

ORDINANCE NO. 1899

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EULESS, CHAPTER 82, "TRAFFIC AND MOTOR VEHICLES", BY ADDING A NEW ARTICLE ENTITLED "COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS;" AND AMENDING CHAPTER 30, "FEES", BY ADDING A NEW SECTION OUTLINING COMMERCIAL MOTOR VEHICLE PERMIT FEES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Euless, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Euless, Texas (the "City Council") finds that overweight and oversize vehicles are known to damage City of Euless property, including signs, poles, and signals near street edges due to oversize vehicles and street surfaces due to weight; and

WHEREAS, the City Council has determined it is in the best interests, as well as the public health, welfare and safety, of the citizens of the City of Euless that the City regulate these matters under the City's police powers, and the negative effects of the aforementioned damage be eliminated, to the extent possible.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS:

SECTION I

THAT Chapter 82, "Traffic and Motor Vehicles", of the Code of Ordinances of the City of Euless, Texas is hereby amended by adding a new Article entitled "Commercial Motor Vehicle Safety Standards" to read as follows:

ARTICLE VI. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS.

SEC. 82-130 VEHICLE RESTRICTIONS

- (a) Except as otherwise provided in this Article, it shall be unlawful for any person to drive, operate or move, or to cause or permit to be driven, operated, or moved, on any public street within the city, any commercial motor vehicle with or without load, contrary to any of the regulations contained in this section.

- (b) Commercial motor vehicles shall be subject to the vehicle size and weight limitations and restrictions delineated in Chapter 621 of the Texas Transportation Code and to the commercial motor vehicle safety standards delineated in Chapter 644 of the Texas Transportation Code.
- (c) No commercial motor vehicle, truck-tractor, trailer, semitrailer nor combination of such vehicles shall be operated or caused to be operated or permitted to be operated upon any public street within the city having a weight in excess of any one or more of the following limitations:
 - (1) In no event shall the total gross weight, with load, of any vehicle or combination of vehicles, exceed eighty thousand (80,000) pounds.
 - (2) No single axle shall carry a load in excess of twenty thousand (20,000) pounds. A single axle weight shall be defined as the total weight transmitted to the road by all wheels whose centers may be included between two (2) parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.
 - (3) The total gross weight concentrated on the roadway surface from any tandem axle group shall not exceed thirty-four thousand (34,000) pounds for each such tandem axle group. Tandem axle weight shall be defined as the total weight transmitted to the road by two or more consecutive axles whose centers may be included between two (2) parallel transverse vertical planes spaced more than forty (40) inches and not more than ninety-six (96) inches apart, extending across the full width of the vehicle.
 - (4) Vehicles used exclusively to transport ready-mix concrete may be operated upon the public streets of the city with a tandem axle load not to exceed forty-six thousand (46,000) pounds, a single axle load not to exceed twenty-three thousand (23,000) pounds and a gross load not to exceed sixty-nine thousand (69,000) pounds. Before any vehicle used exclusively to transport ready-mixed concrete with a tandem axle load in excess of thirty-four thousand (34,000) pounds may be operated upon the public streets of the city, the owner thereof shall file with the Police Department a surety bond in the sum of fifteen thousand dollars (\$15,000). Such bond shall be conditioned that the owner of such vehicle will pay to the city, within the limit of the bond, all damages done to the public streets and roadways by reason of the operation of such vehicle with a tandem axle load in excess of thirty-four thousand (34,000) pounds.

- (5) The tires shall not carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit issued by the State of Texas.
- (d) The provisions of this section shall not apply to:
- (1) Any person operating or causing to be operated a motor vehicle under a valid and subsisting permit for the operation of overweight or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled issued by the Texas Department of Transportation or the city under the provisions of Chapter 623 of the Texas Transportation Code.
 - (2) Emergency vehicles operating in response to any emergency call.
 - (3) Vehicles operated for the purpose of constructing or maintaining any public utility or street in the city.
 - (4) A single motor vehicle used exclusively to transport recyclable materials may be operated in accordance with Section 622.133 of the Texas Transportation Code.
 - (5) Vehicles used exclusively to transport milk may be operated in accordance with Section 622.031 of the Texas Transportation Code.
 - (6) Vehicles operated on state highways in accordance with Section 623.071 of the Texas Transportation Code.
- (e) The permits referred to in subparagraph (d)(1) of this section shall be subject to the following:
- (1) Upon written application timely made by any person who desires to operate or cause to be operated on the public streets within the city, overweight or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled, where the total gross weight or size of the vehicle and its load exceed the limits allowed by this section, the Police Department may issue a permit for the operation of such equipment or fleets of equipment for a specified period of time, over a route or routes to be designated by the Police Department, if such routes can be determined at the time application for the permit is made.
 - (2) The application for the permit provided for in this article shall be in writing and contain the following:

- (a) The kind of equipment to be operated, with a description of same;
 - (b) The street or streets over which the equipment is to be operated and the date or dates of the operation; and
 - (c) The application shall be signed by the applicant.
- (3) Before a permit is issued under this article, the applicant for the same shall file with the Police Department a bond in an amount to be set and approved by the Police Department. The amount of such bond shall not exceed the product of the number of vehicles for which a permit is sought multiplied by fifteen thousand dollars (\$15,000), which bond shall be payable to the City of Euless and conditioned that the applicant will pay to the city the sum of money necessary to repair any damage which might be occasioned to any public street or publicly owned fixture appurtenant to such street by virtue of operation of any commercial vehicle under such permit. Venue of any suit for recovery upon the bond shall be in Tarrant County and any bond issued hereunder shall contain an unambiguous contractual provision to that effect.
- (4) A fee shall be charged for each permitted vehicle as outlined in Chapter 30, "Fees", of the Code of Ordinances of the City of Euless.
- (5) Any permit issued hereunder shall include at least the following:
- (a) The name of the applicant, the date or dates of the operation, and a description of the equipment to be operated;
 - (b) The signature of an authorized member of the Police Department;
 - (c) The dates for which the permit is issued; and
 - (d) The specified street or streets over which the equipment is to be operated.

SEC. 82-131 OFFENSES

- (a) It shall be unlawful for any person to operate or permit to be operated or aid in the operation of a vehicle on the public streets of the city in violation

of this article. The appropriate officers of the Police Department are empowered to enforce the provisions of this article.

- (b) It shall be unlawful for any person to load, or cause to be loaded, a vehicle for operation on the public streets of the city with the intent to violate the weight limitations established in this article. Intent to violate such limitations is presumed if the loaded vehicle exceeds the applicable gross vehicular weight limit by fifteen (15) percent or more.

SEC. 82-132 ENFORCEMENT OF VIOLATIONS BY CITY; FINE

Any police officer certified as a commercial motor vehicle inspector having reason to believe that the gross weight, vehicle tire load limit, or axle load of a loaded motor vehicle is unlawful, is authorized to weigh the same by means of a portable or stationary scales, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing. If a vehicle is found to be in violation of the weight limits set out in this article, the driver of the vehicle may be issued a citation. An offense under this article is punishable by a fine not to exceed the maximum amount set by Federal and State law.

SECTION 2. PERMIT FEES

THAT Chapter 30, "Fees", of the Code of Ordinances of the City of Euless, Texas is hereby amended by adding a Section entitled "Commercial Motor Vehicle Permit Fees" to read as follows:

SECTION 30-47. COMMERCIAL MOTOR VEHICLE PERMIT FEES.

- (a) Overweight load, single-trip permit only: \$60.00
- (b) Oversize load:
 - 1. Single-trip: \$60.00
 - 2. Not to exceed 30 days: \$120.00
 - 3. Not to exceed 60 days: \$180.00
 - 4. Not to exceed 90 days: \$240.00
 - 5. Not to exceed 365 days: \$270.00

SECTION 3. CUMULATIVE

This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Euless, Texas, except where the provisions of this ordinance

are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 4. SEVERABLE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5. SAVINGS

All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating vehicles that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 7. PUBLICATION

The City Secretary of the City of Euless is hereby directed to publish in the official newspaper of the City of Euless, as required by Section 12 of Article II of the Charter of the City of Euless.

SECTION 8. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PRESENTED AND PASSED ON FIRST AND FINAL READING at a regular meeting of the Eules City Council on the 25th day of January 2011, by a vote of ___ ayes, ___ nays and ___ abstentions.

APPROVED:

APPROVED AS TO FORM:

Mary Lib Saleh
Mayor

Wayne K. Olson
City Attorney

ATTEST:

Susan Crim, TRMC
City Secretary