

state, before any competent tribunal, and the boards of county commissioners shall make such compensation for said services as they may deem just and reasonable.

**SEC. 7. When collectors' to pay over revenue—fine for neglect.** That the collectors of state revenue in the several counties of this state, be, and they are hereby required to pay over into the state treasury, on the first Monday in December in each year, all monies in their hands belonging to the state; provided, said sum amounts to one hundred dollars, and upon failing to do so, they shall be fined the sum of fifty dollars, to be collected before any competent tribunal.

**SEC. 8. Act repealed.** That so much of the 18th section of the act to provide for levying and collecting revenue for state and county purposes, approved, February 25, 1847, as conflicts with the provisions of this act is hereby repealed.

Approved, January 25, 1848.

## CHAPTER 64.

### FORT MADISON.

AN ACT to incorporate and establish the town of Fort Madison, and for revising and repealing all laws and parts of laws heretofore enacted on the subject.

*Be it enacted by the General Assembly of the State of Iowa,*

**SECTION 1. Style and powers of the incorporation.** That the inhabitants of the town of Fort Madison, be and they are hereby constituted a body politic and corporate, with perpetual succession, by the name of "The mayor and aldermen of the town of Fort Madison;" and by their corporate name may sue and be sued, plead and be impleaded; may receive, purchase, acquire, and hold, and grant, sell, and convey, real, personal, and mixed property, and do all other acts as natural persons may do; may have and use a common seal, and the same at pleasure alter or break.

**SEC. 2. Limits and boundaries.** The limits and boundaries of said town shall be defined and laid down on the plat of said town, recorded in the recorder's office of Lee county, and extending to the middle of the main channel of the Mississippi river, and co-extensive along the middle of said main channel, east and west, with the limits of said town.

**SEC. 3. Wards.** The said town shall be divided into three wards. The mayor [65] and aldermen shall have power to change the boundaries of said wards at their discretion; but until such change is directed, the wards of said town shall remain according to their present limits and boundaries.

**SEC. 4. Officers of the incorporation—duties of the mayor—mayor pro tempore.** The said corporation shall consist of a mayor, who shall be a resident of said town, and six aldermen; two aldermen to be elected in each ward, and to be residents of the ward in which they shall be elected; and the said mayor and aldermen shall also possess the qualifications of voters for members of the legislative assembly; the mayor shall preside at all meetings of the corporation, but shall not vote on any question, except in case of a tie, when he shall give the casting vote. In case of the death, absence, resignation, sickness, or other disability of the mayor, the aldermen shall elect one of their number mayor pro tempore, who shall have all the authority and perform all the duties of mayor, during his absence, or until another shall be elected and qualified.

**SEC. 5. Annual election—term of office—failure to elect—special election—present board.** On the first Monday of January, 1849, and annually thereafter, polls shall be opened at one convenient place in each ward in said town, at which the qualified voters for members of the legislative assembly, residing within the limits of the ward in which they shall offer their vote, may vote by ballot for a mayor and two aldermen; and the mayor and aldermen so elected shall hold their offices for one year, and until their successors are elected and qualified: provided, that a failure to hold said election on the day herein prescribed in any year, shall not work a forfeiture of this charter, and an election may be held on any succeeding day, by giving notice thereof, according to the provisions of the eleventh section of this act: and provided further, that the present mayor and aldermen shall continue to hold their respective offices under and by virtue of this charter, until their successors are elected and qualified as aforesaid.

**SEC. 6. Judges of election—clerk—who may be judges, etc.—hours of election—duties of judges and clerks of election—oath of office.** The mayor and aldermen shall at least one day previous to each election provided for by this act, appoint two judges of elections for each ward, and said judges for each ward respectively, shall appoint their own clerk, and in case of failure of said judges, or either of them, to attend, or of refusal to act, the electors present shall choose *viva voce*, a judge or judges to supply such vacancy. No person shall be competent to act as a judge or clerk at such election, who is not a qualified elector at all such elections. The polls shall be opened between the hours of one and two in the afternoon, and close at the hour of four in the same afternoon. The clerk at each ward shall keep a poll book, in which he shall enter the name of every voter, in the order in which he shall vote, and at the close of the polls the votes shall [66] be counted by said judges and clerk, and a statement of the result of the election shall be proclaimed at the door of the house in which such election shall be held; and the two judges and clerk of each ward, shall give to each of the two persons having the greatest number of votes in their ward for aldermen, a certificate of his election; and the judges of the different wards shall attend at the office of the mayor, between the hours of nine o'clock, A. M. and twelve o'clock, M., on the first Monday after the election, with the poll books and shall examine the certificate of the votes given to each person, and the person having the greatest number of votes shall be declared duly elected mayor of said town; and the said judges shall make and deliver to such person a certificate of his election, which shall be signed by at least a majority of all the judges of said three wards. The mayor and aldermen so elected, shall within ten days after their election, take and subscribe an oath to support the constitution and laws of the United States and of Iowa, and faithfully, impartially, and to the best of their ability, to discharge the duties of their respective offices, which shall be deposited with and safely kept with the clerk of said corporation.

**SEC. 7. Powers and duties of the mayor and aldermen—subordinate officers—journal to be kept—laws to be recorded—journals to be signed—bills, bonds, etc.** The said mayor and aldermen, or a majority of whom shall be a quorum for the transaction of business, shall have power to adjourn their meetings from time to time, unless sooner called together by a written notice from the mayor, designating the time and place of such meeting; they may also, by ordinance, prescribe the times for holding their regular meetings; they shall also have power to appoint a clerk, a marshal, who shall be assessor, collector and treasurer, and such other subordinate officers as they may deem needful, to prescribe their duties, and require surety for their performance, to remove them at pleasure, and appoint others in their stead, and to establish the fees or salaries of all such officers of the corporation, where the same are not ascertained by this act; they shall cause their clerk to keep a correct journal of their

proceedings, and enter the yeas and nays on any question at the request of any member; they shall cause to be recorded in a plain legible hand, in a book to be provided for that purpose alone, all the by-laws and ordinances made and ordained by them, which book together with the said journal, shall be at all times open to the inspection of the electors of said town. The journal of the proceedings of each meeting shall be signed by the mayor and clerk; they shall also sign all by-laws and ordinances passed by said corporation, and the same shall be carefully filed and preserved by the clerk. All bills, bonds, notes, drafts, or contracts, ordered by the said corporation, shall be signed by the mayor and attested by the clerk; and all bills, bonds, notes, drafts or contracts so signed and attested, and in the case of [67] bonds or contracts under seal, sealed with their common seal, shall be valid and binding on said corporation, in law and in equity, in every court in Iowa.

**SEC. 8. As to by-laws and ordinances, and city regulations in general—licenses.** The said mayor and aldermen shall have full power and authority to pass all by-laws and ordinances, to regulate the stationing, anchorage, landing, mooring or unloading of boats, vessels, rafts, and all other water crafts, within the limits of said town, to prevent and remove nuisances, to establish night watches, erect lamps, to provide for licensing and regulating retailers of spirituous liquors within said town, and for annulling the same on good and sufficient complaint made against any person holding such license; to license and regulate drays, carts and other vehicles kept for public hire, to prohibit the discharging of fire arms, and the racing or immoderate running or driving of horses, drays, carts, carriages, wagons or other vehicles in said town, to regulate and establish markets, and to rent out the stalls in the same, and to prohibit the selling of meats, poultry, fish or game, except at the public market: provided, that nothing in this act shall be so construed as to prevent any person from selling the products off of their farms, in such quantity as they may deem proper; to erect and repair bridges, to regulate and improve all streets, avenues, alleys, side walks, landings, wharves and squares, drains and sewers; to sink and keep in repair public wells, to establish and regulate fire wards and fire companies, to provide for the prevention and extinguishment of fires, and if necessary, to remove or pull down buildings or fences for the prevention of the spreading of the same; to license bakers and regulate the price and weight of bread, and to prohibit the baking of the same for sale except by those licensed; and also to pass all such by-laws and ordinances not inconsistent with the constitution and laws of the United States, or of Iowa, as they shall deem necessary and proper for the health, safety, cleanliness, and convenience of said town, and the citizens thereof.

**SEC. 9. Fines for breaches of the by-laws, etc.—proviso—judicial authority of the mayor—process—imprisonment for fine, etc.—levy and sale of property—appeals—release from imprisonment.** The said mayor and aldermen shall also have power to fix and impose fines and penalties for breaches of the by-laws and ordinances by them passed and ordained: provided, the same shall not exceed twenty dollars for any one breach or violation by any one person, of any one by-law or ordinance; and the same may be recovered with costs of suit, before the mayor, who is hereby endowed with judicial authority to hear, try and determine all such causes and grievances. The said fine shall be recovered by action of debt in the name of the said corporation; the process issued against the person accused to compel his appearance, shall be a warrant of arrest, issued in the name of the state of Iowa, and attested by the mayor; and the process issued for the collection and satisfaction of the fine, shall be a warrant [68] issued in the name of the state of Iowa, and attested by the mayor, commanding the marshal of the town to proceed and by levy and sale of the property of the accused, to collect the said fine and costs, or that in case the person accused shall not, upon demand, pay the said judgment and costs, or

turn out sufficient property for the payment of the same, to be made by levy and sale as aforesaid, that he shall then take the person of the accused and confine him in the guard house of the corporation, or in case there is no such guard house, commit him to the common jail of the county, for a term not exceeding four months, nor less than ten days, the period of which commitment to be specified in the judgment of the mayor; and the terms of the warrant, and every levy and sale made under and by virtue of any such warrant, shall be conducted agreeably to the law of the state regulating the sale of personal property by constables, under executions issued by justices of the peace: provided, that such person fined as aforesaid shall have the right to appeal to the district court in and for said county, by filing bond with approved security before the mayor on the day of said trial: and provided further, that the accused may be released from imprisonment by the performance of labor upon the public works of the town, at the rate of one dollar per day, to be done in such way, and under such regulations as the mayor and aldermen may by ordinance prescribe.

**SEC. 10. Vacation of offices—special elections.** The absence from said town, for three consecutive months, of the mayor or any alderman, or the removal of any alderman out of the ward for which he was elected, shall vacate his office, and a special election shall be held to supply such vacancy, and the person so elected shall hold the office for the remainder of the term for which his predecessor was elected; such special election shall be held, and returns made and certificates given, in the same manner that the annual elections are, and the person so elected shall qualify in the same manner.

**SEC. 11. Notice of annual election.** The mayor shall give at least ten days previous notice of every annual or special election, and of the places of holding the same, by advertisement in some newspaper published in said town, or by one written notice set up at some public place in each ward of said town, in which such election is to be held.

**SEC. 12. City tax—rate of tax—assessment, etc.** The mayor and aldermen shall have power to assess and levy an annual tax, on all personal property in said town, made subject to taxation by the laws of Iowa for county purposes, not exceeding in any one year, one-half per centum on both the real and personal estate and property, which value shall be ascertained by the marshal, as assessor of said town, and they shall prescribe by ordinance the time within which said marshal shall make out and return to their clerk the assess- [69]-ment roll, and also the time within which the clerk shall make out and deliver to the marshal a duplicate thereof, together with a warrant for the collection of the taxes so assessed, signed by the mayor and clerk, and sealed with the common seal of the corporation; they shall also have power to correct or equalize any erroneous or injudicious assessment.

**SEC. 13. Collection of taxes—notice—sale of real estate for taxes, duties of officers in the same deeds, etc.** The marshal shall be the collector of all taxes assessed as aforesaid, by said corporation; he shall, upon receiving the duplicate and warrant aforesaid, make personal demand of every resident charged with tax, if to be found within the town, or leave a written notice of the amount of such tax at his usual place of abode, and shall also put up at least one written notice in each ward in said town, that if the taxes are not paid within twenty days thereafter, the same will be collected by the sale of the property of delinquents; at the expiration of which twenty days, said marshal shall, and he is hereby authorized and required, by distress and sale of personal property of such delinquent or delinquents, as constables on execution, to collect said tax, and all costs, remaining unpaid, and hold the said tax and costs subject to such order, and to be paid in such way, as the mayor and aldermen, by ordinance, shall prescribe; and if the tax on any lot or piece of land on which no personal property can be found, shall remain unpaid at the expiration of said twenty

days, then the said marshal shall give notice by publication in the nearest newspaper, for eight consecutive weeks, stating the amount of tax and costs, and the number of the lot or description of the piece of land on which the same are due, and the owners name if known, and that the said lot or piece of land will be sold to discharge such tax and cost and printer's fees, on a day at the place in such notice mentioned, and which shall be at least three months after the day of its first publication, unless payment thereof be made on or before said day of sale, on which day if the said tax, costs and printer's fees be not previously paid said marshal shall proceed to sell the said lot or piece of land, or so much thereof as will discharge said tax, costs and printer's fees; said sale to take place at the door of the court house in said town, or at the door of the mayor's office; and the mayor and aldermen shall, by ordinance, fix the costs or fees to be allowed said marshal for collecting taxes by sale of either personal or real property by virtue of this act. The marshal shall give to each purchaser at such sale a certificate, containing the number of the lot or description of the piece of land purchased, the price paid therefor, and the day of sale, and at the expiration of the time hereinafter limited for the redemption thereof, if the same shall not be redeemed, the mayor shall execute to the purchaser or his assignees a deed therefor, under the seal of said corporation, and the same, if ac-[70]-knowledged or proven, and recorded as other deeds are or may be required to be acknowledged or proven and recorded, shall be good and valid in law and equity to pass a valid title to such lot or piece of land.

**SEC. 14. Redemption of tax sales.** If the owner of such lot or piece of land, or his assignees or grantee, or his or her or their attorney, shall appear at any time within two years after said sale, and pay the purchase money, with interest, and twenty per centum penalty thereon, or deposite the same with the treasurer, he shall be entitled to the right of redemption of said lot or piece of land; saving, however, to minors the right of such redemption at any time within one year after arriving at full age.

**SEC. 15. Publication of by-laws, etc.—evidence of publication.** The by-laws and ordinances of said corporation shall be published in a newspaper published in said town, or posted up at one public place in each ward, fifteen days before the taking effect thereof; and the certificate of the clerk, in the book in which said by-laws and ordinances are recorded, shall be sufficient evidence of the same having been done; and the said book, or a copy of any by-law or ordinance, with the copy of the certificate of the clerk of publication aforesaid, certified by the said clerk to be a true copy of such by-law or ordinance, and certificate, shall be a sufficient authentication to allow the same to be read or received in evidence, in all actions and suits, in any court in this state.

**SEC. 16. Account of receipts and expenditures to be published.** Twenty days before each annual election, the mayor and aldermen shall put up in some conspicuous place in said town, or publish in some newspaper published therein, an account of all the moneys received and expended by said corporation, since the last annual election, with the sources from which they were derived, and the objects on which they were expended, which shall be certified by the clerk.

**SEC. 17. Road district and supervisors.** The streets and alleys of said town, together with the several roads leading therefrom, for the distance of one mile from the corporation limits, shall constitute one road district, and the mayor and aldermen shall have the exclusive right of appointing the supervisor for said district, who in every respect shall act as though appointed by the county commissioners.

**SEC. 18. Compensation of officers.** The aldermen shall receive no compensation for their services, neither shall the mayor receive compensation for his services, except when acting as a judicial officer.

**SEC. 19. Jurisdiction and fees of the mayor—proviso as to costs.** The mayor shall by virtue of his office, have concurrent jurisdiction in all cases with the justices of the peace in the town of Fort Madison, and exclusive original jurisdiction of all suits brought by and in the name of the corporation, and shall be entitled to the same fees as justices of the peace are in like cases provided for, and in such cases as are not provided for, he shall have such fees as may be prescribed by [71] ordinance; provided, that the corporation shall in no case be liable for costs incurred in suits for breaches of the town ordinances, commenced and prosecuted on its behalf.

**SEC. 20. Writs and process—marshal's fees.** All writs and process issued for a breach of the town ordinances, shall be directed to the marshal of the town, for their due execution; and the said marshal shall be allowed a reasonable and just compensation, to be fixed by ordinance, for his services in assessing and collecting the town taxes and holding and paying over the same, but for the performance of any other duty he shall receive such fees only as he may be allowed by ordinance to collect from the defendant or person accused.

**SEC. 21. Streets, etc., how improved.** The mayor and aldermen shall have power to caused to be opened, paved or improved, any street, alley, market place, public square, or public landing, on petition of not less than two thirds of the number of resident owners of the ground fronting on such street, alley, market place, public square or public landing, and to levy and collect a special tax for the defraying the cost and expenses of the same by an equal assessment on the ground, according to the space or feet, fronting as aforesaid.

**SEC. 22. Ferry license—free ferry—proviso.** The said mayor and aldermen shall have exclusive authority to license ferries, to fix the rates of ferriage, and define the duties of the keepers of ferries landing within the limits of the town, in all cases where such regulations shall not interfere with vested rights; they may at their own discretion contract with the owner or owners of a ferry boat or boats for the free carriage across the Mississippi river for one year, of all persons with their property coming to Fort Madison for the purpose of trading with its inhabitants, and bringing marketing and produce to the place; provided, that such carriage shall be contracted for at the least practicable amount, and the costs and pay thereof shall in no event exceed two hundred dollars; and they may when authorized by a vote of three fifths of all the votes given in by the legal voters of the town, the time, manner and places of voting, to be prescribed by ordinance, and the funds of the corporation will permit, construct a ferry boat and regulate the same, or contract with the owner or owners of any ferry boat or boats on the lowest terms practicable for the free or cheap passage of all persons or any particular class thereof, with their property, across the Mississippi river opposite the town of Fort Madison, and coming to said town and departing therefrom.

**SEC. 23. City attorney.** The mayor and aldermen shall have authority to appoint an attorney for the prosecution and defence of suits in the corporation name, but in the prosecution of suits for breaches of, and penal-[72]-ties accruing under the town ordinances, he shall be entitled to no fee or fees, except such as he may by ordinance be entitled to recover of the defendant upon his conviction.

**SEC. 24. City debt and liabilities.** The mayor and aldermen shall appropriate one half of the yearly revenue of the town for the payment of the present debt of the corporation, but in no case shall they be allowed to make any contract, or incur any liabilities more than the amount of the surplus money on hand, and one-half of the net yearly revenue of the year when the contract is made or liability incurred.

**SEC. 25. Repeal of former charters—by-laws and ordinances now in force—debt, etc.—service of process.** That the act entitled "an act to incor-

porate the town of Fort Madison," passed by the legislative assembly of the territory of Iowa, and approved February 17th, 1842, together with all other acts and parts of acts relating to the incorporation of the town of Fort Madison, or to the authority and duties of the mayor and aldermen thereof, be and the same are hereby repealed from and after the adoption and confirmation of this act and charter by the inhabitants of Fort Madison, as is hereinafter provided; provided, however, that all by-laws and ordinances now in force in said town shall continue in force until altered or repealed by the corporation created by this act, and no suit or judgment then pending or unsatisfied, to which said corporation shall be a party shall abate, but the same may be prosecuted and enforced in the name of the mayor and aldermen of the town of Fort Madison; and all debts, covenants, contracts and agreements, and all liabilities contracted, made and entered into by the present mayor and aldermen of said town, or by their predecessors in said office, or by their authority to and with any person or persons; and all liabilities contracted, made and entered into by the president and trustees of said town, elected and acting under the provisions of an act of the legislative assembly of the territory of Wisconsin, entitled "an act to incorporate the town of Fort Madison," approved, January, 19th, 1838, or by their authority to and with any person or persons, shall survive and be as good and valid in law and equity, as if contracted, made and entered into by the mayor and aldermen of the town of Fort Madison, to be elected under this charter, and suits may be instituted and sustained, either in favor of or against them, on such debts, covenants, promises, contracts, agreements, and liabilities, as might or could have been in favor of or against said corporation, created by the act or acts hereby repealed, if this act had not been passed: the service of all process against said mayor and aldermen shall be by leaving with the mayor, or in his absence with the clerk, a certified copy thereof; and in case of subpoena in chancery, a certified copy of the bill also.

[73] SEC 26. **Special vote on this act—tickets how voted—duty of judges and clerks—duty of mayor—effect of votes—duty of county clerk—evidence, etc.** This act shall be printed in two of the weekly newspapers of Lee county, and immediately after such publication the mayor of the town of Fort Madison shall call a special meeting of the aldermen of the town, who, with himself, or a majority of whom, shall make an order for a special election to be held at the court house in said town, on a day, and between such hours, as in said order may be fixed, for the purpose of giving the legal voters of said town an opportunity to express by their votes, which shall be given by ballots, their approval and confirmation, or disapproval and rejection, of this act. Said election shall be conducted by two judges and one clerk, who shall be chosen *viva voce* by the electors present at the court house at the time appointed for the opening of the polls; and who shall conduct the said election agreeably to the law now in force regulating the election of the mayor and aldermen of the town. The tickets voted by those in favor of this act, shall contain on them, the words written or printed "for charter;" and the tickets voted by those opposed thereto, shall have written or printed on them, "against charter;" and after the said polls are closed, the said judges and clerk shall count and certify in writing, the number of votes respectively polled "for charter," and "against charter," and sealing the said certificate in envelope, and endorsing the same to the mayor and aldermen of Fort Madison, shall immediately thereafter deliver the same to the said mayor, who shall thereupon call a special meeting of the aldermen of said town, to examine the said returns, when if upon opening and examining the returns, it shall appear that a majority of the votes given have been cast in favor of the adoption of this act, they shall cause their clerk to make a minute thereof on the journals of said incorporation, and from thenceforth this act shall take and be in full force and effect; but if a majority of the votes given is against the adoption of this act, it shall thence-

forth be null and void for all purposes whatsoever; and the said mayor shall take said returns, with a copy of the entry to be made on the journal as aforesaid, certified by said clerk, and file the same in the office of the county commissioner's court of Lee county, with the clerk thereof, who shall copy the same into the records of said court, and which entry or a transcript thereof, shall thenceforth be full evidence in all the courts of the state of the adoption of this act by the people of said town, and the existence of said incorporation.

Approved, January 25, 1848.

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[74] CHAPTER 65.

COUNTY ORDERS.

A BILL for an act making county orders bear interest.

*Be it enacted by the General Assembly of the State of Iowa,*

**SECTION 1. Rate of interest.** That hereafter when the county commissioner of any county in this state shall issue any order upon the treasury of said county, the said order shall bear interest at the rate of six per cent. per annum, from the time of the presentation of the order to the treasurer for payment.

**SEC. 2. Unpaid orders.** Every county order heretofore issued and remaining unpaid, shall bear interest at the same rate from and after the passage of this act.

Approved, January 25, 1848.

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CHAPTER 66.

CITY OF DUBUQUE.

AN ACT to amend an act entitled "an act to incorporate the City of Dubuque," approved February twenty-fourth, eighteen hundred and forty-seven.

*Be it enacted by the General Assembly of the State of Iowa,*

**SECTION 1. Mayor to be a justice.** That hereafter the mayor of the city of Dubuque, who shall be elected by virtue of the provisions of the act to which this is amendatory, shall be, and he is hereby invested with all the powers now granted by law to justices of the peace within this state, for the purpose of hearing, trying and determining, all offences committed against the ordinances of said city, and the said mayor shall also be a conservator of the peace within the limits of said city.

**SEC. 2. Mayor, how governed.** That the said mayor shall, as near as may be, conform to, and be governed by the several acts in relation to justices of the peace now in force, and which have been heretofore passed by the council and house of representatives of the territory, and by the general assembly of the state of Iowa.

**SEC. 3. Fees.** That the said mayor shall be allowed such fees for his services as are now, or that may hereafter be allowed by law to justices of the peace for like services.