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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 34 OF THE ROCHELLE  
MUNICIPAL CODE PERTAINING TO CIVIL EMERGENCIES**

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**JOHN BEARROWS, Mayor**  
**SUE MESSER, City Clerk**

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**DAN McDERMOTT**  
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**City Council**

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

**ORDINANCE NO.** \_\_\_\_\_  
**Date Passed:** \_\_\_\_\_, 2021

**AN ORDINANCE AMENDING CHAPTER 34 OF THE ROCHELLE  
MUNICIPAL CODE PERTAINING TO CIVIL EMERGENCIES**

**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 Illinois Municipal Code, 65 ILCS 5/11-1-6, provides for the declaration of a state of emergency and the grant of extraordinary authority to the Mayor by the Corporate Authorities; and

**WHEREAS**, the Illinois Emergency Management Agency Act, 20 ILCS 3305/11, further provides for emergency local disaster declaration by the principal executive officer or his or her interim emergency successor; and

**WHEREAS**, it has been determined by the Corporate Authorities of the City of Rochelle that it is in the best interest of the City and its residents to amend Chapter 34 of the Rochelle Municipal Code to provide for the exercise of extraordinary powers by executive order during a state of emergency; 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: Chapter 34, “CIVIL EMERGENCIES”, Article I, “IN GENERAL”, of the Municipal Code of the City of Rochelle shall be hereby amended by adding the following underlined language:

**Sec. 34-1. – Definitions.**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Emergency:* (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law; or (2) Any natural disaster, epidemic, or manmade calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake or explosion, or eminent threat of any of those events within the corporate limits of the city, resulting in or threatening the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

*Curfew:* a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the city except officials of any governmental unit and persons officially designated to duty with reference to said civil emergency.

**Sec. 34-2. – Declaration.**

Whenever an emergency, as defined in Section 34-1 exists, the Mayor is authorized to declare the existence of a Local State of Emergency by means of a written declaration of the Mayor, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this section. This declaration must be filed with the municipal clerk as soon as practicable after issuance.

**Sec. 34-3. – Curfew authorized.**

After proclamation of a Local State of Emergency by the [Mayor/Village President], he or she may order a general curfew applicable to such geographical areas of the city or to the city as a whole, as he or she deems reasonable and advisable, and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

**Sec. 34-4. – Orders authorized.**

After the proclamation of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address the issues caused threatened by the emergency, make take any or all of the following actions by executive order during the state of emergency:

- 1) All actions reasonably necessary to respond to the emergency;

- 2) Approve previously appropriated expenditures of the city for the purpose of continuing the operations of the municipality; and
- 3) In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the [Mayor/Village President] shall be authorized to approve new spending by the City/Village during the existence of the Local State of Emergency.
- 4) Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted;
- 5) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer;
- 6) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- 7) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever;

#### **Sec. 34-5. – Duration.**

The declaration herein authorized shall be effective for a period of up to 30 days or until the adjournment of the next regular or special meeting of the city council, whichever comes first, unless sooner terminated by a proclamation of the Mayor, or, his or her interim emergency successor, indicating that the civil emergency no longer exists. The Mayor or his or her interim emergency successor, shall have the power to re-proclaim the existence of an emergency at the end of each 30-day period during the time said emergency exists.

#### **Sec. 34-6. – Notice.**

Upon issuing the proclamation herein authorized, the municipal clerk shall notify the news media situated within the City, and shall cause at least four copies of the proclamation declaring the existence of the emergency and any curfew to be posted at the following places within the city: the city hall, the police station, the post office, and in the area of any curfew.

#### **Sec. 34-7. – Violations.**

Any person violating the provisions of this section or executive orders issued pursuant hereto shall be guilty of an offense against the City and shall be punished as provided by Section 1-15 of the City code.

#### **Sec. 34-8. – Effect on other ordinances.**

Nothing contained in this section shall be construed to impair the powers contained in this Code, giving powers to the police departments, and fire departments, and the municipal emergency services and disaster agency, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the City.

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 \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

APPROVED THIS \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2021.

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MAYOR

ATTEST:

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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 34 OF THE ROCHELLE MUNICIPAL CODE PERTAINING TO CIVIL EMERGENCIES” which was adopted by the Mayor and City Council of the City of Rochelle on \_\_\_\_\_, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this \_\_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2021..

\_\_\_\_\_  
CITY CLERK