
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE AMENDING CHAPTER 98 OF THE ROCHELLE
MUNICIPAL CODE**

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CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE NO. _____
Date Passed: June 27, 2022

**AN ORDINANCE AMENDING CHAPTER 98 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, 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 of Rochelle, through Rochelle Municipal Utilities (“RMU”), one of its departments, provides electric, water, and sewage utility services; and

WHEREAS, the Rochelle Municipal Code contains Chapter 98, entitled “Utilities”; and

WHEREAS, certain Sections of Chapter 98 of the Rochelle Municipal Code should be amended to adjust for the actual costs of administration incurred by the City; and

WHEREAS, RMU staff recommends the amendments below, in order to adjust for certain costs administering the utilities; 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 98 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:

Sec. 98-3. - Security deposits.

- (a) RMU may request a security deposit from a new applicant for service if the applicant is unable to establish satisfactory credit references. Also, RMU may request a security deposit from a present residential or present nonresidential customer that receives utility service from RMU if:
 - (1) The customer, during any 12-month period, pays late two times; or
 - (2) The customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering.
- (b) RMU may request a deposit from applicants for service if the applicant for service has failed to pay for past due utility service for the same class of service furnished to him at the same or at another address.
- (c) A security deposit shall not be in excess of one-third of the amount of the estimated annual charges for that class of service and shall be paid to RMU prior to receiving service.
- (d) Security deposits plus interest shall be automatically refunded after being held for 12 months if:
 - (1) The service has not been interrupted for nonpayment or so long as the customer has not paid late four times; or
 - (2) So long as the customer's wires, pipes, meters or other service equipment have not been tampered with during the time the deposit was held which resulted in the customer enjoying the benefit of the tampering.
- (e) Deposits plus interest need not be refunded until the customer pays any past due bills for utility service.
- (f) Interest shall be paid on all deposits held by RMU. The rate of interest to be paid shall be determined in December of each year and will be the same as the rate from the RMU's local financial institution ~~existing for one year United States treasury bills~~ at that point in time. The ~~interest rate will rounded to the nearest one-half of one percent and~~ shall be paid on all deposits held during all or part of the subsequent year.
- (g) At the end of every year of service, if the deposit plus interest is not refunded to the customer, RMU shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and so stating this credit clearly on the customer's next regular bill.
- (h) Deposits plus interest shall be refunded within 30 days upon the discontinuance of service less any unpaid bills.
 - (1) A transfer of service from one premises to another within the area served by RMU is not viewed as a discontinuance of service by RMU, the character of service remains the same.
 - (2) When a deposit plus interest is applied to the liquidation of unpaid bills, RMU shall provide the customer with a statement showing the amount of the unpaid bills liquidated by the deposit plus interest and the balance remaining due either to the customer or to RMU.

- (i) In lieu of a deposit for electric, water, and water reclamation utility service, the RMU may charge a \$60 activation fee for any new customer that has not had RMU utility service in the prior 12 months and has previously been had utility services disconnected.

Commented [DL1]: For discussion as to whether it will stay in the code.

Sec. 98-5. - Person responsible for payment of charges.

The owner and the consumer of the utility service shall be jointly and severally liable to pay for the service to such premises, and the service is furnished to the premises by the city only upon the condition that the owner and the consumer of the service are jointly and severally liable therefor to the city.

If the consumer is not the owner of the property serviced by the RMU utilities, then the consumer shall consent to the owner of the property obtaining a copy of all unpaid utility bills and a copy of any utility disconnection notice, as a condition precedent to receiving any services from the RMU.

Sec. 98-6. - Payment of bills.

- (a) All bills for utility service shall be paid or mailed to the RMU business office.
- (b) All customer's bills are due within 21 calendar days after the billing date and the late payment charge is applicable thereafter.
- (c) Bills issued by RMU for utility service are payable without the addition of late payment charges if payment is received by RMU on or before the due dates shown on the bills. If any amount due is not received by RMU by the due date, a late payment charge will be added to the amount due in accordance with the following provisions:
 - (1) The late payment charge payable in any month shall be an amount equal to three percent times:
 - a. The current bill, or any part thereof, that remains unpaid after the due date, and
 - b. Any unpaid amounts due from prior billing periods, including previously assessed late payment charges.
 - (2) When the due date falls on Saturday, Sunday or a legal holiday, such due date will be automatically extended to include the first full business day following.
 - (3) The City Manager, or his designee may ~~will~~, for residential customers, waive the assessment of late payment charges for up to a total of three billing periods in each fiscal year. ~~RMU will~~ The City Manager, or his designee, however, may reinstate ~~reassess~~ the late payment charge if the amount on which such charge was waived remains unpaid 30 calendar days following the due date of such amount. No waiver of late payment charges shall be granted to non-residential customers.
 - (4) If payment of a bill is made by mail, the post office cancellation date shown by the sending post office will determine the date of payment of the bill. If the cancellation date is beyond the due date as noted above, the late payment charge, where applicable, will be added to the customer's next bill. An objection to assessment of a late payment charge must be filed by the customer prior to the due date of the bill which reflects the late payment charge.

- (5) Where objection to any bill is filed by the customer prior to its due date, and an investigation by RMU is required, RMU will defer the late payment charge pending the results of such investigation.
- (6) RMU will not continue to assess a late payment charge on any final bill.
- (7) If the bill, together with any applicable delayed payment charge, is not paid within such period, service may be discontinued and terminated. Any customer whose electric service has been terminated for nonpayment may have the service restored by paying all arrears, paying a security deposit, and paying a reconnection fee of \$250.00 for any customer with a Rate Class of 130 or greater or \$50.00 for any customer with a Rate Class less than Class 130 ~~\$50.00 during those times the business office is open or the actual cost but not less than \$50.00 if the business office is closed.~~ The reconnection fee may be increased to cover actual costs incurred when three-phase electricity is involved for general service and large general service customers when disconnection must be made at the transformer. Any customer whose water service has been terminated for nonpayment may have the service restored by paying all arrears and a reconnection fee of \$250.00 ~~during those times the business office is open or the actual cost but not less than \$50.00 if the business office is closed.~~
- (d) If a customer pays for any service rendered by RMU with a check which is subsequently returned to RMU by the customer's bank of deposit because sufficient funds are not on deposit in the account upon which the check was drawn, or because the check was drawn on a nonexistent or closed account, a charge of \$2035.00 shall be made to such customer for each such check. RMU may require cash payment (U.S. currency, postal money order or certified check) following issuance of a final notice prior to disconnection for a past due bill if the customer previously rendered payment for any portion of the service included in the past due bill with an invalid check.
- (e) When utility bills are not paid within six calendar days after the due date, RMU shall issue a disconnect notice by mail, by making a reasonable effort to personally contact a responsible adult on the premises, or by certified mail, return receipt requested, to the person in whose name utility service is registered. The notice to disconnect service shall contain:
 - (1) The name, address, and account number of the customer;
 - (2) The date of the notice;
 - (3) The total amount required in order to bring the account current;
 - (4) The date of the disconnect. Service shall not be discontinued until at least five calendar days after issue of the disconnect notice.
- (f) RMU customer relations employees are authorized to act on behalf of RMU in resolving complaints. They shall consider the complainant's allegations and explain customer accounts and RMU's contentions in connection with disputes.
- (g) All RMU customers shall be charged an administration fee in the amount of \$250.00 for any customer with a Rate Class of 130 or greater or \$50.00 for any customer with a Rate Class less than Class 130, if they have not paid all outstanding utility bills by 7:00 a.m. on the date of a scheduled disconnection, without exception.

Sec. 98-12. - Limitations on termination of service.

- (a) RMU shall not discontinue service at the meter subsequent to 2:00 p.m. unless prepared to reconnect the same day at the standard reconnection charge, if any. No disconnection of

service will be made on a holiday or weekend day unless prepared to reconnect on the holiday or weekend day.

(b) Termination of utility service to all residential users, including all tenants of apartment buildings, for nonpayment of bills shall not be done:

- (1) On any day when the National Weather Service forecast for the following 24 hours covering the area of RMU in which the residence is located includes a forecast that temperatures will be 32 degrees Fahrenheit or below;
- (2) On any day preceding a holiday or a weekend when such a forecast indicated that the temperature will be 32 degrees Fahrenheit or below during the holiday or weekend.

~~(c) RMU shall not discontinue electric service if such action will aggravate an existing serious illness of any person who is a permanent resident of the premise where service is rendered if the customer complies with the following requirements regarding such illness:~~

- ~~(1) The illness must be certified to RMU by a registered physician. The certification shall be in writing and shall include the name of the ill person, a statement that he is a resident of the premises in question, the name, business address and telephone number of the certifying party, the nature of the illness and the period of time during which termination will aggravate the illness.~~
- ~~(2) Initial certification by the certifying party may be by telephone if written certification is forwarded to the RMU within five days.~~
- ~~(3) Initial certification shall prohibit discontinuance of service for 30 days. Certification may be renewed by the customer for an additional 30 days by providing another certificate to RMU. Failure to renew the certificate shall entitle RMU to initiate discontinuance procedures.~~
- ~~(4) The customer must enter into an agreement for the retirement of the unpaid balance of the account within the first 30 days and keep the current account paid during the period that the unpaid balance is to be retired. Notice of discontinuance of service must be sent to residential customers.~~
- ~~(5) In the event service is terminated within 14 days prior to certification of illness, by or for a qualifying resident, service shall be restored to that residence if a proper certification is thereafter made in accordance with the foregoing provisions.~~
- ~~(6) Nothing in this section shall be construed to prevent discontinuance of service for reasons of safety, health, or cooperation with civil authorities.~~

Commented [DL2]: This provision has been abused, so it is a policy decision as to whether the City wants to delete the same.

Sec. 98-14. - Procedure for termination of service.

(a) When violation of the rules and procedures occurs, RMU in its sole discretion may implement termination procedures for the utility involved. The notice of termination shall contain the following:

- (1) The amount to be paid or the violation to be corrected;
- (2) The date of the notice of termination;
- (3) The date of termination, which shall be at least five calendar days from date of notice of termination;
- (4) Notice that unless RMU receives complete payment of the amount shown or that the violation has been corrected prior to the date of termination, the utility service shall be terminated; and

- (5) Notice that in lieu of paying the entire amount shown, a customer, prior to the date of termination, may notify RMU that customer disputes the correctness of all or part of the amount shown if all or part of the amount shown was not the subject of a previous dispute under section 98-11, or that customer disputes that customer is in violation of these rules, standards, terms and conditions. The basis of the dispute shall not have been the subject of a previous dispute under these rules and standards.
- (b) If, prior to the date of termination:
- (1) RMU has not received complete payment of the amount shown on the notice of termination;
 - (2) The customer has not notified RMU that the customer disputes the correctness of all or part of the amount shown on the notice of termination;
 - (3) The customer has not notified RMU that the customer disputes violation of these rules, standards, terms and conditions; or
 - (4) The customer has not corrected the violation shown on the notice of violation;
- then RMU shall terminate the applicable utility service provided to the customer on the date of termination.
- (c) If RMU receives payment of the entire amount shown on the notice of termination or the violation has been corrected prior to the date of termination, such payment or correction shall be considered timely.
- (d) RMU shall not terminate utility service for nonpayment of amounts less than ~~\$50~~100.00.

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 27th day of June, 2022.

AYES:

NAYS:

ABSENT:

APPROVED THIS 27th day of June, 2022.

ATTEST:

MAYOR

CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, _____, 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 98 OF THE ROCHELLE MUNICIPAL CODE,” which was adopted by the Mayor and City Council of the City of Rochelle on June 13, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 27th day of June, 2022.

CITY CLERK