/04; Ord. No. 3012-2008; Sec. 11-1101.1 repealed; new Sec. 11-1101.1 enacted; 02/26/08)

SEC. 11-1102. PROHIBITION ON CODE OR STANDARD ADOPTION BY IMPLICATION.

(a) The City supports fire services and fire protection, and towards that end, the City has adopted the 2003 International Fire Code into the Moline Code of Ordinances, as amended in this Chapter 11 thereof. The City disclaims any other adoption, whether directly or indirectly, whether by implication or by express purpose, of any other fire protection standard whatsoever, including without limitation, the adoption of NFPA 1710, NFPA 1720 or any similar or related standard. This disclaimer extends to any and all actions of any City staff or elected officers of the Moline City Council, and the City Council hereby notifies the public and any interested persons that such a standard can be adopted only by express, written action of the City Council by way of a special ordinance.

(b) That the City does not recognize NFPA standard 1710 or NFPA standard 1720 and both such standards are specifically excluded from City policy and practice until repealed by the Moline City Council. (Ord. No. 2002-09-05; Sec. 11-1102 repealed; new Sec. 11-1102 enacted; 09/17/02; Ord. No. 2003-01-13; Sec. 11-1102, "PENALTY," renumbered to Sec. 11-1104 and new Sec. 11-1102, "PROHIBITION ON CODE OR STANDARD ADOPTION BY IMPLICATION," enacted; 01/21/03; Ord. No. 3029-2008; Sec. 11-1102 repealed; new Sec. 11-1102 enacted; 04/01/08)

SEC. 11-1103. SEVERABILITY.

The City Council of the City of Moline hereby declares that, should any section, paragraph, sentence, phrase, or word of the adoptive ordinance of the Moline Fire Code hereby adopted be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of said adoptive ordinance and said Moline Fire Code independent of the elimination therefrom of any such portion as may be declared invalid.

SEC. 11-1104. PENALTY.

(a) Except for violations of Sections 11-1101(e) and (f), and except as otherwise provided herein, any person violating any provision of the Moline Fire Code or any order issued thereunder shall be guilty of an offense punishable by a fine of not less than ten dollars (\$10.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. The imposition of a penalty for any such violation shall not excuse the violation or permit it to continue, and any such person shall be required to correct or remedy such violations or defects within a reasonable time not to exceed thirty (30) days. When not otherwise specified, each day that such violation exists or is maintained shall constitute a separate offense.

(b) Any person violating Section 11-1101(e) or (f), 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 11-1101 (e) or (f), 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

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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 11-1101(e) or (f) 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 11-1101(e) or (f) shall be deemed a separate offense.

(c) The application of the above penalty shall not be construed as a bar to the enforced removal of prohibited conditions under any section of the Moline Fire Code or any other Code or ordinance provision of the City of Moline.

ARTICLE II. THE FIRE DEPARTMENT

SEC. 11-2100. ESTABLISHED, COMPOSITION.

There is hereby created and established within the executive department of the City, the fire department. The fire department shall consist of a chief and such number of deputy fire chiefs, fire inspectors, training officers, captains, lieutenants, fire engineers and firefighters as are authorized from time to time by resolution of the City Council.

SEC. 11-2101. ORDER OF RANKING.

The order of ranking of the members of the fire department shall be as follows:

1. Fire chief;
2. Deputy fire chief;
3. Battalion chief;
4. Captain;
5. Lieutenant;
6. Fire engineer;
7. Firefighter/Paramedic.

Fire inspectors and training officers will hold the temporary rank of captain and will have the equivalent authority. (Ord. No. 3004-2006; Sec. 11-2101 repealed; new Sec. 11-2101 enacted; 02/21/06)

SEC. 11-2102. FIRE CHIEF TO BE EXECUTIVE HEAD OF THE FIRE DEPARTMENT.

The fire chief shall be the executive head of the fire department and in control thereof, and every member of the fire department shall be under the jurisdiction of the fire chief and subject to said fire chief's orders and directions at all times.

SEC. 11-2103. OFFICE OF CHIEF OF THE FIRE DEPARTMENT CREATED; APPOINTMENT.

There is hereby created the office of chief of the fire department who shall be appointed by the city administrator with the advice and consent of the City Council.

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SEC. 11-2104. QUALIFICATIONS; FILLING OF VACANCY; REMOVAL.

(a) Applicants for the position of fire chief shall have a thorough knowledge of all aspects of fire service and shall have attained the rank of deputy fire chief, captain or lieutenant in the Moline fire department, or shall have attained an equivalent in knowledge, rank or position in a fire department outside the City of Moline.

(b) In the event of a vacancy in the office of the chief of the fire department, the board of fire and police commissioners shall examine each applicant from within or from outside the fire department to determine each applicant's qualifications for the position. Following examination, the board of fire and police commissioners shall submit a list of the names of the top six (6) applicants in alphabetical order to the city administrator, along with a report of their findings on each applicant, prior to the consideration for appointment of any such applicant by the city administrator. After consideration of each applicant and the report on the applicant from the board of fire and police commissioners, the city administrator shall appoint the chief of the fire department with the advice and consent of the City Council.

(c) The city administrator shall have the power to remove the chief of the fire department from office in accordance with the provisions of Sec. 2-3202(c)(3) of the Code of Ordinances.

SEC. 11-2105. POWERS AND DUTIES OF THE FIRE CHIEF, IN GENERAL.

The fire chief shall be subject to the orders of the city administrator and the ordinances and resolutions adopted by the City Council. The fire chief shall make certain that all laws of the state and all provisions of this Code or other ordinances of the City, the execution of which depends upon the fire department, are enforced, and make certain that all orders are executed promptly and all departmental rules and regulations are complied with fully. The chief is the final departmental authority in all matters of policy, operations, administration and discipline.

SEC. 11-2106. TRANSMITTAL OF ORDERS.

All orders to the fire chief shall be issued by the city administrator, and all orders to fire employees shall be issued by the fire chief and communicated to the force through the chain of command, or in such a manner as the circumstances may require.

SEC. 11-2107. POLICE AUTHORITY OF CHIEF OFFICERS OF THE FIRE DEPARTMENT.

(a) At fires, the chief of the fire department, or any chief officers of the fire department in command, shall have the full powers of a police officer; in the absence of the chief of police, the chief of the fire department, or in the chief's absence, the fire scene commander, shall have authority to control and direct all members of the police department present.

(b) The chief of the fire department, or any chief officers of the fire department in command, may prescribe limits in the vicinity of the fire within which no person except those residing therein, members of the fire department, members of the police force, or those admitted by the command officer or subordinates thereof, shall be permitted to come.

(c) During the extinction or investigation of a fire, the chief of the fire department or any chief officers of the fire department in command shall have the power to arrest without a warrant as provided for peace officers by statute, including power during the time of a fire to arrest without a warrant, any person hindering or interfering with the extinction of a fire or refusing to obey a police officer or firefighter in execution of their duties to extinguish the fire, or to protect the lives of persons and property imperiled by the fire.

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(d) After a fire, the chief of the fire department or any chief officer of the fire department in command shall have the power to arrest without a warrant any person hindering or obstructing any arson investigation or investigation relating to the causes of a fire, or concealing evidence related thereto.

(e) As soon as their duties in relation to the extinguishment of the fire will permit, the chief of the fire department or any chief officer of the fire department shall take a person arrested by either of them before an associate judge, to be dealt with according to law.

(f) The chief of the fire department or any chief officer of the fire department shall be severally vested with the usual powers and authority of police officers to command all persons to assist them in the performance of such duty.

SEC. 11-2108. AUTHORITY TO DEMOLISH OR REMOVE PROPERTY.

(a) The city administrator or the chief of the fire department, or any chief officer of the fire department in command during the course of a fire, shall have the power to cause the removal or demolition of any property, real or personal, whenever it shall become necessary for the preservation of the property from fire, to prevent the spreading of the fire, or to protect adjoining property.

(b) The chief of the fire department, or any chief officer of the fire department, with the consent of the city administrator, shall have the power to tear down any portion of any building that may be standing after a fire, or has become dilapidated, and in the judgment of the fire chief may be dangerous to persons or property.

SEC. 11-2109. PROTECTION OF FIRE DEPARTMENT EQUIPMENT.

It shall be the duty of all members of the fire department to prevent all persons not belonging to the fire department or the City Council or who are not city officers, from entering any fire station or handling any apparatus belonging to the fire department without permission of the city administrator or the chief of the fire department, or any chief officer of the fire department.

SEC. 11-2110. INVESTIGATION OF FIRES; ARSON INVESTIGATIONS.

The chief of the fire department, the director of the bureau of fire prevention or a fire inspector shall investigate the cause, origin and circumstances of every fire occurring in the City by which property has been destroyed or damaged, and, so far as possible, shall determine whether the fire is the result of carelessness or design. The investigations shall be begun immediately upon the occurrence of a fire, and if it appears to the officer making the investigation that the fire is of suspicious origin, the chief of the fire department shall immediately be notified of the facts. The investigating officer shall immediately take charge of the physical evidence and shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

SEC. 11-2111. REPORTS OF FIRES REQUIRED; CONTENTS.

Every fire shall be reported in writing to the bureau of fire prevention within two (2) days after the occurrence of the fire. The report shall be in such form as shall be prescribed by the chief of the fire department, and shall contain a statement of all the facts relating to the cause, origin and circumstances of the fire; the extent of the damage thereof; the insurance upon the property; and such other information as may be required.

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SEC. 11-2112. CITY ATTORNEY TO ASSIST IN ARSON INVESTIGATIONS.

The city attorney, upon request of the chief of the fire department, shall assist in the investigation of any fire which, in the opinion of the fire chief, is of suspicious origin.

SEC.11-2113. RECOMMENDATIONS AS TO AMENDMENTS TO THIS CHAPTER.

The chief of the fire department shall recommend any amendments to this chapter which, in the judgment of the fire chief, shall be desirable.

SEC. 11-2114. AMBULANCE SERVICE - AREA.

The City, through its fire department, shall provide emergency ambulance service solely within the corporate limits of the City, within any area specially designated by the City Council, and within any area designated for such service by an intergovernmental service or mutual aid agreement; however, the chief may respond to requests for aid outside of said service area in cases of major disaster.

SEC. 11-2115. AMBULANCE, PERMISSIBLE POINTS OF TRANSPORTATION.

The ambulance service shall transport patients to the closest appropriate facility. Patients may be transported to Genesis Medical Center East Campus as necessary for specialized cardiac care or when the above named facilities are on bypass. Paramedic personnel may disregard patient preference if, in the opinion of the paramedic and confirmed by the resource hospital, it is imperative that the patient be transported to the nearest facility or nearest trauma center. Paramedics may also disregard patient preference in multiple patient or multiple emergency situations where transport of patients to the nearest emergency room or trauma facility is in the best interests of care to all patients involved. (Ord. No. 98-1-1; §11-2115 repealed; new §11-2115 enacted; 01/06/98; Ord. No. 3081-2004; §11-2115 repealed; new §11-2115 enacted; 10/05/04)

SEC. 11-2116. SAME – FEES.

- (a) The fee schedule for said emergency service shall be as follows:
 - (1) Base Rate Advanced Life Support fee is six hundred sixty dollars (\$660.00) for calls that are not life threatening.

Base Rate for Advanced Life Support fee is seven hundred seventy dollars (\$770.00) for calls that are life threatening.
 - (2) Mileage fee of eleven dollars (\$11.00) per mile plus actual cost of supplies and a ten percent (10%) restocking fee.
 - (3) Fees for medical assessment and treatment without transport.

Users shall be assessed a one hundred ten dollar (\$110.00) base fee for Basic Life Support and Advanced Life Support services. An additional actual cost for supplies and a 10% restocking fee will also be assessed.
 - (4) Fees charged shall be charged to the person receiving the benefit of service, or, in the event said person has not attained the age of eighteen (18), to the parent or guardian of the person receiving the service. The person receiving the benefit of service shall include the patient, a minor patient's parent or guardian, and the patient's employer if the point of treatment and/or transportation commencement is the patient's place of employment. In the event of an "outreach" call, person receiving benefit shall include the ambulance service requesting the "outreach" services.

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- (5) Delinquency in payment of charges for previous service hereunder shall not be grounds to refuse service.
- (6) Fees for hourly rental of ambulance and personnel. Events employing on-site Moline Fire Department emergency medical personnel and equipment shall be charged by the City of Moline for those dedicated services according to the following:
- a. Cost per paramedic duty hour shall be the prevailing time and one half (½) rate of a top paid paramedic.
 - b. The minimum number of paramedics employed shall be a team of two (2). This team shall include an on site ambulance.
 - c. There shall be a minimum scheduling fee of two (2) hours for any event.
 - d. Persons treated and transported from the event shall be charged at regular rates established by City ordinance.
 - e. The sponsor or the promoter of the event shall pay the total hourly rental costs listed in a., b., and c.
 - f. The City Council may reduce or waive the fees collectible under this section when such waiver is deemed in the best interests of the City of Moline or the best interests of public safety.
 - g. The fees listed in this section shall apply to dedicated emergency medical services for events on private or public property within the City of Moline.
- (7) Fees for mutual aid services. When EMS services are provided outside the City of Moline in a mutual aid situation (i.e., the primary agency cannot supply an ambulance, calls Moline for assistance) and Moline responds, the patient receiving the service from Moline shall be billed as if the services were performed within the City of Moline. Resident, nonresident, and itemized charges shall be the same.
- (8) Fees for "outreach" services. When EMS service is provided outside the City of Moline in an "outreach" situation, i.e., the primary agency requests an "outreach" ambulance to meet their personnel en route to hospital for the purpose of providing additional EMS personnel and ALS capabilities and the Moline personnel meet the ambulance and provide ALS services, the service requesting the "outreach" shall be billed for the services. Fees for the services shall be the same as if the patient had been treated and transported by the Moline ambulance. (Ord. No. 98-1-1; Sec. 11-2116 repealed; new section enacted; 01/06/98) (Ord. No. 2002-06-01; Sec. 11-2116 (a) (1), (2) and (3) repealed; new Sec. 11-2116 (a) (1), (2) and (3) enacted; 06/04/02) (Ord. No. 3043-2004; Sec. 11-2116 (a) (1), (2), (3), (4) and (5) repealed; new Sec. 11-2116 (a) (1), (2) and (3) enacted; 07/20/04; Ord. No. 3027-2009; Sec. 11-2116(a)(1), (2) and (3) repealed; new Sec. 11-2116(a)(1), (2) and (3) enacted; 10/13/09)

SEC. 11-2117. SAME - FEE COLLECTION.

The officer charged by ordinance with the control of and responsibility over the finances of the City, hereinafter called "accounts and finance officer," shall be the City's agent for purposes of collecting the above fees; however, said officer may designate in writing a person or persons, either in the City service or otherwise, as the agent of the City for purposes of collecting said fees.

SEC. 11-2118. SAME - OBLIGATION OF SERVICE.

Section 11-2114 does not create a contractual obligation to provide emergency ambulance service to any person but merely describes that the City is endeavoring to provide said service to the general public. The City will endeavor to provide said service upon proper notification and when emergency ambulance vehicles are available for service; however, failure to provide said service shall not create liability on behalf of the City or its officers or employees.

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ARTICLE III. SPILLER PAYS ORDINANCE

SEC. 11-3100. SHORT TITLE.

This article shall be called "Spiller Pays Ordinance."

SEC. 11-3101. DEFINITIONS.

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

- (1) **Costs:** Means all expenses incurred by the City or any of the public agencies assisting the City, as a result of any removal or remedial action.
- (2) **Facility:** Means any building, structure, installation, equipment, pipe or pipe line, including, but not limited to, any pipe into a sewer or publicly-owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle, truck trailer, rolling stock or aircraft; and shall also include any site or area where hazardous material has been deposited, stored, disposed of, abandoned or otherwise come to be located.
- (3) **Hazardous Materials:** Mean any material, substance or mixture of materials or substances which are toxic, flammable, corrosive, explosive, carcinogenic or radio active, including, but not limited to, any substance or material which is designated as hazardous material, pursuant to the "Hazardous Material Transportation Act" (49 U.S.C., Section 1801, et. seq.) in a quantity and form which may pose a substantial present or potential hazard to human health, property or the environment when improperly released, treated, stored, transported, disposed of or otherwise managed. This definition shall also include hazardous waste, as defined in this section.
- (4) **Hazardous Waste:** Means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating, reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-850 or under regulations of the Pollution Control Board. (420 ILCS 20/3). Examples of such waste or materials shall include but not be limited to batteries, motor oil, oil base paint, insecticides, herbicides, tires, roofing materials, acids, caustics, solvents, and other similar materials. Hazardous waste shall also include but not be limited to materials that are hazardous by reason of their pathological, explosive, radiological, or toxic characteristics.
- (5) **Mutual Aid:** Means any action taken by the City or any other public agency, pursuant to an Intergovernmental Agreement or including, but not limited to, any and all Mutual Aid Agreements.
- (6) **Person:** Means any individual, business, firm, partnership, corporation, association, trust, estate, joint venture, or other legal entity, or their legal representative, each of their assign.
- (7) **Release:** Means any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous material into or in any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.
- (8) **Remedial Action:** Means any action consistent with permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous material

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into the environment, to prevent or minimize the releases of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, isolation, confinement, perimeter, protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

- (9) **Removal**: Means the cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess and evaluate the release or threat of release of hazardous materials, the disposal of removed material or the taking of such action as may be necessary to prevent, minimize or mitigate damage to the public health provision of alternative water supplies and temporary evacuation of threatened individuals.
- (10) **Response**: Means any removal or remedial action.
- (11) **Vessel**: Means any object used as a storage container.

SEC. 11-3102. PROHIBITED ACTS.

No person shall cause, permit, allow or threaten the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other state or federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

SEC. 11-3103. RESPONSE AUTHORITY.

The Fire Chief of the City of Moline or his authorized representative shall have authority to respond to any release or threatened release of hazardous materials within the territory of the City or affecting the water supply, wells or sewage treatment works located or servicing the City or pursuant to any lawful intergovernmental agreement of which the City is a party. This authority includes, but is not limited to, remedial action and removal.

The Fire Chief or Environmental Manager shall have authority to respond to any release, attempted release or threatened release of hazardous materials as described above. The Fire Chief's primary responsibility shall be to respond to all releases, except those within the sanitary sewer system of the City. The Environmental Manager shall have authority for those discharges into the sanitary or storm sewer systems of the City. Either shall report any release or threat of release of hazardous material to all appropriate federal, state and local public health, safety and emergency agencies within the 24 hours of any substantial release of hazardous materials. The Fire Chief or the Environmental Manager shall relinquish their response authority at such time, if any, as the federal, state or local public health, safety or emergency agency having primary jurisdiction over the release or threatened release has assumed responsibility for response to the release or threatened release.

The Fire Chief, during such time as response authority is vested in such position, shall be authorized to utilize all Fire personnel and equipment and may, in said Chief's sole discretion, take such remedial or removal action as the Chief deems necessary or appropriate to respond to the release or threatened release of hazardous material.

All responding personnel shall cooperate with and operate under the direction of the Fire Chief or other person then exercising response authority under this Ordinance until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the federal, state or local public health, safety or emergency agency having primary jurisdiction over the release or threatened release.

The person exercising response authority under this Ordinance shall coordinate and/or cooperate with other federal, state or local public health, safety or emergency agencies involved in response to the release or threatened release of hazardous materials.

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SEC. 11-3104. LIABILITY FOR COSTS.

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in Section 11-3105, hereinafter, the following persons shall be jointly and severally liable for all costs of removal and remedial action incurred by the City, as a result of a release, attempted release or probable likelihood of a release of a hazardous material.

Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release, attempted release or probable likelihood of a release of any such hazardous material.

Any person who by contract agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release, attempted release or probable likelihood of a release of such hazardous materials.

Any person who accepts or accepted any hazardous materials for transport to disposal, storage or treatment facilities from which there is a release, attempted release or probable likelihood of a release of such hazardous substances.

SEC. 11-3105. DEFENSES.

There shall be no liability under Section 11-3104 hereof for a person otherwise liable who can establish by a preponderance of the evidence that the release, attempted release or probable likelihood of a release of a hazardous material and the damages resulting is in accordance with any of the permitted defenses enumerated in 415 ILCS 5/22.2 except for the exception listed in 415 ILCS 22.2 (j)(i)(c).

SEC. 11-3106. COSTS AND PENALTIES.

Any person who is liable for the release, attempted release or probable likelihood of a release of a hazardous material or hazardous wastes who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the City, or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the City for any costs incurred by the City as a result of such failure to provide or take such removal or remedial action, together with the costs of any removal or remedial action taken by the City in accordance with this Ordinance, and all attorneys' fees and related legal costs incurred in connection therewith.

In addition, any such person shall be guilty of a violation of this Ordinance and shall be fined not less than One Hundred Dollars (\$100.00), nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense. A separate offense shall be deemed committed for each day on which a violation occurs or continues. Where such violation is found to be the result of willful and/or wanton conduct or gross negligence, or the person committing such violation attempts to evade responsibility hereunder by leaving the scene of the occurrence or by other means, that person shall be subject to a fine as provided for above or a fine in an amount equal to three times the costs, including attorneys' fees and legal costs for which it is liable under Paragraph 1 of Section 11-3106, whichever is greater.

Charges for removal or remedial action when rendered by the City or any other agency rendering mutual aid shall be as follows:

- (a) The reasonable cost of each vehicle responding as determined by the responding agency, but in no case less than One Hundred Dollars (\$100.00) per hour per vehicle; and
- (b) The cost of all personnel, including any overtime cost to the City or to any responding agency incurred as a result of the removal or remedial action; and

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- (c) The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local ordinance, as a result of the mitigation or containment operations if or at the request of the City or any responding agency.

SEC. 11-3107. 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.

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. 3060-2006; new Article III enacted; 12/12/06)