

# TITLE 1

## GENERAL PROVISIONS

### Chapters:

- 1.01 Code Adoption
- 1.04 General Provisions
- 1.08 Right of Entry for Inspection
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### CHAPTER 1.01

#### CODE ADOPTION

### Sections:

- 1.01.010 Adopted – Copies available.
- 1.01.020 Title – Citation – Reference.
- 1.01.030 Codification authority.
- 1.01.040 Ordinances passed prior to adoption of the Code.
- 1.01.050 Reference applies to all amendments.
- 1.01.060 Title, chapter and section headings.
- 1.01.070 Reference to specific ordinances.
- 1.01.080 Effect of Code on past actions and obligations.
- 1.01.090 Effective date.
- 1.01.100 Constitutionality.

#### **1.01.010 Adopted – Copies available.**

- A. The City Council of the City of Eldon, Iowa does adopt the Eldon Municipal Code including all ordinances through Ordinance 334, dated November 18, 2014 and in effect on January 1, 2015, and does by this ordinance adopt said Eldon Municipal Code as heretofore amended and modified as the Code of the City of Eldon, all as provided by Section 380.8 of the Code of Iowa.
- B. An official copy of the Municipal Code is on file at the office of the City Clerk and will be certified as to its adoption of this ordinance.
- C. Loose-leaf copies of the *Eldon Municipal Code* are available at the City Clerk's office for public inspection. Copies are also available for sale to the public at the City's cost.
- D. A copy of the *Eldon Municipal Code* has been furnished to the city library. A copy of the *Eldon Municipal Code* has been furnished to the Magistrate Division of the Iowa District Court for Wapello County. (Ord. 319, 2009; Ord. 289, 2003; Ord. 204 §2, 1994; Ord. 126 §1, 1975).

#### **1.01.020 Title – Citation – Reference.**

This Code shall be known as the *Eldon Municipal Code* and it shall be sufficient to refer to said Code as the

*Eldon Municipal Code* in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correction or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the *Eldon Municipal Code*. Further reference may be had to the titles, chapters, sections and subsections of the *Eldon Municipal Code* and such references shall apply to that numbered title, chapter, section or subsection as it appears in the Code.

**1.01.030**      **Codification authority.**

This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City, codified pursuant to the provisions of Section 380.8 of the Code of Iowa.

**1.01.040**      **Ordinances passed prior to adoption of the Code.**

The last ordinance included in this Code was Ordinance 334, passed November 18, 2014.

**1.01.050**      **Reference applies to all amendments.**

Whenever a reference is made to this code as the *Eldon Municipal Code* or to any portion thereof, or to any ordinance of the City, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

**1.01.060**      **Title, chapter and section headings.**

Title, chapter and section headings contained herein shall not govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

**1.01.070**      **Reference to specific ordinances.**

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

**1.01.080**      **Effect of the Code on past actions and obligations.**

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

**1.01.090**      **Effective date.**

This Code shall become effective on the date of the ordinance adopting this Code as the *Eldon Municipal Code* becomes effective.

**1.01.100**      **Constitutionality.**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.



## CHAPTER 1.04

### GENERAL PROVISIONS

#### Sections.

1.04.010	Definitions.
1.04.020	Grammatical interpretation.
1.04.030	Prohibited acts include causing, permitting and related acts.
1.04.040	Construction.
1.04.050	Repeal not to revive any ordinances.
1.04.060	Amendment
1.04.070	Severability

#### **1.04.010**      Definitions.

The following words and phrases whenever used in the ordinances of the City of Eldon, Iowa, shall be construed as defined in this section unless from the context a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. “Building” means any man-made structure permanently affixed to the ground
2. “City” means the city of Eldon, Iowa, or the area within the territorial limits of the city of Eldon, Iowa, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision;
3. “Clerk” means Clerk-Treasurer
4. “Computation of time” means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. “Council” means the city council of the city of Eldon, Iowa. “All its members” or “All councilmen” means the total number of councilmen provided by the general laws of the state of Iowa;
6. “County” means the county of Wapello, Iowa;
7. “Fiscal Year” means July 1 to June 30.
8. “Law” denotes applicable federal law, the constitution and statutes of the state of Iowa, the ordinances of the city of Eldon, Iowa, and, when appropriate, any and all rules and regulations which may be promulgated thereunder;
9. “May” is permissive;
10. “Month” means a calendar month;
11. “Must and shall”: Each is mandatory;
12. “Oath” includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” are equivalent to the words “affirm” and “affirmed”;
13. “Or” may be read “and” and “and” may be read “or” if the sense requires it;

14. "Ordinance" means a law of the city; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution;
15. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land;
16. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them;
17. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
18. "Preceding" and "following" mean next before and next after, respectively;
19. "Property" includes real and personal property;
20. "Real property" includes lands, tenements and hereditaments;
21. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
22. "State" means the state of Iowa;
23. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use or such other public property so designated in any law of this state;
24. "Tenant" and "occupant", applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
25. Title of Office. Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the city;
26. "Written" includes printed, typewritten, mimeographed or multigraphed; or electronically transmitted such as facsimile or electronic mail;
27. "Year" means a calendar year;
28. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;
29. When an act is required by an ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

**1.04.020        Grammatical interpretation.**

The following grammatical rules shall apply in the ordinances of the City of Eldon, Iowa:

- A.     Gender. Any gender includes the other gender;
- B.     Singular and Plural. The singular number includes the plural and the plural includes the singular;

- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable;
- D. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language

**1.04.030 Prohibited acts include causing, permitting and related acts.**

Whenever in the ordinances of the City of Eldon, any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions by an agent or employee which have been authorized by the principal.

**1.04.040 Construction.**

The provisions of the ordinances of the City of Eldon, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice.

**1.04.050 Repeal not to revive any ordinances.**

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

**1.04.060 Amendment**

All ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Eldon Municipal Code of 2020 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

**1.04.070 Severability**

If any section, provision or part of the City Code or any subsequent ordinance is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

**CHAPTER 1.08**

**RIGHT OF WAY ENTRY FOR INSPECTION**

**Sections.**

- 1.08.010 Designated.
- 1.08.020 Other right of entry provisions – Amendment.

**1.08.010 Designated.**

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant of the building to be inspected, has been otherwise obtained, he shall give the owner and/or occupant, if he can be located after reasonable effort, twenty-four hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry; and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

**1.08.020      Other right of entry provisions – Amendment.**

All other ordinances or parts of ordinances which grant any official of this city a right of entry are amended to delete such right of entry provisions and insert in their stead the following:

“Any official of the city shall have the right of entry into buildings or premises regulated by this chapter in accordance with the provisions of this chapter.”

## CHAPTER 1.12

### GENERAL PENALTY<sup>1</sup>

#### Sections.

1.12.010	General Penalty.
1.12.020	Civil Penalty - Municipal infraction.
1.12.030	Violations, Penalties and Alternate Relief

#### **1.12.010      General Penalty.**

The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code herein adopted by this reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1 (1) (a).

#### **1.12.020      Civil Penalty - Municipal Infraction.**

##### **1. Definitions.**

- a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Eldon, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Eldon, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.
- b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Eldon.
- c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

#### **1.12.030      Violations, Penalties, and Alternative Relief.**

- a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

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<sup>1</sup> For statutory provisions authorizing cities to levy a fine not to exceed five hundred dollars or impose imprisonment not exceeding thirty days for a violation of a city ordinance, see ICA §364.3(2).

- b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
- c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.
- d. Assessment of Costs for Alternative Relief. Should the court order alternative relief, such as the abatement or correction of the violation, the city council shall assess the costs and expenses for abatement or correction of the violation, including a charge of \$150.00 per hour for labor and equipment, an administrative charge of \$150.00 for handling the complaints, attorney fees, costs of publication of notice and other costs involved in preparation of the plat or schedule thereof against the lots and parcels of land and the owners thereof so far as known, by resolution as a special assessment to the county treasurer, to be collected as any other special assessment. The Court may order that the city's costs for abatement or correction may be entered as a personal judgment against the Defendant or assessed against the property where the violation occurred, or both.
- e. Schedule of Penalties: First Offense shall be \$500.00 and each repeat offense shall be \$750.00.

## 2. Civil Citations.

- a. The Eldon City Council, by an affirmative vote of three (3) councilmembers, shall enforce this chapter and authorize the Mayor, the City Clerk, law enforcement, or other designee, to issue a civil citation for violations herein. A civil penalty for each violation or a civil penalty for each repeat.
  - b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.
  - c. The original of the citation shall be sent to the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the county treasurer. {(364.22(4A(b))} (SF 434)
  - d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
    - (1) The name and address of the defendant.
    - (2) The name or description of the infraction attested to by the officer issuing the citation.
    - (3) The location and time of the infraction.
    - (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
    - (5) The manner, location, and time in which the penalty may be paid.
    - (6) The time and place of court appearance.
    - (7) The penalty for failure to appear in court.
    - (8) The legal description of the affected property, if applicable.
3. Seeking a civil penalty as authorized in Section 364.22, Code of Iowa, does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include the imposition of a civil penalty by entry of a personal judgment against the defendant, directing that the payment of the civil penalty be suspended or deferred under conditions imposed by the court, ordering the defendant to abate or cease the violation or authorizing the City to abate or correct the violation, or ordering that the City's cost for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.
4. This section does not preclude law enforcement from issuing a criminal citation for violation of a City Code or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense. The violation of any provision of this Code of Ordinances or any regulation promulgated thereunder shall also constitute a simple misdemeanor punishable by a fine of \$50.00 or by imprisonment in the county jail for a term not to exceed 30 days.



**CHAPTER 1.16**  
**OFFICIAL SEAL<sup>2</sup>**

**Sections:**

- |          |                         |
|----------|-------------------------|
| 1.16.010 | Designated – Described. |
| 1.16.020 | Clerk’s seal.           |

**1.16.010      Designated – Described.**

The official seal for Eldon shall have on its face on the upper margin the words, “City Seal”, and on the bottom margin the words “Wapello County, Iowa”, and across the face the words “City of Eldon”. Such seal is the seal of Eldon.

**1.16.020      Clerk’s seal.**

The official seal of the clerk shall bear on its face on the left-hand margin the words “City Clerk”, and on the right-hand margin the words, “Eldon, Iowa”, and upon the center thereof the words, “Official Seal”, and such seal is the seal of the clerk of Eldon.

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<sup>2</sup> For statutory provisions regarding the city seal and requiring the mayor to provide for the keeping of same, see ICA 368.2, 368A.1(6) and 368A.2(1).

**CHAPTER 1.20**

**CITY BOUNDARIES**

**Sections:**

1.20.010 Designated.

**1.20.010 Designated.**

The boundaries of Eldon are fixed and defined as follows:

**BOUNDARIES OF ELDON**

Beginning at a point 330 feet west of and 1222 feet south of the southeast corner of Sections 27, 71, 12 and on the southwest side of Water Street, thence along said southwest side of Water Street in a northwesterly direction along the northeast bank of the Des Moines River to the Chicago, Rock Island and Pacific right-of-way, thence west to the northeast edge of the river, thence northwesterly along said Des Moines River to a point approximately 3010 feet north of and 3610 feet west of the southeast corner of Section 27, 71, 12, thence north approximately 950 feet to the east and west quarter section line, thence east approximately 4910 feet to a north and south quarter section line, thence south along this quarter section line, half mile to the northwest corner of the southeast quarter of the southwest quarter of Sections 26, 71, 12, thence east quarter mile, thence south three-quarter mile to the center of Sections 35, 71, 12, thence west quarter mile more or less to the east edge of the Des Moines River, thence northwesterly along the edge of said river to the place of beginning;

AND

The northeast quarter of the northeast quarter of the northeast quarter of Section 27, Township 71 North, Range 12 West of the 5<sup>th</sup> P.M., and the north 22 acres of the northwest quarter of the northwest quarter of Section 26, Township 71 North, Range 12 West of the 5<sup>th</sup> P.M. (Voluntary Annexation 5-3-66);

AND

A strip of land 27 feet in width beginning at the northwest corner of Jaques' Second Addition to the city of Eldon, Iowa, and intersecting with Railroad Street now running along the west side of said Jaques' Second Addition, and running thence in a northerly direction along the right-of-way of the Chicago, Rock Island and Pacific Railway Company to the south line of the 22 acres (being the north part of the northwest quarter of the northwest quarter), in Section 26, Township 71 North, Range 12 West (Voluntary Annexation 5-3-66);

AND

All that part of the south 18 acres of the northwest quarter of the northwest quarter lying east of the right-of-way of the Chicago, Rock Island and Pacific Railway Company, except a strip 27 feet wide, beginning at the northwest corner of Jaques' Second Addition to Eldon, northerly along the right-of-way of said R.R. to the north line of said 18 acres, in Section 26, Township 71 North, Range 12 West of the 5<sup>th</sup> P.M., in Wapello County, Iowa (Voluntary Annexation 7-3-73). (Ord. 2 (part)).<sup>3</sup>

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3 <sup>3</sup>Revised ordinances of 1922, passed January 3, 1922.

## CHAPTER 1.24

### STREETS AND AVENUES

## CHAPTER 1.28

### NUMBERING BUILDINGS<sup>5</sup>

#### Sections:

1.28.010	Philadelphia plan – Street name placement.
1.28.020	Base lines – Odd and even numbers.
1.28.030	East and west streets.
1.28.040	North and south streets.
1.28.050	On number for each twenty-two feet – Fractions.
1.28.060	Placement of number.
1.28.070	New buildings – Noncompliance.
1.28.080	Enforcement.
1.28.090	Furnishing owner with certificate of number.
1.28.100	Violation – Action.

#### **1.28.010**      **Philadelphia plan – Street name placement.**

All the houses now or hereafter erected or to be erected within the corporate limits of the city, when numbered shall be so far as practicable, on the same as that known as the Philadelphia plan; the number and names of streets shall be placed upon the corners of blocks by the city.

#### **1.28.020**      **Base lines – Odd and even numbers.**

Elm Street and the Chicago, Rock Island and Pacific Railway right-of-way (Kansas City Division) in the city, shall constitute the base lines from which the numbering of buildings fronting or situated on streets extending from either of said lines, and on either side thereof, shall commence. The odd numbers on the northerly side of the streets shall run east and west; the westerly side of the streets shall run north and south; and the even numbers on the opposite side of said streets, respectively, shall progress alternately from side to side, said numbers being one hundred to each block.

#### **1.28.030**      **East and west streets.**

All those portions of any and all streets intersecting the Chicago, Rock Island and Pacific Railway right-of-way (Kansas City Division), and running east and west parallel with Elm Street, which lie east of the Chicago, Rock Island and Pacific Railway right-of-way (Kansas City Division), shall hereafter be known and designated by the prefix “east” and those which lie west of the Chicago, Rock Island and Pacific Railway right-of-way (Kansas City Division), by the prefix “west”, to the names of said streets, respectively.

#### **1.28.040**      **North and south streets.**

All those portions of any and all streets intersecting Elm Street and running north and south, which are north of Elm Street, shall hereafter be known and designated by the prefix “north”, and those which lie south of Elm Street by the prefix “south”, added to the names of said streets respectively.

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5 <sup>5</sup>For statutory provisions authorizing municipalities to require the numbering of buildings, see 364.12(3)(d).

**1.28.050**      **One number for each twenty-two feet – Fractions.**

Each block shall be so divided in the numbering that there shall be one number allowed so far as practicable for every twenty-two feet of ground fronting on the several streets. In all numbers of lots whenever a fraction of land less than twelve feet occurs it shall be designated by the number before it with the figure “½” added to it.

**1.28.060**      **Placement of numbers.**

The owner of every building, residence or store within the corporate limits of Eldon shall have conspicuously on his building, residence or store, on or over the main or front entrance door thereto and thereof, the number of the building, residence or store.

**1.28.070**      **New buildings – Noncompliance.**

The owner of every building, residence or store hereafter erected within the corporate limits of the city, within ten days after the building, residence or store is ready for occupancy, shall place, or cause to be placed, in a conspicuous place on the building, over or at the side of the main entrance doors thereof, the number of the building, as provided in Section 1.28.060. The figures of every number shall not be less than two and one-half inches in length. Each figure shall be plain, legible and placed in a conspicuous position on the front side or above the door of every such building. The figures may be of metal or wood, and may be painted upon metal or glass, but in every case the number shall be at least two and one-half inches in height; and, if painted, shall be of durable and legible character; and the numbering done or attempted to be done in numbers or figures of less size than herein prescribed shall not be regarded as complying with the provisions of this chapter.

**1.28.080**      **Enforcement.**

It shall be the duty of the city council to see that the provisions of this chapter are enforced, and when numbers or figures by reason of wear, decay or age, become obscure or illegible, he may order the house or building renumbered.

**1.28.090**      **Furnishing owner with certificate of number.**

It shall hereafter be the duty of the city clerk to deliver to each owner, agent or occupant of any building applying to him therefor and furnishing him with a description of the premises owned or occupied by him and an accurate statement of the location of the building thereon, a certificate of the number to be placed on the building.

**1.28.100**      **Violation**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.