

**ORDINANCE NO. 2158**

**AN ORDINANCE  
AMENDING ARTICLE IX OF CHAPTER 18 OF THE  
VILLAGE OF RANTOUL CODE IN CONNECTION WITH THE  
USE OF MOTOR VEHICLES FOR THE COMMISSION OF CERTAIN OFFENSES**

**VILLAGE OF RANTOUL  
CHAMPAIGN COUNTY, ILLINOIS**

**CERTIFICATE OF PUBLICATION**

Published in pamphlet form this 12th day of August, 2008, by authority of the President and Board of Trustees of the Village of Rantoul, Champaign County, Illinois.

---

Village Clerk

**ORDINANCE NO. 2158**

**AN ORDINANCE  
AMENDING ARTICLE IX OF CHAPTER 18 OF THE  
VILLAGE OF RANTOUL CODE IN CONNECTION WITH THE  
USE OF MOTOR VEHICLES FOR THE COMMISSION OF CERTAIN OFFENSES**

**BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF RANTOUL, ILLINOIS**, as follows:

**Section 1. Adoption.** Article IX, entitled “USE OF MOTOR VEHICLES FOR THE COMMISSION OF CERTAIN OFFENSES”, of Chapter 18, entitled “Miscellaneous Offenses”, of the Village of Rantoul Code-1977, as supplemented and amended, be and the same is hereby further supplemented and amended to provide as set forth in the title, headings and text thereof as attached hereto and hereby incorporated herein by this reference thereto.

**Section 2. Effective Date.** The provisions of this Ordinance shall become effective following its passage, approval and publication as required by law.

**Section 3. Conflict.** All ordinances or parts of ordinances which are in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 4. Publication.** The Village Clerk is hereby authorized and directed to cause this Ordinance to be published in pamphlet form.

This ordinance is hereby passed, the “ayes” and “nays” being called, by the concurrence of a majority of the members of the Corporate Authorities then holding office at a regular meeting on the date set forth below.

**PASSED** this 12th day of August, 2008.

\_\_\_\_\_  
Village Clerk

**APPROVED** this 12th day of August, 2008.

\_\_\_\_\_  
Village President

## ARTICLE IX

### USE OF MOTOR VEHICLES FOR THE COMMISSION OF CERTAIN OFFENSES

#### Section 18.9.1. Definitions.

For purposes of this Article, and the interpretation and enforcement thereof, the capitalized words, terms and phrases set forth below shall have these meanings respectively ascribed to them in this Section as follows:

(a) **“Motor Vehicle”** means every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles, and motor scooters.

(b) **“Owner of Record”** means, collectively, the record title holder or holders of the Motor Vehicle.

#### Section 18.9.2. Violations; exceptions.

(a) The Owner of Record of any Motor Vehicle shall be liable to the Village for an administrative penalty in the amount of Five Hundred Dollars (\$500.00), plus any applicable towing and storage fees payable to a towing agent, whenever any such Motor Vehicle is used in the commission of any of the following offenses:

(1) the knowing possession of more than 10 grams of cannabis as provided in Section 4 of the Cannabis Control Act (720 ILCS 550/4) or the knowing possession of a controlled substance in violation of Section 402 of the Illinois Controlled Substances Act (720 ILCS 570/402).

(2) driving under the influence of alcohol, drugs and/or intoxicating compounds in violation of Section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501).

(3) driving at a time when the driver’s license, permit or privilege to operate a Motor Vehicle is suspended or revoked in violation of Section 6-303 of the Illinois Vehicle Code (625 ILCS 5/303).

(4) fleeing or attempting to elude a police officer in violation of Section 11-204 of the Illinois Vehicle Code (625 ILCS 5/11-205).

(5) the commission of an offense involving a weapon in violation of Article 24 of the Criminal Code of 1961 (720 ILCS 5/24-1 et seq.).

(6) the third or any subsequent offense within a two (2) year period of playing, using or operating a sound amplification system in violation of Section 18.5.5 of this Code.

Any Motor Vehicle used in the commission of any such violation shall be subject to seizure and impoundment as provided in this Article.

(b) For purposes of this Section, a Motor Vehicle is not considered to have been used in a violation that would render such Motor Vehicle eligible for seizure and impoundment if: (1) the Motor Vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered; (2) the Motor Vehicle was operating as a common carrier and the violation occurred without the knowledge of the person in control of the Motor Vehicle; or (3) the alleged Owner of Record provides adequate proof that the Motor Vehicle had been sold to another person prior to the violation.

**Section 18.9.3. Seizure and impoundment.**

Whenever a police officer has probable cause to believe that a Motor Vehicle is subject to seizure and impoundment pursuant to Section 18.9.2 of this Article, such police officer shall provide for the towing of such Motor Vehicle to a facility designated by the Village. Before or at the time the Motor Vehicle is towed, the police officer shall notify the Owner of Record or the person in control of the Motor Vehicle at the time of the alleged violation, whichever is present if there is such a person, of the fact of the seizure and impoundment and of the right of the Owner of Record to request a vehicle impoundment hearing under this Article.

**Section 18.9.4. Notice.**

Within 72 hours after a Motor Vehicle is seized and impounded pursuant to Section 18.9.3 of this Article, the police department shall notify by certified mail the Owner of Record and any lien holder of record of the fact of the seizure and impoundment and the right to request a Motor Vehicle impoundment hearing under this Article. However, no such notice need be sent to the Owner of Record if the Owner of Record is personally served with the notice at the time the Motor Vehicle is seized and impounded and the Owner of Record acknowledges receipt of such notice in writing. A copy of such notice shall be forwarded to the hearing officer. The notice shall state the penalties that may be imposed if no hearing is requested, including that a Motor Vehicle not released by payment of the administrative penalty and applicable towing and storage fees may be sold or disposed of by the Village in accordance with applicable law.

**Section 18.9.5. Hearing.**

The Owner of Record seeking a vehicle impoundment hearing shall file a written request for such a hearing with the Police Department of the Village no later than 15 days after notice was mailed or otherwise given to the Owner of Record under Section 18.9.3 or Section 18.9.4 of this Article. The hearing date shall be no more than 10 calendar days after a request for a vehicle impoundment hearing has been filed. If, after the vehicle impoundment hearing, the hearing officer determines by a preponderance of the evidence that the Motor Vehicle was used in the violation, the hearing officer shall enter an order finding the Owner of Record liable to the Village for the amount of the administrative penalty prescribed, plus applicable towing and storage fees payable to the towing agent. If, after a hearing, the hearing officer does not determine by a preponderance of the evidence that the Motor Vehicle was used in such a violation, the hearing officer shall enter an order finding for the Owner of Record and for the return of the Motor Vehicle and any previously paid administrative penalty and applicable towing and storage fees; provided that if the Motor Vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws, the Motor

Vehicle shall not be returned unless and until the Village receives notice from the appropriate, state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted; or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the Motor Vehicle shall be returned to the Owner of Record. If the Owner of Record requests a vehicle impoundment hearing but fails to appear at such hearing or fails to request a vehicle impoundment hearing in a timely manner, the Owner of Record shall be deemed to have waived his or her right to such a hearing and the hearing officer shall enter a default order in favor of the Village for the amount of the administrative penalty prescribed, plus applicable towing and storage fees payable to the towing agent. However, if the Owner of Record pays such administrative penalty and applicable towing and storage fees and the Motor Vehicle is returned to the Owner of Record, no default order need be entered if the Owner of Record is informed of his or her right to a hearing and signs a written waiver, in which case an order of liability shall be deemed to have been made when the Village receives the written waiver.

**Section 18.9.6. Hearing officer; proceedings.**

(a) The Village President or his or her designee shall serve as the hearing officer for vehicle impoundment hearings under this Article.

(b) All interested persons shall be given a reasonable opportunity to be heard at any vehicle impoundment hearing. The formal rules of evidence will not apply at any such hearing.

(c) Any sworn or affirmed report, including a report prepared in compliance with Section 11-501.1 of the Illinois Vehicle Code (625 ILCS 5/11-501.1) that (1) is prepared in the performance of a law enforcement officer's duties and (2) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the Owner of Record's liability under Section 8.9.2 of this Article, and shall support a finding of the Owner of Record's liability under Section 8.9.2 of this Article, unless rebutted by clear and convincing evidence.

**Section 18.9.7. Disposition of impounded vehicle.**

An administrative penalty imposed pursuant to this Article shall constitute a debt due and owing the Village which may be enforced in any manner provided by law. Except as otherwise provided in this Article, a Motor Vehicle impounded pursuant to this Article shall remain impounded until (1) the administrative penalty is paid in full to the Village and all applicable towing and storage fees are paid to the towing agent, in which case the Owner of Record shall be given possession of the Motor Vehicle, (2) a cash bond in the amount of \$500.00 is posted with the Village Comptroller of the Village and all applicable towing and storage fees are paid to the towing agent, at which time the Motor Vehicle shall be released to the Owner of Record, or (3) the Motor Vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law. Notwithstanding any other provision of this Section, whenever a person with a lien of record against a Motor Vehicle impounded under this Section has commenced foreclosure proceedings, possession of the Motor Vehicle shall be given to that person if he or she pays the applicable towing and storage fees and agrees in writing to refund to the Village the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative penalties imposed under this Article. Notwithstanding any other provision of this Section, no vehicle that was seized and impounded pursuant to state or federal drug asset forfeiture laws shall

be returned to the Owner of Record unless and until the Village has received notice from the appropriate state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted; or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the vehicle shall be returned to the Owner of Record.

**Section 18.9.8. Posting of bond.**

If a cash bond in the amount of \$500.00 is posted with the Village Comptroller of the Village, the impounded Motor Vehicle shall be released to the Owner of Record upon the payment of any applicable towing and storage fees to the towing agent. If an administrative penalty is imposed for any violation under Section 18.9.2 of this Article, the \$500.00 cash bond will be forfeited to the Village; however, in the event a violation under Section 18.9.2 of this Article is not proven by a preponderance of the evidence, the \$500.00 cash bond will be returned to the person posting the bond. All bond money to be forfeited to the Village pursuant to this Section shall be held by the Village Comptroller until 30 days after an administrative penalty is imposed by the hearing officer under this Article, or, if there is a judicial review, until a final judgment is rendered by a court of competent jurisdiction.

**Section 18.9.9. Failure to pay penalty.**

If the administrative penalty and applicable towing and storage fees are not paid within 30 days after an administrative penalty is imposed under this Article against an Owner of Record who defaults by failing to appear at the vehicle impoundment hearing, the Motor Vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable towing and storage fees are not paid within 30 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the Motor Vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles; provided that, if the Motor Vehicle was seized and impounded pursuant to state or federal drug asset forfeiture laws and proceedings have been instituted under state or federal drug asset forfeiture laws, the Motor Vehicle may not be disposed of by the Village except as consistent with those proceedings.