
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

AN ORDINANCE AMENDING CHAPTER 66 ARTICLE III ENTITLED
“OFFENSES AGAINST PROPERTY”

JOHN BEARROWS, Mayor
SUE MESSER, City Clerk

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

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
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: _____, 2019

AN ORDINANCE AMENDING CHAPTER 66 ARTICLE III ENTITLED
“OFFENSES AGAINST PROPERTY”

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 (“City”) in an effort to promote the health, safety, and welfare of the City and its residents desires to amend Chapter 66 Article III of the Rochelle Municipal Code to adequately address and remedy certain nuisances caused by excessive graffiti in the City (“Amendments”); and

WHEREAS, pursuant to 65 ILCS 5/11-20-13, the City is authorized to remove graffiti from public and private property, after reasonable notice is provided and may collect reason removal costs; and

WHEREAS, said Amendments shall be codified as Section 66-62 entitled “GRAFFITI ORDINANCE” of Chapter 66, Article III, of the Rochelle Municipal Code; 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 approve said Amendments; 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: That Section 66-62 “GRAFFITI ORDINANCE” of Chapter 66, Article III, of the Rochelle Municipal Code be and is hereby created and established by adding the following underlined language in numerical order:

Sec. 66.62. Graffiti Ordinance

Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Graffiti means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

Graffiti implement means any aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

Graffiti stick means any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark on any natural or man-made surface, at least 1/8 of an inch in width.

Sec. 66.63. Graffiti Defacement

It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city owned property or, without the permission of the owner or occupant, on any non-city owned property.

Sec. 66.64. Removal of Graffiti.

Removal by Perpetrator. Any person who applies graffiti on public or private property shall have the duty to remove said graffiti within twenty-four (24) hours after Notice by the City and/or Private Owner of the property. Removal shall be done in a manner prescribed by the City. Any person applying graffiti shall be responsible for the removal and payment for removal. A failure to remove and/or pay for removal may constitute an additional violation of this Section.

By City. If graffiti is not removed by a perpetrator, the graffiti may be removed by the City within seven (7) days upon notice or the property owner having primary control of the property shall remove the graffiti within seven (7) days following receipt of Notice from the City. The Notice shall contain the following information:

1. Street address and legal description of the property sufficient for identification of the property;
2. A statement that the property is a potential graffiti nuisance with a description leading to the finding;

3. A statement that the graffiti must be removed within seven (7) days after receipt of Notice and if the graffiti is not abated within that time, the City will declare the property to be a public nuisance; and
4. Attach an information sheet identifying any graffiti removal assistance program available through the City and private graffiti removal contractors.

The City shall have the right, but not the duty, to remove graffiti from the exterior of private property if the owner informs the City of an inability to remove it. Prior to the City entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the City and agreeing to pay the reasonable costs of such removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the City within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the City harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the City or its employees to remove the graffiti prior to the City commencing work on the property. If the City determines they cannot remove the graffiti, the responsibility of the removal is reinstated to the owner for the owner. A certified letter will be sent to the owner of the property so advising. If the property owner does not remove the graffiti within the time specified or extended time requested and granted by the City, the owner shall be subject to the penalties listed in Section 66-65 of this section.

If the property owner is not located or they are unavailable and normal attempts to notify the owner have been made, after 14 days after the time of the discovery of the graffiti the City shall have the right, but not the duty to remove the graffiti from the exterior or private property. A notice will be left at the property and a certified letter sent to the property owner of record advising them of the graffiti abatement.

If the City performs the graffiti removal pursuant to this Chapter and if an invoice was is not paid within 30 days, the City shall be entitled to initiate collection actions and file a notice of lien against the property upon which the work was performed for the cost of the removal.

Removal requirements may be waived if the property owner can provide a showing that they lack the financial ability to remove and/or pay for removal of the graffiti.

Sec. 66.65. Penalties, Abatement, and Cost Recovery Proceedings.

A violation of this Chapter shall be punishable as provided in Section 1-15 of this Code. In addition, the City may order a reimbursement of all costs pertaining to the removal of graffiti as provided in 65 ILCS 5/11-20-13 of the Illinois Municipal Code.

Sec. 66.66. Reports

The City Manager and/or his designee shall provide, no less than annually, a written report to the City Council of graffiti incidents involving City property and removal efforts by the City. Such report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the City and the cost of such removal.

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 ____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED THIS ____ day of _____, 2019.

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 CHAPTER 66 ARTICLE III ENTITLED “OFFENSES AGAINST PROPERTY”” which was adopted by the Mayor and City Council of the City of Rochelle on _____, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this ____ day of _____, 2019.

CITY CLERK