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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 6 OF THE ROCHELLE  
MUNICIPAL CODE AUTHORIZING THE DELIVERY AND CARRY  
OUT OF MIXED DRINKS BY LICENSED ESTABLISHMENTS**

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

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

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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: January 25, 2021**

**AN ORDINANCE AMENDING CHAPTER 6 OF THE ROCHELLE  
MUNICIPAL CODE AUTHORIZING THE DELIVERY AND CARRY  
OUT OF MIXED DRINKS BY LICENSED ESTABLISHMENTS**

**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 COVID-19 pandemic has necessitated the imposition of national, state and local actions/orders to help mitigate the spread of the COVID-19 virus; and

**WHEREAS**, on June 2, 2020, Governor Pritzker signed H.B. House Bill 2682, which amended the Illinois Liquor Control Act, 235 ILCS 5/1 *et seq.* (the “Act”), to temporarily provide for the delivery and carry out of mixed drinks pursuant to Section 6-28.8 of the Act; and

**WHEREAS**, the Mayor and City Council seek to support City businesses who have been negatively impacted by the COVID-19 pandemic by amending the Rochelle Municipal Code to permit establishments holding certain liquor licenses issued by the City to sell mixed drinks for delivery and carry out; 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 6 of the Municipal Code of the City of Rochelle entitled “ALCOHOLIC BEVERAGES” shall be hereby amended by adding Article IV entitled “DELIVERY AND CARRY OUT OF MIXED DRINKS” as follows:

**Sec. 6-80. – Definitions.**

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

*Cocktail or Mixed Drink:* Any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.

*Original Container:* A container that is filled, sealed, and secured by a retail licensee's employee at the retail licensee's location with a tamper-evident lid or cap.

*Retail Licensee:* Any establishment holding a valid Class B, P, C, R, and S liquor licensed issued by the City.

*Sealed Container:* A rigid container that contains a mixed drink, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. "Sealed container" does not include a container with a lid with sipping holes or openings for straw or a container made of plastic, paper, or polystyrene foam.

*Tamper-Evident:* A lid or cap that has been sealed with tamper-evident covers, including, but not limited to, wax dip or heat shrink wrap.

**Sec. 6-81. – Sale of Mixed Drinks.**

A cocktail or mixed drink placed in a sealed container by a retail licensee at the retail licensee's location may be transferred and sold for off-premises consumption if the following requirements are met:

1. The cocktail is transferred within the licensed premises, by a curbside pickup, or by delivery by an employee of the retail licensee who:

(a) Has been trained in accordance with the provisions of Section 6-27.1 of the Illinois Liquor Control Act (235 ILCS 5/6-27.1);

(b) Is at least twenty-one (21) years of age; and

(c) Upon delivery, verifies the age of the person to whom the cocktail is being delivered;

2. If the employee delivering the cocktail is not able to safely verify a person's age or level of intoxication upon delivery, the employee shall cancel the sale of alcohol and return the product to the retail licensee;

3. The sealed container is placed in the trunk of the vehicle or if there is no trunk, in the vehicle's rear compartment that is not readily accessible to the passenger area;

4. The sealed container shall be affixed with a label or tag that contains the following information:

- (a) The cocktail or mixed drink ingredients, type, and name of alcohol;
- (b) The name, license number, and address of the retail licensee that filled the original container and sold the product and the date sold;
- (c) The volume of the cocktail or mixed drink in the sealed container; and
- (d) The sealed container was filled less than seven (7) days before the date of sale.

**Sec. 6-82. – Compliance With Executive Orders.**

If there is an executive order of the Governor of the State of Illinois in effect during a disaster, the employee delivering the mixed drink or cocktail must comply with any requirements of that executive order, including, but not limited to, wearing gloves and a mask and maintaining distancing requirements when interacting with the public.

**Sec. 6-83. – Limitations.**

Cocktails or mixed drinks may not be sold or delivered, and the authorizations of this section do not permit such sale or delivery if:

1. A third party not employed by the retail licensee delivers the cocktail or mixed drink;
2. A container of a mixed drink or cocktail is not tamper-evident and sealed;
3. A container of a mixed drink or cocktail is to be transported in the passenger area of a vehicle;
4. A mixed drink or cocktail is delivered by a person or to a person who is under the age of twenty-one (21); or
5. The person delivering a mixed drink or cocktail fails to verify the age of the person to whom the mixed drink or cocktail is being delivered.

**Sec. 6-84. – Violations.**

Violations: Any violations of this section shall be subject to any applicable penalties, including, but not limited to, the penalties specified under Section 11-502 of the Illinois Vehicle Code (625 ILCS 5/1-1 et. seq.) and the penalties contained within this chapter.

SECTION THREE: Chapter 106, “VEHICLES FOR HIRE”, Article III, “Maintenance and Conduct”, of the Municipal Code of the City of Rochelle shall be hereby amended by adding the following underlined language:

**Sec. 106-48. – Delivery of alcoholic liquor prohibited.**

It is unlawful for the owner or driver of any taxicab licensed under this article to make deliveries of alcoholic liquor in any manner whatsoever, except for the transport and delivery of cocktails and mixed drinks by employees of a retail licensee in compliance with the provisions of Chapter 6, Article IV “DELIVERY AND CARRY OUT OF MIXED DRINKS.”

SECTION FOUR: 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 FIVE: 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 SIX: The City Clerk shall publish this Ordinance in pamphlet form.

SECTION SEVEN: 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 25<sup>th</sup> day of January, 2021.

AYES:

NAYS:

ABSENT:

APPROVED THIS 25<sup>th</sup> day of January, 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 6 OF THE ROCHELLE MUNICIPAL CODE AUTHORIZING THE DELIVERY AND CARRY OUT OF MIXED DRINKS BY LICENSED ESTABLISHMENTS” which was adopted by the Mayor and City Council of the City of Rochelle on January 25, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 25<sup>th</sup> day of January, 2021.

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CITY CLERK