
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 98
ARTICLE I OF THE ROCHELLE MUNICIPAL CODE PERTAINING TO
THE PAYMENT OF UTILITY BILLS**

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Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
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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 of Rochelle (“City”) has previously enacted Chapter 98 Article I Section 98-8 of the Rochelle Municipal Code (“Code”) entitled “DEFERRED PAYMENT AGREEMENTS” pertaining to deferred payment agreements for Rochelle Municipal Utility (“RMU”) customers; and

WHEREAS, the City has previously established certain criteria in Section 98-8 of the Code which incorporates certain payment procedures, plans, and penalties for RMU customers that do not promptly pay amounts owed; and

WHEREAS, the City now desires to amend certain portions of Section 98-8 of the Code to allow for additional time for RMU customers to pay past amounts owed and provide incentives for those RMU customers that abide by their individual deferred payment agreements; 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 certain Sections of the Code pertaining to deferred payment agreements; and

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, ILLINOIS:

SECTION ONE: That the City hereby incorporates all of the recitals above into this Ordinance as if fully set forth herein.

SECTION TWO: That Chapter 98 Article I Section 98-8 entitled “DEFERRED PAYMENT AGREEMENTS” of the Rochelle Municipal Code be and is hereby amended by deleting the following strikethrough language and adding the following underlined language:

ARTICLE I. – IN GENERAL

Sec. 98-8. - DEFERRED PAYMENT AGREEMENTS.

(a) Customers who are indebted to RMU for past due utility service shall have the opportunity to make arrangements to retire the debt by periodic payments, referred to hereinafter as a deferred payment agreement, unless the customer has failed to make payment under such a plan during the past 12 months.

(b) The terms and conditions of a reasonable deferred payment agreement and RMU's decision whether or not to offer an applicant for service a deferred payment agreement shall be determined by RMU after consideration of the following factors, based upon information available from current RMU records or provided by the customer or applicant:

- (1) Size of the past due account.
- (2) Customer's or applicant's ability to pay.
- (3) Customer's or applicant's payment history.
- (4) Reason for the outstanding indebtedness.
- (5) Any other relevant factors relating to the customer's circumstances or applicant's service.

(c) An applicant shall pay a minimum of ~~one-quarter~~ one-seventh of the amount past due and owing at the time of entering into the deferred payment agreement, with the remainder to be paid according to the terms defined in the agreement. RMU shall allow an additional ~~three~~ six months for payment to be made under a deferred payment agreement. Late payments charges may be assessed against the amount owing which is the subject of a deferred payment agreement. However, so long as a customer has established a deferred payment agreement and pays the prearranged balance prescribed by the terms of the agreement, all late fees that accrue during the life of the deferred payment agreement shall be waived upon successful completion of the deferred payment agreement. Exceptions to the above may be made on a case-by-case basis as determined by RMU and approved by the City Manager.

(d) A deferred payment agreement shall be in writing, with a copy provided to the applicant or customer, and shall conform to the following requirements:

- (1) Applicant shall be required to pay all future bills for utility service by the due date.
- (2) Applicant shall retire his debt according to terms of the deferred payment agreement.

(e) Customers requesting the deferred payment program must come to the RMU business office and make application.

(f) If an applicant defaults upon any payment due under the deferred payment agreement, RMU shall have the right to discontinue service without further notice. In addition, any late fees that have been accrued during the deferred payment agreement period, that may have been waived upon completion of the agreement, shall become due and owing.

(g) If the customer defaults on a deferred payment agreement but has not been notified of service disconnect by RMU, RMU shall permit such customer to be reinstated on the deferred payment agreement if the customer pays in full the amount which should have been paid up to that date pursuant to the original payment agreement (including any amounts for current usage which have become past due). If customer has been notified of default, all arrears and security deposit must be paid, or the service is subject to disconnect.

(h) If the customer's economic or financial circumstances change during the effective period of a deferred payment agreement, and the customer defaults on a deferred payment agreement but has not yet had service discontinued by RMU, RMU shall renegotiate the terms and conditions of the deferred payment agreement, taking into consideration the changed economic and financial circumstances substantiated by the customer. RMU shall not be obliged to renegotiate any deferred payment agreement more than one time or to extend the payment period beyond the maximum of three months available at the time RMU and the customer entered into the original deferred payment agreement.

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 elsewhere 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 ____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED THIS ____ day of _____, 2018.

MAYOR

ATTEST:

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 CERTAIN SECTIONS OF CHAPTER 98 ARTICLE I OF THE ROCHELLE MUNICIPAL CODE PERTAINING TO THE PAYMENT OF UTILITY BILLS” which was adopted by the Mayor and City Council of the City of Rochelle on _____, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this _____ day of _____, 2018.

CITY CLERK