

ORDINANCE 920

AN ORDINANCE REPEALING ORDINANCES 696 AND 781 IN THEIR ENTIRETY AND ESTABLISHING VEHICLE WEIGHT LIMITS, DIMENSIONS, TRUCK ROUTES AND PERMITS FOR THE VILLAGE OF ELWOOD, WILL COUNTY, ILLINOIS

**PASSED AND APPROVED BY
THE PRESIDENT AND BOARD OF TRUSTEES
THE 27 DAY OF August, 2008**

Published in pamphlet form by
authority of the corporate authorities
of the Village of Elwood, Illinois
the 2 day of September, 2008.

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WHEREAS, the Village of Elwood (sometimes hereinafter "Elwood" or the "Village") is a home rule municipal corporation pursuant to Section 6 of Article VII of the Constitution of the State of Illinois; and

WHEREAS, the Village is empowered through the Illinois Vehicle Code, 625 ILCS 5/15-316 *et seq.* and its police powers to impose weight limitations and prohibit the operation of trucks or other commercial vehicles on designated roads within its boundaries to protect the lives, public health, morals and general welfare of its residents, including but not limited to preserving the roadway integrity and otherwise mitigate losses caused by road deterioration and to minimize traffic hazards; and

WHEREAS, the Acting President and the Board of Trustees of the Village of Elwood (hereinafter "Corporate Authorities") have previously adopted Ordinances 696 and 781, wherein certain vehicle weight limits, dimensions, truck routes and permit requirements were established; and

WHEREAS, the Corporate Authorities deem it necessary, proper and in the best interest of the Village to amend the previously established regulations in order to promote the health, safety and general welfare of the residents within Elwood; and

WHEREAS, the Corporate Authorities have determined that the funds derived from permit fees and fines imposed in connection with the regulation of weight and load limits on vehicles using Village roads are necessary and proper for maintenance, repair and replacement of streets and roads when it is required.

NOW THEREFORE, BE IT ORDAINED BY THE ACTING VILLAGE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ELWOOD, WILL COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AND HOME RULE AUTHORITY, AS FOLLOWS:

SECTION 1. INCORPORATION

That the preambles to this Ordinance be, and the same hereby are, incorporated herein by this reference as if set out in full at this place. The provisions of the Illinois Vehicle Code, 625 ILCS 5/15-100 *et seq.* (hereinafter referred to as the "Vehicle Code") are also hereby incorporated herein by reference and are made a part hereof. To the extent that any of the provisions of the Vehicle Code conflict, contradict or are inconsistent with any of the provisions contained in this Ordinance, the respective provisions in this Ordinance shall control.

SECTION 2. RULES OF CONSTRUCTION

The language of this Ordinance shall be interpreted in accordance with the following rules of construction:

- 2.01** The singular number includes the plural number, and the plural number includes the singular;
- 2.02** The word "shall" is mandatory; the word "may" is permissive; and
- 2.03** The masculine gender includes the feminine and neuter.

SECTION 3. GROSS WEIGHT LIMITS

It shall be unlawful for any person(s) to operate or cause to be operated a motor vehicle having a gross weight (including vehicle and maximum load) in excess of six (6) tons, or motorized equipment having a gross weight in excess of six (6) tons (collectively "Over Load Vehicle") on any street, road or highway located within the jurisdiction of Elwood, unless one of the exceptions listed in Section 4 hereunder are applicable to said vehicle(s), or as otherwise permitted pursuant to the language contained in Sections 5 or 6.

SECTION 4. EXEMPT VEHICLES

The following vehicles are exempt from the gross weight limit restrictions described and set forth in Section 3 herein:

- 4.01** Vehicles owned and operated by governmental agencies.
- 4.02** Public utility vehicles owned or operated by the Village, other public bodies, public utility companies, or any contractor or material man thereof, while engaged in the repair, maintenance or construction of streets or utility facilities within the Village, or while traveling to or from such street repairs or public utility facilities, where the only access to such repairs or utility facilities is over streets within Elwood which have not been designated truck routes.
- 4.03** Buses in operation of picking up or dropping off passengers.
- 4.04** Vehicles engaged in the collection and removal of garbage or refuse.
- 4.05** Private snow removal vehicles engaged in snow removal functions on private property(ies) within the Village.
- 4.06** Vehicles registered and used as recreational vehicles.
- 4.07** Tow trucks.
- 4.08** Implements of husbandry.

4.09 Owner-operated vehicles, including but not limited to farm vehicles, but only to the extent such vehicle is operated to and from the owner-operator's residence over a direct route to and from the closest access point to the nearest truck route, as identified on Exhibit "A".

4.10 Emergency vehicles.

4.11 Vehicles involving local destination or origination, if necessary for the conduct of business or service to an occupant or retailer where access thereto or egress therefrom is only available over streets which have not been designated truck routes. Provided, however, any such vehicle with a gross vehicle weight in excess of six (6) tons which travels over any portion of a residential street or any other street not designated as a truck route, as described on Exhibit "A", making more than twelve (12) trips (ingress to and egress from the occupant or retailer is equivalent to one trip) in any given month shall be required to obtain a special permit as described in Section 5 below or otherwise be in violation of this Ordinance.

4.12 Any Over Load Vehicle to which a special permit has been issued under Section 5 herein.

SECTION 5 SPECIAL PERMITS

5.01 The Village Administrator, Village Engineer and Village Clerk (collectively the "Permitting Authority") jointly or individually, upon application by a person (hereinafter "Permittee") in writing and good cause being shown, may issue a special permit authorizing a vehicle or combination of vehicles not in conformity with the weight regulations of Section 3 herein or the wheel and axle load and gross weight provisions of Section 15-111 of the Illinois Vehicle Code, and as amended, to be operated or moved upon any street or highway under the jurisdiction of Elwood which has not been designated a truck route in Exhibit "A". The criterion for eligibility and the fees for permits under this section are more particularly described and set forth in Exhibit "B", attached hereto and incorporated herein by reference. All fee payments under this section shall be deposited in an account to be used only for maintenance, repair and improvement of streets and highways within the jurisdiction of Elwood. The fees established by this Section 5 are deemed by the Village Engineer to be sufficient to compensate in part for the cost of the extra wear and tear on the mileage of streets over which the Over Load Vehicle is to be operated.

5.02 The application for any such permit shall: (1) specifically describe the vehicle or vehicles and load to be operated or moved and the particular streets or highways for which the permit to operate is requested; (2) whether such permit is requested for a single trip or for continuous operation, in which event said applicant may apply for a monthly permit; (3) state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law (Motor Carrier Law"), if so, his certificate, registration or permit number issued by the Illinois Commerce Commission; (4) state the routing requested including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance the Illinois Department of Transportation ("IDOT"); and (5) state if the vehicles or loads are being transported for hire. No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under Motor Carrier Law to have a certificate, registration or permit who does not have such certificate, registration or permit. The requirements in this section are not exclusive, and Elwood reserves the right to impose additional requirements thereunder.

5.03 The Permitting Authority is authorized to withhold such permit at its discretion when consistent with traffic safety or, if such permit is issued, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the streets or highways indicated, to require appropriate escort vehicles for the vehicle subject to the permit, or otherwise to prescribe conditions of operation of such vehicle or vehicles, when such action, in the judgment of the Permitting Authority, is necessary to protect against undue damage to the road foundations, surfaces or structures.

5.04 The Permitting Authority shall not issue a permit hereunder unless the applicant shall have furnished a certificate of comprehensive liability insurance issued by an insurance company licensed to do business in the State of Illinois and which has a B+ Rating or higher, naming Elwood as an additional insured thereunder in an amount not less than \$1,000,000.00. Permittee and his insurance carrier shall indemnify and hold the Village harmless therewith from any claim, loss, or damage that may result from the granting of such permit or that may arise from or on account of any work done thereunder, and further conditioned that the Permittee shall restore at his own cost, to a condition satisfactory to the Permitting Authority, any pavement, street structure or facility, tunnel, sewer, pipe, conduit or other public utility (collectively referred to as the "roadway improvement"), and any public property appurtenant thereto that may be damaged by reason of transportation upon, over or through the roadway improvement(s) under such permit.

5.05 It shall be mandatory for every permit issued under this section to be carried in the vehicle to which it refers and shall be produced for inspection upon request by any police officer or any other municipal officer or employee having police power.

5.06 If a vehicle is subject to a permit required by this section, it shall be unlawful for any person, or any employee or agent of such person, to operate such vehicle without obtaining such permit. It shall be unlawful for any person issued a permit under this section, or any employee or agent of such person, to violate any of the terms or conditions of the permit. Any person charged with a violation of this Section may be prosecuted for such violation. Any person who pleads not guilty for said violation shall be present in court for the trial on the charge. Any person convicted of violating this Section shall be fined not less than ONE THOUSAND AND NO HUNDREDTHS DOLLARS (\$1,000.00) and not more than SIX THOUSAND FIVE HUNDRED AND NO HUNDREDTHS DOLLARS (\$6,500.00). In no event shall a person be fined contemporaneously both under this section and Section 8 hereunder.

5.07 An administrative fee of TWENTY FIVE AND NO HUNDREDTHS DOLLARS (\$25.00) shall be paid by each applicant at the time of filing a permit application to cover the cost of processing the application. All filing fees shall be paid to the Village Finance Department or Village Clerk.

SECTION 6. APPEAL FOR HARDSHIP EXEMPTION

The owner-operator of any vehicle or fleet owner of multiple vehicles which are subject to the gross weight limit restrictions contained herein may submit a written Application for Appeal ("Application") for a Hardship Exemption to the Village Administrator.

6.01 Within seven (7) days of the filing of such an Application, the Village Administrator shall schedule a hearing date thereon. The hearing shall commence within thirty (30) days of the date of Application. The rules of evidence applicable in a court of law in the State of Illinois shall be relaxed at this hearing. The Permitting Authority shall make a ruling and mail to each participant a written decision within fourteen (14) days from the date of the conclusion of the hearing.

6.03 If the Permitting Authority determines that a valid hardship does exist, an exemption may be issued to the applicant. If, however, the vehicle weight limit restrictions are affirmed upon review, the administrative action may be reviewed by a court if the petition for review is filed in the Twelfth Judicial Circuit or any other court of competent jurisdiction within thirty (30) days of the date the ruling was mailed to any party.

6.04 It shall be mandatory for every exemption issued under this section to be carried in the vehicle to which it refers and it shall be produced for inspection upon request by any police officer or any other municipal officer or employee having police power.

SECTION 7. ENFORCEMENT

7.01 The Village Engineer shall keep and maintain an accurate map showing the location of all truck routes which shall be made available to the public.

7.02 The Village Engineer shall cause all truck routes designated on Exhibit "A" to be posted by the erection and maintenance of appropriate signs. Additionally, the Village Engineer shall post appropriate signs on all residential streets not designated on Exhibit "A", prohibiting over load vehicles from traveling thereon.

7.03 No person shall be charged with violating the provisions of Section 3 hereof upon streets where the posting of signs is required, unless such appropriate signs are currently posted thereon.

7.04 Notwithstanding anything to the contrary contained in this Ordinance, the Permitting Authority, Village Clerk and Chief of Police, individually or collectively, or any other person as determined by the Corporate Authorities, shall have the authority to enforce all the provisions contained in this Ordinance.

SECTION 8. PENALTY FOR VIOLATING SECTION 3

Any person charged with a violation of Section 3 herein may be prosecuted for such violation. Any person who pleads not guilty for said violation shall be present in court for the trial on the charge. Any person who pleads guilty or is found guilty of violating Section 3 shall be fined not less than

ONE THOUSAND AND NO HUNDREDTHS DOLLARS (\$1,000.00) and not more than SIX THOUSAND FIVE HUNDRED AND NO HUNDREDTHS DOLLARS (\$6,500.00).

SECTION 9. WEIGHING OF VEHICLES AND REMOVAL OF EXCESS LOADS

9.01 Any police officer having reason to believe that the gross weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing process either by means of portable or stationary scales that have been tested and approved at a frequency prescribed by the Illinois Department of Agriculture. If such scales are not available at the place where such vehicle is stopped, the police officer shall require that such vehicle be driven to the nearest available scale that has been tested and approved by the Illinois Department of Agriculture. Notwithstanding any provisions of the Weights and Measures Act or the United States Department of Commerce NIST Handbook 44, multi or single draft weighing is an acceptable method of weighing by law enforcement for determining a violation of this Ordinance. Village law enforcement vehicles are exempt from the requirements of commercial weighing established in NIST Handbook 44, and as amended.

9.02 Whenever any police officer, upon weighing a vehicle and the load therewith, determines that said weight is unlawful and in violation of this Ordinance, such officer shall require that the driver stop his vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted by this Ordinance. All material so unloaded shall be cared for by the owner or operator of the vehicle at his/her sole risk, and such owner or operator shall indemnify and hold harmless Elwood, its officers, employees and affiliates from any claims or damages incurred therewith.

9.03 Any driver of a vehicle who refuses to stop and submit his vehicle and load to a weighing process after being directed to do so by an officer or removes or causes the removal of the load or part of it prior to completion of the weighing process is guilty of a business offense and shall be fined not less than FIVE HUNDRED AND NO HUNDREDTHS DOLLARS (\$500.00) nor more than TWO THOUSAND AND NO HUNDREDTHS DOLLARS (\$2,000.00). The fines in this subsection shall be in addition to any other fees or fines contained in this Ordinance or under statutory law.

SECTION 10. LIABILITY FOR DAMAGED STREET OR ROADWAY IMPROVEMENTS

10.01 Any person driving any vehicle upon any street within the Elwood corporate limits shall be liable for any damage which said street or appurtenant roadway improvements may sustain as a result of any illegal operation, driving or moving of such vehicle exceeding the maximum weight specified in this Ordinance including whether or not a special permit is obtained in accordance with Section 5 hereunder.

10.02 The measure of liability shall be the cost of repairing the damaged street or roadway improvements or facility partially damaged or the depreciated replacement cost of said roadway improvement or facility damaged beyond repair together with all other expenses incurred by the authorities in control of said street or roadway improvements in providing a temporary detour,

including a temporary structure, to serve the needs of traffic during the period of repair or replacement of the damaged roadway improvement or street.

SECTION 11. FEES FOR POLICE ESCORT

When Elwood Police escorts are required for the safety of the motoring public pursuant to Section 5.03, the following fees shall be paid to the Village by the applicant: \$40.00 per hour per vehicle based upon pre-estimated time of movement to be agreed upon between the Permitting Authority and applicant. A minimum fee of EIGHTY AND NO HUNDREDTHS DOLLARS (\$80.00) shall be imposed per vehicle.

SECTION 12. VEHICLE LENGTH, WIDTH, AND HEIGHT

Every vehicle that travels on any street within the jurisdiction of Elwood shall be subject to and comply with all the provisions contained in the Vehicle Code relating thereto.

SECTION 13. REPEALER

Village Ordinances 696 and 781 are hereby repealed in their entirety. All other Ordinances of the Village inconsistent herewith, to the extent of such inconsistency and no further, are hereby repealed upon the effective date hereof.

SECTION 14. SEVERABILITY

Should any section, subsection or other provision of this Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not effect the validity of the Ordinance as a whole or any part not declared invalid.

SECTION 15. PUBLICATION

The Village Clerk is hereby authorized and directed to publish this Ordinance, by publication in pamphlet form for general distribution in the manner provided by law.

SECTION 16. EFFECTIVE DATE

That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

AYES: 6

NAYS: 0

ABSENT: 0

Trustee	Aye	Nay	Absent	Trustee	Aye	Nay	Absent
Charles Bernhard	X			Donald LaPaglia	X		
Francis "Bud" Jones	X			Mary Matichak	X		
Jason Kucera	X			Walter Strawn	X		

PASSED and APPROVED this 27 day of August, 2008.



WALTER STRAWN,
VILLAGE PRESIDENT PRO TEM

ATTEST:



PATRICIA BUCHENAU,
VILLAGE CLERK

PASSED: This 27 day of August, 2008.

APPROVED: This 27 day of August, 2008.

PUBLISHED: This 2 day of September, 2008.

EXHIBIT "A"
TRUCK ROUTES

NAME OF ROADWAY	BEGINNING AT	EXTENDING TO	DISTANCE
Baseline Road	Arsenal Road	Walter Strawn Drive	1.57 miles
Baseline Road /South Industrial Drive	Walter Strawn Drive	7970 linear feet south	1.51 miles
Walter Strawn Drive	Baseline Road	Illinois Route 53	1.74 miles
CenterPoint Drive	Mississippi Avenue	Walter Strawn Drive	0.56 miles
Mississippi Avenue	Baseline Road	Diagonal Road	1.14 miles
Diagonal Road	Mississippi Avenue	1850 linear feet north	0.35 miles

* All streets not designated as truck routes shall be designated hereunder as residential streets.

* Other streets may be designated as truck routes by resolution of the Corporate Authorities, in its sole discretion. The Village may amend this exhibit by administrative action, without a public hearing or resolution. In such event, any new truck route not stated herein shall have properly posted signs to provide sufficient notice to the general public.

EXHIBIT "B"
SPECIAL PERMIT FEES

In order to limit excessive applications under Section 7 hereunder, the Permitting Authority may divide the Village into various different zones, of substantially equivalent size, for purposes of computing fees under this section.

SINGLE VEHICLE

Vehicle Weight	Single Trip Permit	Monthly Permit
In excess of six (6) tons (10,000 pounds) but less than 73,281 pounds, operated on streets and highways other than routes listed on Exhibit "A" attached hereto, not otherwise exempt pursuant to Section 4, herein	\$20.00	\$240.00

Vehicle Weight exceeds 73,281 pounds but less than 100,000 pounds:

	Single Trip Permit	Monthly Permit
Base Charge per Mile	\$60.00	\$720.00

Vehicle Weight equivalent to or in excess of 100,000 pounds:

	Single Trip Permit	Monthly Permit
Base Charge per Mile	\$100.00	\$1,200.00

* Fees listed above are per vehicle. An applicant who owns or leases a fleet of 20 or more vehicles may obtain a monthly fleet permit, authorizing the use of all vehicles of the fleet in accordance with the fee schedule set forth above. The fee for a fleet permit shall be eighty percent (80%) of the combined monthly permit fees for individual vehicles in the fleet.

* Any vehicle which requires a special permit shall either apply for a single trip permit or monthly permit. All special permit forms shall be on file at the Village Hall.

* The Village may amend this exhibit by administrative action, without a public hearing or resolution.