

provided, the company shall first have paid or tendered the amount adjudged by said jury; and in no case shall the company be liable for costs on appeal, unless the appellant recover a greater amount of damages than first awarded.

SEC. 9. **Right of way limited.** The right of way acquired by virtue of this act may be retained for any of the purposes contemplated in the articles of incorporation of the company; but no other.

SEC. 10. **Agent.** Any of the notices aforesaid if served on an agent of the proprietor of the land, are to have the same effect as if served upon the principal.

SEC. 11. **Fees—company to pay.** The sheriff and jurors are entitled to the same compensation as is provided for in similar cases for similar services; and all the expenses caused by the proceedings above authorized must be borne by the company.

SEC. 12. **Take effect—expense of company.** This act shall take effect and be in full force from and after its publication in the Iowa State Gazette and Burlington Hawk-Eye, the expenses of said publication, however to be paid by the company.

Approved, February 4th, 1851.

CHAPTER 42.

BURLINGTON CITY.

AN ACT to amend the charter of the city of Burlington.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. **Boundaries.** That the boundaries of the city of Burlington shall hereafter be as follows; commencing in the middle of the channel of the Mississippi river, at a point eighty rods due south of the line dividing sections four and nine, township sixty-nine, north of range two west; thence west and parallel with the line dividing said sections, to the west line of section eight of same township, thence north along the west line of sections eight and five of said township, and along the west line of section thirty-two of township seventy, north of range two west, for the distance of two and a quarter miles from the south-west corner of said boundary; thence east with the north line of said section thirty-two, to the middle of the channel of the Mississippi river; thence down the middle of the main channel of said river to the place of beginning.

SEC. 2. **Council not to lay out streets or alleys, nor tax addition without owners consent.** The city council shall have no power, without the consent of the owners of two-thirds of the property through which the right of way may be asked, to lay out through the tract of land thus brought within the city limits, any streets or alleys, which have not been previously laid out. Nor shall any land, not laid out into town lots, or out lots, be taxed, otherwise than by the acre, and according to its value, for agricultural or horticultural purposes; except that all improvements thereon may be taxed at their full value.

SEC. 3. **Recorder to assess—oath—bond.** That in making annual assessments of real estate in said city, for the purposes of collecting revenue, the city recorder shall be and he is hereby appointed *ex officio* assessor of real estate for said city, and it shall be and is hereby made his duty to have said

assessment completed on or before the first Monday in June of each year hereafter. In making said annual assessment, the said assessor and recorder shall take and subscribe an oath before a justice of the peace, that he will faithfully and impartially assess all taxable property in the city, and that he will not fix a greater value on any property than its actual worth in cash. And he shall give such bond for the performance of his duties as the city council may deem necessary; and a copy of such bond and affidavit shall be preserved by the mayor.

SEC. 4. City a road district—tax—exempt from county road tax. The said city is hereby constituted a special road district, and the city council shall have power, in addition to the amount of taxes heretofore authorized, to levy road taxes not exceeding the amount allowed to be levied by the county court, and they may provide for the collection of such taxes, either in a similar manner to that pursued in relation to county road taxes, or in the manner in which other city taxes are collected; they may also provide for the manner in which [82] all such taxes shall be expended on the streets of said city and the avenues leading to the country; and all persons or property rightfully taxed within said city, in accordance with the provisions of this section, are to that extent exempted from all road taxes due to the county.

SEC. 5. Supervisor not to have supervision over roads and streets in the city. The county supervisor of roads is not required to expend labor upon or exercise supervision over the roads or streets in said city, but the duties and responsibilities imposed upon such supervisors generally, shall, as to the roads and streets within the city limits devolve upon the city council, or upon such officer or officers as they may authorize to take charge of such work.

SEC. 6. May submit question of levying a tax—limited. That the city council shall have power, whenever they deem it expedient for the public interest of said city, to submit the question of levying and collecting an additional tax to that already authorized for defraying the current expenses of the city; provided, the additional tax authorized shall not be levied for a longer time than one year, and shall not in any one year exceed twelve and a half cents on each one hundred dollars worth of property taxed; and if a majority of the legal voters shall, at any election, at which such question is submitted, have voted an additional tax, such tax shall be collected as heretofore provided for the collection of city revenue.

SEC. 7. Time of elections. The regular election for mayor and other city officers, shall be held on the first Monday in March, in the year 1851, and on the first Monday in February in each subsequent year.

SEC. 8. Woods and others exempt from taxes. The additional territory which the city of Burlington has acquired by this act, shall not in any manner be subject to any levy of taxes by the city council, except for road purposes, until after the first day of February, A. D., 1854.

SEC. 9. Fees. Each member of the city council of said city, shall receive a compensation to be fixed by ordinance for his services, to be paid out of the city treasury. Such compensation shall not exceed one dollar per day, nor shall any one member of said council receive a compensation to exceed fifty dollars in any one year.

SEC. 10. Hawkeye creek. That the city council is hereby authorized to cause [83] the channel, or any part thereof, of the creek running from the west boundary line of said city to the Mississippi river, usually known as Hawk Eye creek, to be changed from its natural channel and to be located and made to run in such channel, as said city council may deem for the best interest of said city.

SEC. 11. Private property damaged city liable. That if said channel, or any part thereof, is changed from the natural channel, and shall be caused to run over the private property of individuals, without their consent, said city shall be responsible for all damages sustained by such change, as follows: after any change from the natural channel shall have been adopted by the city council, notice thereof shall be given to all persons over whose property the new channel may run, and within twenty days from the service of such notice, they may object to such change, and put in their claim for damages, stating the amount, and describing the property injured, to be filed with the city recorder.

SEC. 12. Claim filed—council to file same with a justice of the peace—jury. That when any claim for damages shall be filed as aforesaid, the city council shall cause a copy thereof to be filed with some justice of the peace, or some person authorized to act as such, and a day of trial shall be fixed by such justice, and notice thereof given to such claimant or claimants. Such justice shall cause to be summoned nine persons, qualified to act as ordinary jurors as between the parties, and who are not interested in a similar question.

SEC. 13. Panel. At the time appointed, the parties, commencing with the council or any member thereof, shall in turn proceed to strike off one juror each until only three remain.

SEC. 14. Examination and evidence. The three jurors so selected must then proceed to examine the premises claimed to be injured, and shall hear evidence offered by either party.

SEC. 15. Verdict—judgment and payment. The jurors, when agreed shall return their verdict to said justice, and such justice shall thereupon enter a judgment of condemnation, and upon payment by the city of the damages so assessed by the jury, to said justice for the use of such claimant or claimants, the channel so located by the city council shall be established, and no further damages shall be claimed.

SEC. 16. Grade streets and alleys. The city council shall have power to grade any of [84] the streets, roads and alleys of said city, which have not already been graded, of which the city surveyor shall keep a true and accurate record, and to regrade the same whenever they deem it expedient.

SEC. 17. Damages. Whenever any owner of property feels aggrieved by such regrading, the damages shall be assessed and paid in the manner pointed out in this act, in sections 11, 12, 13, 14 and 15.

SEC. 18. Take effect. This act shall take effect and be in force from and after its publication in the Iowa State Gazette and Burlington Hawk Eye; the expense of said publication however to be paid by said city of Burlington.

Approved, February 4th, 1851.

Published in the Iowa State Gazette February 12th, and Burlington Hawk Eye February 14th, 1851.

CHAPTER 43.

IOWA CITY.

AN ACT to incorporate Iowa City.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Town created a city. That the town of Iowa City, situated in section ten, and the north-west quarter of section fifteen, in township seventy-nine, north of range six west in Johnson county, is hereby declared to be a city, by the name of "Iowa City."