

auction, nor permit sheriffs, deputy sheriffs, coroners, constables, collectors of taxes, executors, administrators, guardians or any other person required by law to sell any real or personal estate from selling such property by public sale or auction.

SEC. 6. No appointment as above mentioned shall continue in force for more than one year from the date thereof.

Approved January 17, 1840.

NOTE.—The word "permit" is in the enrolled bill as printed here, in second line of fifth section, probably intended "prevent."—[Supervisor.]

[Chap. 84.]

AN ACT to incorporate the city of Du Buque.

Boundaries.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the city of Du Buque shall be bounded as follows: Beginning at a point in the middle of the main channel of the river Mississippi east and parallel with the south line of the town of Du Buque as surveyed and laid off by the commissioners appointed under an act of congress to lay off the towns of Fort Madison, Burlington, and Du Buque, &c. and running westwardly with the said line to a stone which marks the southwest corner of said town, thence northwardly to a stone which marks the northwest corner of said town; thence, with the line of said town, to the slough; thence east-north-east to the middle of the main channel of the Mississippi river; thence with said channel to the place of beginning. All the inhabitants resident within the aforesaid limits are hereby declared to be incorporated by the name of "The Mayor and Aldermen of the City of Du Buque."

Incorporation.

Election of city council.

SEC. 2. There shall be elected on the first Monday of April one thousand eight hundred and forty, and annually thereafter, one mayor and six aldermen, who shall hold their offices for one year and until their successors are elected and qualified, and they shall be the judges of their own elections, and the mayor and aldermen shall constitute the city council, a majority of whom shall constitute a quorum to do business. The said election shall be ballot, and each free white male citizen of the age of twenty-one years, who has been a resident of said city three months prior to the day of election, shall be entitled to vote at all elections for city officers.

Corporate powers.

SEC. 3. That the mayor, aldermen and inhabitants thereof shall be a body politic and corporate,

with perpetual succession to be known by the name of the mayor and aldermen of the city of Du Buque, and shall be capable in law by their corporate name to acquire real and personal property for the use of said city, sell and convey the same, may have a common seal, and may alter and change the same at pleasure; they may sue and be sued, plead and be impleaded, defend and be defended, in all manner of courts of judicature in this territory, and in all manner of actions whatever, and when any suit shall be brought against the city an attested copy of the summons shall be left with the mayor or at his place of residence, ten days before the return thereof, or in his absence with the clerk of the council.

SEC. 4. The mayor and aldermen shall have ^{City council,} power to make and establish by-laws, regulations ^{powers.} and ordinances for the government of the city, and alter and repeal the same at pleasure, to prescribe the duties and compensation of such subordinate officers as they may deem proper, to appoint and remove them at pleasure, to fix reasonable fines and penalties for any violation of the laws and ordinances of the corporation: *Provided*, That no person shall be fined exceeding fifty dollars for any one offence against any one ordinance, and may be recovered by action of debt before any justice or any magistrate of competent jurisdiction within the limits of the city, and to provide for the collection and disposition of the same, and no by-laws or ordinances shall take effect until the same shall have been published.

SEC. 5. The city council shall have power to ^{Same.} grade, ditch and cut sewers, to make, alter, widen and repair streets, lanes and alleys; to make and repair wharves or public landings within the corporation, to license houses where liquor is sold by the dram, to license, drays, carts and other vehicles kept for public hire, to license and prohibit shows and other public exhibitions, to dig and keep in repair public wells, to license and regulate billiard tables, to prohibit the discharging of firearms and the racing or immoderate running of horses within the corporation, to levy and collect a tax upon dogs, to restrain or prohibit the running at large of ferocious animals, to establish and regulate public markets, to establish and regulate the rate of wharfage of all boats or vessels or rafts landing within the limits of the cor-

poration, to establish a ferry or ferries and for annually leasing the same, to cause to be fenced vacant or unimproved lots, to restrain and prohibit houses of ill fame, and all indecent exhibitions within the city, to hold, purchase and convey real and personal estate for the use of said city, to borrow money at any rate of interest not to exceed twenty per centum per annum, and all money so borrowed shall be expended in the public improvement of the city and for no other purpose, and to secure the payment thereof they shall have the power to pledge the faith and property of said city, to levy and collect a tax on all real and personal property within the corporation and subject to a county tax: *Provided*, it shall not exceed in any one year more than the one-fourth of one per centum of the aggregate amount of all such taxable property. The said tax shall be assessed and collected by such officer or officers as the city council may from time to time appoint, in such manner and under the same regulations as are or may be provided by law for the assessment and collection of county taxes; to provide against danger by fire, and for this purpose there may be organized within the limits two fire companies not to exceed twenty-five men each, and when so organized the members thereof shall be exempt from militia duty, to prohibit the keeping in any one place large quantities of gunpowder. They shall have power to pass all laws and ordinances not inconsistent with the constitution of the United States and laws of this territory for the purpose of carrying the aforesaid powers into effect, and for the preservation of the peace, health and cleanliness of said city.

City marshal. SEC. 6. The council shall appoint a suitable person to be marshal of the city, whose duty shall be to execute and return all process directed to him by the mayor or any justice of the peace within the limits of the corporation in the name of the mayor and aldermen of the city of Du Buque, and shall have the same authority and perform the same duties and be subject to the same liabilities that constables are in their respective counties, and shall receive the same fees for services that are or may be allowed by law to constables within this territory, and do and perform all other duties that may be imposed on him by ordinance.

Writes, how served. SEC. 7. All writs and process issued by any justice of the peace or any other court under any of

the ordinances of the corporation, shall be served and returned in like manner and with like effect as writs and process are now served and returned under the laws of this territory.

SEC. 8. The mayor shall attend and preside at all ^{Mayor.} meetings of the city council, he shall not vote except in case of a tie, when he shall give the casting vote, he shall sign all laws or ordinances passed by the board, and see that they are faithfully executed, he shall sign all bonds and drafts ordered by the city council and attested by the clerk, and all such bonds and drafts so signed shall bind the said corporation and shall be good in law and equity in every court in the territory for what is therein expressed.

SEC. 9. In case of the resignation, absence, sick- ^{Vacancy of} ness or death of the mayor, the aldermen shall elect ^{mayor.} one of their number mayor pro tem., who shall be invested with all the authority and perform all the duties of mayor during his absence or until another is elected and qualified.

SEC. 10. The mayor and aldermen and all other ^{Oath.} officers of the city shall, before entering upon their respective duties, take and subscribe an oath to support the constitution of the United States and laws of this territory, and faithfully perform the duties for which they were elected, which oath shall be filed with the clerk.

SEC. 11. The city council shall appoint a clerk, ^{Clerk.} who shall keep a fair record of all the proceedings of the mayor and aldermen, shall attend all meetings and act as secretary of the same, shall keep all books and papers and provide all necessary rooms and stationery for the use of the board, he shall do all other acts which may by ordinance be required.

SEC. 12. They shall also appoint a treasurer, who ^{Treasurer.} shall receive and safely keep all moneys which may come into his hands, and when he receives moneys from the marshal, collector or clerk, he shall give a receipt for the same, he shall, once in every three months, make out a list of all moneys by him received and paid out, and make a complete settlement with the board, he shall not purchase, buy or in any way trade for any city orders at a less value than the amount called for by the same, he shall give to the board a bond with security to their satisfaction, and be in all things governed by the by-laws and ordinances.

Wards.

SEC. 13. The city council shall, upon the application of any twenty voters, or may, without such application, divide the city into three or more wards, having regard to the number of inhabitants, and apportion the aldermen to be elected in each ward as near equal as can be, according to the population thereof.

Elections.

SEC. 14. The city council shall, at least two weeks before the time expires for which they were elected, give public notice in the newspaper, or by notices posted up in three of the most public places in the city of an election for city officers, together with the place at which each election shall be held, they shall appoint two judges and one clerk to each ward. It shall be the duty of the clerk to record in a book kept for that purpose the name of each voter. The said election shall be kept open from nine in the morning to five o'clock in the afternoon. After the close of said polls the judges shall count the ballots and give a certificate of election to the person having the greatest number of votes, the same to be attested by the clerk. Said clerk shall return the poll books to the city council, and the city council shall, at the same time, publish a statement of the receipts and expenditures of the preceding year.

Opening
streets.

SEC. 15. When the city council shall order any street, lane or alley to be opened or extended, and the same runs upon any individual property, it shall be the duty of the mayor to issue a venire for twelve good and discreet men property holders in said city to make a jury for the purpose of assessing damages, if any sustained by the opening of said street, lane or alley. And the said jury shall be under oath to assess the same without fear, favor or partiality to the best of their judgment, and they shall take into consideration the benefit the property holders shall derive by the opening of said street, lane or alley, as well as the loss they shall sustain, and if they find the loss to be greater than the benefit, they shall render their verdict for the amount, and the mayor shall draw his draft upon the treasurer in favor of such person so injured for the amount assessed, but if the jury is of opinion that the benefit is equal to the loss they shall so render their verdict certified under their hands. In either case the city council shall proceed to open said street, lane or alley, and keep the same open for public use.

Paving.

SEC. 16. When any street, lane or alley, shall be

paved or macadamized, the city council shall assess the cost thereof to the owners of the property on each side of the street, lane or alley so made, according to the number of feet front each person does own on said street, lane or alley, and in like manner, if side walks are only made each person shall be liable for the expense incurred in front of his, her or their property, and if the said assessment is not paid after giving due notice thereof the property shall be sold after giving the usual notice as in case of execution for to satisfy the amount with costs. This section shall not apply to the public landing except to the sidewalk on one side of the same: *And provided further*, That the city council shall have discretionary power to charge to the owners of property such part of the expense of grading, paving, or macadamizing any street, lane or alley as they may deem just, the balance to be paid out of the city treasury.

SEC. 17. Whenever the owners of more than one half of the property on any street, part of a street, lane or alley, not less than the length of one square or block, shall petition the city council to have the same paved or macadamized, it shall be the duty of the city council to have the same ordered to be done according to the plan adopted by the city, and the cost taxed as is provided in the preceding section: *Provided*, They may make such order without such petition.

SEC. 18. In case of death, resignation, or absence of two months without leave, of any alderman, it shall be the duty of the clerk to give ten days' notice of an election to be held to supply the vacancy; if the city is districted into wards the election shall be held in the ward which the alderman represented whose seat has been vacant; if the city has not been districted, then the election shall be general throughout the city.

SEC. 19. That nothing in this act shall be so construed as to interfere with the rights of the county or territory to tax the people within the limits of said city.

SEC. 20. This act to be in force and take effect from and after the third Monday in March next: *Provided*, That the legal voters of said city having paid a town or corporation tax, may assemble at the court house on the first Monday in March next, and proceed to vote by ballot for or against this charter,

Vacancy of
aldermen.

Act to be
accepted.

and if a majority of the voters shall be in favor of the same, they shall proceed according to the provisions of this act, otherwise the same shall not take effect, but if at any future day by previous notice of at least thirty days, they shall agree to adopt it, it shall be as binding as if it had been adopted on the day set forth in this section.

Business transferred.

SEC. 21. That all unfinished business of the president and trustees of the town of Du Buque, is hereby transferred for adjustment to the mayor and aldermen of said city; and they shall be holden for all debts, credits and contracts of, and enjoy all rights and privileges heretofore exercised by and granted to said president and trustees.

Approved January 17, 1840.

[Chap. 85.]

AN ACT to restrict the commissioners in the expenditure of money in the erection of public buildings at Iowa city.

Cost not to exceed.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That it shall be the duty of the commissioners on public buildings at Iowa city, to adopt a plan for said buildings at that place, the aggregate cost of which, when completed, shall not exceed fifty-one thousand dollars.

SEC. 2. If said commissioners have already adopted a plan for said buildings, the cost of which will exceed the sum aforesaid, then the said commissioners shall set aside such plan and comply strictly with the provisions of the first section of this act.

When to complete.

SEC. 3. That it is hereby made the duty of said commissioners to complete the said buildings at as early a period as possible for the accommodation of the legislative assembly, and to make a full report of their proceedings to the special session of the legislative assembly in July next, embracing a statement of

Report.

First. The plan of said buildings.

Second. The contracts entered into by them, and with whom.

Third. The terms of said contracts, together with the securities by them taken from each contractor for the faithful performance of his contract.

Fourth. The sum of money to be paid to each contractor.

Fifth. All moneys paid out or expended by said commissioners, to whom paid, and for what purpose.