



MOLINE CITY COUNCIL AGENDA

Tuesday, July 10, 2012

6:30 p.m.

(immediately following the Committee-of-the-Whole meeting)

City Hall

Council Chambers – 2nd Floor

619 16th Street

Moline, IL

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSENT AGENDA

All items under the consent agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussions of these items unless a council member so requests, in which event the item will be removed from the consent agenda and considered as the first item after approval of the consent agenda.

COUNCIL MEMBER	PRESENT	ABSENT
Knaack		
Meredith		
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Welvaert		

APPROVAL OF MINUTES

Committee-of-the-Whole and Council meeting minutes of June 19, 2012.

SECOND READING ORDINANCE

1. Council Bill/Special Ordinance 4022-2012

A Special Ordinance repealing Council Bill/Special Ordinance 4012-2012 in its entirety.

EXPLANTION: The City’s recent adoption of the above-referenced Council Bill authorized execution of a Licensing Agreement between the City and the United States Postal Service (USPS) for placement of cluster mailboxes in public right-of-way at three locations: 2200 7th Avenue, 2129 43rd Street, and 631 45th Street, Moline. It also authorized the City Administrator to grant additional right-of-way licensing for future placement of cluster mailboxes without further Council approval. The Licensing Agreement has not been fully executed by the parties, and the City has reconsidered its position. Repeal of the Council Bill will rescind the authorities granted therein.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

OMNIBUS VOTE

OMNIBUS VOTE		
Council Member	Aye	Nay
Knaack		
Meredith		
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Welvaert		

ITEMS NOT ON CONSENT

RESOLUTIONS

2. Council Bill/Resolution 1192-2012

A Resolution authorizing the Mayor and City Clerk to execute a First Amendment to a Redevelopment and Economic Incentive Agreement between the City of Moline and JBNATA, Inc.

EXPLANATION: As a result of a fire at Dickey’s Barbecue Pit, the business was closed for approximately 3 months for repairs. The business owner has requested that the City amend the agreement to extend the term for an additional 3 months. The total rebate will remain the same at a maximum of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and the term would be three (3) years and three (3) months.

FISCAL IMPACT: Increased property, sales, food, and beverage taxes.

PUBLIC NOTICE/RECORDING: N/A

3. Council Bill/Resolution 1193-2012

A Resolution acknowledging the City Council’s intent to permit video gaming within the City of Moline pursuant to the Illinois Video Gaming Act.

EXPLANATION: In 2009, the Illinois General Assembly enacted the Video Gaming Act, 230 ILCS 40/1, et seq., which permits establishments that are licensed to sell alcohol, including bars, restaurants, fraternal clubs, veteran’s establishments and truck stops, to operate and allow the use of video gaming terminals on their premises upon proper licensing for same by the Illinois Gaming Board. Municipalities that allow video gaming in accordance with the Act are eligible to receive a portion of the State tax imposed on authorized video gaming terminals. The Council has determined that it is in the best interests of the City and its eligible businesses to pursue this avenue of revenue by allowing video gaming within the City. In addition to this resolution, staff has drafted and submitted to the July 10, 2012 City Council agenda an ordinance amending Chapters 5 and 22 of the Code of Ordinances to repeal or amend certain prohibitions or requirements contained therein to permit video gaming within the City.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

FIRST READING ORDINANCE

4. Council Bill/General Ordinance 3017-2012

An Ordinance amending Chapter 4, “ALCOHOLIC LIQUOR,” of the Moline Code of Ordinances, by repealing Sections 4-3304(d)(2), (e)(2) and (f)(2) in their entirety.

EXPLANATION: The Local Liquor Control Commissioner and City staff has determined that certain amendments to the City’s liquor code will improve related existing application procedures and help increase business within the City. They therefore recommend repealing Sections 4-3304(d)(2), (e)(2) and (f)(2) to delete limitations on the number of licenses allowed for Class C, CC and CCC Liquor Licenses, thereby eliminating a current waiting list for Class CC Packaged Sales Only-Secondary licenses and potential restrictions for future applicants of these three license types.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: Pamphlet publication required

5. Council Bill/General Ordinance 3018-2012

An Ordinance amending Chapter 4, “ALCOHOLIC LIQUOR,” of the Moline Code of Ordinances, by repealing Section 4-3208(b) in its entirety and enacting in lieu thereof one new Section 4-3208(b) dealing with the same subject matter.

EXPLANATION: The Local Liquor Control Commissioner and City staff have determined that certain amendments to the City’s liquor code will improve related existing application procedures and help increase business within the City. They therefore recommend amending Section 4-3208(b) by increasing the non-refundable application fee of \$2,000 to \$3,000 for all applicants, except those seeking Class D/Fraternal Organization, Class I Special Event, and Class J Park Concession licenses, to more accurately cover costs associated with processing the applications, including necessary reviews and background investigations.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: Pamphlet publication required

CB 1192-2012		
Council Member	Aye	Nay
Knaack		
Meredith		
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Welvaert		

CB 1193-2012		
Council Member	Aye	Nay
Knaack		
Meredith		
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Welvaert		

6. Council Bill/General Ordinance 3019-2012

An Ordinance amending Chapter 5, "AMUSEMENTS," of the Moline Code of Ordinances, by repealing Article I, "AMUSEMENT DEVICES," in its entirety and enacting in lieu thereof one new Article I relating to the same subject matter; and Chapter 22, "OFFENSES – MISCELLANEOUS," of the Moline Code of Ordinances, by repealing Article V, "GAMBLING," in its entirety and enacting in lieu thereof one new Article V relating to the same subject matter.

EXPLANATION: In accordance with the City's resolution of intent to permit video gaming in Moline pursuant to the Video Gaming Act, 230 ILCS 40/1 et seq., this ordinance will amend the Code of Ordinances, Chapters 5 and 22, to repeal or amend applicable prohibitions and regulations contained therein. This ordinance will further amend certain provisions contained in Chapter 22 to clarify language pertaining to lotteries within the City.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: Pamphlet publication required

7. Council Bill/Special Ordinance 4023-2012

An Ordinance Authorizing the issuance of not to exceed \$16,200,000 General Obligation Refunding Bonds of 2012 of the City of Moline, Illinois.

EXPLANATION: Due to favorable interest rates in the current market, it has been determined to be in the best interest of the City of Moline to borrow funds at these lower interest rates through issuance of bonds to advance refund the outstanding 2004A (Police and Library Facilities) and 2004B bonds (Mid Towne Ramp – non taxable) and 2004C bonds (Mid Towne Ramp – taxable) for debt service savings. This parameter ordinance will only trigger a bond issue subject to the City realizing a net present value savings of not less than 2.5% of the amount of the bonds being refunded.

FISCAL IMPACT: At current market interest rates, estimated gross savings are \$750,302.

PUBLIC NOTICE/RECORDING: Yes, County Clerk

8. Council Bill/Special Ordinance 4024-2012

A Special Ordinance authorizing the Mayor and City Clerk to execute a Third Amendment to Development Agreement between the City of Moline and Autumn Trails, L.L.C. for the Bethany Project.

EXPLANATION: The Developer has requested the City amend the current development agreement to amend the schedule of completion and to also fund the remaining increment upfront as opposed to an annual rebate. Due to the housing market and financing options for the project, the completion has been delayed. The Developer has reached an agreement with the lending institution, and a mechanism to complete the project has been developed. The project consists of 33 units and an assisted living center containing 41 units. There are 2 units substantially complete but unoccupied, and 9 units remaining to be constructed and sold. There are 22 occupied units and the assisted living center is open. The revised schedule would complete the project in 2013.

FISCAL IMPACT: \$736,619.08 to be repaid with TIF Increment

PUBLIC NOTICE/RECORDING: N/A

MISCELLANEOUS BUSINESS

PUBLIC COMMENT

Members of the public are permitted to speak after first stating their name and address.

EXECUTIVE SESSION

Council Bill/Special Ordinance No. 4022-2012
Sponsor: _____

A SPECIAL ORDINANCE

REPEALING Council Bill/Special Ordinance 4012-2012 in its entirety.

WHEREAS, Council Bill/Special Ordinance 4012-2012 (Council Bill), adopted March 27, 2012, authorized the Mayor and City Clerk to execute a Licensing Agreement with the United States Postal Service (USPS) for the installation of cluster mailboxes in City right-of-way at the following locations: 2200 7th Avenue, 2129 43rd Street, and 631 45th Street; and

WHEREAS, the Council Bill also authorized the City Administrator to grant additional right-of-way licensing to USPS for future cluster mailboxes within the City without further Council action; and

WHEREAS, the Licensing Agreement has not been fully executed by the parties; and

WHEREAS, repeal of the Council Bill will rescind the Mayor and City Clerk's authorization to execute the Licensing Agreement with USPS and rescind the City Administrator's authority to grant additional public right-of-way licensing for placement of future cluster mailboxes without further Council action.

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

Section 1 – That Council Bill/Special Ordinance 4012-2012 is hereby repealed in its entirety.

Section 2 – That this ordinance shall be in full force and effect from and after its passage, approval, and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____

City Clerk

Approved as to Form:

City Attorney

Council Bill/Resolution No. 1192-2012

Sponsor: _____

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to execute a First Amendment to a Redevelopment and Economic Incentive Agreement between the City of Moline and JBNATA, Inc.

WHEREAS, the City and JBNATA, Inc. ("Developer") have previously entered into a Redevelopment and Economic Incentive Agreement by Resolution No. 1108-2011; and

WHEREAS, due to a recent fire at Dickey's Barbecue Pit, the business was closed for approximately three months for repairs; and

WHEREAS, the business owner has requested that the City amend the agreement to extend the term for an additional three months; and

WHEREAS, the total rebate will remain the same at a maximum of Twenty-five Thousand Dollars (\$25,000.00) and the term would be three (3) years and three (3) months.

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

That the Mayor and City Clerk are hereby authorized to execute a First Amendment to a Redevelopment and Economic Incentive Agreement between the City of Moline and JBNATA, Inc.; provided said amendment is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit "A," and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

Mayor

July 10, 2012

Date

Passed: July 10, 2012

Approved: July 17, 2012

Attest: _____

City Clerk

Approved as to Form:

City Attorney

**FIRST AMENDMENT TO REDEVELOPMENT AND ECONOMIC INCENTIVE
AGREEMENT BETWEEN THE CITY OF MOLINE AND JBNATA Inc.**

This First Amendment, effective on the date of execution of the parties below, modifies the Redevelopment and Economic Incentive Agreement entered into by the City of Moline, an Illinois Municipal Corporation (“City”), and JBNATA Inc. an Iowa Corporation (“Developer”), for the Dickey’s Barbecue Pit Project pursuant to adoption of Resolution No. 1108-2011, by amending the following paragraph.

1. Paragraph II.F.vi., “Maximum Amount and Duration:” is hereby amended to read as follows:

“II.F.vi. Maximum Amount and Duration: For purposes of this Agreement, Moline shall rebate to JBNATA, Inc. the agreed percentage of the sales tax for the Base Year and a period of two years and three months following the Base Year. The parties stipulate and agree that Moline’s liability for total payments shall not exceed **TWENTY FIVE THOUSAND DOLLARS (\$25,000.00)** or a total of three (3) years and three (3) months following the official opening of the business. In other words, no matter how little is paid from Moline to JBNATA, Inc., the annual payments defined in this document shall not extend beyond three (3) annual payments. It is understood that the 3rd annual payment shall include the additional three (3) months. It is further understood that JBNATA, Inc. shall provide all funds necessary to complete the project at its own cost and expense, and in no event will Moline be required or otherwise be obligated to provide any payment to JBNATA, Inc. for cost of start-up other than in the form of reimbursement pursuant to the formula set forth in this Agreement, and subject to the cap referenced in this paragraph.

2. Modifications. Except as herein modified, the Redevelopment and Economic Incentive Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date(s) shown below.

City of Moline

JBNATA, Inc.

By: _____
Donald P. Welvaert, Mayor

By: _____
Bruce Norden

Attest: _____
Tracy Koranda, City Clerk

By: _____
Bill Jensen

Approved as to Form:

By: _____
Chris Banks

By: _____
Maureen Riggs, City Attorney

Council Bill/Resolution No.: 1193-2012

Sponsor: _____

A RESOLUTION

ACKNOWLEDGING the City Council's intent to permit video gaming within the City of Moline pursuant to the Illinois Video Gaming Act.

WHEREAS, on July 13, 2009, the Illinois General Assembly enacted the Video Gaming Act, 230 ILCS 40/1, et seq. ("Act"), which permits certain establishments licensed to sell alcohol, including bars, restaurants, fraternal clubs, veteran's establishments and truck stops, to operate and allow the use of video gaming terminals on their premises upon proper licensing by the Illinois Gaming Board; and

WHEREAS, municipalities that allow video gaming in accordance with the Act are eligible to receive a portion of the State tax imposed on authorized video gaming terminals; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its eligible businesses to pursue this avenue of revenue by allowing video gaming within the City pursuant to the Act; and

WHEREAS, it is further the intent of the City to adopt an ordinance amending the Moline Code of Ordinances, Chapters 5 and 22, to repeal or amend certain prohibitions or requirements contained therein to permit video gaming within the City.

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

That the purpose of this resolution is to acknowledge the City Council's intent to permit video gaming within the City of Moline pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1, et seq.

CITY OF MOLINE, ILLINOIS

Mayor

July 10, 2012

Date

Passed: July 10, 2012

Approved: July 17, 2012

Attest: _____
City Clerk

Approved as to Form:

City Attorney

Council Bill/General Ordinance No. 3017-2012
Sponsor:_____

AN ORDINANCE

AMENDING Chapter 4, "ALCOHOLIC LIQUOR," of the Moline Code of Ordinances, by repealing Sections 4-3304(d)(2), (e)(2) and (f)(2) in their entirety.

WHEREAS, the Local Liquor Control Commissioner and City staff have determined that certain amendments to the City's liquor code will improve related existing application procedures and help to increase business within the City, and they recommend approval of the amendments; and

WHEREAS, amendments to Sections 4-3304(d)(2), (e)(2) and (f)(2) will repeal limitations on the number of licenses allowed for Class C, CC and CCC Liquor Licenses, thereby eliminating a current waiting list for Class CC Packaged Sales Only-Secondary licenses and potential restrictions for future applicants of these three license types.

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

Section 1 – That Chapter 4, "ALCOHOLIC LIQUOR," of the Moline Code of Ordinances, Sections 4-3304(d)(2), (e)(2) and (f)(2) are hereby repealed in their entirety.

Section 2 – That this ordinance shall be in full force and effect from and after passage, approval and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed:_____

Approved:_____

Attest:_____
City Clerk

Approved as to Form:

City Attorney

Council Bill/General Ordinance No. 3018-2012
Sponsor: _____

AN ORDINANCE

AMENDING Chapter 4, "ALCOHOLIC LIQUOR," of the Moline Code of Ordinances, by repealing Section 4-3208(b) in its entirety and enacting in lieu thereof one new Section 4-3208(b) dealing with the same subject matter.

WHEREAS, the Local Liquor Control Commissioner and City staff have determined that certain amendments to the City's liquor code will improve related existing application procedures and help to increase business within the City; and

WHEREAS, an amendment to Section 4-3208(b) will increase the non-refundable application fee of \$2,000 to \$3,000 for all applicants, except those seeking Class D/Fraternal Organization, Class I Special Event, and Class J Park Concession licenses, to more accurately cover the costs associated with processing the applications, including necessary reviews and background investigations.

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

Section 1 – That Chapter 4, "ALCOHOLIC LIQUOR," of the Moline Code of Ordinances, Section 4-3208, "LICENSE FEES," is hereby amended by repealing subsection (b) in its entirety and enacting in lieu thereof one new subsection (b), which shall read as follows:

"SEC. 4-3208. LICENSE FEES.

* * * * *

(b) A non-refundable application fee of three thousand dollars (\$3,000.00) shall be paid by all licensee applicants, except for Class D Clubs/Fraternal Organization, Class I Special Event, and Class J Park Concession license applicants. A non-refundable application fee of one thousand dollars (\$1,000.00) shall be paid by Class D Clubs/Fraternal Organization license applicants. A total fee of twenty-five dollars (\$25.00) per day shall be paid by Class I Special Event licensee applicants. Said application fees are not refundable and are intended to cover the cost of obtaining or reviewing property consents and the cost of reviewing the application and applicant as well as serve other regulatory purposes.

(1) For any licensee that has a current Moline liquor license and seeks to change location of the same business and close the existing licensed premises, the non-refundable application fee shall be five hundred dollars (\$500.00) as long as the City does not need to perform a background check for persons other than the liquor manager and any other owner/stockholder information remains the same."

* * * * *

Section 2 – That this ordinance shall be in full force and effect from and after passage, approval and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____

City Clerk

Approved as to Form:

City Attorney

Council Bill/General Ordinance No. 3019-2012

Sponsor: _____

AN ORDINANCE

AMENDING Chapter 5, "AMUSEMENTS," of the Moline Code of Ordinances, by repealing Article I, "AMUSEMENT DEVICES," in its entirety and enacting in lieu thereof one new Article I relating to the same subject matter; and Chapter 22, "OFFENSES – MISCELLANEOUS," of the Moline Code of Ordinances, by repealing Article V, "GAMBLING," in its entirety and enacting in lieu thereof one new Article V relating to the same subject matter.

WHEREAS, on July 13, 2009, the Illinois General Assembly enacted the Video Gaming Act, 230 ILCS 40/1, et seq. ("Act"), which permits certain establishments licensed to sell alcohol, including bars, restaurants, fraternal clubs, veteran's establishments and truck stops, to operate and allow the use of video gaming terminals on their premises upon proper licensing by the Illinois Gaming Board; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its eligible businesses to pursue this avenue of revenue by allowing video gaming within the City pursuant to the Act; and

WHEREAS, this ordinance will amend the Moline Code of Ordinances, Chapters 5 and 22, to repeal or amend certain prohibitions and regulations contained therein to permit video gaming within the City; and

WHEREAS, this ordinance will further amend certain provisions contained in Chapter 22 to clarify language pertaining to lotteries within the City.

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

Section 1 – That Chapter 5, "AMUSEMENTS," of the Moline Code of Ordinances, is hereby amended by repealing Article I, "AMUSEMENT DEVICES," in its entirety and enacting in lieu thereof one new Article I relating to the same subject matter, which shall read as follows:

"ARTICLE I. AMUSEMENT DEVICES

SEC. 5-1100. PURPOSE.

The purpose of this article is to impose a tax for revenue upon devices generally known as amusement devices, video gaming terminals and coin-operated amusement devices or bowling alleys, pool tables, juke boxes, pinball, video, and arcade games. However, because it is legislatively determined that such devices present a great attraction to minors and that truancy and juvenile delinquency are related problems and that the nearness of such games to elementary, junior and senior high schools encourage truancy; an additional purpose of this article is to regulate the location of such devices in order to aid in the efforts to control truancy.

SEC. 5-1101. TERMS DEFINED.

For purposes of this article, the following terms shall have the meaning ascribed to them:

- (1) **Amusement device.** Amusement device shall mean any game or entertainment played for a fee paid to the operator of the game rather than inserted directly into a device, machine or electronic device. It shall include bowling alleys, pool tables, athletic type games, and similar games; provided such do not include games, devices or events operated by not-for-profit organizations.
- (2) **Arcade.** Arcade shall mean any premise where ten (10) or more coin-operated amusement devices are operated, displayed or exhibited for use.
- (3) **Bowling alley.** Bowling alley shall mean each enclosed wooden lane designed for the game of bowling.
- (4) **Coin-operated amusement device.** Coin-operated amusement device shall mean any game or entertainment operated or played by insertion of coins, tokens, or similar objects, into a machine or other device to activate the game or entertainment. Such games and entertainments include, but are not limited to, pool tables, juke boxes, pinball games, video games and amusements, air hockey, electronic games, mechanical or electronic rides, shuffleboard or shuffle bowler, foosball, motion picture viewers, and other, similar mechanical or electronic devices. Not included within the term are devices for which licenses are required elsewhere in the Moline Code of Ordinances, devices for the dispensing of tangible property and food or beverages unless chance is involved in obtaining said items, devices located within single-family residences, and devices displayed solely for retail sale.
- (5) **Exhibitor.** Exhibitor shall mean any person who owns or operates premises upon which amusement devices, video gaming terminals or coin-operated amusement devices are operated, displayed, or exhibited for use.
- (6) **Gambling.** Gambling shall have the meaning ascribed to it in Section 22-5101 of the Moline Code of Ordinances.
- (7) **Gambling device.** Gambling device shall have the meaning ascribed to it in Section 22-5100(1) of the Moline Code of Ordinances, but shall specifically include the acts or repurchase of free games or tokens awarded by such devices and the acts of exchanging free games or tokens for merchandise.
- (8) **Juke box.** Juke box shall mean any phonograph, player piano, music box, juke box, or other instrument or device capable of producing or reproducing any vocal or instrumental sounds, other than a motion picture sound machine, which is governed by, controlled by, operated or played by insertion of coins, tokens, or similar objects into the instrument or device.
- (9) **Operator.** Operator shall mean any person, firm, partnership, corporation or association who owns, sells, leases, rents, or is otherwise responsible for placing or distributing amusement devices or coin-operated amusement devices within the City of Moline, Illinois.
- (10) **Pool table.** Pool table shall mean a billiard table or other table for the playing of billiards, pool, bumper pool, eight-ball and similar games.
- (11) **Video gaming terminal.** Video gaming terminal shall mean any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board pursuant to the Video Gaming Act, 230 ILCS 40/1 et seq., utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine or device that directly dispenses coins, cash, or tokens or is for amusement purposes only.

SEC. 5-1102. LICENSE REQUIRED.

(a) It shall be unlawful for any person to act as an operator or exhibitor of amusement devices, video gaming terminals or coin-operated amusement devices unless said person holds a valid license issued by the City's accounts and finance office in the name of the operator and exhibitor.

(b) In addition, it shall be unlawful for any person to act as an operator or exhibitor of video gaming terminals or coin-operated amusement devices unless said person holds a valid license issued by the state.

SEC. 5-1103. APPLICATION; INSPECTION.

A person desiring a license required by this article shall apply to the City's accounts and finance office therefor; the license shall be issued by the accounts and finance office upon the certification of the building official and zoning administrator that the premises for which the license is applied complies with all building construction codes and the zoning and subdivision ordinances of the City of Moline, the fee has been paid, and it has been determined that the provisions of this article are complied with or that adequate provision has been made to cause such compliance.

SEC. 5-1104. FEE; TERM, LATE PENALTY.

(a) The annual fee for licenses required by this article shall be as follows:

(1) Operators shall pay an annual fee of fifty dollars (\$50.00) per year for each coin-operated amusement device, video gaming terminal and for each amusement device not specified in subsection (2) below. (Ord. No.2002-06-12; Sec.5-1104 (a)(1) repealed; new Sec. 5-1104 (a)(1) enacted; 06/25/02)

(2) Operators shall pay an annual fee of ten dollars (\$10.00) per year for each bowling alley, tennis court, and racquetball court.

(3) Exhibitors operating an arcade shall pay an additional annual fee of five hundred dollars (\$500.00) per year per location.

(b) The term of the license shall be February 1 to January 31.

(c) Licenses not renewed prior to expiration of the previous license shall be charged a penalty of twenty five dollars (\$25.00) minimum, or \$5.00 per day for each day past the due date, whichever is greater.

(d) Corporations organized under the General Not-For-Profit Corporation Act of 1986 (805 ILCS 105/101.01 et seq.) or authorized to conduct activities in the State of Illinois as a foreign not-for-profit corporation which are organized for charitable, educational, civic, religious, and or athletic purposes, and which do not possess a liquor license from the City of Moline, are exempt from the payment of any fee under the provisions of this article.

SEC. 5-1105. TRANSFERABILITY; DISPLAY.

(a) No license issued pursuant to this article shall be transferable from one person to another or from one premise to another. However, licenses shall be transferable from one machine to another.

(b) A license shall consist of a display certificate describing the number and nature of the devices exhibited, the exhibitor's name and address and the operator's name and address and must be signed by the accounts and finance officer and under seal of the City of Moline.

(c) In the event the devices or number of devices change after issuance of a license, but before renewal thereof, the license shall be considered to have been transferred to a new license; provided, the licensee notifies the accounts and finance office in writing of the change within ten (10) days after the change in number of devices has occurred and pays any additional fee required by an increase in the number of devices. The act of operation without the notification required herein and payment of fees required herein shall constitute operation without holding a valid license.

(d) Each license issued pursuant to this article shall be displayed at all times by a licensee in a conspicuous place on the licensed premises and in an area accessible to business invitees during all hours of operation.

SEC. 5-1106. LOCATIONS PROHIBITED OR RESTRICTED.

(a) No arcade exhibitor's license may be issued for premises located within four hundred (400) feet of any public or private elementary, junior high, or senior high school as measured from the nearest wall of the school building to the nearest wall of the principal building in which the devices are located unless said premises also are licensed for the sale of alcoholic beverages. If a premise is licensed for the sale of alcoholic beverages and is located within four hundred (400) feet of such a school, an exhibitor's license may be issued; however, it shall be unlawful to locate amusement devices or coin-operated amusement devices within areas on said premises which are accessible to minors.

(b) Video gaming terminals shall be subject to the location restrictions of the Video Gaming Act, 230 ILCS 40/1, et seq.

SEC. 5-1107. SUSPENSION; REVOCATION.

(a) The accounts and finance officer may suspend or revoke or refuse to renew a license issued hereunder for cause. Such officer shall be required to give written notice to the licensee of the cause of the suspension or revocation or refusal to renew and provide the licensee at least ten (10) days before such suspension or revocation or refusal to renew is to be effective to request a hearing by filing such request in writing with the accounts and finance officer. If such a request is filed, the accounts and finance officer shall schedule a hearing as soon as practicable, but in no case later than thirty (30) days after a request for hearing has been filed. Pending hearing, a licensee may continue to operate.

(b) The City shall have the burden of proof that cause exists at any hearing to suspend, revoke, or refuse to renew a license. The accounts and finance officer shall render any decision in writing and give the licensee a copy thereof.

(c) Service of notices and decision required in this section shall be obtained by mailing same by certified mail to the operator and exhibitor at their addresses as shown on the application for license.

SEC. 5-1108. OPERATION.

(a) An operator shall file with the application for annual license by January 31 of each year with the accounts and finance office a list, by address, of all premises within the City where amusement devices, video gaming terminals or coin-operated amusement devices are sold, leased, rented, serviced or otherwise placed or distributed by said operator are exhibited, displayed or operated and the name of the exhibitor at each such premise and the number of devices at each such premise. Such filing shall be kept confidential as a business secret.

(b) An arcade exhibitor must have readily identifiable adult supervision present during all hours of operation. However, this provision shall not apply to multi-family residential structures where game rooms are restricted to use by residents and their guests.

(c) No exhibitor shall knowingly permit gambling to occur on said exhibitor's premises and shall not maintain any gambling device.

SEC. 5-1109. PENALTY.

Any person violating the provisions of this article shall be guilty of a petty offense and be punished as provided in Section 1-1107 of the Moline Code of Ordinances.”

Section 2 – That Chapter 22, “OFFENSES – MISCELLANEOUS,” of the Moline Code of Ordinances, is hereby amended by repealing Article V, “GAMBLING,” in its entirety and

enacting in lieu thereof one new Article V relating to the same subject matter, which shall read as follows:

“ARTICLE V. GAMBLING

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

(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. (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."

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to Form:

City Attorney

Council Bill/Special Ordinance No. 4023-2012

Sponsor: _____

A SPECIAL ORDINANCE

AUTHORIZING the issuance of not to exceed \$16,200,000 General Obligation Refunding Bonds of 2012 of the City of Moline, Illinois.

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

Section 1. **Authority and Purpose.** This ordinance is adopted pursuant to Section 6 of Article VII of the Illinois Constitution of 1970 and Section 2-1110 of the Moline Code of Ordinances for the purpose of authorizing the refunding of all or a portion of (A) the \$8,190,000 outstanding principal amount of General Obligation Corporate Purpose Bonds, Series 2004A, of the City maturing in the years 2014 to 2018, both inclusive and 2024 (the “2004A Bonds”); (B) the \$3,790,000 outstanding principal amount of General Obligation Corporate Purpose Bonds, Series 2004B, of the City maturing in the years 2014 to 2020, both inclusive (the “2004B Bonds”); and (C) the \$2,795,000 outstanding principal amount of General Obligation Corporate Purpose Bonds, Taxable Series 2004C, of the City maturing in the years 2014, 2017 and 2020 (the “2004C Bonds”).

It is found and determined that borrowing money through the issuance of the bonds herein authorized is necessary for the welfare of the government and affairs of the City, is for a proper public purpose and is in the public interest.

Section 2. **Refunding Plan.** The City may determine to refund and redeem all, a portion or none of the 2004A Bonds, the 2004B Bonds and the 2004C Bonds. The particular 2004A Bonds to be refunded and redeemed (the “Prior 2004A Bonds”), the particular 2004B Bonds to be refunded and redeemed (the “Prior 2004B Bonds”) and the particular 2004C Bonds to be refunded and redeemed (the “Prior 2004C Bonds” and together with the Prior 2004A Bonds and the Prior 2004B Bonds, the “Prior Bonds”) shall be specified in the Bond Order to be executed by the City Administrator. The date of redemption of the Prior 2004A Bonds shall be June 1, 2014. The date of redemption of the Prior 2004B Bonds and the Prior 2004C Bonds shall be May 1, 2014. The Mayor, City Administrator, Finance Director and the other officers and officials of the City are authorized and directed to do, or cause to be done, all things necessary to accomplish the refunding and redemption of the Prior Bonds.

Section 3. **Authorization and Terms of Bonds.** (A) To meet part of the estimated costs of refunding the Prior 2004A Bonds, including the costs of issuance of the bonds authorized by this paragraph, there is hereby appropriated the sum of \$8,800,000. Pursuant to the home rule powers of the City to issue debt payable from ad valorem property tax receipts and for the purpose of financing said appropriation, general obligation bonds of the City are authorized to be issued and sold in an aggregate principal amount of not to exceed \$8,800,000 (the “First Series Bonds”). The principal amount of the First Series Bonds to be issued shall be specified in the Bond Order.

(B) To meet part of the estimated costs of refunding the Prior 2004B Bonds, including the costs of issuance of the bonds authorized by this paragraph, there is hereby appropriated the sum of \$4,100,000. Pursuant to the home rule powers of the City to issue debt payable from ad valorem property tax receipts and for the purpose of financing said appropriation, general obligation bonds of the City are authorized to be issued and sold in an aggregate principal amount of not to exceed \$4,100,000 (the “Second Series Bonds”). The principal amount of the Second Series Bonds to be issued shall be specified in the Bond Order.

(C) To meet part of the estimated costs of refunding the Prior 2004C Bonds, including the costs of issuance of the bonds authorized by this paragraph, there is hereby appropriated the sum of \$3,300,000. Pursuant to the home rule powers of the City to issue debt payable from ad valorem property tax receipts and for the purpose of financing said appropriation, general obligation bonds of the City are authorized to be issued and sold in an aggregate principal amount of not to exceed \$3,300,000 (the “Third Series Bonds” and together with the First Series Bonds and the Second Series Bonds, the “Bonds”). The principal amount of the Third Series Bonds to be issued shall be specified in the Bond Order.

(D) Each series of the Bonds shall be designated “General Obligation Refunding Bonds,” shall bear an additional series designation of “Series 2012G,” “Series 2012H” or “Series 2012I” as determined in the Bond Order and, any Third Series Bonds shall bear the additional designation “Taxable.”

(E) Bonds shall be issuable in the denominations of \$5,000 or any integral multiple thereof and may bear such identifying numbers or letters as shall be useful to facilitate the registration, transfer and exchange of Bonds. Each Bond delivered upon the original issuance of the Bonds shall be dated as of the date specified in the Bond Order. Each Bond thereafter issued upon any transfer, exchange or replacement of Bonds shall be dated so that no gain or loss of interest shall result from such transfer, exchange or replacement.

(F) The Bonds shall mature in such years, on such dates and in such principal amounts as shall be determined in the Bond Order, provided that no First Series Bond shall mature later than December 1, 2023 and no Second Series Bond or Third Series Bond shall mature later than November 1, 2020.

(G) Each Bond shall bear interest from its date, computed on the basis of a 360 day year consisting of twelve 30 day months and shall be payable in lawful money of the United States of America on such interest payment dates and at such rates as shall be determined in the Bond Order, provided that no Bond shall bear interest at a rate exceeding five percentum (5.00%) per annum.

(H) No First Series Bonds shall be sold pursuant to this ordinance unless the sum of (i) the taxes levied pursuant to Section 10 of this ordinance and (ii) the moneys to be deposited into the First Series Debt Service Fund (established by this ordinance) is sufficient to provide for the punctual payment of the principal of and interest on the First Series Bonds.

(I) No Second Series Bonds shall be sold pursuant to this ordinance unless the sum of (i) the taxes levied pursuant to Section 11 of this ordinance and (ii) the moneys to be deposited into the Second Series Debt Service Account (established by this ordinance) is sufficient to provide for the punctual payment of the principal of and interest on the Second Series Bonds.

(J) No Third Series Bond shall be sold pursuant to this ordinance unless the sum of (i) the taxes levied pursuant to Section 12 of this ordinance and (ii) the moneys to be deposited into the Third Series Debt Service Account (established by this ordinance) is sufficient to provide for the punctual payment of the principal of and interest on the Third Series Bonds.

(K) The principal of the Bonds shall be payable in lawful money of the United States of America upon presentation and surrender thereof at the principal corporate trust office of Amalgamated Bank of Chicago, in the City of Chicago, Illinois, which is hereby appointed as bond registrar and paying agent for the Bonds. Interest on the Bonds shall be payable on each interest payment date to the registered owners of record thereof appearing on the registration books maintained by the City for such purpose at the principal corporate trust office of the bond registrar, as of the close of business on the 15th day of the calendar month next preceding the applicable interest payment date. Interest on the Bonds shall be paid by check or draft mailed to such registered owners at their addresses appearing on the registration books or by wire transfer pursuant to an agreement by and between the City and the registered owner.

(L) The Bonds of each series may be subject to redemption prior to maturity as determined in the Bond Order, at the option of the City and upon notice as herein provided, in such principal amounts and from such maturities as the City shall determine and by lot within a single maturity of the same series, at such redemption prices as determined in the Bond Order and not in excess of 102% of the principal amount to be redeemed, for such periods of redemption as determined in the Bond Order.

(M) Bonds of like series and maturity may be subject to mandatory redemption, by the application of sinking fund installments, all as determined in the Bond Order. All Bonds subject to mandatory sinking fund redemption shall be redeemed at a redemption price equal to the principal amount thereof to be redeemed. The bond registrar is hereby authorized and directed to mail notice of the mandatory sinking fund redemption of Bonds in the manner provided in this section.

(N) Whenever Bonds subject to mandatory sinking fund redemption are redeemed at the option of the City, the principal amount thereof so redeemed shall be credited against the unsatisfied balance of future sinking fund installments or final maturity amount established with respect to such Bonds, in such amounts and against such installments or final maturity amount as shall be determined by the City in the proceedings authorizing such optional redemption or, in the absence of such determination, shall be credited against the unsatisfied balance of the applicable sinking fund installments next ensuing, and with respect to which notice of redemption has not yet been given.

(O) On or prior to the 60th day preceding any sinking fund installment date, the City may purchase Bonds subject to mandatory redemption on such sinking fund installment date, at

such prices as the City shall determine. Any Bond so purchased shall be cancelled and the principal amount thereof so purchased shall be credited against the unsatisfied balance of the next ensuing sinking fund installment.

(P) In the event of the redemption of less than all the Bonds of like series, maturity and interest rate, the aggregate principal amount thereof to be redeemed shall be \$5,000 or an integral multiple thereof and the bond registrar shall assign to each Bond of such series, maturity and interest rate a distinctive number for each \$5,000 principal amount of such Bond and shall select by lot from the numbers so assigned as many numbers as, at \$5,000 for each number, shall equal the principal amount of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected; provided that only so much of the principal amount of each Bond shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected.

(Q) Notice of the redemption of Bonds shall be mailed not less than 30 days nor more than 60 days prior to the date fixed for such redemption to the registered owners of Bonds to be redeemed at their last addresses appearing on said registration books. The Bonds or portions thereof specified in said notice shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for payment of the redemption price of all the Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, and if notice of redemption shall have been mailed as aforesaid (and notwithstanding any defect therein or the lack of actual receipt thereof by any registered owner) then from and after the redemption date interest on such Bonds or portions thereof shall cease to accrue and become payable. If there shall be drawn for redemption less than all of a Bond, the City shall execute and the bond registrar shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the Bond so surrendered, Bonds of like series, maturity and interest rate and of the denomination of \$5,000 or any integral multiple thereof.

(R) The bond registrar shall not be required to transfer or exchange any Bond after notice of the redemption of all or a portion thereof has been mailed. The bond registrar shall not be required to transfer or exchange any Bond during a period of 15 days next preceding the mailing of a notice of redemption which could designate for redemption all or a portion of such Bond.

Section 4. **Sale and Delivery.** The delegated authority to sell Bonds pursuant to this ordinance shall expire on December 31, 2012. The Bonds are to be sold to Robert W. Baird & Co. Incorporated (the "Underwriter") at a price of not less than 98% of par. The Official Statement prepared with respect to the Bonds is approved and "deemed final" as of its date for purposes of Securities and Exchange Commission Rule 15c2-12 promulgated under the Securities Exchange Act of 1934. The form of the Bond Purchase Agreement by and between the City and the Underwriter, on file in the office of the City Clerk, is approved and the City Administrator and the Mayor are each authorized to execute and deliver a final form of the Bond Purchase Agreement reflecting the details of the sale of the Bonds.

No Bonds authorized by this ordinance shall be sold unless as a result of refunding the Prior Bonds, the City will obtain a net present value savings after taking into account all costs of issuance of the Bonds of not less than 2.5% of the principal amount of the Prior Bonds that are refunded. Subject to the limitations contained in this ordinance, authority is delegated to the City Administrator to award the Bonds to the Underwriter.

In order to enhance the marketability of the Bonds, the City Administrator may determine to purchase from a bond insurance company (the "Bond Insurer") a municipal bond insurance policy with respect to the payment of the Bonds.

The sale and award of the Bonds and the determination of the details of the Bonds shall be evidenced by the Bond Order, which shall be signed by the City Administrator. An executed counterpart of the Bond Order shall be filed with the City Clerk and entered in the records of the City.

The Mayor, City Clerk and other officials of the City are authorized and directed to do and perform, or cause to be done or performed for or on behalf of the City each and every thing necessary for the issuance of the Bonds, including the proper execution and delivery of the Bonds, the Bond Purchase Agreement and the Official Statement.

Section 5. Execution and Authentication. Each Bond shall be executed in the name of the City by the manual or authorized facsimile signature of its Mayor and the corporate seal of the City, or a facsimile thereof, shall be thereunto affixed or otherwise reproduced thereon and attested by the manual or authorized facsimile signature of its City Clerk.

In case any officer whose signature, or a facsimile of whose signature, shall appear on any Bond shall cease to hold such office before the issuance of the Bond, such Bond shall nevertheless be valid and sufficient for all purposes, the same as if the person whose signature, or a facsimile thereof, appears on such Bond had not ceased to hold such office. Any Bond may be signed, sealed or attested on behalf of the City by any person who, on the date of such act, shall hold the proper office, notwithstanding that at the date of such Bond such person may not have held such office. No recourse shall be had for the payment of any Bonds against any officer who executes the Bonds.

Each Bond shall bear thereon a certificate of authentication executed manually by the bond registrar. No Bond shall be entitled to any right or benefit under this ordinance or shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the bond registrar.

Section 6. Transfer, Exchange and Registry. The Bonds shall be negotiable, subject to the provisions for registration of transfer contained herein. Each Bond shall be transferable only upon the registration books maintained by the City for that purpose at the principal corporate trust office of the bond registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the bond registrar and duly executed by the registered owner or his duly authorized attorney. Upon the surrender for transfer of any such Bond, the

City shall execute and the bond registrar shall authenticate and deliver a new Bond or Bonds registered in the name of the transferee, of the same aggregate principal amount, series, maturity and interest rate as the surrendered Bond. Bonds, upon surrender thereof at the principal corporate trust office of the bond registrar, with a written instrument satisfactory to the bond registrar, duly executed by the registered owner or his attorney duly authorized in writing, may be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate and of the denominations of \$5,000 or any integral multiple thereof.

For every such exchange or registration of transfer of Bonds, the City or the bond registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. No other charge shall be made for the privilege of making such transfer or exchange. The provisions of the Illinois Bond Replacement Act shall govern the replacement of lost, destroyed or defaced Bonds.

The City and the bond registrar may deem and treat the person in whose name any Bond shall be registered upon the registration books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of or interest thereon and for all other purposes whatsoever, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the bond registrar shall be affected by any notice to the contrary.

Section 7. **Bond Registrar.** The City covenants that it shall at all times retain a bond registrar with respect to the Bonds, that it will maintain at the designated office of such bond registrar a place where Bonds may be presented for payment and registration of transfer or exchange and that it shall require that the bond registrar maintain proper registration books and perform the other duties and obligations imposed upon it by this ordinance in a manner consistent with the standards, customs and practices of the municipal securities business.

The bond registrar shall signify its acceptance of the duties and obligations imposed upon it by this ordinance by executing the certificate of authentication on any Bond, and by such execution the bond registrar shall be deemed to have certified to the City that it has all requisite power to accept, and has accepted such duties and obligations not only with respect to the Bond so authenticated but with respect to all the Bonds. The bond registrar is the agent of the City and shall not be liable in connection with the performance of its duties except for its own negligence or default. The bond registrar shall, however, be responsible for any representation in its certificate of authentication on the Bonds.

The City may remove the bond registrar at any time. In case at any time the bond registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the bond registrar, or of its property, shall be appointed, or if any public officer shall take charge or control of the bond registrar or of its property or affairs, the City covenants and agrees that it will thereupon appoint a successor

bond registrar. The City shall mail notice of any such appointment made by it to each registered owner of Bonds within twenty days after such appointment.

Section 8. **General Obligations.** The full faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bonds. The Bonds shall be direct and general obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable property in the City for the payment of the Bonds and the interest thereon, without limitation as to rate or amount.

Section 9. **Form of Bonds.** The Bonds shall be issued as fully registered bonds and shall be in substantially the following form, the blanks to be appropriately completed when the Bonds are printed:

No. _____

United States of America
State of Illinois
County of Rock Island
CITY OF MOLINE
GENERAL OBLIGATION REFUNDING BOND,
[TAXABLE] SERIES 2012__

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
%	_____ 1, ____	_____	608557 ____

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT:

The CITY OF MOLINE, a municipal corporation and a home rule unit of the State of Illinois situate in the County of Rock Island, acknowledges itself indebted and for value received hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on such principal amount from the date hereof at the interest rate per annum specified above, computed on the basis of a 360 day year consisting of twelve 30 day months and payable in lawful money of the United States of America on _____ 1, 20__ and semiannually thereafter on _____ 1 and _____ 1 in each year until the principal amount shall have been paid, to the registered owner of record hereof as of the 15th day of the calendar month next preceding such interest payment date, by wire transfer pursuant to an agreement by and between the City and the registered owner, or otherwise by check or draft mailed to the registered owner, at the address of such owner appearing on the registration books maintained by the City for such purpose at the principal corporate trust office of Amalgamated Bank of Chicago, in the City of Chicago, Illinois, as bond registrar or its successor (the "Bond Registrar"). This bond, as to principal when due, will be payable in lawful money of the United States of America upon presentation and surrender of this bond at the principal corporate trust

office of the Bond Registrar. The full faith and credit of the City are irrevocably pledged for the punctual payment of the principal of and interest on this bond according to its terms.

This bond is one of a series of bonds issued in the aggregate principal amount of \$_____ which are authorized and issued under and pursuant to Section 6 of Article VII of the Illinois Constitution of 1970 and Section 2-1110 of the Moline Code of Ordinances and under and in accordance with an ordinance adopted by the City Council of the City on July 17, 2012 and entitled: "An Ordinance Authorizing the Issuance of Not to Exceed \$16,200,000 General Obligation Refunding Bonds of 2012 of the City of Moline, Illinois." [This bond is issued to refund bonds issued to finance redevelopment project costs pursuant to and in accordance with the Tax Increment Allocation Redevelopment Act, 65 Illinois Compiled Statutes 5/11-74.4.]

[The bonds of such series maturing on or after _____ 1, 20__ are subject to redemption prior to maturity at the option of the City and upon notice as herein provided, in such principal amounts and from such maturities as the City shall determine and by lot within a single maturity, on _____ 1, 20__ and on any date thereafter, at a redemption price equal to the principal amount thereof to be redeemed.]

[The bonds of such series maturing in the years 20__, 20__ and 20__ (the "Term Bonds") are subject to mandatory redemption, in part and by lot, on _____ 1 in the years and in the respective principal amounts set forth in the following tables, by the application of sinking fund installments, at a redemption price equal to the principal amount thereof to be redeemed:

20__ Term Bonds		20__ Term Bonds		20__ Term Bonds	
<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
20__		20__		20__	
20__		20__		20__	
20__		20__		20__	

[Notice of the redemption of bonds will be mailed not less than 30 days nor more than 60 days prior to the date fixed for such redemption to the registered owners of bonds to be redeemed at their last addresses appearing on such registration books. The bonds or portions thereof specified in said notice shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for payment of the redemption price of all the bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, and if notice of redemption shall have been mailed as aforesaid (and notwithstanding any defect therein or the lack of actual receipt thereof by any registered owner) then from and after the redemption date interest on such bonds or portions thereof shall cease to accrue and become payable.]

This bond is transferable only upon such registration books by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender hereof at the principal corporate trust office of the Bond Registrar together with a written instrument of

transfer satisfactory to the Bond Registrar duly executed by the registered owner or by his duly authorized attorney, and thereupon a new registered bond or bonds, in the authorized denominations of \$5,000 or any integral multiple thereof and of the same aggregate principal amount, maturity and interest rate as this bond shall be issued to the transferee in exchange therefor. In like manner, this bond may be exchanged for an equal aggregate principal amount of bonds of the same maturity and interest rate and of any of such authorized denominations. The City or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange of this bond. No other charge shall be made for the privilege of making such transfer or exchange. The City and the Bond Registrar may treat and consider the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal and interest due hereon and for all other purposes whatsoever.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been duly executed by the Bond Registrar.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist and be performed precedent to and in the issuance of this bond in order to make it a legal, valid and binding obligation of the City have been done, exist and have been performed in regular and due time, form and manner as required by law, and that the series of bonds of which this bond is one, together with all other indebtedness of the City is within every debt or other limit prescribed by law.

Council Bill/Special Ordinance No. 4023-2012
Sponsor: _____
Page 10

IN WITNESS WHEREOF, the City of Moline has caused this bond to be executed in its name and on its behalf by the manual or facsimile signature of its Mayor, and its corporate seal, or a facsimile thereof, to be hereunto affixed or otherwise reproduced hereon and attested by the manual or facsimile signature of its City Clerk.

Dated: _____

CITY OF MOLINE

Mayor

Attest:

City Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the General Obligation Refunding Bonds, [Taxable] Series 2012__, described in the within mentioned Ordinance.

AMALGAMATED BANK OF CHICAGO,
as Bond Registrar

By _____
Authorized Signer

ASSIGNMENT

For value received the undersigned sells, assigns and transfers unto _____

the within bond and hereby irrevocably constitutes and appoints _____

attorney to transfer the said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guarantee: _____

Section 10. **Levy and Extension of Taxes For First Series Bonds.** (A) For the purpose of providing the money required to pay the interest on the First Series Bonds when and as the same falls due and to pay and discharge the principal thereof (including sinking fund installments) as the same shall mature, there is hereby levied upon all the taxable property in the City, in each year while any of the First Series Bonds shall be outstanding, a direct annual tax sufficient for that purpose in addition to all other taxes, as follows:

<u>Tax Levy Year</u>	<u>A Tax Sufficient to Produce</u>
2012	\$ 400,000
2013	1,084,000
2014	1,085,000
2015	1,084,000
2016	1,082,000
2017	1,078,000
2018	1,072,000
2019	1,075,000
2020	1,070,000
2021	1,068,000
2022	829,000

(B) Interest or principal coming due at anytime when there shall be insufficient funds on hand to pay the same shall be paid promptly when due from current funds on hand in advance of the collection of the taxes herein levied; and when said taxes shall have been collected, reimbursement shall be made to the said funds in the amounts thus advanced.

(C) After the sale of the First Series Bonds and the execution of the Bond Order for the First Series Bonds, an executed copy of the Bond Order and a copy of this ordinance, certified by the City Clerk, which certificate shall recite that this ordinance has been duly adopted, shall be filed with the County Clerk of Rock Island County, Illinois (the "County Clerk"), who is hereby directed to ascertain the rate per cent required to produce the aggregate tax hereinbefore provided to be levied in the years 2012 to 2022, inclusive, and, subject to adjustment as provided in paragraph (D) of this Section, to extend the same for collection on the tax books in connection with other taxes levied in said years, in and by the City for general corporate purposes of the City, and in said years such annual tax shall be levied and collected in like manner as taxes for general corporate purposes for said years are levied and collected and, when collected, such taxes shall be used solely for the purpose of paying the principal of and interest on the First Series Bonds herein authorized as the same become due and payable.

(D) In the event that First Series Bonds are to be issued in principal amounts and bearing interest such that for any tax levy year an amount less than that set forth in paragraph (A) of this Section is required to be produced to pay when due the principal of and interest on the First Series Bonds, then the City Treasurer is authorized and directed to file with the County Clerk, on or prior to the date of delivery of the First Series Bonds, a direction for abatement of taxes specifying the exact amount of taxes to be levied to produce the required amounts for each of the various tax levy years.

Section 11. Levy and Extension of Taxes For Second Series Bonds. (A) For the purpose of providing the money required to pay the interest on the Second Series Bonds when and as the same falls due and to pay and discharge the principal (including sinking fund installments) thereof as the same shall mature, there is hereby levied upon all the taxable property in the City, in each year while any of the Second Series Bonds shall be outstanding, a direct annual tax sufficient for that purpose in addition to all other taxes, as follows:

<u>Tax Levy Year</u>	<u>A Tax Sufficient to Produce</u>
2012	\$153,000
2013	563,000
2014	586,000
2015	608,000
2016	634,000
2017	647,000
2018	694,000
2019	723,000

(B) Interest or principal coming due at anytime when there shall be insufficient funds on hand to pay the same shall be paid promptly when due from current funds on hand in advance of the collection of the taxes herein levied; and when said taxes shall have been collected, reimbursement shall be made to the said funds in the amounts thus advanced.

(C) After the sale of the Second Series Bonds and the execution of the Bond Order for the Second Series Bonds, an executed copy of the Bond Order and a copy of this ordinance, certified by the City Clerk, which certificate shall recite that this ordinance has been duly adopted, shall be filed with the County Clerk, who is hereby directed to ascertain the rate per cent required to produce the aggregate tax hereinbefore provided to be levied in the years 2012 to 2019, inclusive, and, subject to adjustment as provided in paragraph (D) of this Section, to extend the same for collection on the tax books in connection with other taxes levied in said years, in and by the City for general corporate purposes of the City, and in said years such annual tax shall be levied and collected in like manner as taxes for general corporate purposes for said years are levied and collected and, when collected, such taxes shall be used solely for the purpose of paying the principal of and interest on the Second Series Bonds herein authorized as the same become due and payable.

(D) In the event that Second Series Bonds are to be issued in principal amounts and bearing interest such that for any tax levy year an amount less than that set forth in paragraph (A) of this Section is required to be produced to pay when due the principal of and interest on the Second Series Bonds, then the City Treasurer is authorized and directed to file with the County Clerk, on or prior to the date of delivery of the Second Series Bonds, a direction for abatement of taxes specifying the exact amount of taxes to be levied to produce the required amounts for each of the various tax levy years.

Section 12. Levy and Extension of Taxes For Third Series Bonds. (A) For the purpose of providing the money required to pay the interest on the Third Series Bonds when and as the same falls due and to pay and discharge the principal (including sinking fund payments) thereof as the same shall mature, there is hereby levied upon all the taxable property in the City, in each year while any of the Third Series Bonds shall be outstanding, a direct annual tax sufficient for that purpose in addition to all other taxes, as follows:

<u>Tax Levy Year</u>	<u>A Tax Sufficient to Produce</u>
2012	\$141,000
2013	481,000
2014	479,000
2015	481,000
2016	488,000
2017	488,000
2018	486,000
2019	488,000

(B) Interest or principal coming due at anytime when there shall be insufficient funds on hand to pay the same shall be paid promptly when due from current funds on hand in advance

of the collection of the taxes herein levied; and when said taxes shall have been collected, reimbursement shall be made to the said funds in the amounts thus advanced.

(C) After the sale of the Third Series Bonds and the execution of the Bond Order for the Third Series Bonds, an executed copy of the Bond Order and a copy of this ordinance, certified by the City Clerk, which certificate shall recite that this ordinance has been duly adopted, shall be filed with the County Clerk, who is hereby directed to ascertain the rate per cent required to produce the aggregate tax hereinbefore provided to be levied in the years 2012 to 2019, inclusive, and, subject to adjustment as provided in paragraph (D) of this Section, to extend the same for collection on the tax books in connection with other taxes levied in said years, in and by the City for general corporate purposes of the City, and in said years such annual tax shall be levied and collected in like manner as taxes for general corporate purposes for said years are levied and collected and, when collected, such taxes shall be used solely for the purpose of paying the principal of and interest on the Third Series Bonds herein authorized as the same become due and payable.

(D) In the event that Third Series Bonds are to be issued in principal amounts and bearing interest such that for any tax levy year an amount less than that set forth in paragraph (A) of this Section is required to be produced to pay when due the principal of and interest on the Third Series Bonds, then the City Treasurer is authorized and directed to file with the County Clerk, on or prior to the date of delivery of the Third Series Bonds, a direction for abatement of taxes specifying the exact amount of taxes to be levied to produce the required amounts for each of the various tax levy years.

Section 13. **Full Abatement of Tax Levy for Unissued Bonds.** If no Bonds of a series are to be issued, then the City Treasurer is authorized and directed to file with the County Clerk, a direction for abatement in full of the taxes levied by this ordinance with respect to such series of Bonds.

Section 14. **Taxes Levied for Payment of Prior Bonds.** After the issuance of the Bonds, the City Treasurer shall file with the County Clerk, certificates listing the Prior Bonds and the taxes theretofore levied for the payment of the principal of and interest on the Prior Bonds, and said certificates shall direct the abatement of such taxes. Taxes collected with respect to the 2011 tax levy year for the payment of the Prior Bonds shall be deposited into the applicable Debt Service Fund or Account established by this ordinance for the payment of the principal of and interest on the applicable series of the Bonds that refunded such Prior Bonds.

Section 15. **Escrow Deposit Agreement.** The form of Second 2012 Escrow Deposit Agreement by and between the City and Amalgamated Bank of Chicago, as Escrow Agent, on file in the office of the City Clerk, is hereby approved. The proper officers of the City are authorized and directed to execute and deliver the Second 2012 Escrow Deposit Agreement on behalf of the City.

Section 16. **Application of First Series Proceeds.** The net proceeds of sale of the First Series Bonds (exclusive of accrued interest) shall be applied as follows:

1. To the Tax-Exempt Account in the 2012 Escrow Fund maintained under the Second 2012 Escrow Deposit Agreement, the amount, together with other moneys (if any) of the City deposited therein, necessary to provide for the redemption of the Prior 2004A Bonds on their redemption date and to provide for interest to become due and payable on the Prior 2004A Bonds to their redemption date.

2. To the Expense Fund established by this ordinance, the amount of such proceeds of sale remaining after making the foregoing payment.

Section 17. **Application of Second Series Proceeds.** The net proceeds of sale of the Second Series Bonds (exclusive of accrued interest) shall be applied as follows:

1. To the Tax-Exempt Account in the 2012 Escrow Fund, the amount, together with other moneys (if any) of the City deposited therein, necessary to provide for the redemption of the Prior 2004B Bonds on their redemption date and to provide for interest to become due and payable on the Prior 2004B Bonds to their redemption date.

2. To the Expense Fund, the amount of such proceeds of sale remaining after making the foregoing payment.

Section 18. **Application of Third Series Proceeds.** The net proceeds of sale of the Third Series Bonds (exclusive of accrued interest) shall be applied as follows:

1. To the Taxable Account of the 2012 Escrow Fund maintained under the Second 2012 Escrow Deposit Agreement, the amount, together with other moneys (if any) of the City deposited therein, necessary to provide for the redemption of the Prior 2004C Bonds on their redemption date and to provide for interest to become due and payable on the Prior 2004C Bonds to their redemption date.

2. To the Expense Fund, the amount of such proceeds of sale remaining after making the foregoing payment.

Section 19. **First Series Debt Service Fund.** Moneys derived from taxes levied pursuant to Section 10 of this ordinance are hereby appropriated and set aside for the sole purpose of paying the principal of and interest on the First Series Bonds when and as the same come due. All of such moneys shall be deposited in the First Series Debt Service Fund, which is hereby established as a special fund of the City and shall be administered as a bona fide debt service fund under the Internal Revenue Code of 1986 (the "Code").

Section 20. **Second Series Debt Service Account.** Moneys derived from taxes levied pursuant to Section 11 of this ordinance are appropriated and set aside for the sole purpose of paying principal of and interest on the Second Series Bonds when and as the same come due. All of such moneys shall be deposited in the "Second Series Debt Service Account", which is hereby established as a special account of the City within the Special Tax Allocation Fund for

the City of Moline's Redevelopment Project District (the "Moline Centre TIF Fund") established pursuant to General Ordinance No. 86-12-4, adopted by the City Council on December 16, 1986. The Second Series Debt Service Account shall be administered as a bona fide debt service fund under the Internal Revenue Code of 1986.

Section 21. **Third Series Debt Service Account.** Moneys derived from taxes levied pursuant to Section 12 of this ordinance are appropriated and set aside for the sole purpose of paying principal of and interest on the Third Series Bonds when and as the same come due. All of such moneys shall be deposited in the "Third Series Debt Service Account", which is hereby established as a special account of the City within the Moline Centre TIF Fund.

Section 22. **Pledges Securing Bonds.** The moneys deposited or to be deposited into the First Series Debt Service Fund, the Second Series Debt Service Account and the Third Series Debt Service Account, including the tax receipts derived from the taxes levied pursuant to this ordinance, are pledged as security for the payment of the principal of and interest on the applicable series of Bonds. These pledges are made pursuant to Section 13 of the Local Government Debt Reform Act and shall be valid and binding from the date of issuance of the Bonds. All such tax receipts and the moneys held in the foregoing Fund and Accounts shall immediately be subject to the lien of the applicable pledge without any physical delivery or further act and the lien of each such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

Section 23. **Expense Fund.** The "Expense Fund", is hereby established as a special fund of the City. Moneys in the Expense Fund shall be used for the payment of costs of issuance of the Bonds, but may hereafter be reappropriated and used for other purposes if such reappropriation is permitted under Illinois law and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the First Series Bonds and the Second Series Bonds.

Section 24. **Investment Regulations.** No investment shall be made of any moneys in the First Series Debt Service Fund, the Second Series Debt Service Account, the Tax-Exempt Account of the 2012 Escrow Fund or the Expense Fund, except in accordance with the tax covenants set forth in Section 25 of this ordinance. All income derived from such investments in respect of moneys or securities in any Fund or Account shall be credited in each case to the Fund or Account in which such moneys or securities are held.

Any moneys in any Fund or Account that are subject to investment yield restrictions may be invested in United States Treasury Securities, State and Local Government Series, pursuant to the regulations of the United States Treasury Department, Bureau of Public Debt or in any tax-exempt bond that is not an "investment property" within the meaning of Section 148(b)(2) of the Internal Revenue Code of 1986. The City Treasurer and agents designated by her are hereby authorized to submit, on behalf of the City, subscriptions for such United States Treasury Securities and to request redemption of such United States Treasury Securities.

Section 25. **Tax Covenants.** The City shall not take, or omit to take, any action lawful and within its power to take, which action or omission would cause interest on any First Series Bond or Second Series Bond (collectively, the “Tax-Exempt Bonds”) to become subject to federal income taxes in addition to federal income taxes to which interest on such Bond is subject on the date of original issuance thereof.

The City shall not permit any of the proceeds of the Tax-Exempt Bonds, or any facilities financed with such proceeds, to be used in any manner that would cause any Tax-Exempt Bond to constitute a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code of 1986.

The City shall not permit any of the proceeds of the Bonds or other moneys to be invested in any manner that would cause any Tax-Exempt Bond to constitute an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986 or a “hedge bond” within the meaning of Section 149(g) of the Internal Revenue Code of 1986.

The City shall comply with the provisions of Section 148(f) of the Internal Revenue Code of 1986 relating to the rebate of certain investment earnings at periodic intervals to the United States of America.

Section 26. **Tax Status of Third Series Bonds.** The City intends that any interest on the Third Series Bonds will be includible in the gross income of the owners of the Third Series Bonds for federal income tax purposes.

Section 27. **Tax Allocation Fund.** The Second Series Bonds and the Third Series Bonds are issued for purposes authorized by the Tax Increment Allocation Redevelopment Act (the “Redevelopment Act”). Moneys held in the Moline Centre TIF Fund and the taxes and other moneys to be deposited therein pursuant to the Redevelopment Act are hereby pledged for the payment of Redevelopment Project Costs (as defined in the Redevelopment Act) and as security for the payment of the principal of and interest on the Second Series Bonds and the Third Series Bonds on a parity with prior pledges of the Moline Centre TIF Fund for the benefit and security of outstanding bonds of the City, but nothing herein contained shall restrict the power of the City to pledge such moneys or taxes for the benefit and security of additional bonds pursuant to the Redevelopment Act; to subordinate the pledge made by this ordinance or to alter the use and distribution of moneys in the Moline Centre TIF Fund. Moneys held in the Moline Centre TIF Fund, which are to be used for the payment of the principal of or interest on the Second Series Bonds, may be deposited in the Second Series Debt Service Account, and upon such deposit such moneys shall be used solely for the payment of such principal and interest. Moneys held in the Moline Centre TIF Fund, which are to be used for the payment of the principal of or interest on the Third Series Bonds, may be deposited in the Third Series Debt Service Account, and upon such deposit such moneys shall be used solely for the payment of such principal and interest.

The foregoing pledge of moneys in the Moline Centre TIF Fund is subject to the limitation that moneys not required, pledged, earmarked or otherwise designated for the payment and securing

of obligations and anticipated redevelopment project costs shall be calculated annually and designated as “surplus” funds in accordance with Section 11-74.4-7 of the Redevelopment Act.

Section 28. Continuing Disclosure. For the benefit of the beneficial owners of the Bonds, the City covenants and agrees to provide to the Municipal Securities Rulemaking Board (the “MSRB”) for disclosure on the Electronic Municipal Market Access (“EMMA”) system, in an electronic format as prescribed by the MSRB, (i) an annual report containing certain financial information and operating data relating to the City and (ii) timely notices of the occurrence of certain enumerated events. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

The annual report shall be provided to the MSRB for disclosure on EMMA within 210 days after the close of the City’s fiscal year. The information to be contained in the annual report shall consist of the annual audited financial statement of the City and such additional information as noted in the Official Statement under the caption “Continuing Disclosure.” Each annual audited financial statement will conform to generally accepted accounting principles applicable to governmental units and will be prepared in accordance with standards of the Governmental Accounting Standards Board. If the audited financial statement is not available, then an unaudited financial statement shall be included in the annual report and the audited financial statement shall be provided promptly after it becomes available.

The City, in a timely manner not in excess of ten business days after the occurrence of the event, shall provide notice to the MSRB for disclosure on EMMA of any failure of the City to provide any such annual report within the 210 day period and of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the bonds, or other events affecting the tax-exempt status of the Bonds; (7) modifications to rights of bondholders, if material; (8) Bond calls, if material; (9) defeasances; (10) release, substitution or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) tender offers; (13) bankruptcy, insolvency, receivership or similar event of the City; (14) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (15) appointment of a successor or additional trustee or the change of name of a trustee, if material. For the purposes of the event identified in clause (13), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or

governmental authority, or the entry of an order confirming a plan or reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

It is found and determined that the City has agreed to the undertakings contained in this Section in order to assist participating underwriters of the Bonds and brokers, dealers and municipal securities dealers in complying with Securities and Exchange Commission Rule 15c2-12(b)(5) promulgated under the Securities Exchange Act of 1934. The chief financial officer of the City is authorized and directed to do and perform, or cause to be done or performed, for or on behalf of the City, each and every thing necessary to accomplish the undertakings of the City contained in this Section for so long as Rule 15c2-12(b)(5) is applicable to the Bonds and the City remains an "obligated person" under the Rule with respect to the Bonds.

The undertakings contained in this Section may be amended by the City upon a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the obligated person, or type of business conducted, provided that (a) the undertaking, as amended, would have complied with the requirements of Rule 15c2-12(b)(5) at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances and (b) in the opinion of nationally recognized bond counsel selected by the City, the amendment does not materially impair the interests of the beneficial owners of the Bonds.

Section 29. Book-Entry System. In order to provide for the initial issuance of the Bonds in a form that provides for a system of book-entry only transfers, the ownership of one fully registered Bond for each maturity of each series, in the aggregate principal amount of such maturity, shall be registered in the name of Cede & Co., as a nominee of The Depository Trust Company, as securities depository for the Bonds. The City Treasurer is authorized to execute and deliver on behalf of the City such letters to, or agreements with, the securities depository as shall be necessary to effectuate such book-entry system.

In case at any time the securities depository shall resign or shall become incapable of acting, then the City shall appoint a successor securities depository to provide a system of book-entry only transfers for the Bonds, by written notice to the predecessor securities depository directing it to notify its participants (those persons for whom the securities depository holds securities) of the appointment of a successor securities depository.

If the system of book-entry only transfers for the Bonds is discontinued, then the City shall issue and the bond registrar shall authenticate, register and deliver to the beneficial owners of the Bonds, bond certificates in replacement of such beneficial owners' beneficial interests in the Bonds, all as shown in the records maintained by the securities depository.

Section 30. Defeasance and Payment of Bonds. (A) If the City shall pay or cause to be paid to the registered owners of the Bonds, the principal, premium, if any, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this ordinance, then the pledge of taxes, securities and funds hereby pledged and the covenants, agreements and

other obligations of the City to the registered owners and the beneficial owners of the Bonds shall be discharged and satisfied.

(B) Any Bonds or interest installments appertaining thereto, whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning of paragraph (A) of this Section if (1) in case any such Bonds are to be redeemed prior to the maturity thereof, there shall have been taken all action necessary to call such Bonds for redemption and notice of such redemption shall have been duly given or provision shall have been made for the giving of such notice, and (2) there shall have been deposited in trust with a bank, trust company or national banking association acting as fiduciary for such purpose either (i) moneys in an amount which shall be sufficient, or (ii) "Federal Obligations" as defined in paragraph (C) of this Section, the principal of and the interest on which when due will provide moneys which, together with any moneys on deposit with such fiduciary at the same time for such purpose, shall be sufficient, to pay when due the principal of, redemption premium, if any, and interest due and to become due on said Bonds on and prior to the applicable redemption date or maturity date thereof.

(C) As used in this Section, the term "Federal Obligations" means (i) non-callable, direct obligations of the United States of America, (ii) non-callable and non-prepayable, direct obligations of any agency of the United States of America, which are unconditionally guaranteed by the United States of America as to full and timely payment of principal and interest, or (iii) non-callable, non-prepayable coupons or interest installments from the securities described in clause (i) or clause (ii) of this paragraph, which are stripped pursuant to programs of the Department of the Treasury of the United States of America.

Section 31. Ordinance to Constitute a Contract. The provisions of this ordinance shall constitute a contract between the City and the registered owners of the Bonds. Except as otherwise provided in this ordinance and in the Redevelopment Act with respect to the pledge of money in a special tax allocation fund, any pledge made in this ordinance and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the owners of any and all of the Bonds of the same series. All of the Bonds of the same series, regardless of the time or times of their issuance, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or pursuant to this ordinance. This ordinance shall constitute full authority for the issuance of the Bonds and to the extent that the provisions of this ordinance conflict with the provisions of any other ordinance or resolution of the City, the provisions of this ordinance shall control. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 32. Publication. The City Clerk is hereby authorized and directed to publish this ordinance in pamphlet form and to file copies thereof for public inspection in her office.

Council Bill/Special Ordinance No. 4023-2012
Sponsor: _____
Page 21

Section 33. **Effective Date.** This ordinance shall become effective upon its passage and approval.

Passed and adopted this 17th day of July, 2012, by roll call vote as follows:

Ayes:

Nays:

Approved: July 17, 2012

Mayor

Published in pamphlet form: July 18, 2012

(SEAL)

Attest:

City Clerk

Approved as to form:

City Attorney

CERTIFICATE

I, Tracy A. Koranda, City Clerk of the City of Moline, Illinois, hereby certify that the foregoing ordinance entitled: "An Ordinance Authorizing the Issuance of Not to Exceed \$16,200,000 General Obligation Refunding Bonds of 2012 of the City of Moline, Illinois," is a true copy of an original ordinance which was duly adopted by the recorded affirmative votes of not less than six members of the City Council of the City at a meeting thereof which was duly called and held at 7:45 p.m. on July 17, 2012, at City Hall, and at which a quorum was present and acting throughout, and that said copy has been compared by me with the original ordinance signed by the Mayor of the City on July 17, 2012, and thereafter published in pamphlet form on July 18, 2012, and recorded in the Ordinance Book of the City and that it is a correct transcript thereof and of the whole of said ordinance, and that said ordinance has not been altered, amended, repealed or revoked, but is in full force and effect.

I further certify that the agenda for said meeting included the ordinance as a matter to be considered at the meeting and that said agenda was posted at least 48 hours in advance of the holding of the meeting in the manner required by the Open Meetings Act, 5 Illinois Compiled Statutes 120.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City this _____ day of _____, 2012.

(SEAL)

City Clerk

A SPECIAL ORDINANCE

AUTHORIZING the Mayor and City Clerk to execute a Third Amendment to Development Agreement between the City of Moline and Autumn Trails, L.L.C. for the Bethany Project.

WHEREAS, the City and Autumn Trails, L.L.C. (“Developer”) have previously entered into a Development Agreement for the Bethany Project (“Project”) and a First Amendment to Development Agreement, approved by Special Ordinance No. 4017-2005 and Special Ordinance No. 4049-2006, respectively; and a Second Amendment approved by Special Ordinance No. 4016-2008; and

WHEREAS, the agreement’s first amendment permits an extension for completion and provides that the Developer is to complete the Project by February 27, 2008, unless the Project is delayed by fire, adverse weather conditions, unavoidable casualty, or similar unforeseen circumstances; and

WHEREAS, while the Project had progressed and continued to proceed soundly, adverse weather and soil conditions posed additional delays, and the Developer therefore requested a second extension to June 30, 2009, to complete the Project; and

WHEREAS, the Developer also requested an extension of the Development Agreement’s TIF sunset provision from December 31, 2015 to December 31, 2017, and an increase in the TIF amount from \$1,222,181.00 to \$1,371,800.00 pursuant to additional charges incurred due to the soil conditions and the necessary construction of pilings for the first phase of the Project; pilings were also needed for the second phase of the Project; and

WHEREAS, due to market conditions and difficulty in funding the final units of the project, the developer halted construction; now due to an improved residential sales environment and available funding, the developer is now in a position to complete the project and the Developer has requested an extension of the completion date of the final units to December 31, 2013 and also fund the remaining increment upfront as opposed to an annual rebate.

WHEREAS, the City agrees to enter into a Third Amendment to Development Agreement to allow such amendment provisions provided the amendment reflects a mechanism for the City to be reimbursed for financing costs of the prefunding should the developer fail to complete the project within the amended timeframe

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

Section 1 – That the Mayor and City Clerk are hereby authorized to execute a Third Amendment to Development Agreement between the City of Moline and Autumn Trails, L.L.C. for the Bethany Project; provided that said Third Amendment to Development Agreement is in substantially similar form as that attached hereto and incorporated herein by this reference thereto as Exhibit “A” and has been approved as to form by the City Attorney.

Section 2 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to Form:

City Attorney

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF MOLINE AND AUTUMN TRAILS, L.L.C.

This Third Amendment, effective on the date of execution of the parties below, modifies the Development Agreement, the First Amendment to Development Agreement, and the Second Amendment to the Development entered into by the City of Moline, an Illinois Municipal Corporation ("City"), and Autumn Trails, L.L.C., an Illinois Limited Liability Company ("Developer"), for the Bethany Project pursuant to adoption of Special Ordinance No. 4017-2005 and 4049-2006 and Special Ordinance No. 4016-2008 by amending the following paragraphs.

1. Paragraph 1.I., "Prefunding TIF Payment," is hereby added to read as follows:

"I. Prefunding TIF Payment. The City has received documentation detailing the private investment in this project and has previously rebated Six Hundred Thirty Five Thousand, One Hundred Eighty and 92/100 (\$635,180.92) of the total rebate of One Million Three Hundred Seventy One Thousand Eight Hundred and 00/100 Dollars (\$1,371,800.00). The City shall fund the balance of the rebate, Seven Hundred Thirty Six Thousand Six Hundred Nineteen and 08/100 Dollars upon execution of the Third Amendment to Development Agreement as detailed in the Council Bill/Resolution No. 1133-2009, Settlement Agreement between Autumn Trails, L.L.C., MidWestOne Bank, Blackhawk Bank & Trust Company, and the City, which was approved On August 4, 2009.

Should the Developer fail to complete the project by the timeline established in Paragraph II C as amended, the City shall have the right to request reimbursement of any and all interest payments incurred by the City. The City shall enter into a Promissory Note with Autumn Trails, L.L.C detailing the interest and expenses related to the Prefunded TIF Payment.

2. Paragraph II.C., "Development Timetable," is hereby amended to read as follows:

"B. Development Timetable. The Developer submitted a request for TIF assistance in July 2004. The Developer shall commence the Project within six (6) months from and after the date of this Agreement and shall complete the Project by December 31, 2013 unless delayed by fire, unusual delay in transportation, adverse weather conditions not reasonably anticipated, unavoidable casualty, flood, acts of God, other causes beyond the Developer's control which could not reasonably have been anticipated and which could not have been reasonably avoided, or acts of the City in breach of this or any other agreement executed by the City in connection with the Redevelopment Project. The City in its reasonable discretion may extend the completion date in writing. Delay beyond the completion date shall be cause for the City to terminate this Agreement after notice to the Developer."

3. Modifications. Except as herein modified, the Development Agreement and its First Amendment and Second Amendment remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date(s) shown below.

