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**THE CITY OF ROCHELLE**  
**Ogle County, Illinois**

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**ORDINANCE**  
**NO. \_\_\_\_\_**

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**AN ORDINANCE AMENDING CHAPTER 102 OF THE ROCHELLE  
MUNICIPAL CODE**

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**JOHN BEARROWS, Mayor**  
**ROSE HUERAMO, City Clerk**

**TOM McDERMOTT**  
**BIL HAYES**  
**KATE SHAW-DICKEY**  
**DAN McDERMOTT**  
**JOHN GRUBEN**  
**ROSAELIA ARTEAGA**  
**City Council**

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Peterson, Johnson, and Murray Chicago, LLC, City Attorneys  
200 W. Adams, Suite 2125, Chicago, IL 60606

**CITY OF ROCHELLE**  
**Ogle County, Illinois**

**ORDINANCE NO. \_\_\_\_\_**  
**Date Passed: November 14, 2022**

**AN ORDINANCE AMENDING CHAPTER 102 OF THE ROCHELLE  
MUNICIPAL CODE**

**WHEREAS**, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle (“City”), Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

**WHEREAS**, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

**WHEREAS**, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

**WHEREAS**, the City’s Municipal code pertaining to Trees and Shrubs does not Meet the Tree City USA standards; and

**WHEREAS**, the Rochelle Municipal Code contains Chapter 102, entitled “Vegetation”; and

**WHEREAS**, certain Sections of Chapter 102 of the Rochelle Municipal Code should be amended to meet the standards required for a Tree City USA designation; and

**WHEREAS**, RMU staff recommends the amendments below; and

**WHEREAS**, the Mayor and City Council have determined that it is appropriate and in the best interest of the welfare of City and its residents to amend certain Sections of Chapter 102 of the Rochelle Municipal Code; and

**NOW THEREFORE BE IT ORDAINED** by the Mayor and City Council of the City of Rochelle, Ogle County, Illinois, as follows:

**SECTION ONE:** The foregoing recitals shall be, and are hereby, incorporated into and made a part of this Ordinance as if fully set forth in this Section One.

SECTION TWO: Various Sections of Chapter 98, “UTILITIES”, Article I, “IN GENERAL”, of the Municipal Code of the City of Rochelle shall be hereby amended by adding the following underlined language and deleting the language that is struck through, as follows:

**Chapter 102 - VEGETATION**  
**ARTICLE I. - IN GENERAL**

**Secs. 102-1—102-2830. - Reserved.**

**ARTICLE II. - TREES AND SHRUBS**

**Sec. 102-28. Purpose.**

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

**Section 102-29. Definitions.**

As used in this Article, the following words and phrases shall have the meanings indicated:

**Damage** – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**Nuisance** – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

**Parkway** – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

**Public property** – all grounds and rights-of-way (ROWs) owned or maintained by the City.

**Public tree** – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

**Top or Topping** – the non-standard practice of cutting back of limbs to stubs within a tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree.

**Sec. 120-30 Authority and power.**

**(a) Delegation of authority and responsibility.** The Public Work Director and/or their designee, hereinafter referred to as the “Director”, shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

- (b) **Coordination among city departments.** All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.
- (c) **Interference.** No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

**Sec. 102-31. - Permit for planting tree or shrub in public place.**

- (a) **Required.** It is unlawful to plant any tree or bush in any public street, parkway or other public place without having obtained a permit therefor, the fee for which shall be established by resolution by the council from time to time.
- (b) **Application; issuance.** Applications for the permit required by subsection (a) of this section shall be made to the building division and referred by such division to the director of public works before issuance. All trees and shrubs so planted shall be placed subject to the direction and approval of the director.
- (c) **Standards.** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (d) **Requirements of franchise utility companies.** The maintenance of public trees for utility clearance shall conform to applicable Illinois law and regulations and utility industry standards.
- (e) **Preferred species list.** The Director shall maintain an official list of desirable tree species for planting on public property in three size classes: Small (35 feet or less in height at maturity), Medium (greater than 35 feet and less than 50 feet at maturity), and Large (greater than 50 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Director.
- (f) **Planting distances.** The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 15 feet of a fire hydrant.
- (g) **Planting trees under electric utility lines.** Only trees listed as Small trees on the official city tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

**Sec. 102-32. - Permit for removing tree or shrub in public place.**

It is unlawful to remove or cut down any tree or shrub in any public place, without having obtained a permit therefor, the fee for which shall be such amount as established by the council by resolution from time to time. Applications for such permits shall be made to and approved by the department of public works.

**Sec. 102-33. - Injuring tree or shrub in public place.**

~~It is unlawful to injure any tree or shrub planted or growing in any public place.~~

- (a) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- (b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm, or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.
- (d) Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Director and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for “Managing Trees During Construction” published by the International Society of Arboriculture.
- (e) Each violation of this section as determined and notified by the Director shall constitute a separate violation, punishable by fines and penalties in accordance with the City’s Municipal Code, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

**Sec. 102-34. Attaching advertisement or notice to tree or shrub in public place.**

~~It is unlawful to attach any sign, advertisement or notice to any tree or shrub in any public place.~~

SECTION THREE: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed Ordinance in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION FIVE: The City Clerk shall publish this Ordinance in pamphlet form.

SECTION SIX: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 14<sup>th</sup> day of November, 2022.

AYES:

NAYS:

ABSENT:

APPROVED THIS 14<sup>th</sup> day of November, 2022.

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MAYOR

ATTEST:

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CITY CLERK

STATE OF ILLINOIS       )  
                                      )  
COUNTY OF OGLE       )       SS.

CERTIFICATE

I, Rose Hueramo, City Clerk of the City of Rochelle, County of Ogle and State of Illinois,  
DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_,  
“AN ORDINANCE AMENDING CHAPTER 102 OF THE ROCHELLE MUNICIPAL CODE,”  
which was adopted by the Mayor and City Council of the City of Rochelle on November 14, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of  
the City of Rochelle this 14<sup>th</sup> day of November, 2022.

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CITY CLERK