
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE AUTHORIZING LOAN AGREEMENT BETWEEN
THE CITY OF ROCHELLE (A NON-HOME RULE ENTITY) AND THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

CHET OLSON, Mayor
SUE MESSER, City Clerk

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BIL HAYES
DON BURKE
KATE SHAW-DICKEY
DAN McDERMOTT
JOHN BEARROWS
City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
Law Offices of Peterson, Johnson, & Murray—Chicago, City Attorneys
200 W. Adams, Ste. 2125, Chicago, IL 60606

ORDINANCE NO. _____

Date Passed: _____, 2018

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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, 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, Ogle County, Illinois operates its waste water treatment system (“the System”) in accordance with the provisions of the Illinois Municipal Code, 65 ILCS 5/11-139 and the Local Government Debt Reform Act, 30 ILCS 350/1 (collectively, “the Act”); and

WHEREAS, the Mayor and City Council of the City of Rochelle (the “Corporate Authorities”) have determined that it is advisable, necessary and in the best interests of public health, safety and welfare to improve the system at the Waste Water Treatment Plant, including the following: rehabilitation of the 10 million gallon anaerobic lagoon, which includes disposal of the existing sludge, replacement of the liner and rehabilitation of the gas handling equipment, construction of a 1500 square foot administrative office attached to the existing administrative office, replacement of the pretreatment equipment, replacement of the aeration blowers, including the addition of sensors and valves for enhanced controls, conversion of the system one lift station to a submersible left station and replacement of all mechanical equipment, all in accordance with the plans and specifications prepared by the consulting engineers to the City (“the Project”), which Project has a useful life of 30 years; and

WHEREAS, the estimated cost of construction and installing the Project, including engineering, legal financial and other related expenses is \$7,000,000.00 and there are insufficient funds on hand and lawfully available to pay these costs; and

WHEREAS, the costs are expected to be paid for with a loan to the City of Rochelle from the Waste Pollution Control Loan Program through the Illinois Environmental Protection Agency, the loan to be repaid from revenues of the System and the loan is authorized to be accepted at this time pursuant to the Act; and

WHEREAS, in accordance with the provisions of the Act, the City is authorized to borrow funds from the Waste Pollution Control Loan Program in the aggregate principal amount of \$6,400,000.00 to provide funds to pay the costs of the Project; and

WHEREAS, the loan to the City shall be made pursuant to a Loan Agreement, including certain terms and conditions, between the City and the Illinois Environmental Protection Agency; and

WHEREAS, the loan shall bear an interest rate as defined by 35 IL Admin. Code 662, which does not exceed the maximum rate authorized by the Bond Authorization Act, as amended, 30 ILCS 305/0.01 et seq., at the time of making of the loan; and

WHEREAS, the principal and interest payment shall be payable semi-annually, and the loan shall mature in twenty (20) years, which is within the period of useful life of the Project;

NOW THEREFORE be it ordained by the Mayor and City Council of Rochelle, Ogle County, Illinois as follows:

Section 1. Incorporation of Preambles.

The Corporate Authorities hereby find that the recitals contained in the preambles are true and correct, and incorporate them into this ordinance by this reference.

Section 2. Determination to Borrow Funds.

The Corporate Authorities find that it is necessary and in the best interests of the City of Rochelle to construct the Project for public health, safety and welfare, in accordance with the plans and specifications, as described, that the System continue to be operated in accordance with the provisions of the Act. For the purpose of constructing the Project, it is hereby authorized that funds be borrowed by the City of Rochelle in an aggregate principal amount (which can include construction period interest financed over the term of the loan) not to exceed \$7,000,000.00.

Section 3. Publication

This Ordinance, together with a Notice in the statutory form (attached as Exhibit A), shall be published once within ten days after passage in the Rochelle News-Leader, a newspaper published and of general circulation in the City of Rochelle, and if no petition, signed by electors numbering 10% or more of the registered voters in the City of Rochelle (i.e. [REDACTED] electors) and asking that the question of improving the System as provided in this Ordinance and entering into the Loan Agreement therefore be submitted to the electors of the City of Rochelle, is filed with

the City Clerk within 30 days after the date of publication of this Ordinance and Notice, then this Ordinance shall be in full force and effect. A petition form shall be provided by the City Clerk to any individual requesting one.

Section 4. Additional Ordinances.

If no petition meeting the requirements of the Act and other applicable law is filed during the 30 day petition period, then the Corporate Authorities may adopt additional ordinances or proceedings supplementing or amending this Ordinance providing for entering into the Loan Agreement with the Illinois Environmental Protection Agency, prescribing all the details of the Loan Agreement, and providing for the collection, segregation and distribution of the revenues of the system, so long as the maximum amount of the Loan Agreement, as set forth in the Ordinance is not exceeded and there is no material change in the Project or purposes described herein. Any additional Ordinances or proceedings shall in all instances become effective in accordance with the Act or other complete authority for entering into the Loan Agreement under applicable law.

However, notwithstanding the above, the City of Rochelle may not adopt additional ordinances or amendments which provide for any substantive or material change in the scope and intent of this Ordinance, including but not limited to interest rate, preference, or priority of any other ordinance with this Ordinance, parity of any other ordinance with this Ordinance, or otherwise alter or impair the obligation of the City of Rochelle to pay the principal and interest due the Waste Pollution Control Loan Program without the written consent of the Illinois Environmental Protection Agency.

Section 5. Loan Not Indebtedness of the City of Rochelle.

Repayment of the loan to the Illinois Environmental Protection Agency by the City of Rochelle pursuant to this ordinance shall be made solely from the revenues derived from the operation of the System, and the loan does not and shall not constitute an indebtedness of the City of Rochelle within the meaning of any constitutional or statutory limitation.

Section 6. Application for Loan.

The City Manager is hereby authorized to make application to the Illinois Environmental Protection Agency for a loan through the Waste Pollution Control Loan Program, in accordance with the loan requirement set out in 35 Ill. Adm. Code 662.

Section 7. Acceptance of Loan Agreement.

The Corporate Authorities hereby authorize acceptance of the offer of a loan through the Waste Pollution Control Loan Program, including all terms and conditions of the Loan Agreement as well as all special condition contained therein and made part thereof by reference. The Corporate Authorities further agree that the loan funds awarded shall be used solely for the

purposes of the Project as approved by the Illinois Environmental Protection Agency in accordance with the terms and conditions of the Loan Agreement.

Section 8. Reserve Accounts

As long as the City of Rochelle has outstanding revenue bonds payable from revenues of the System that are senior to the revenue bond authorized by this ordinance, the City of Rochelle shall maintain an account, coverage and reserves equivalent to the accounts, coverages, and reserves required by the outstanding ordinances.

Section 9. Authorization of Mayor to Execute Loan Agreement.

The City Manager is hereby authorized and directed to execute the Loan Agreement with the Illinois Environmental Protection Agency. The Corporate Authorities may authorize by resolution a person other than the City Manager for the sole purpose of authorizing or executing any documents associated with payment requests or reimbursements from the Illinois Environmental Protection Agency in connection with this loan.

Section 10. Severability.

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 11. Repealer.

All Ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

PASSED AND APPROVED this ____ day of _____, 2018

Ayes: _____ Nays: _____ Abstain/Absent: _____

Attested: _____
City Clerk Mayor

PUBLISHED in the Rochelle News-Leader on _____, 2018

RECORDED in the City of Rochelle Records on _____, 2018

ATTEST:

Clerk, Sue Messer, City of Rochelle
Ogle County, Illinois

EXHIBIT A
(Publication Notice)

NOTICE OF INTENT TO BORROW FUNDS AND RIGHT TO FILE PETITION

NOTICE IS HEREBY GIVEN that pursuant to Ordinance No. _____, adopted on _____, 2018, the City of Rochelle, Ogle County, Illinois (the “City”), intends to enter into a Loan Agreement with the Illinois Environmental Protection Agency in an aggregate principal amount not to exceed \$7,000,000.00 and bearing annual interest at an amount not to exceed the maximum rate authorized by law at the time of execution of the Loan Agreement, for the purpose of paying the costs of certain improvements public water supply system of the City of Rochelle. A complete copy of the Ordinance accompanies this Notice.

NOTICE IS HEREBY FURTHER GIVEN that if a petition signed by or more electors of the City (being equal to 10% of the registered voters of the City of Rochelle) requesting that the question of improving the public water supply system and entering into the Loan Agreement is submitted to the City Clerk of the City of Rochelle within 30 days after the publication of this Notice, the question of improving the public water supply system of the City of Rochelle as provided in the Ordinance and Loan Agreement shall be submitted to the electors of the City of Rochelle at the next election to be held under general election law on November 6, 2018. A petition form is available from the office of the Clerk of the City of Rochelle.

City Clerk
City of Rochelle
Ogle County, Illinois

CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Rochelle, County of Ogle and State of Illinois, and as such City Clerk, I am the keeper of the journals, records and files of the City of Rochelle.

I do hereby certify that the attached Ordinance, Number _____ presented to the City Council on the ____ day of _____, 2018 and as signed by the Mayor of the City of Rochelle on the ____ day of _____, 2018 as attested by the City Clerk, all as appears from the official records of the City in my Car and custody.

IN WITNESS WHEREOF, I have hereunto affixed by official signature and the corporate seal of the City of Rochelle, Illinois this _____ day of _____, 2018.

Sue Messer
City Clerk, City of Rochelle

(SEAL)