

missioners aforesaid shall each receive the sum of two dollars per day for their services in laying out said road; said commissioners shall employ a competent surveyor, who shall be allowed the sum of two dollars and fifty cents per day; chain carriers and other hands necessarily employed by said commissioners, shall each receive one dollar and fifty cents per day.

**SEC. 2. Commissioners to be governed by certain act—to take oath.** The commissioners aforesaid shall, in all other respects, be governed by an act to provide for the opening and laying out territorial roads, approved December 29, A. D. 1838, and shall also take and subscribe the usual oath before entering upon the duties of their office.

**SEC. 3. Names of commissioners—route of road, etc.** That Lewis W. Day, Richard B. Davis, Almond Fairchild, of Washington county, be and they are hereby appointed commissioners to lay out and establish a territorial road, commencing at the twenty mile stake from Iowa City, on the road leading from that place to Burlington; thence on the best ground on the south side of the Iowa river, to a point where the military road leading from Iowa City to Mount Pleasant crosses the same. The said commissioners shall be governed in all respects by the foregoing sections of this act.

Approved January 9, 1841.

#### CHAPTER 44.

AN ACT for the incorporation of the Town of Farmington, in Van Buren County, Iowa Territory.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

**SECTION 1. Farmington incorporated—name and style.** That all that part or tract of land lying in township sixty-eight north, and fractional township sixty-seven north, and range eight west, in the county of Van Buren, as is comprised in the town plat of Farmington and North Farmington, together with all additions that may hereafter be made and recorded thereto, be and the same is hereby constituted a town corporate, and shall be known by the name and title of the "Town of Farmington."

**SEC. 2. Qualified voters—election, when and where to be held—officers to be elected, etc.,—proviso.** That the qualified voters for the members of the legislative assembly who have resided within the limits of said corporation for thirty days immediately preceding any such election, shall [34] meet at some convenient place within said corporation on the first Saturday in March next, and annually thereafter; there and then proceed to elect by ballot a president, four councilmen, and a recorder, who shall hold their offices for one year, and until their successors shall be elected and qualified; and the president and any two of the councilmen shall be a board for the transaction of business, but a less number may adjourn from time to time: provided, that in case of the death or absence of the president the councilmen shall choose a president pro tem. from their own body.

**SEC. 3. Additional officers—oath to be taken, etc.—how to open polls, etc.—duty of clerk—duty of recorder.** At the first election to be held under this act, there shall be chosen by the electors present, three judges and a clerk of said election, who shall each take an oath or affirmation faithfully to discharge the duties required of them by this act; and at all subsequent elections the councilmen, or any three of them, shall be judges, and the recorder clerk of the election; and at all elections to be held under this act the polls shall be

opened between the hours of nine and ten in the forenoon, and closed at five o'clock in the afternoon of the same day; and at the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the electors present by one of the judges, and the clerk shall make a true record thereof; and within five days after such an election, the clerk shall give notice to the persons elected of their election; and it shall be the duty of the recorder, at each annual election, to give at least five days notice thereof, by posting up notices at three of the most public places in said town.

**SEC. 4. President may call meetings—proviso—further duties of recorder—may appoint deputy.** It shall be the duty of the president to call meetings of said councilmen by posting up written notices of such intention in three of the most public places in said town, at least three days previous to such meeting; and also to preside at all such meetings: provided, that in case of the absence of the president, it shall be the duty of the recorder to give notice of such meeting, in manner above prescribed, and it shall be the duty of the recorder to keep a fair and accurate record of all their proceedings; and the said recorder is authorized, under his hand and seal, to appoint some competent person as his deputy, who, in his absence, shall do and perform all the duties enjoined upon the said recorder, and for whose acts the said recorder shall be liable.

**SEC. 5. Name of body politic, etc.—general powers of corporation—process, how served.** The president, councilmen and recorder of said town, shall be a body corporate and politic, with perpetual succession, to be known and distinguished by the name of "the president and councilmen of the town of Farmington," and shall be capable in law, in their corporate name, to acquire property, real and personal, for the use of said town, [and] sell and convey the same; may have a common seal, which they may alter at pleasure; may sue and be sued, defend and be defended, in any court of competent jurisdiction; and when any suit shall be commenced against such corporation the first process shall be by summons, which shall be served by an attested copy to be left with the recorder, not less than seven nor more than twelve days before the return day thereof.

**SEC. 6. Officers to take oath, etc.** The officers elected by this act shall each take an oath or affirmation to support the constitution of the United States and the [35] organic law of this territory, (or the constitution of this state, as the case may be,) and also faithfully to discharge the duties of his office.

**SEC. 7. Further powers of corporation—power to levy fines, etc.—proviso—by-laws, etc., to be published—proviso.** The president and councilmen shall have power to ordain and establish by-laws, rules and regulations, for the government of said town, and the same to alter, repeal, or re-ordain at pleasure; and to provide in said by-laws for the election of a treasurer, two assessors, a town marshal, and other subordinate officers which may be necessary for the good government and well-being of the town; to prescribe their duties, declare their qualifications, and determine the period of their appointments, and the fees they shall be entitled to receive for their services, and require of them to take an oath or affirmation faithfully to discharge the duties of their respective offices, and may require of them such securities for the performance of the duties of their respective offices as shall be thought necessary. Said president and councilmen shall also have power to fix to the violation of the by-laws and ordinances of the corporation such reasonable fines and penalties as they may deem proper, and to provide for the disposition of such fines and penalties: provided, also, that no by-laws or ordinances of said corporation shall have any effect until the same shall have been published three weeks successively in a newspaper published in said county, or by written notices posted up in three of the most public places in said town:

provided, that nothing done under the provisions of this section shall be incompatible to the laws of this territory.

**SEC. 8. Statement of receipts and expenditures to be published.** The president and councilmen shall, at the expiration of each six months, cause to be made out and published a correct statement of the receipts and expenditures of the preceding six months.

**SEC. 9. Electors may levy taxes, etc.—ratio of tax—proviso—of nuisances, etc.** The electors of said town, in legal meetings assembled, shall have power, by vote, to direct the levy of taxes upon all real and personal estate within the limits of said corporation, not exceeding one-half per centum upon said real and personal estate in any one year; to regulate and improve the lanes and alleys, and determine the width of said walks: provided, that no property shall be taken from any individual until such individual shall be paid therefor the value thereof, to be ascertained by twelve disinterested freeholders, to be summoned by the marshal for that purpose. They shall have the power to remove all nuisances and obstructions from the streets and commons, and all other places within said town, and to provide for the removal of the same.

**SEC. 10. Corporation may grant licenses, etc.—proviso.** The president and councilmen shall be authorized to grant all licenses for the retailing of ardent spirits within the limits of their corporation, and to grant license and to regulate or prohibit all shows and public exhibitions, and to appropriate the proceeds of all such licenses for the benefit of said town: provided, however, that the powers hereby granted shall not be so construed as to conflict with the general laws of this territory (or of the future state) of Iowa.

**SEC. 11. Road district—overseer to be appointed.** The streets, lanes and alleys, of said town, shall constitute one road district, including the several roads on the east side of the Des Moines river, for the distance of one mile from the limits of said [36] corporation; and the president and councilmen of said town shall appoint one overseer of the same, who shall hold his office for one year from the time of his appointment.

**SEC. 12. Recorder's fees—president, etc., not to receive compensation.** The recorder shall receive such fees for his services as the by-laws and ordinances of said corporation shall prescribe; but the president and councilmen shall receive no compensation, unless the same shall be considered necessary and right by the electors of said town in legal meetings assembled.

**SEC. 13. Tax on real and personal property authorized—proviso—ib.—limit of tax—duty of president, etc.** For the purpose of enabling the president and councilmen to carry into effect the provisions of this act, they are hereby authorized annually to lay a tax on all real and personal estate within the bounds of said corporation, as the same has been or may be appraised: provided, such tax shall in no case exceed the sum for the same year voted for and directed according to the provisions of the ninth section of this act: and provided, that the said tax shall not exceed in any one year one-half per centum of aggregate amount of real and personal estate within the limits of said town; and the said president and councilmen shall, between the first Mondays of March and May in each year, determine the amount of tax to be assessed and collected within the current year.

**SEC. 14. Tax duplicate to be made out—collection of taxes.** It shall be the duty of the president and councilmen to make out a duplicate of taxes, charging each individual therein the amount of tax in proportion to the real and personal estate of such individual within such town; which duplicate shall be signed by the president and recorder, and delivered to the marshal or such person as shall be appointed collector, whose duty shall be to collect the same within such time and in such manner as the by-laws shall direct.

**SEC. 15. Power of collector to sell personal estate, etc.—notice of assessment to be published, etc.—real estate sold may be redeemed.** The said collector shall have power to sell personal estate, and for want thereof to sell real estate, for the non-payment of taxes within said town; but no real estate shall be sold by reason of the non-payment of such tax or taxes, unless the assessment of such tax shall have been duly notified in some public newspaper printed in this territory, once each week for at least six weeks before the day when said taxes are payable, nor unless the intended sale thereof be duly notified by posting up three written notices of such sale, in three of the most public places in said town, for at least ten days before the day of such sale; nor unless such assessment and proceedings thereon be regular and in all things conformable to the provisions of this act. And, moreover, all such real estate so sold may be redeemed in same manner, and within the same period of time, as is or may be provided by law in case of real estate sold for any county tax.

**SEC. 16. Power to repeal, etc., reserved.** This act may be altered, amended or repealed, by any future legislature of this territory, whenever a majority of the citizens of the said town of Farmington shall petition for the same.

Approved January 11, 1841.

#### [37] CHAPTER 45.

**AN ACT** to amend an act entitled, "An act additional and supplementary to and for the benefit of settlers, etc., on the Half Breed Lands," etc., passed the present session.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

**SECTION 1. Previous act amended—provisions of law extended to such as paid taxes last year.** That the provisions of an act approved at this session of the legislative assembly, supplementary to an act for the benefit of settlers on the Half Breed Lands, approved December 6, 1839, be and is hereby so far amended that the settlers on said Half Breed lands who paid taxes last year on his claim, have all the rights and advantages under such previous tax title that are secured to him on taxes to be hereafter paid, as provided for in said supplement.

Approved January 13, 1841.

#### CHAPTER 46.

**AN ACT** to create the office of Superintendent of Public Instruction.

*Be it enacted by the Council and House of Representatives of the Territory of Iowa:*

**SECTION 1. Governor to appoint superintendent—term three years—bonds—oath to be taken.** That there shall be appointed by the governor of the territory, by and with the advice and consent of the council, a superintendent of public instruction, who shall hold his office for the term of three years; and shall, previous to entering upon the duties of his office, give bond to the territory in the sum of two thousand dollars, with three or more sufficient securities, to be approved of by the secretary of the territory, conditional for the faithful discharge of the duties of his office, and shall also take an oath in the following form before one of the judges of the supreme court: "I, A B, do