KARNATAKA MUNICIPALITIES BILL, 2019

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KARNATAKA MUNICIPALITIES BILL, 2019

An Act to consolidate the laws relating to the municipal governance and administration in the State of Karnataka, in consonance with the provisions contained in the Constitution of India and the relevant amendments, to provide for matters connected therewith and incidental thereto.

Be it enacted by the legislature of the State of Karnataka in the Seventieth year of the Republic of India as follows;

CHAPTER – I – PRELIMINARY

1. **Short title, extent and commencement** – (1) This Bill may be called the **Karnataka Municipalities Bill, 2019.**

   (2) It extends to whole of the State of Karnataka and such other areas as may be notified by the State Government.

   (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different dates may be appointed for different municipal areas.

2. In this Act, unless the context otherwise requires;

   i. **Agriculture** includes horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, fish, poultry and bees, the use of land which is ancillary to the farming of land or for any purpose aforesaid, but shall not include the use of any land attached to a building for the purposes of gardening to be used along with such building; the term 'agricultural' shall be construed accordingly.[1]

   ii. **Amenity[2] i**ncludes road, street, lighting, drainage, public works and such other conveniences as the State Government may, by notification, specify to be an amenity for the purposes of this [Bill];

   iii. **Balance Sheet** means the balance sheet prepared under the provisions of this Bill.

   iv. **Bio-medical waste** means any waste that is generated during the diagnosis, treatment or immunization of human beings or animals, or in research activities pertaining thereto, or in the production or testing of biological materials and includes:-

      a. human anatomical waste;
      b. animal waste;

[1] Section 2 (1), Karnataka Town and Country Planning Act, 1961
[2] has Basis in 2(b) Bangalore Development Authority Act, 1976

c. microbiological and biotechnological wastes;
d. waste sharps;
e. discarded medicines and cyto-toxic drugs;
f. solid waste;
g. liquid waste;
h. incineration ash; and
i. chemical waste;

v. **Bridge** includes a culvert;

vi. **Builder or Developer** means an agency or individual who has constructed a complex on his own land or on others land under an agreement;

vii. **Building**[3] means, a structure, or erection or part of a structure or erection constructed, intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not, and includes:

a. the foundation, plinth walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections, staircase or any other structure or part of a building whether of masonry, bricks, wood, metal or any other material whatsoever,
b. or anything affixed thereto or any wall (other than a boundary wall of less than three meters in height) enclosing, or intended to enclose, any land, sign or outdoor display structure;
c. any structure on wheels resting in the ground with foundations, any structure, ship, boat or vessel, used for human habitation or for keeping or storing any article or goods but does not include a tent, *shamiana* or tarpaulin shelter or any type of portable shelter
d. a slum

viii. **Building operations**[4] includes rebuilding operations, structural alterations or additions to buildings and other operations normally undertaken in connection with the construction of buildings ;

ix. **Building site**[5] means a plot of land held for building purposes, whether any building is actually erected thereupon or not, and

[3] The provisions of Section 2 (e)Bangalore Development Authority Act, 1976, Section 2(ix) of the Rajasthan Municipalities Act, 2009 and Section 2, clauses(8) and (46) of Model Municipal Law 2003, section 2(3) of the Karnataka Municipalities Act, 1964, and Section 2(1A) of Karnataka Municipal Corporation Act, 1976, have been considered
[4] Section 2(e),Karnataka Urban Development Authority Act,1987
[5] Section 2(x), Rajasthan Municipalities Act, 2009

includes the open ground or courtyard enclosed by, or adjacent to, any building erected thereupon;

x. **Carriage** means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a jin-rickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children or elderly, infirm or handicapped person

xi. **Cart** means any cart, hackney or wheeled vehicle with or without springs, which is not a carriage, and includes a handcart, a cycle van and a push van, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;

xii. **Chief Municipal Officer** means the executive officer in chief appointed for a Municipality

xiii. **City Plan**[6] otherwise known as City Development Plan, emphasizing on financing and project implementation work and socio-economic aspects of a city with a perspective of fixed number of years.

xiv. **Civil society** shall mean any person, association of persons, non-government organisation established, constituted or registered under any law for the time being in force and working for social welfare and shall include any community based organisation, professional institution and civic, health, educational, social or cultural body and such other association or body as the Municipality may decide.

xv. **Commerce** means carrying on any trade, business or profession, sale or exchange of goods or services of any type whatsoever, with a view to make profit; and 'commercial' shall be construed accordingly;

xvi. **Commission** shall mean the Municipal Regulatory Commission established under the provisions of this Act;

xvii. **Conflict of Interest** shall mean and refers to situations where a person associated with the functioning of Municipality, in any capacity, acts or omits to act in a manner that brings, or is perceived to bring the interest of the person concerned in conflict with the interest of the Municipality, that may give rise to apprehensions of, or actual favouritism, lack of objectivity, bias, benefits (monetary or otherwise) of any kind without a bona fide objective.

xviii. **Consolidated Fund of the State**[7] means the Consolidated Fund of the State of Karnataka as formulated under Article 266(1) of the Constitution of India;

[6] Newly added

xix. **Councillor** shall mean the representatives elected to the Municipality by direct elections from a Ward as constituted within a municipal area.

xx. **Dairy** means and includes any farm, cattle shed, cow-house, milk store, milk shop or other place –

i. From which milk is supplied on, or for sale, or

ii. In which milk is kept for the purposes of sale or which is used for manufacture or preparation of any derivative of milk and its bye-products.

iii. But does not include a shop or other place in which milk is sold or supplied for consumption within its premises.

xxi. **Dangerous disease** means –

(a) cholera, plague, small-pox, cerebrospinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis, or syphilis; or

(b) any other epidemic, endemic, or infectious disease which the State Government may, by notification, declare to be a dangerous disease for the purposes of this Act;

xxii. **Development** with its grammatical variations, means the carrying out of building, engineering, mining, or other operations in, on, over or under land or the making of any material change in any building or land, or in the use of any building or land and includes sub-division of any land and includes redevelopment;[8]

xxiii. **Domestic Purpose** in relation to supply of water, means the purpose other than those referred to in Section 270 of this Bill;

xxiv. **Drain** includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water

xxv. **Dwelling House** means a masonry building constructed, used, or adapted to be used, wholly or principally for human habitation[9]

xxvi. **Empanelled Professional** Means consultants, MEP consultants, Environment consultants etc., who are empanelled by the professionals such as Architects, Engineers, Structural Authority as per the provisions of these bye-laws as authorized persons to inspect the plots before, during, and after construction, as the case

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[7]Under Article 266(1) states that every state constituting the territory of India shall constitute its own fund which shall collect all revenue received by the State Government as well as all loans and all moneys received by the State Government in repayment of loan shall form part of the fund.

[8] Section 2(1c) of the Karnataka Town and Country Planning Act, 1961 and Section 2 (j) of the Bangalore Development Authority Act, 1976

[9] Clause (30), Section 2, Model Municipal Law, 2003

may be, to certify the constructions made as per the provisions of the approved plans and report to the Authority and also to sanction building plans of certain buildings as notified by the government.[10]

xxvii. **Financial Statement** means the statement prepared by the Municipality under the provisions of this Bill.

xxviii. **Government** means the State Government.

xxix. **Hazardous substance and hazardous waste** shall have the same meaning as defined under the Environment Protection Act, 1986 and Rules;

xxx. **Hut**[11] means any building, no substantial part of which, excluding the walls up to a height of fifty centimetres above the floor or floor level, is constructed of masonry, reinforced concrete, steel, iron or other metals;

xxxi. **Industrial Township** means such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township**;**

xxxii. **Infectious disease** means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;

xxxiii. **Kharab Land**[12] means such area as has been designated under the Karnataka Land Revenue Act and Rules.

xxxiv. **Land** includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth, and includes slum;

xxxv. **Local authority** means any Municipality according to the classification of Municipalities under section [….to be mentioned when finally assigned] under the provisions of this [Bill].

xxxvi. **Market** includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, livestock, or any other article of food of a perishable nature, or any other article for which there is a collection of shops or warehouses or stalls, declared and licensed by the Municipality as a market;

xxxvii. **Masonry building**[13] Means any building, other than a hut, and includes any structure, a substantial part of which is made of masonry, reinforced concrete, steel, iron or other metal.

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[10] Newly added
[11] Section 2(41) Model Municipal Law 2003
[12] Rule 21(2), Karnataka Land Revenue Rules, 1966
[13] Section 2(48), the Model Municipal Law, 2003

xxxviii. **Master Plan** means a plan for the development or redevelopment of the area within the jurisdiction of the Municipality and approved by the State Government[14].

xxxix. **Means of access[15]** includes any means of access whether private or public, for vehicles or for foot passengers, and includes a road;

xl. **Municipality** shall mean the body established within the municipal area for administration and governance subject to the provisions provided under this Act.

xli. **Municipal area** means the territorial area of the Municipality as notified by the State Government from time to time includes, urban area or any local area specified as a metropolitan area, larger urban area, smaller urban area, or transitional area or any specified part thereof under the provisions of this [Bill][16]

xlii. **Municipal Council** shall mean the place where the elected representatives meet for the purpose of discussing the business of the Municipality or for matters related thereto.

xliii. **Municipal market**[17] means a market belonging to, or maintained by, the Municipality;

xliv. **Nuisance** includes any act, omission, place or thing which causes, or is likely to cause, injury, danger, annoyance or offence to the sense of sight, smell or hearing, or disturbance to rest or sleep, or which is, or may be, dangerous to life or injurious to health or property;

xlv. **Occupier** includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or the building in respect of which the word is used or for damages on account of the occupation of such land or building, and also includes a rent free tenant: Provided that an owner living in, or otherwise using his own land or building shall be deemed to be the occupier thereof

xlvi. **Owner** includes any person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager, or receiver for another person, or for any religious or charitable purpose, the rents or profits of the property in connection with which it is used

xlvii. **Plan** means a plan prepared by a surveyor, or a draughtsman, or an engineer holding a degree of Bachelor of Engineering, or an Architect registered under the Architects Act, 1972[18]

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[14] Newly added

[15] Bangalore Development Authority Act, 1976

[16] As provided under Model Municipal Law 2003 and the draft provisions of Karnataka Municipalities Bill 2019

[17] Well defined provision in the Model Law.

xlviii. **Planning Area** A planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or other area declared to be a planning area or included in a local planning area under this [Bill] as such by the appropriate Government or any competent authority and includes any area designated so by the appropriate Government or the competent authority to be a planning area for future planned development

xlix. **Private–participation agreements** means and includes an agreement between the government and one or more private partners for the purpose of carrying out core municipal functions under section [core municipal functions] assigned to Municipalities under this [Bill][19]

l. **Private street[20]** Means any street, road, lane, gully, alley, passage or square which is not a public street, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is less than two meters and fifty centimetres wide;

li. **Public place** means and includes a space and building, not being private property which is open to the use or enjoyment of the public, whether such space or building is vested in the Municipality or not;

lii. **Public street[21]**Means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not,

a. over which the public have a right of way, or
b. which has heretofore been levelled, paved, metal led, channelled, sewered or repaired out of municipal fund, State Government fund, Central Government fund or other public fund
c. which, under any provision of this [Bill], becomes a public street, And Includes:
d. the access or approach to a public ferry,
e. the roadway over any public bridge or causeway,
f. the footpath attached to any such street, public bridge or causeway,
g. the passage connecting two public streets, and

[18] As explained in Section (4), Section 339 of Rajasthan Municipalities Act, 2009
[19] Newly added
[20] Section 2(71), Model Municipal Law, 2003
[21] The combined definition under under the Rajasthan Municipalities Act, 2009/2010 and Section 2(73) Model Municipal Law has been adopted

h. the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, up to such alignment

liii. **Rateable value**[22] Means the value of any building or land fixed in accordance with the provisions of this [Bill] and the rules made thereunder for the purpose of assessment to property taxes.

liv. **Regulations and Rules** means the regulations and rules drafted under this Bill.

lv. **Rural Local Bodies** Local bodies constituted for local planning, development and administration in the rural areas otherwise known as Panchayats [23]

lvi. **Sanctioned Plan**[24] Means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority prior to start of a project, construction or scheme.

lvii. **Sewage** means night soil and other contents of latrines, urinals, cesspools or drains, and polluted water from sinks, bathrooms, stables, cattle sheds and other like places, and includes trade effluents and discharges from manufactories of all kinds;

lviii. **Site Plan** A detailed Plan showing the proposed placement of structures, parking areas, open space, landscaping, and other development features, on a parcel of land, as required by specific sections of the development code.[25]

lix. **Street**[26] Means and includes any highway and any causeway, road, bridge, foot-way, lane, square, court, aqueduct, arch, alley or passage accessible, whether permanently or temporarily to the public, whether a thoroughfare or not, and includes on either side the drain or gutters and the land up to the defined boundary, notwithstanding

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[22] As referred to by in The Commissioner Vs. Griha Yajamanula Samkhya & Ors [2001] Insc 261 (2 May 2001),

[23] Newly added

[24] Section 2(zq)The Real Estate Regulation and Development Act, 2016

[25] As in section 2(5) of the Development Code, http://www.dda.org.in/planning/docs/17.DEVELOPMENT_CODE.pdf

[26] As in section 2(lxvii) the Rajasthan Municipalities Act, 2009, 2(q)Bangalore Development Authority Act, 1976

the projection over such land of any veranda or other super-structure from any public place or thoroughfare.

lx. **State Finance Commission**[27] means the Karnataka State Finance Commission, as constituted by the Governor of Karnataka in exercise of the powers conferred on him by Article 243-I, read with Article 243Y, of the Constitution of India;

lxi. **Urban Local Bodies** Means local bodies local bodies, which are constituted for local planning, development and administration in the urban areas otherwise known as Municipalities[28]

lxii. **Ward** shall mean such area as designated by the Municipality under this Bill.

lxiii. **Unique premises number**[29]unique premises number shall mean a number assigned to the premises or part thereof by the Municipality in the following manner, namely :

a. the first three digits* indicating the ward number,
b. the next three digits* indicating the street number,
c. the next four digits* indicating the premises number,
d. the next three digits* indicating the sub-premises number,
e. the next one digit* indicating the code of the building use, such as residential, commercial, industrial or other use, and
f. The last one digit* indicating the code of type of construction.

lxiv. **Unlawful Buildings** shall mean the buildings erected in contravention to any of the provisions contained in this Bill.

lxv. **Ward** shall mean such area as designated by the Municipality under this Bill.

lxvi. **Waste Management** includes collection, segregation, storage, transportation, processing and disposal of municipal solid waste;

[27]Rajasthan has been replaced with Karnataka in order to make it Karnataka specific law and to seek orders from the Karnataka State Finance Commission.
[28] Newly added
[29] Explanation to sub-section (1) of section 323, Model Municipal Law , 2003

CHAPTER – II – CONSTITUTION OF MUNICIPALITY

3. **Declaration and Specification of *Municipal area*[30]** – The Governor may, upon consultation with the Government, having regard to the population of any urban area[31], the density of population therein, the revenue generated for the local administration of such area, the percentage of employment in non-agricultural activities in such area, the economic importance of such area, and such other factors[32] as may be prescribed, by notification, declare his intention to specify such area to be -
   i. Metropolitan Area[33], if the area contains a population more than Twenty Five lakhs[34] may be specified as a Greater City[35];
   ii. Larger Urban area, if the area contains a population of less than Twenty five lakhs but more than Five lakhs may be specified as a City;
   iii. Smaller urban area, if the area contains a population of less than Five lakhs but more than Fifty thousand may be specified as a Town; or,

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[30]Definition of Municipal area *means and includes urban area or any local area specified as a metropolitan area, larger urban area, smaller urban area, or transitional area or any specified part thereof under this Act.*

[31] Definition of Area – *For the purposes of this Act, Area means and includes urban area or part thereof.*

[32] Several factors are relevant to be considered, while classifying a Municipal area, as provided under Article 243Q of the Constitution of India. For the sake of convenience, population has been considered as determining factor for Constitution of a Municipality. The Hon'ble Supreme Court of India in the case of *Champa Lal v. State of Rajasthan and Others (C.A. No.4556/2018)* has stated as follows; *It, therefore, appears from the scheme of Article 243Q(2) that the Governor is not free to notify 'AREAS' in his absolute discretion but is required to fix the parameters necessary to determine whether a particular AREA is a transitional area or a smaller urban area or a larger urban area with due regard to the factors mentioned above. It is implicit that such parameters must be uniform for the entire State. It is only after the determination of the parameters, various municipal bodies contemplated under Article 243Q(1) could be constituted.*

[33] Even though the Constitution of India under Article 243Q provides for the Three-layered Classification of Municipality as Nagar Panchayat, Municipal Council and a Municipal Corporation, a fourth layer classification has been suggested as Metropolitan Area. The Constitution of India under Article 243P defines the Metropolitan Area as follows;
Metropolitan Area – means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part.

[34] Numbers specified are subject to changes by the State Government. Due to rapid increase in population, the number minimum limit prescribed while drafting the legislation has been set at 10 lakhs. However, other factors like the economic growth, population density and other factors also become relevant. Hence, the population is revised to a minimum of 25 lakhs which can later on be revised.
3.ii3.iii3.iv

[35] Inclusion of the Metropolitan area in the Municipalities Act would mean that any new Metropolitan Area in the State of Karnataka would be governed under the provisions of the Karnataka Municipalities Act, 2019 (subsequent to its passage in the state legislature). The provisions of the Bangalore Metropolitan Region Development Authority (BMRD) Act have been considered while drafting the provisions for the present Act. At present only Bengaluru Urban and Bengaluru Rural regions are under the ambit of BMRD Act. However, the suggested mechanism provides for orderly - development, management and supervision of the upcoming Metropolitan areas in the state.

iv. Transitional area, if the area contains a population of less than Fifty Thousand but more than Twenty thousand may be specified as a Nagara;

4. **Establishment of Municipality**[36] – The Governor shall, upon consultation with the State Government, after satisfaction as to the fulfilment of the criterion laid down under the provisions of this Act, **shall**, establish a municipality for such municipal area or contiguous areas, or part thereof, **by issuance of a gazette**[37] **notification**.

Provided that the Municipality may not be established in such urban area or part thereof, as the Governor may, having regard to the size of the area and municipal services being provided or proposed to be provided by an industrial establishment or Cantonment Board, in that area and such other factors as he may deem fit, by notification, specify to be an industrial township.

Provided further that a Municipality may not be established having regard to the cultural, historic, tourist or other like importance of an urban area, the State Government may, by notification in the Official Gazette, exclude such area from the municipality, or in addition to municipality constitute such other body/board/authority or by whatever name called, vesting such powers and functions to the said body/board/authority as it may think appropriate for the proper and planned development of such area.

5. **Division into Wards** –

(1) The Municipality having jurisdiction over a Municipal area shall be divided into Wards.

(2) The State Government shall, by order determine –

(a) the number of Wards into which each Municipality shall, for the purpose of elections, be divided;

(b) the geographical and territorial extent of each ward which shall, as far as practicable, be geographically compact areas;

6. **Abolition of Municipality** –

[36] The usage of the word '*Municipality*' here refers to the institution of Self-governance as constituted under the Article 243Q of the Constitution of India. The Municipality on the whole refers to each body that has been constituted irrespective of the area (Metropolitan, Larger, Smaller or Transitional).

[37] Definition of the word '*Gazette*' shall mean the Official Gazette as provided under the General Clauses Act, 1897 which defines as follows;

Section 3(39) Official Gazette or Gazette shall mean the Gazette of India or the Official Gazette of a State;

1. The Governor shall, upon consultation with the State Government, declare by notification, published in the official gazette, to abolish the Municipality already constituted for a municipal area.
2. The State Government may, after such declaration of abolition of Municipality, immediately transfer *ad interim* the affairs of such municipal area, to the Municipality contiguous to the municipal area, as the State Government may determine.
3. The State Government shall, within a period of 60 days, publish in the official gazette, confirm the vesting of jurisdiction of such municipal area to the Municipality as it deems fit.

7. **Classification of Municipality**[38] - The Governor may, by way of notification, classify the municipality as[39] –
   i. "Greater …… (name of municipal area) Municipality", for the metropolitan area;
   ii. "City Municipality of …… (name of municipal area)", for the larger urban areas;
   iii. "Town Municipality of …… (name of municipal area)", for the smaller urban areas;
   iv. "Nagara Municipality of …… (name of municipal area)", for transitional areas.

8. **Nature and status of Municipality** – The Municipality shall be a body Corporate and shall have perpetual succession and common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and may, by the said name sue and be sued.

9. **Power to alter the limits of Municipality** –
   1. The Governor shall, after consultation with the State Government and the Municipality concerned, issue a notification published in the official gazette for the information of all concerned persons likely to be affected thereby inviting suggestions and objections within one month from the

[38]The following enactments have been considered while the classification of Municipality is suggested – Karnataka Municipalities Act, 1964, Karnataka Municipal Corporation Act, 1976, Bangalore Metropolitan Region Development Authority Act, 1985.

[39] The nomenclature and its applicability are provided with the illustration. However, data (mostly population) for the purpose of illustration is taken from the websites as follows;

a. Greater Bengaluru Municipality; http://bbmp.gov.in/en/home?p_p_auth=s2mwOgIg&p_p_id=77&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_77_struts_action=%2Fjournal_content_search%2Fsearch&_77_showListed=true
b. City Municipality of Mysuru; http://www.mysorecity.mrc.gov.in/
c. Town Municipality of Nelamangala; http://www.nelamangalatown.mrc.gov.in/
d. Nagar Panchayath of Gubbi. http://www.gubbitown.mrc.gov.in/

date of publication of such inclusion or exclusion of areas or part thereof, within the limits of municipality.

2. The Governor may, having regard to the provisions of Section 1 and 2, by notification, include or exclude any such area/s or part thereof, within the limits of the Municipality and every such notification shall define the limits of the municipality.
3. The provisions of this Act and all taxes, notifications, rules, bye-laws, orders, direction and powers, levied, issued, made or conferred under this Act or any other law, shall be applicable to the areas which have been included or excluded or areas partly included or excluded, from the limits of the Municipality from such date as published in the official gazette.
4. The rights and liabilities of the Municipality immediately after alteration of such municipal area or part thereof, shall vest in the Government.
5. The Government after consulting the Municipality, apportion such funds/property and liabilities of Municipality between the Municipality and the Government, or between one or more Municipality/ies.
6. The Municipality shall erect and maintain, at its own cost, the boundary of the municipal area or the areas altered which falls within the jurisdiction of the municipality so concerned with the consultation of the Deputy Commissioner of the District or Assistant Commissioner in case of a Taluk.

10. Ambiguities/Uncertainties – In case of any ambiguities or uncertainty, the State Government shall, after consultation with the Municipality, declare any dwelling house/s, manufactory, warehouse, or place of industry or business situated within the limits of two or more adjacent municipal areas to be included within the jurisdiction of the Municipality, as it deems appropriate for the purposes of this Act.

Provided that the effect of such alteration shall be as provided under Section 9 of this Bill.

CHAPTER – III – COMPOSITION OF MUNICIPALITY AND AUTHORITIES
Part - A – Composition of Municipality

11. Municipal Authorities – Municipality established for Municipal areas as provided under Section 3 of this Act, shall have the following as the authorities charged with the duty of carrying out the provisions contained in this Act –

i. The Municipal Council consisting of the elected representatives shall perform such functions of the Municipality;
ii. The Chief Municipal Officer/Chief Executive Officer shall perform the duties functions of the Municipality;
iii. The Standing Committees;
iv. The Ward Committees[40]
v. The Area Sabhas.

12. Composition of Municipal Council –

1. Subject to the Provisions of Chapter Elections to the Municipality, the Municipal Council shall consist of such number of elected representatives as there are number of wards.
2. The elected representatives shall be called the ***Councillors.***
3. The State Government shall nominate individuals having special knowledge or experience in Municipal Administration or matters relating to town planning, health, education or individuals having experience as social worker and welfare of the public in general.

   Provided the total strength of the Nominated members shall not exceed ten percent of the total number of Councillors.

4. Members of House of People and the members of the State Legislative assembly representing a part or whole of the city whose constituencies lie within the city.
5. Members of the Council of State and State legislative Council who are registered as electors within the city;

13. Number of Councillors – Municipality shall consist of such number of Councillors as specified below –

[40] The Standing Committees have been given the status of the Authority under Municipality as it fulfils the Constitutional mandate of establishment of Wards Committee. The object behind the establishment of the Wards Committees is to ensure the timely delivery of services to the citizens at the grassroot level. At present the Ward Committees are not fully functional in spite of the order of the Hon'ble High Court of Karnataka vide order dated 10.11.2017 in W.P. 46523/2012 C/w W.P. 24739/2012 in ESG and Ors. V BBMP and Ors., issued over several orders in the years 2015, 2016 and 2017. In one of the Orders Hon'ble High Court of Karnataka issued a direction to set up Ward Committees within a period of One month from the date of Order.

NUMBER OF COUNCILLORS				
MUNICIPALITY	**POPULATION RANGE**	**MINIMUM**	**INCREMENTAL NUMBER**	**MAXIMUM**
Metropolitan Area (Greater City)	Above 25 Lakhs to 50 Lakhs	130	One Additional Councillor for every 50,000 above 25 Lakhs	180
Larger Urban area (City)	Above 5 Lakhs to 25 Lakhs	60	One Additional Councillor for every 30,000 above 5 lakhs	130
Smaller urban area (Town)	Above 50,000 to 5 Lakhs	30	One Additional Councillor for every 15,000 above 50,000	60
Transitional area (Nagara Municipality)	Above 10,000 to 50,000	10	One Councillor for every 2,000	30

Provided the State Government shall establish a separate Municipality for such area where the population has exceeded the number as prescribed in the list.

14. Reservation –

(1) The Municipality shall reserve seats for the representation of members –

i. The Schedule Castes; and
ii. The Schedule Tribes.
iii. Backward Classes.
iv. Women

(2) The number of seats so reserved shall bear as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Municipality as the population of the Schedule Castes, Schedule Tribes or Other Backward classes in the municipal area bears to the total population of the municipal area.

(3) The State Government may frame appropriate rules to fix the criteria for determining the reservation for each municipal area and the same may be revised from time to time.

(4) Not more than Fifty percent of the seats reserved for each category of persons belonging to Schedule Castes, Scheduled Tribes and Backward Classes and those of the non-reserved seats to be filled by direct election in a Municipality shall be reserved for women.

(5) The members referred to in Clause (1) of this provision shall be elected in the manner provided under this Act.

Notwithstanding anything contained in this provision, the members from the class referred to in Clause (1) shall not be prevented from standing for elections to the non-reserved seats.

15. Term of Office – (1) The Municipal Council[41] shall continue for Five Years, unless dissolved earlier, from the date of its first meeting[42] and no longer, and the expiration of the said period of Five years shall operate as dissolution of the Municipality.

Provided that Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) The Municipal Council constituted, upon the dissolution before the expiration of the duration, shall continue only for the remainder of the period for which the dissolved Municipal Council would have continued under the sub-section (1).

The term of office of Councillors elected at general election shall be for Five Years, unless -

(a) Councillor resigns the office by notice, in writing under his hand addressed to the Mayor, and thereupon the office shall become vacant from the date of the notice, or

(b) the election is declared to be void under the provisions of this Act or under any other law relating to municipal elections in the State, or

(3) The term of Nominated members as provided under Section 12(3) shall be at the pleasure of the State Government, be for five years.

(4) Councillors chosen to fill a casual vacancy shall be by way of an election for the completion of the reminder of the term of office of his predecessor.

[41] The term Municipal Council shall mean the body of elected representatives in the Municipality for the purpose of discussion of the subjects including the framing of by-laws, bringing out notifications, rules or such other legislative functions as enshrined under the Constitution of India.

[42] The term First Meeting for the purpose of this Section means the meeting of the elected members of the Municipal Council held immediately after the general elections.

16. Remuneration and terms of service – (1) The Councillors, Officers, Staff and other Employees of the Municipality shall be entitled to such remuneration , payable wholly by the funds of the Municipality or partly by the Municipality and partly by State Government, as may be determined by the State Government from time to time.

(2) The Mayor, the Deputy Mayor and other Municipal Councillors shall be entitled to monthly remuneration and such other fees as one may be entitled to, and shall also be subject to such terms of service as may be prescribed.

(3) The Chief Municipal Officer and other Officers shall be entitled to monthly remuneration and such other fees or allowances as one may be entitled to, and shall also be subject to such terms of service as may be prescribed.

Part - B – Authorities under Municipality

17. Municipal Council – (1) The Municipal Council shall ordinarily meet every month for the transaction of business of the Municipality.

(2) The Mayor, or in his absence, the Deputy Mayor, may call for meeting to discuss the business of the Municipality by giving due notice to the Councillors of the Municipality, 15 days prior to the date of meeting.

(3) Every meeting of the Municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a Municipal Office by such Municipal council.

(4) The proceedings of the meeting shall be recorded and maintained in such manner as may be prescribed by the State Government.

(5) The procedure for conduct of the business shall be as prescribed in the Rules drafted under this Act.[43]

(6) The Councillors in the Municipal Council shall maintain the decorum and follow the rules of the Municipal Council for the said meeting.

(7) The Municipal Councillors shall refrain from participating, voting or in anyway influencing the decisions of the other Councillors wherein there is a Conflict of Interest [44]or having an interest which directly or indirectly affecting in terms of any property of or for which he/she is directly or indirectly related to.

[43] The State Government may draw up Rules for the procedure to be established for the conduct of the business including the Quorum, exact place of holding meeting, Notice of conduct of meetings and listing of business and issues for discussion, work to be taken up for the day/week/month, Presiding Officer for each of the Meeting and the Role and conduct of meetings, Power of the Councillors to vote and decide upon the issues concerning business, minutes of the meeting and its method of storing and recording.

[44] As defined in the definition Clause.

18. Mayor and Deputy Mayor[45] – (1) The elected representatives of the Municipality shall, at its first meeting after a general election of the Councillors and at its first meeting in the same month in each year thereafter, elect, -

i. One of the Councillors elected, by way of general election to the Municipal Council, shall be the Mayor of the Municipality.

ii. One of the Councillors elected, by way of general election to the Municipal Council, shall be the Deputy Mayor of the Municipality.

(2) There shall be reserved by the Government in the prescribed manner –

(a) such number of offices of Mayor and Deputy Mayor in the State, for the persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes and Women, the number of such offices shall bear as nearly as may be, the same proportion to the total number of offices in the State as the population of Scheduled Castes, Schedule Tribes, Backward Classes and Women in the State bears to the total population of the State;

Provided that out of the offices reserved under this clause eighty percent of the total number of such offices shall be reserved for the persons falling under category "A" and the remaining twenty percent of the offices shall be reserved for the persons falling under category "B".

Provided further that if no person falling under category "A" is available, the offices reserved for that category shall also be filled by the persons falling under category "B" and *vice-versa*.

Provided also that the number of offices of Mayor and Deputy Mayor reserved for the backward classes under this clause shall be so determined that the total number of offices of Mayor and Deputy Mayor reserved for the scheduled castes and the scheduled tribes under clause (a) and the backward classes under this clause shall not exceed fifty percent of the total number of offices of Mayor and Deputy Mayor of the Municipality in the State.

(c) Not more than fifty percent of the total number of offices of Mayor and Deputy Mayor in the State from each of the categories reserved for persons belonging to Scheduled Castes, Scheduled Tribes, Backward Classes and those which are non-reserved, for women.

[45] Section 10 of the Karnataka Municipal Corporations Act, 1976.

(3) The Mayor and the Deputy Mayor shall hold office for Five Years[46] from the date of his election and shall, notwithstanding the expiry of the said period, continue in Office till the successor is elected, provided that in the meantime he does not cease to be a Councillor.

(4) If any casual vacancy occurs in the office of the Mayor or the Deputy Mayor, the Municipal Council shall, after concurrence of the vacancy, elect one of the Councillors to fill the vacancy of the Office of Mayor or the Deputy Mayor, in the manner as prescribed under clause (1) of this provision.

(5) The Mayor may resign his Office at any time by notice in writing, addressed to the Deputy Mayor, and delivered to the Chief Municipal Officer and in the absence of the Deputy Mayor, addressed and delivered to the Chief Municipal Officer.

(6) The Deputy Mayor may resign his office at any time by notice in writing, addressed to the Mayor, and delivered to the Chief Municipal Officer and in the absence of the Mayor addressed and delivered to the Chief Municipal Officer.

(7) If the Councillor, holding the office of the Mayor or Deputy Mayor, is removed, disqualified or resigns shall mean vacating of the Office of the Mayor or Deputy mayor.

19. Councillors –

(1) Each Municipality consisting of the Municipal Council shall have such number of Councillors as specified under the provisions of this Act.

(2) The Councillor shall hold the office coterminous to the term of the Municipality, from the date of the first meeting of the Municipal Council, or in the case of the casual vacancy chosen to be filled for the remainder of the term of office of the predecessor unless –

(a) the Municipal Council is dissolved earlier,

(b) the Councillor resigns the office by notice, in writing, addressed to the Mayor or the Deputy Mayor, and thereupon, the office of the Councillor shall become vacant from the date of such notice, or

(c) the election of Councillor is void, or declared void, under the provisions of any law relating to the Municipal elections in the State.

[46] The tenure of Five Years for the Mayor and the Deputy Mayor for the Municipality has been suggested to bring in uniformity and efficiency in the functioning of the Municipality. The present tenure of One Year is insufficient and the same should be enhanced to more than an year. Presently, the ***Bihar Municipality Act, 2007 under Section 27*** prescribes the tenure of Five Years for the Chief Municipal Councillor coterminous with the tenure of the Municipality. ***Section 15 of the Uttar Pradesh Municipal Corporation Act, 1959*** also prescribes the Five year tenure for the Mayors and Deputy mayors, thereby letting the Municipality to function to its fullest potential without frequent hindrance of elections and other related activities.

(3) The State Government may, subject to the provisions contained herein, remove a member of a Municipal Council on the following grounds, namely –

(a) that the Councillor has deliberately neglected or avoided performance of the duties,

(b) found guilty of misconduct in the discharge of the duties,

(c) incapable of performing the duties as a Councillor, or

(d) proved misbehaviour, corruption or misconduct and moral turpitude.

(e) that the Councillor has absented himself for more than three consecutive general meetings, without leave of the Municipality.

20. Standing Committees[47] – (1) Every Municipality shall constitute a Standing Committee for the following –

i. Standing Committees for Public Health and Sanitation;
ii. Standing Committees for Education and Social justice;
iii. Standing Committees for Taxation, Finance and Appeals;
iv. Standing Committees for Town Planning, Infrastructure Development and Improvement;
v. Standing Committee for Budgeting and Accounts;
vi. Standing Committee for Water Supply, Sewerage and Drainage;
vii. Standing Committee for Ward Management, Ward level Public Works;

(2) Each Standing Committee shall consist of such number of Councillors which shall not be more than nine and less than five.

(3) Each Standing Committee shall consist of a Chairperson and Deputy Chairperson, and the Mayor and the Deputy Mayor shall be *ex offico* members of all the standing Committees but they shall not have the right to vote.

(4) No Councillor shall be a member of more than one Standing Committee at the same time excepting the Mayor and the Deputy Mayor.

[47] Section 11 of the Karnataka Municipal Corporation Act, speaks of Standing Committees. On the other hand, Section 63 of the Karnataka Municipalities Act speaks of Standing Committees for the Municipal Councils. Even though the Standing Committees are provided under both the enactments, the purpose for which it has been mentioned is somewhat similar. However, the Municipality shall be able to constitute such Standing Committee as may be required.

(5) The members of the Standing Committee shall hold office for a period not extending 12 months from the date of the formation of such Committee.

(6) The Standing Committees shall always conform to the Municipal Council and the requisitions as may be required.

(7) The manner of conducting the business shall be as may be prescribed in the **Rules to this Bill.** [48]

(8) Notwithstanding anything contained herein, the Municipality may constitute such other Committee[49] as may be required for any other purpose.

21. Chief Municipal Officer – (1) Every Municipality shall have a Chief Municipal Officer, who shall be appointed by the State Government subsequent to the consultation with the Mayor of such Municipality.

(2) The Chief Municipal Officer shall be a whole time Officer of the Municipality, possessing such qualifications as may be prescribed through Rules by the Government.

(3) The Chief Municipal Officer shall hold the office for a period of Five years subject to the pleasure of the Government and may be transferred by the Government, as may be required for the effective administration of a Municipality, or if the Municipal Council passes a resolution with not less than three-fourths of the total number of councillors voting in favour of such resolution.

(4) The Chief Municipal Officer may be removed from office at any time by the State Government on the following grounds;

a. Incapacity to perform the duties assigned;

b. Proved to be guilty of misconduct or neglect;

(5) The Chief Municipal Officer shall not engage in any other profession, trade or business whatsoever.

22. Ward Committees – (1) Every Municipality shall, at its first meeting after the Election of Councillors or subsequent thereto within a period of one month from the date of such meeting shall constitute a Ward Committee for each of the Ward within the jurisdiction of the Municipality.

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[48] Separate Rules for the functioning of the Standing Committees shall be drawn up by the Government, which may include the Rules for the Election of Chairperson and Deputy Chairperson of the Committee, Manner of functioning, casual vacancies (S.65 of KMC), Procedure for meeting (S.67, 68 KMC), Reports to be prepared, Officers assisting the Standing Committees.

[49] The municipality may also constitute Other Committee which may not be subject to the Rules under this Act. However, the Committee shall be formed based on the requirement of any other legislation or Act, as may be prescribed therein. Formation of Other Committee shall be dependant on the requirements of the purpose for which it has been established.

(2) The Ward Committee shall consist of ten members representing the civil society from the Ward, nominated by the Municipality.

(3) The Councillor elected from a Ward shall be the ex-officio Head of the Committee constituted.

(4) A Councillor shall not be a Member of three or more Ward Committees simultaneously.

(5) Any person disqualified under this Law or any other law for the time being in force shall not be the Head or a member of the Ward Committee.

(6) The meetings of the Ward Committee shall be held once every month and may happen in such place within the Ward subject to prior intimation to all the members and stakeholders residing within the Ward.

(7) The Ward Committee shall perform such functions and in such manner, as may be specified by Regulations.

23. Area Sabhas – (1) Every Ward shall consist of Area Sabhas as may be prescribed by the Municipality.

(2) There shall be Area Sabhas for each area as may be prescribed by the Standing Committee for the Ward Management.

(3) Area sabhas shall consist of such number of members not exceeding 10 in numbers who are electors of the Area within the Ward.

(4) The Standing Committee for Ward Management shall, in consultation with the Councillor, nominate a representative for each Area who is an elector of that area.

(5) The Representative nominated by the Standing Committee shall not be a Representative or holding office of profit in any government.

(6) The Representative or member shall be a member of Area Sabha for the tenure coterminous to the Municipality.

(7) The Area Sabhas shall perform such functions and in such manner, as may be specified by Regulations.[50]

24. Miscellaneous - Any dispute or question arising on interpretation of the provisions contained under this **Chapter/Act** shall be referred to the Commission as established under this Act.

[50] The Regulations may specify the working of Ward committees and The Area Sabhas, drawn under the Provision of Karnataka Municipalities Bill. The Regulation may specify the Meeting of the Area Sabhas, Functions and duties and other related aspect of the Area Sabhas and the Ward Committees.

CHAPTER - IV - ELECTION TO MUNICIPALITY

25. Election of Councillors to the Municipality:

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections of Councillors shall be vested in the State Election Commission.
2. The officer designated by the State Election Commission in this behalf in respect of a municipal area shall maintain a list of voters for each ward of such municipal area.

   Explanation.—For the purpose of this section, "electoral roll" shall mean an electoral roll prepared under the provisions of the Representation of the People Act, 1950 (Central Act XLIII of 1950), for the time being in force.
3. An election to constitute a Municipality shall be completed

   (i) before the expiry of its duration term as stipulated under Section (Term of Office)

   (ii) before the expiration of a period of six months from the date of its dissolution.

   Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.
4. The date or dates of elections to constitute a Municipality and to fill casual vacancy shall be fixed by the State Election Commission in consultation with the State Government.[51]
5. The returning officer, assistant returning officer, presiding officers, polling officer, any other officer appointed by or under this Act and any police officer designated for the time being by the Government for the conduct of any election of Councillors under this Act shall be deemed to be on deputation to the State Election Commission for the period commencing on and from the date of notification calling for such election and ending with the date of declaration of the results of such elections and accordingly, such officer shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission.

[51] Appointment of Chief Electoral Officer, District Election Officers and their duties including the duty of the State Government to make available staff for the discharge of functions conferred on the State Election Commission may be added in the Rules.

26. Right to Vote: (1) Subject to the provisions of section (disqualification for registration in electoral rolls), every person who-

(a) is not less than eighteen years of age on the qualifying date, and

(b) is ordinarily resident in a ward of the Municipality, shall be entitled to be registered in the electoral roll for that ward.[52]

Explanation: "Qualifying date", for the purpose of this section, means the first day of January of the year in which electoral roll is so prepared or revised, as provided under Section 14 (b) of the Representation of People Act, 1950.

(2) No person shall be entitled to be registered in the electoral roll more than once or for more than one ward.

(3) Every person whose name is in the electoral roll referred to in sub-section (1) shall, unless disqualified under any law for the time being in force, be qualified to vote, at the election of a councillor for the ward to which such list pertains.

27. Disqualification for registration in electoral rolls[53] - (1) A person shall be disqualified for registration in the electoral roll for the ward if such person-

(a) is not a citizen of India; or
(b) is of unsound mind and stands so declared by a competent court; or
(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

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[52] Can be added in the Rules. (i) A person shall not be deemed to be ordinarily resident in a ward on the ground only that he owns, or is in possession of, a dwelling house therein.
(ii) A person absenting himself temporarily from his place of ordinary residence shall not, by reason thereof, cease to be ordinarily resident therein.
(iii) A person who is a patient in any establishment, maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or any other illness involving long treatment or who is detained in prison or other legal custody at any place or residing in a hostel for study or residing in a hotel etc. as a casual visitor shall not, by reason thereof, be deemed to be ordinary resident therein.
(iv) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the same shall be determined with reference to all the relevant facts of the case and in accordance with such rules as may be made in this behalf by the State Government.
(v) A member of Parliament or the State Legislature shall not, during the term of his office, ceased to be ordinarily resident in the ward in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that ward in connection with his duties as such member.
(vi) "Qualifying date", for the purpose of this section, means the first day of January of the year in which electoral roll is so prepared or revised.
[53]Representation of People Act, 1950, S.16.

(2) The name of any person, who becomes so disqualified after registration, shall forthwith be struck off the electoral roll prepared under this Act:

Provided that the name of any person struck off the electoral roll of a ward by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-entered in that roll, if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

28. Qualification for being councillors of Municipality:[54] Every person whose name is in the electoral roll for any of the wards of the municipal area shall, unless disqualified under this Act or any other law for the time being in force, shall be qualified to be elected at the election for that ward or any other ward of the municipal area and every person whose name is not in such list shall not be qualified to be elected, at the election for any ward of the municipal area:

Provided that a person shall not be qualified to be elected,—

(a) to a seat reserved for Scheduled Castes or Scheduled Tribes unless he is a member of any of those castes or tribes; and
(b) to a seat reserved for Backward Classes, unless he is a member of such classes.
(c) to a seat reserved for women unless such person is a woman.
(d) Until such person has attained the age of 21 years, in either case whether the seat is reserved or not.

29. General disqualifications for councillors:[55] A person, notwithstanding that he is otherwise qualified, shall be disqualified, for being chosen as a councillor of a Municipality if -

1. he has been convicted of an offence involving moral turpitude or of any other offence by a competent court of law and sentenced to imprisonment for six months or more, or
2. he has been convicted of an offence under this Act, or
3. he is under trial in the competent court which has taken cognizance of the offence and framed the charges against him of any offence punishable with imprisonment for five years or more, or
4. he has been convicted of an offence under the Prevention of Food Adulteration Act, 1954 (Central Act No. 37 of 1954), or
5. against whom an order has been passed under section 117 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), in proceedings

[54]Based on Karnataka Municipalities Act, 1976 S.15.
[55] Based on RMA, S.24

instituted under section 110 of the said Code, such order not having been subsequently reversed, or

6. he has been dismissed or removed from the service of the Central or a State Government or any local authority or any other authority specified under clause (xi) for misconduct, or
7. he having been a professional practitioner, has been debarred from practicing as such by order of any competent authority, or
8. he holds any place of profit in the gift or disposal of the Municipality, or
9. he is disqualified under Sec……(Electoral offences) or Sec……..(Corrupt practices) or Section …….. (Removal), or
10. he is so disqualified by or under any law for the time being in force for the purposes of elections to the Karnataka Legislative Assembly:
    a. Provided that no person shall be disqualified under this clause on the ground that he is less than 25 years of age, if he has attained the age of 21 years, or
11. he holds a salaried or part-time appointment under the Central or a State Government or a local authority or any other authority, or
12. he holds a salaried whole time or part-time appointment under a university or any corporation, body, enterprise or co-operative society, which is either controlled or wholly or partly financed by the State Government, or
13. he is an undischarged insolvent, or
14. he has been adjudged by a competent court to be of unsound mind, or
15. he, save as hereinafter provided, has directly or indirectly, by himself or any councillor of his family or his partner, employer or employee, any share or interest in any work done or supply made by the order of such Municipality or in any contract or employment with or under or by or on behalf of such Municipality, or
16. he is employed as a paid legal practitioner on behalf of such Municipality or contesting as lawyer against the Municipality in any court of law at the time of filing nomination as candidate for such Municipality or accepts employment as legal practitioner against such Municipality during the term for which he has been elected, or
17. he has been in arrear of any municipal dues for more than two years and proceedings for the recovery have been initiated against him under this Act, or
18. he has been convicted of an offence involving misappropriation or embezzlement of municipal property or fund by a competent court :

    Provided that-

a. the disqualification mentioned in clause (i) shall cease to operate after the expiry of six years from the date of the release of the disqualified person from imprisonment;
b. the disqualification mentioned in clause (v) shall cease to operate after the expiry of the period for which a person is ordered to furnish security;
c. the disqualification mentioned in clause (ix) shall cease to operate after the expiry of the period for which a person is so disqualified unless such disqualification is removed earlier by an order of the State Election Commission;
d. a person shall not be deemed to have incurred the disqualification under clause (xv) by reason of such person -
    i. having any share or interest in any joint stock company, otherwise than as a managing director or agent which shall contract with or be employed by or on behalf of the Municipality, or
    ii. having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or
    iii. having a share or interest in any newspapers in which any advertisement relating to the affairs of the Municipality may be inserted , or
    iv. holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or
    v. having a share or interest in the occasional sale of any article in which he regularly trades to the Municipality to a value not exceeding in any official year such amount as the Municipality, with the sanction of the State Government, may fix in this behalf, or
    vi. having a share or interest in the occasional letting out on hire to the Municipality, or in the hiring from the Municipality, of any article for an amount not exceeding in any official year two thousand rupees or such higher amount not exceeding five thousand rupees as the Municipality, with the sanction of the State Government, may fix in this behalf.

30. Account of election expenses and maximum thereof[56] The State election Commission shall, subject to the Rules framed by the State Government, seek

[56] Provisions relating to the account of election expenses and the maximum thereof, lodging of account with the returning officer, failure to lodge an account of election expenses have been included in both the

from the candidates contesting in the elections the expenses incurred thereof and related accounts to be submitted.

31. **Restrictions on contesting elections from more than one ward[57]:** No person shall be entitled to contest elections for a seat in more than one ward, and every person who may have filed their nomination paper for seats to a Municipality for more than one ward shall withdraw their candidature from all but one of the seats by a notice in writing which shall contain such particulars as may be prescribed and deliver the same to the returning officer before 3 P.M. on the last date fixed for withdrawal:
Provided if a candidate fails to withdraw their candidature from all but one seat in the manner specified, such candidate shall be deemed to have withdrawn their candidature from all seats.

32. **Manner of voting at elections:** (1) At every election, where a poll is taken, votes shall be given by ballot in such manner as may be prescribed and no votes shall be received by proxy.
(2) Every elector shall have one vote. If an elector is found to have voted for more than one candidate then, at the time of counting of the votes, all votes given by him shall be rejected as void.
(3) Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines, in such manner as may be prescribed, may be adopted in such ward or wards of any Municipality as the State Election Commission may, having regard to the circumstances of each case, specify.
Explanation - For the purpose of sub-section (3) "voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used in any election.

33. **Equality of votes:[58]** If there is equality of votes between two or more candidates, the Returning Officer appointed by or on behalf of the State Election Commission shall decide by drawing lots which candidate shall be deemed to have been elected.

Karnataka Municipalities Act, 1964 and the Municipal Corporations Act, 1976. It is suggested that these provisions be added in the rules.
[57] Based on S. 22 RMA, 2009, Sec. 31KMCA, 1976
[58] Based on KMA, 1964 and KMCA 1976

34. Publication of election results[59]: The names of persons elected as councillors, Mayor or deputy Mayor of a Municipal Council shall be published in the official Gazette;

Provided that the names of all the councillors elected at a general election and nominated under this Act, shall be so published as far as possible simultaneously.

35. Election petition[60]: (1) No election of a councilor shall be called in question except by an election petition presented for adjudication to the District Court having jurisdiction, within thirty days from the date of the publication of the result of election.

(2) An election petition may be presented on one or more of the grounds specified in section (Grounds for declaring election void) -

(a) by any candidate at such election; or

(b) by any voter of the ward concerned.

(3) A petitioner shall join as respondents to his petition all the candidates at the election.

(4) An election petition shall -

(a) contain a concise statement of the material facts on which the petitioner relies;

(b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleadings.

(5) Every election petition shall be tried as expeditiously as possible and endeavor shall be made to conclude the trial within six months from the date of presentation of the election petition under sub-section (1):

Provided that where the petitioner alleges any corrupt practice the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(6) In hearing the election petition the District Judge shall follow such procedure provided in the Code of Civil Procedure, 1908 in regard to suits as far as it can be made applicable in the trial and disposal of an election petition.

36. Relief that may be claimed by petitioners: (1) A petitioner may claim —

[59] Based on KMA, 1964 and KMCA 1976

[60] Based on KMA, 1964 and KMCA 1976

(a) a declaration that the election of all or any of the returned candidates, is void, and

(b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.

(2) The expression "returned candidate" means a candidate who has been declared as duly elected.

37. Grounds for declaring elections to be void: [61] On the presentation of an election petition, if the District court is of opinion that -

(a) on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a councillor under this Act, or

(b) any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent, or

(c) any nomination has been improperly rejected, or

(d) the result of the election, in so far as it concerns a returned candidate, has been materially affected by -

(i) the improper acceptance of any nomination; or

(ii) any corrupt practice committed in the interests of the returned candidate by a person other than that candidate, or an agent other than his election agent; or

(iii) the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iv) any non-compliance with the provisions of this Act or of any rules or orders made thereunder, the court shall declare the election of the returned candidate to be void.

38. Decision of the court - (1) At the conclusion of the trial of an election petition, the court shall make an order,-

(a) dismissing the election petition; or

(b) declaring the election of all or any of the returned candidates to be void; or

(c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court is of opinion that -

(a) in fact the petitioner or such other candidate received a majority of the valid votes; or

[61] Based on KMA, 1964, KMCA, 1976, RMA 2009

(b) but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes, the court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate as the case may be, to have been duly elected.

(3) If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the court shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

39. Appeals from orders of District Judge[62]- (1) An appeal shall lie to the High Court from every order made by the District Judge on the petition presented under Sec..... (Election Petition) within a period of thirty days from the date of the order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(2) Where an appeal has been preferred against an order declaring the election of all or any of the returned candidates to be void, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed not to have taken effect.

(3) Every appeal shall be decided as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

40. Resignation[63]- A councillor may resign his membership by giving notice in writing to that effect duly attested by an Executive Magistrate to the Mayor and such resignation shall take effect after the expiry of fifteen days from the date of the notice or from the date of the acceptance of the resignation by the Mayor whichever is earlier.

41. Removal[64]- (1) The State Government may, subject to the provisions of sub-sections (3) and (4), remove a councillor of a Municipality on any of the following grounds, namely:

(a) that he has absented himself for more than three consecutive general meetings, without leave of the Municipality:

[62]Based on RMA, S.32.
[63]Based on RML, S.38.
[64]Based on RML, S.39.

Provided that the period during which such councillor was in jail as an under trial prisoner or as a detenue or as a political prisoner shall not be taken into account,

(b) that after his election he has incurred any of the disqualification mentioned in Section.....(General disqualifications for councillors)or has ceased to fulfill the requirements of Section .....(Persons qualified for being councillors of Municipality),

(c) that he has

(i) deliberately neglected or avoided performance of his duties as a councillor, or

(ii) been guilty of misconduct in the discharge of his duties, or

(iii) been guilty of any disgraceful conduct, or

(iv) become incapable of performing his duties as a councillor, or

(v) been disqualified for being chosen as councillor under the provisions of this Act, or

(vi) otherwise abused in any manner his position as such councillor :

Provided that an order of removal shall be passed by the State Government after such inquiry as it considers necessary to make either itself or through such existing or retired officer not below the rank of State level services or authority as it may direct and after the councillor concerned has been afforded an opportunity of explanation.

(2) The power conferred by sub-section (1) may be exercised by the State Government of its own motion or upon the receipt of a report from the Municipality in that behalf or upon the facts otherwise coming to the knowledge of the State Government:

Provided that, until a councillor is removed from office by an order of the State Government under this section, such councillor shall not vacate such office and shall, subject to the provisions contained in sub-section (6), continue to act as, and exercise all the powers and perform all the duties of, a councillor and shall as such be entitled to all the rights and be subject to all the liabilities, of a councillor under this Act.

(3) Notwithstanding anything contained in sub-section (1) where it is proposed to remove a councillor on any of the grounds specified in clause (c) or clause (d) of sub-section (1), as a result of the inquiry referred to in the proviso to that sub-section and after hearing the explanation of the councillor concerned, the State Government shall draw up a statement setting out distinctly the charge against the councillor and shall send the same for enquiry and findings by Judicial Officer of the rank of a District Judge to be appointed by the State Government for the purpose.

(4) The Judicial Officer so appointed shall proceed to inquire into the charge, hear the councillor concerned, if the said councillor makes appearance, record his findings on each matter embodied in the statement as well as on every other matter he considers relevant to the charge and send the record along with such findings to the State Government, which shall thereupon either order for re-inquiry, for reasons to be recorded in writing, or pass final order.

(5) While hearing an inquiry under sub-section (4), the Judicial Officer shall observe such rules of procedure as may be prescribed by the State Government and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) while trying a suit in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any such document or any other material as may be predicable in evidence;

(c) requisitioning any public record; and

(d) any other matter which may be prescribed.

(6) Notwithstanding the foregoing provisions of this section, the State Government may place under suspension a councillor against whom proceedings have been commenced under this section until the conclusion of the inquiry and the passing of the final order and the councillor so suspended shall not be entitled to take part in any proceedings of the Municipality or otherwise perform the duties of a councillor thereof.

(7) Every final order of the State Government passed under this section shall be published in the Official Gazette and shall be final and no such order shall be liable to be called in question in any court.

42. Casual vacancies how to be filled up: [65](1) A casual vacancy in the office of a councillor occurring otherwise than by efflux of time shall be filled, subject to the provisions of sub-section (4), at a by-election which shall be fixed to take place as soon as may be, in the manner as may be prescribed for a general election.

(2) A councillor elected at a bye-election shall hold office so long only as the councillor in whose place he is elected would have been entitled to hold the office, if the vacancy had not occurred.

(3) When a vacancy occurs by reason of death, resignation or removal of any elected councillor,-

a. against a seat reserved in any ward for a councillor of the Scheduled Caste or, as the case may be, the Scheduled Tribes or the Backward

[65]Based on KMA, S. 19.

Classes, such vacancy shall be filled in by a councillor of such caste or tribe or classes; and

b. against a seat reserved in any ward for a woman, such vacancy shall be filled in by a woman.

(4) Where a vacancy occurs by reason of death, resignation, removal or avoidance of the election of an elected councillor and the term of office of that councillor would, in the ordinary course of events, have determined within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

43. Electoral Offences and Corrupt Practices:[66] (1) The provisions of sections 125, 126, 127,127A, 128, 129,130, 131,132, 132A, 133, 134, 134A, 134B, 135,135A, 135B, 135C and 136 of the Representation of People Act, 1951 (Central Act No. 43 of 1951) shall have effect as if -

(a) references in the Representation of People Act, 1951 to an election were references to an election under this Act,

(b) references in the Representation of People Act, 1951 to a constituency were references to a ward,

(c) in sections 125 and 127, for the expression "under this Act", the expression "under the Karnataka Municipalities Act, 2019" and in sections 134 and 136, for the expression "by or under this Act", the expression —by or under the Karnataka Municipalities Act, 2019 were substituted, and (d) in sub-section (1) of section 135B for the words "House of the People or the Legislative Assembly of a State", the words "ward of the Municipality" were substituted.

(2) The following shall be deemed to be corrupt practices for the purposes of an election under this Act, namely:

1. bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person of any gratification to any person whomsoever with the object, directly or indirectly, of inducing –
    a. a person to stand or not to stand as, or to withdraw from being, a candidate or to retire from contest at an election; or
    b. an elector to vote or refrain from voting at an election; or as a reward to-
        i. a person for having so stood or not stood, or for having withdrawn his candidature or having retired from contest; or
        ii. an elector for having voted or refrained from voting.

[66] Based on RMA, S,28 and 29

Explanation- For the purpose of this clause the term —gratification is not restricted to pecuniary gratification or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election;

2. Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person, with the free exercise of any electoral right:
   Provided that
   a. without prejudice to the generality of the provisions of this clause any such person as is referred to therein who-
      i. threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or of expulsion from any caste or community; or
      ii. induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered as object of divine displeasure or spiritual censure,
      shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;
   b. a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause;
3. The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community and language or the use of, or appeal to, religious symbols or the use, or appeal to national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:
   Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purpose of this clause;

4. The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;
5. The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

   Explanation- For the purposes of this clause, — sati and—glorification in relation to sati shall have the meaning respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (Central Act No. 3 of 1988);
6. The publication by a candidate or his agent or by any other person of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the candidature or withdrawal or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate‘s election;
7. The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person for the conveyance of any elector (other than the candidate himself, any councillor of his family or his agent), to or from any polling station or place fixed for the poll:

   Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

   Provided further that the use of any public transport vehicle or vessel or any tram, car or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place shall not be deemed to be a corrupt practice under this clause.

   Explanation- In this clause the expression —vehicle means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise;

8. The incurring or authorizing by a candidate or his agent or by any other person of expenditure in contravention of the provision of any rule or order relating to election made under this Act;
9. The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person any assistance (other than the giving of vote) for the furtherance of the prospects of the candidate's election from any person in the service of the Government and belonging to any of the following classes, namely:
    a. Gazetted Officers;
    b. Members of the armed forces of the Union;
    c. Members of the police force;
    d. Excise Officers;
    e. Revenue Officers including Patwaries and like; and
    f. Such other class of persons in the service of the Government as may be prescribed.
10. the holding of any meeting in which intoxicating liquors are served;
11. any other practice which the Government may by rules specify to be a corrupt practice.

Explanation-

i. For the purposes of clause (ix), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if such person acts as an election agent or polling agent or counting agent of that candidate;
ii. In this section, the expression —agent includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

44. Jurisdiction of civil courts in electoral matters[67] - (1) No civil court shall have jurisdiction to entertain or adjudicate upon any question relating to the delimitation of wards, the allotment of seats to such wards, preparation of electoral rolls or conduct of election.

(2) No election to any Municipality shall be called in question except by an election petition presented in accordance with the provisions of this Act.

45. Power to dissolve Municipality [68]- Whenever the election of all the Councillors or of more than two-thirds of the total number of the councillors of a Municipality is declared to be void under Sec..... (Election Petition**)** or on

[67] Based on RMA. S.30.
[68] Based on RMA. S.33.

appeal under Sec.... (Appeals from orders of District Judge), the State Government shall dissolve the Municipality.

46. Finality of orders and decisions[69]-The decision of the High Court on an appeal under Sec..... (Appeals from orders of District Judge, and, only subject to such decision, the order of the District Judge under Sec.....(Election Petition**)** shall be final and conclusive.

47. Control of elections and power to make rules:

(1) The State Government may, after consulting the State Election Commission, by notification in the Official Gazette, make rules for the purpose of holding elections of councillors under this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters, namely:—

- **a.** with regard to all matters relating to the preparation, revision, modification, updating and publication of electoral rolls;
- **b.** for prescribing particulars which shall contain in the notice given for withdrawal of candidature from election on more than one seat;
- **c.** for prescribing the manner in which votes shall be given in an election and the manner in which votes shall be given and recorded by the voting machines;
- **d.** with regard to all matters relating to presentation of an election petition, procedure to be followed and powers to be exercised by the District Judge in disposing the election petition;
- **e.** for prescribing the manner in which the Judicial Officer shall enquire into the charge against a member and for prescribing the matters, other than those specified in clauses (a) to (c) of sub-section (5) of section 39, regarding which the judicial Officer shall have power of a civil court while inquiring into the said charges;
- **f.** the manner of the splitting up of electoral rolls for Legislative Assembly constituencies into parts for the purpose of constituting one or more of such parts into the list of voters for a ward ; and the officer or authority by whom such splitting up is to be carried out;
- **g.** redistribution of territorial wards ;
- **h.** the appointment of returning officers, assistant returning officers, presiding officers and polling officers for the conduct of elections;
- **i.** the nomination of candidates, form of nomination papers, objections to nominations and scrutiny of nominations;

[69]Based on RMA. S.34.

j. the deposits to be made by candidates, time and manner of making such deposits and the circumstances under which such deposits may be refunded to candidates or forfeited to the municipal council;

k. the withdrawal of candidatures;

l. the appointment of agents of candidates;

m. the procedure in contested and uncontested elections and the special procedure at elections in wards where any seat is reserved for the Scheduled Castes, Scheduled Tribes, Backward Classes and Women ;

n. the date, time and place for poll and other matters relating to the conduct of elections

o. the fee to be paid on an election petition;

p. any other matter relating to elections or election disputes in respect of which the Government deems it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government necessary.

48. Penalty for contravention – Any person contravening the provisions made under this Chapter shall be punishable with imprisonment for a term not exceeding six months and may also be liable to pay fine of not less than rupees Two thousand for every such contravention and upon continuing contravention, such person shall be liable for rupees five hundred for each day.

CHAPTER – V - CONDUCT OF BUSINESS

49. First meeting of the Municipality[70]:

(1) The first meeting of Municipality after the general election of Councillors to the Municipality shall be convened, after giving notice of seven (7) days, within thirty days from the date of publication of the names of elected Councillors in the Official Gazette under the provisions of this law.

(2) The meeting shall be convened by -

a. In the case of a Greater Municipality and City Municipality, by the Secretary to the State Government in charge of municipal affairs or any other officer not below the rank of a Deputy Secretary to the State Government, duly authorized by him.

b. In the case of a Town Municipality or a Nagar Municipality, by the District Magistrate or any other Executive Magistrate authorized by the District Magistrate in this behalf.

50. Meetings of a Municipality[71]

1) There shall be an ordinary general meeting of the Municipality at least once every month and the business of the meeting shall be conducted in accordance with such procedure as may be prescribed.
2) The Mayor may call a special general meeting, whenever he thinks fit, or when he receives a request in writing signed by not less than one-third of the elected members of the Municipality specifying the resolution[72] which is proposed to be moved, within seven days from the date of receipt of the request.
3) If the Mayor either fails to call a special general meeting, or fails to call the meeting within the time specified under sub-section (2) the Deputy Mayor or one-third of the elected members of the Municipality or the Chief Municipal Officer may call such a meeting within ten days from the date on which the time specified in sub-section (2) expires.
4) Rules with regard to adjournment of meetings shall be as may be prescribed.[73]

51. Presiding Officer[74] (1) The Mayor or in his absence, the Deputy Mayor shall preside at every meeting of the Municipality.

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[70] Sec. 36, Model Municipal Law, 2003

[71] Section 47, Karnataka Municipalities Act, 1964 and Section 51, Rajasthan Municipalities Act, 2009

[72] Modification and cancellation of resolutions may be added in the Rules. Section 57 of the Karnataka Municipalities Act, 1964 talks of the same. It may be retained or amended as deemed fit.

[73] The manner in which adjournments may be made can be added to the Rules. Section 56 of the Karnataka Municipalities Act, 1964 talks of the same.

(2) In the absence of both the Mayor and the Deputy Mayor from the meeting, the members present shall elect one from among themselves to preside.

(3) The Mayor or the person presiding over a meeting shall have and exercise a second or casting vote in all cases of equality of votes.

(4) Notwithstanding anything contained in the foregoing sub-sections, at any meeting of the Municipality, while any resolution expressing want of confidence in the Mayor or the Deputy Mayor is under consideration, the Mayor and the Deputy Councillor, though present, shall not preside at such meeting. The provisions of sub-section (2) shall mutatis mutandis apply for such meeting:

Provided no motion of want of confidence in the Mayor or the Deputy Mayor shall be made within one year of the assumption of office by a Mayor or the Deputy Mayor.

52. Notice of meetings and business[75] (1) Seven clear days' notice of an ordinary general meeting, and three clear days' notice, or in case of great urgency, notice of such shorter period as is reasonable, of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted, shall be given by the Chief Municipal Officer to the councillors, and posted up at the municipal office. The said notice shall include the list of business to be transacted and any motion or proposition which a councillor proposes to bring forward, of which prior written notice of not less than ten days previous to the meeting has been given, and, in the case of a special general meeting any motion or proposition mentioned in any written request made for such special general meeting:

Provided that the motion or proposition in respect of which notice is given and the list of business to be transacted shall relate to matters connected with the municipal administration and shall not be inconsistent with the provisions of this Act.

(2) Every motion or any amendment thereof shall be received in writing and then duly moved. Every motion shall be seconded, and until seconded no debate thereon shall take place nor shall it be put to vote. No amendment which merely negatives an original motion shall be allowed.[76]

(3) At an ordinary meeting business shall be conducted in the following order:—

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[74] Based on Section 51 Karnataka Municipalities Act, 1964 and Section 53, Municipal Model Law, 2003, Section 54 Rajasthan Municipalities Act, 2009

[75] Based on Section 48, 49 and 59 Karnataka Municipalities Act, 1964 and Section 51, Model Municipal Law, 2003

[76] Other provisions on motions and amendments can be added to the Rules. Section 58, Karnataka Municipalities Act, 1964 talks of the same.

(a) the minutes of the previous ordinary meeting and of any special meeting held since shall be read and confirmed;
(b) business postponed at the previous meeting shall be considered;
(c) subjects noted on the agenda shall then be considered.

(4) A councillor may propose any resolution connected with or incidental to the subjects included in the list of business:
Provided that the Mayor may propose any urgent subject of a routine nature not included in the list of business if no councillor objects to it.

(5) A Councillor may give notice of raising discussion on a matter of urgent public importance to the Mayor supported by signatures of at least two other Councillors at least forty-eight hours before the date on which such discussion is sought and such notice shall be circulated among the other Councillors in such manner as may be prescribed:
Provided the Mayor may admit for discussion such notice as may appear to him to be of sufficient public importance and allow such time for discussion as he may consider appropriate, although there shall be no formal resolution or voting on such discussion.[77]

(6) Every meeting of a Municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a municipal office by such Municipality.

53. Quorum for transaction of business at a meeting of Municipality and method of deciding questions[78] (1) The quorum necessary for the transaction of business at a meeting of the Municipality shall be one-third of the total number of Councillors.

(2) If at any time during a meeting of the Municipality there is no quorum, it shall be the duty of the person presiding over such meeting either to adjourn the meeting or to suspend the meeting until there is a quorum.

(3) Where a meeting has been adjourned under sub-section (2), the business which would have been brought before such meeting shall be brought before and transacted at, the adjourned meeting, provided that not less than one-fourth of the total number of councillors be present.

(4) All matters required to be decided at a meeting of the Municipality shall, save as otherwise provided in this Act, be determined by a majority of votes of the Councillors present and voting.

(5) The voting shall be by show of hands, but the Municipality may, subject to such rules as may be prescribed resolve that any question or class of questions shall be decided by ballot.

[77] Based on Section 60, Model Municipal Law, 2003
[78] Based on Section 50, 52 and 58, Karnataka Municipalities Act, 1964 and Section 52, Municipal Model Law, 2003

(6) At any meeting of the Municipality, where a poll is taken on a resolution before it, the votes of all the Councillors present who desire to vote shall be taken under the direction of the presiding officer of such meeting, who shall declare such resolution to have been carried or lost, as the case may be, in accordance with the result of such poll.

(7) At any meeting of the Municipality, unless a poll is demanded by at least one-sixth of the Councillors present, a declaration by the presiding officer that a resolution has been carried or lost, and an entry to that effect in the minutes of the proceedings of such meeting shall, for the purposes of this Act, be conclusive evidence of the fact that such resolution has been carried or lost, as the case may be.

54. Maintenance of order at a meeting of Municipality and admission of members of public[79] (1) The Mayor or the person presiding over a meeting shall preserve order thereat and shall have all powers necessary for the purpose of preserving such order and in case of grave disorder shall have the power to adjourn the meeting to a date specified by him.

(2) The Mayor or the person presiding over a meeting may direct any councillor whose conduct is in his opinion grossly disorderly, to withdraw immediately from the meeting and any, councillor so directed shall do so forthwith and absent himself during the remainder of the meeting.

(4) Subject to sub-section (5), every meeting shall be open to the public, unless a majority of the members present at the meeting decide that the meeting should be held in private.

(5) The Government may make rules for the purpose of admission of the members of the public to meetings of municipal councils and for the removal by force, if necessary, of any member of the public so admitted if he is found interrupting or disturbing the proceedings of the meeting.

55. Right of Chief Municipal Officer and other officers to attend meeting of Municipality and committees etc.[80] (1) The Chief Municipal Officer shall have the right to attend the meetings of the municipal council and of any committee of the council and to take part in the discussion but shall not have the right to move any resolution or to vote.

(2) The Executive Engineer of the ward concerned, the principal officer of Health in the district and any other officer approved and notified by the Government in this behalf, may be present at any meeting of a Municipality and, with the consent of the Municipality, may take part at such meeting:

[79] Based on Section 49, Karnataka Municipalities Act, 1964

[80] Based on Section 58, Model Municipal Law, 200, Section 61 and Section 340 Karnataka Municipalities Act, 1964 , Section 79 Karnataka Municipal Corporation Act, 1976

Provided that the said officer shall not be entitled to vote upon any question of such meeting.

(3) If the presence of any other officer approved and notified by the Government in this behalf is desirable at any meeting of a municipality, such municipality may request such officer by a letter addressed not less than fifteen days previous to the intended meeting, to be present for such meeting; and the said officer, unless prevented by a reasonable cause, shall be bound to attend such meeting:

Provided that such officer, if unable to be present himself, may instruct a deputy or other subordinate officer as to his views and may send him to the meeting as his representative.

56. Right and privileges of Councillors and the Mayor[81] – (1) Any councillor may call the attention of the proper authority to any neglect in the execution of a municipal work, to any wastage of municipal property or to the civic problems of any locality, and may suggest any improvement which the Councillor considers desirable.

(2) Every councillor shall have the right to interpellate and to move resolutions on matters connected with the administration of the Municipality, subject to such rules as may be prescribed.[82]

(3) Every councillor shall be furnished with copies of the proceedings of the meetings by the Director of Municipal Administration or the Chief Municipal Officer along with the notice of the next meeting, subject to such rules as may be prescribed.

(4) Every councillor shall have the right to inspect, without payment of any fees, records of the Municipality at the municipal office, after giving due notice to the Chief Municipal Officer subject to such rules as may be prescribed.

(5) The Mayor shall have full access to all the records of the Municipality and the Chief Municipal Officer shall comply without unreasonable delay with any requisition of the Mayor for any information appertaining to the municipal administration.

57. Power of Municipality to require returns, reports, or production of documents[83] (1) The Municipality may require the Chief Municipal Officer to furnish it with,—

[81] Based on Section 45, Karnataka Municipalities Act 1964, Section 52, Rajasthan Municipalities Act, 2009 and Section 59, Model Municipal Law, 2003

[82] The Rules can elaborately deal with the aspect of interpellation. Provisions on interpellation have been laid down in Section 62 of the Karnataka Municipalities Act, 1964.

[83] Based on Section 337, Karnataka Municipalities Act, 1964 and Section 74 Karnataka Municipal Corporations Act, 1976

(a) any return, statement, estimate, statistics, or other information regarding any matter appertaining to the administration of this Act or to the municipal government of the municipal area;
(b) a report on any such matter; and
(c) a copy of any document in his charge:
Provided that in emergent cases which do not admit a delay till a meeting of the Municipality is called, the Mayor may call for the information, return, statistics, estimate, or other information, referred to above and the Chief Municipal Officer shall comply with every such requisition without unreasonable delay.

58. Minutes of Proceedings [84]**-** (1) Minutes of each meeting of the Municipality or of a committee of the Municipality with the names of the Councillors present at such meeting and the proceedings of each such meeting shall be drawn up and entered in a book to be kept for that purpose, signed by the presiding officer and shall be laid before the next meeting of the Municipality or such committee, as the case may be.
(2) Minutes of the proceedings of each meeting of the Municipality shall be circulated to all the Councillors and shall, at all reasonable times, be available at the office of the Municipality for inspection by any Councillor, free of cost, and by any other person on payment of such fee as may be prescribed.
(3) The Chief Municipal Officer shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Municipality or a committee of the Municipality as early as possible and the State Government may, in any case, call for a copy or copies of all or any of the papers laid before the Municipality or any committee of the Municipality.

59. Procedure at meetings of Standing Committees[85] (1) The provisions of this Bill that relate to the conduct of business of a municipality in so far as they relate to the place of holding meetings and maintenance of order, methods of deciding questions, minutes of proceedings and the attendance of Government Officers shall be applicable to the meetings of Standing Committees subject to such exceptions and conditions as may be prescribed.
(2) If the Chairperson of any committee has been absent from the municipality for a period exceeding seven days, the Mayor or Deputy Mayor may, in the absence of such chairperson, call a meeting thereof.

[84] Based on Section 54, Karnataka Municipalities Act, 1964 and Sections 62,63 and 64 Model Municipal Law, 2003
[85] Based on Section 67, Karnataka Municipalities Act, 1964 and Section 58, Rajasthan Municipalities Act, 2009

(3) Committees may meet and adjourn as they think proper, but the Chairperson of a committee may, whenever he thinks fit, and shall upon the written request of the Mayor of the Municipality or of not less than two members of the committee, and at a date not more than two days after the presentation of such request, call a special meeting of such committee.
(4) No business shall be transacted at any committee meeting unless more than one-third of the members of the committee be present thereat.

60. Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality[86](1) Every committee including a Ward Committee shall conform to any instruction that may from time to time be given to it by the Municipality; and the Municipality may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorised or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.
(2) Every order passed by a committee shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules that may be made in this behalf.

61. Officials of the Municipality not to be interested in any contract with such Municipality [87] (1) Any person, who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of, a Municipality, or in any employment with, under, by, or on behalf of, a Municipality other than as a municipal officer or servant, hall be liable for disciplinary action under the appropriate rules.
Provided that before any order is made, such officer or servant shall be given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:
Provided further that no person by reason of his being a share-holder, in or member of, any company be held to be interested in any contract entered into between such company and the municipal council unless such person is a director of such company.

62. Penalty for councillor being interested in any contract, etc., with the municipal council.—(1) Any councillor who knowingly acquires, directly or

[86] Based on Section 69, Karnataka Municipalities Act, 1964 and Section 58, Rajasthan Municipalities Act, 2009
[87] Based on Section 77, Karnataka Municipalities Act, 1964 and Section 64, Rajasthan Municipalities Act, 2009

indirectly any share or interest in any contract or employment with, under, by or on behalf of, a municipal council not being a share or interest such as, under section (**General disqualifications for councillors)**, it is permissible for a person to have, without being thereby disqualified for being a councillor, shall be punished with fine which may extend to ten thousand rupees.

(2) Any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a Municipality of which he is an officer or servant shall be liable, on conviction before a criminal court, to a fine which may extend to ten thousand rupees and shall also be liable for disciplinary action in accordance with the rules applicable to such municipal officer or servant.

63. Municipal fund ordinarily liable for all costs and expenses incurred by municipal councils[88] (1) Except as herein otherwise provided, no Mayor or councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by or on behalf of, the Municipality; the municipal fund shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses.

(2) Without prejudice to any other action under this Act or any other law, the Mayor, Deputy Mayor and every councillor, the Chief Municipal Officer, or other employee of the Municipality, shall be liable for the loss, waste or misapplication, if such loss, waste or misapplication of any money or other property owned by or vested in the Municipality is a direct consequence of his neglect or has been caused or facilitated by his misconduct.

64. Councillors, etc., to be deemed public servants[89] **-** Every Councillor, officer, servant of the Municipality or employee of Municipality and every lessee of the levy of any municipal tax, and every servant or other employee of any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

65. Validity of proceedings[90] (1) No disqualification of or defect in the election, nomination or appointment of any person acting as Councillor, or as the Mayor or presiding authority of a general meeting or a committee

[88] Based on Section 76, Karnataka Municipalities Act, 1964 and Section 63, Rajasthan Municipalities Act, 2009

[89] Based on Section 79, Karnataka Municipalities Act, 1964 and Section 66, Rajasthan Municipalities Act, 2009

[90] Based on Section 80, Karnataka Municipalities Act, 1964, Section 62, Rajasthan Municipalities Act, 2009 and Section 66, Model Municipal Law, 2003

appointed under this Act shall be deemed to vitiate any act or proceeding of the Municipality or such committee, as the case may be, in which such person has taken part.

(2) Where a Councillor, or Mayor or a Deputy Mayor is declared, as the result of an election petition, not to have been duly elected such person shall cease to act as such from such date but acts done by such person till then in the execution of such office shall not be invalidated by reason of such declaration.

(3) No resolution of a Municipality or any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any member; provided that the proceedings of the Municipality or committee were not prejudicially affected by such irregularity.

(4) Unless the contrary is proved, every meeting of the Municipality or of a committee appointed under this Act in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members at the meeting shall be deemed to have been duly qualified, and, where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(5) During any vacancy in a Municipality or committee, the continuing members may act as if no vacancy had occurred.

CHAPTER – VI – POWERS AND FUNCTIONS OF MUNICIPALITY

66. Primary functions of Municipality – (1) Every Municipality shall make reasonable provisions and proper arrangement for the following matters including but not limited to –

i. public health, sanitation, conservation, solid waste management, drainage and sewerage, cleaning public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not, removing noxious vegetation and abating all public nuisances;

ii. protection and conservation of environment including the reclamation of waste lands, promotion of social forestry and afforestation, tree plantation along the streets, maintenance of open spaces, establishing nurseries for plants, vegetables and trees and promotion of greenery through mass participation, pollution control and abatement;

iii. removing filth, rubbish, night-soil, waste, odour, or any other noxious or offensive matter from privies, latrines, urinals, cesspools or other common receptacles for such matter in or pertaining to a building or buildings;

iv. providing emergency medical assistance, ambulance services to the persons in need.

v. naming and numbering public streets, places, houses and buildings;

vi. lighting arrangements for streets, places, buildings;

vii. taking preventive measures to extinguish fires and protecting life and property when fire occurs;

viii. regulating offensive or dangerous trades or practices;

ix. removing obstructions and projections in public streets or places and in spaces, not being private property which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not;

x. securing or removing dangerous buildings or places and reclaiming unhealthy localities;

xi. acquiring, maintaining, changing and regulating places for the disposal of the dead and of the carcasses of dead animals;

xii. constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, drains, sewers, drainage works, sewerage-works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

xiii. constructing public latrines, privies and urinals;

xiv. registering births and deaths;

xv. arranging for detention, protection and preservations of such dogs and other animals, providing ambulance services to the animals in need within the municipal area as may be dealt with under the provisions of this Act;

xvi. paying the salary and the contingent expenditure on account of such police officers as may be required by the Municipality for the purposes of this Act or for the protection of any municipal property and providing such accommodation as may be required by the State Government under the law in force relating to police;

xvii. raising volunteer force with such functions and duties in relation to the protection of persons, the security of property and the public safety as may be prescribed;

xviii. making arrangements for preparation of compost manure from night soil and rubbish;

xix. establishing and maintaining cattle pounds;

xx. promoting population control, family welfare and small family norms;

xxi. preparing plans for economic development and social justice;

xxii. establishing communication systems including construction and maintenance of roads, footpaths, pedestrian pathways, transportation terminals, both for passengers and goods, bridges, over-bridges, subways, ferries, and inland water transport system;

xxiii. preparing transport system accessories including traffic engineering schemes, street furniture, parking areas and bus stops;

xxiv. arranging for planned development of new areas for human settlement;

xxv. taking measures for beautification of the municipal area by setting up parks and fountains, providing recreational areas, improving river banks, and landscaping;

xxvi. collecting statistics and data significant to the community;

xxvii. integrating development plans and schemes of the municipal area with the district or regional development plan, if any;

xxviii. promoting educational, sports and cultural activities;

xxix. disclosing material and vital information regarding finances of, and development work and other activities undertaken by the Municipality to the stakeholders and the public at large;

xxx. taking steps for securing the prevention of cruelty to animals; and

xxxi. performing such other statutory or regulatory functions as may be provided by or under this Act or under any other law for the time being in force.

67. Secondary functions of Municipality – (1) Every Municipality may, undertake secondary functions including but not limited to –

i. Undertaking surveys, development of commercial infrastructure, measures for beautification of the municipal area by setting up recreational areas, improving the river banks and landscaping.
ii. Constructing, establishing and maintaining museums, mental hospitals, halls, offices, dharamsalas, choultries, musafirkhana, rest houses, homes for disabled and destitute persons and other public utilities.
iii. mass inoculation, sterilisation or any such measures for the prevention of infectious diseases;
iv. construction and maintenance of municipal markets, slaughterhouses and other offensive trade activities, regulation of market houses, advancement of civic consciousness of public health, general welfare organising discourses, seminar and conference;
v. promotion of - educational activities including the civic, cultural, scientific and technological, legal, adult, social and non-formal.
vi. promotion of culture and heritage by taking appropriate steps including installation of statutes, portraits or by any other means as the Municipality deems fit;
vii. establishment and maintenance of shelters, taking ameliorative measures during the droughts, floods, earthquakes, organisation of camps, placing temporary shelters and other necessaries for life;
viii. establishing and maintaining warehouses, dairy farms and breeding studs;
ix. maintenance of open spaces, grazing grounds for animals;
x. urban poverty alleviation, slum improvements and upgradation and other necessary infrastructure as the Municipality may deem fit;

(2) any other matter not hereinbefore specifically named which is likely to promote education, culture, public health, safety or general welfare or convenience or the advancement of economic conditions of the inhabitants which is necessary for carrying out the purposes of the Bill.

68. Power of the Government – The State Government may, by general Order or by special order –

i. Assign such other functions to the Municipality as it may, having regard to the resources available with the Municipality, deem fit.
ii. Exempt the Municipality from performing such functions as it may deem fit.

CHAPTER – VII – MUNICIPAL PROPERTY

69. Power to acquire and hold property[91] The Municipality shall, for the purposes of this [Bill], have power to acquire by gift, purchase or otherwise, and hold, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area[92]

70. Vesting of property[93] (1) Every Municipality may for the purpose of this [Bill] acquire and hold property both movable and immovable, whether within or without the limits of the municipal area

(2)All property, movable and the immovable of the nature herein specified together with all other property of whatsoever nature or kind, not being specially reserved by the Government shall, subject to any other law for the time being in force, become vested in the Municipality, be under its direction, management and control and shall be held and applied by it as trustee subject to the provisions and for the purpose of this [Bill], namely-

(a) all vested public lands not belonging to any Government department or statutory body

(b) all public tanks, streams, reservoirs, wells, cisterns, springs, aqueducts, conduits, tunnels, pipes and pumps; and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land, not being private property, appertaining to any public tank or well

(c) all public markets and slaughterhouses, all public city or town walls, gates, manure and night soil depots, and public building of every description which have been constructed or are maintained out of municipal fund

(d) all public sewers and drains, channels, tunnels, culverts and watercourses in, alongside, or under, any street,

(e) all public streets and pavements, and stones and other materials thereon, and also trees on such public streets or pavements not belonging to any private individual, all public streets and pavements,

[91] Section 67, Rajasthan Municipalities Act, 2009 and Section 101 of the Model Municipal Law 2003

[92] The chapter for borrowings under this Bill, since will contain provisions for comprehensive debt limitation policy and power of Municipality to raise loan, which includes raising loans for construction of works and acquisition of lands and buildings and acquisition of a public utility concern which renders such services as the Municipality is authorized to render under this [Bill], mentioning the same under this chapter has been avoided.

[93] Section 102, MML 2003 and section 68 of the Rajasthan Municipalities Act, 2009, section 81, Karnataka Municipalities Act, 1964

and stones and other materials thereon, and also trees, erections, materials, implements and things provided for such streets

(f) all public Ghats on rivers or streams or tanks,

(g) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto,

(h) all public places for disposal of the dead, excluding those governed by any specific law in this behalf

(i) all solid wastes collected on a public street or public place, including dead animals and birds,

(k) all stray animals not belonging to any private person.

(l) all public sewers and drains, channels, tunnels, culverts and watercourses in, alongside, or under any street;

(m) such Government lands, whether situate within or out of the municipal area, as the Government may by general or special order vest in the Municipality

(n) all Government buildings and all private lands and buildings transferred to it by gift or otherwise, for local public purposes

Provided that lands transferred to the Municipality by the Government under clause (n) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the Municipality but shall vest in it subject to the terms and conditions of the transfer, and on the contravention of any of the said terms or conditions, the lands with all things attached thereto, including all fixtures and structures thereon, shall vest in the Government and it shall be lawful for the Government to resume possession thereof.

(3) The State Government shall be competent from time to time, by notification in the Official Gazette, to take over any property vested or vesting in a Municipality under sub-section (1) of this section,

(i) if such Municipality is found upon inquiry to have mismanaged such land, or

(ii) if such land is otherwise required by the State Government in the public interest on such terms as the State Government may determine

71. Acquisition of property by Municipality by agreement, exchange, lease, grant, etc[94], (1) The Municipality may, on such terms and conditions as may be approved by it and such other conditions and restrictions which the Government may by general or special order specify , or with the prior approval of the Government

(i) acquire by agreement-

(a) any immovable property, and

(b) any easement affecting immovable property

(2) The Municipality may also acquire any property by exchange on such terms and conditions as may be approved by it.

(3) The Municipality may also hire or take on lease immovable property on such terms and conditions as may be approved by it from time to time.

(4) The Municipality may receive any grant or dedication by donor, whether in the form of any income or any movable or immovable property by which the Municipality may be benefited in the discharge of any of its functions

(5) It shall be lawful for the Municipality to be the beneficiary of any trust created under the Charitable and Religious Trust Act, 1920(Central Act No. 14 of 1920), or the Indian Trusts Act, 1882(Central Act No. 2 of 1882)

72. Acquisition of Land[95] (1) When any land or right in land, whether within or without the limits of the municipal area, or any easement affecting any immovable property is required for the purposes of this Bill, the Government may, at the request and on behalf of the Municipality, proceed to acquire such land or easement under the law prevailing at the time of acquisition[96], and on payment by the Municipality to the State Government of compensation awarded thereunder and of other charges incurred by the State Government in connection with such acquisition, the land or right as the case may be, vest in the Municipality.

(2) The Municipality shall be bound to pay to the Government the compensation awarded under the Land Acquisition Act, including all charges incurred by the Government in connection with the proceedings under the

[94] Section 69 of Rajasthan Municipalities Act, section 103, Model Municipal Law, 2003

[95] Section 70 Rajasthan Municipalities Act, 2009, section 104, Model Municipal Law 2003 , section 75, Karnataka Municipalities Act, 1964, Section 174 of Karnataka Municipal Corporations Act, 1976 have been referred in drafting. Sub-sections (4),(5),(6) and (7) are based on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act No. 30 of 2013)

[96] At present the Land Acquisition is governed under the Right to Fair Compensation and Transparency in Land Acquisition Act, Rehabilitation and Resettlement Act, 2013.

said Act, upon which the immovable property shall be vested in the Municipality

(3) The Municipality may also resort to other methods of land acquisition including the use of transferable development rights. [97]

(4)irrigated multi-cropped land shall be acquired under this [Bill], subject to the condition that it is being done under exceptional circumstances, as a demonstrable last resort, where the acquisition of such land referred to in sub-section (shall, in aggregate for all projects in a district or State, in no case exceed such limits as may be notified by the Government considering the relevant State specific factors and circumstances

Provided that the requirements under sections shall not apply in the case of projects that are linear in nature such as those relating to railways, highways. major district roads. irrigation canals. power lines and the like.

73. Power to acquire land by agreement[98] The Municipality with the previous approval of the Government, enter into an agreement with the owner of any land or any interest therein, situated within or without the Municipal area for the purchase of such land or interest therein for the purposes on this [Bill].

74. Power of Government to transfer lands belonging to it or to the Municipality etc[99].- (1) The Government may by notification from time to time, for the purposes of this [bill] and subject to such limitations and conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Urban development Authority the land belonging to the Government or to the Municipality

(2) No land belonging to a Municipality shall be vested in any Urban Development Authority mentioned under sub-section (1) except after consulting the Municipality.

(3) Whenever it appears to the Government that any land vested in any Urban Development Authority under sub-section (1) is not required by such Authority for the purpose of this [Bill] or any other land vesting in such Authority is required by the Government or a Municipality, the Government

[97] The Government of Karnataka had issued a Transferable Development Rights Policy, but was criticised for lack of opacity and linking of TDR to zoning classification. The new policy announced in 2017 linked TDR to guidance value of land, that is expected to result in more equitable valuation of land and makes it easier for the TDR holder to sell the particular land in question.
[98] Based on Section 35 of Karnataka Urban Development Authority Act, 1987
[99] Section 37, Karnataka Urban Development Authority Act, 1987- The expression Urban Development Authority has been explained elsewhere under the provisions of this [Bill]

may by notification, direct that the land shall vest in or stand transferred to the Government or the Municipality concerned, as the case may be.

75. Provisions applicable to the acquisition of land other-wise than by agreement[100]- (1) The acquisition of land by the Municipality under this [Bill], otherwise than by agreement within or without the municipal area shall be regulated by the provisions, so far as they are applicable, of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

(2) For the purpose of sub-section (2) of section 95 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Municipality shall be deemed to be the local authority concerned.[101]

(3) After the land vests in the Government under section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[102], the Deputy Commissioner under the said Act, shall, upon payment of the cost of the acquisition, and upon the Municipality agreeing to pay any further cost which may be incurred on account of the acquisition, transfer the land to the Authority, and the land shall thereupon vest in the Municipality.

76. Special provisions for acquisition of lands adjoining streets[103] Whenever the Municipality makes a request to the Government for acquisition of land for the purpose of widening or improving an existing street, it shall be lawful for the Municipality to apply to the Government for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this [Bill].

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[100] Based on Section 36 of Karnataka Urban Development Authority Act, 1987

[101] Section 95, sub-section (1) of , Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 lays down that (,1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Requiring Body, the charges of land incidental to such acquisition shall be defrayed from or by such fund or Requiring Body.

[102] Section 23 of , Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 lays down provision for enquiry and land acquisition award by Collector

[103] Section 105, Model Municipal Law, 2003 and Section 103 of Bihar Municipal Act 2007, Section 107 of Model Municipal Law, 2003

77. Acquisition of lands and buildings for public streets, public parking places and transportation terminals[104] (1) The Municipality may, subject to the other provisions of this [Bill], require to be acquired

(a) any land together with structure including building, if any, standing thereon for the purpose of opening, widening, extending or otherwise improving any public street, parking or transportation terminal, square, park or garden or of making a new one or for enforcing the regular line of street,

(b) in relation to any land or any structure including building as aforesaid, such land or structure including building as the Municipality may think expedient, outside the regular line or projected regular line of the public street as aforesaid, and

(c) any land for the purpose of laying out, or making, a public parking place.

(2) Where any land or structure including building is required to be acquired under sub-section (1) and the Municipality is satisfied that the remaining portion of the land will not be suitable or fit for any beneficial use to the owner, it shall, at the request of the owner, proceed for the acquisition, in addition, of such remaining portion of the land which shall, on acquisition, vest in the Municipality.

(3) Where any land or structure including building is required to be acquired under sub-section (1) or sub-section (2), the procedure for such acquisition as provided in this [Bill] shall apply.

78. Power to acquire land and building for area improvement scheme[105] Subject to the provisions of this [Bill], the Municipality may require acquisition of any land or building, whether situated in the municipal area or not, for the purpose of (i) opening out any congested or unhealthy area or otherwise improving any portion of municipal area, or

(ii) erecting sanitary dwellings for working and poor people, or

(iii) executing any development plan or scheme for the benefit of persons residing in the municipal area.

79. Acquisition of land designated for certain purposes in a Master Plan[106] - (1) The Chief Municipal Officer of a Municipality shall, acquire any land designated in a Master Plan for a specified purpose in clause (b), (c) or (d) of

[104] Section 265, Model Municipal Law, 2003
[105] Section 314, Model Municipal Law, 2003
[106] Section 69 , Karnataka Town and Country Planning Act, 1961

sub-section (1) of section [,,,contents of master plan] or for any public purpose out of those specified land in clause (a) of sub-section (1) of section [contents of master plan] by agreement or under the land acquisition law as in force in the State. Provisions of the prevailing land acquisition law shall apply to the determination of compensation for the acquisition of such land.

(2) If the designated land, except land specified for the purpose in clause (b) of sub-section (1) of section […contents of master plan] is not acquired by agreement within five years from the date, the Master Plan is published in the gazette under sub-section (4) of section [..approval of master plan]or if the proceedings under Land Acquisition Act are not commenced within such period the designation shall be deemed to have been lapsed

80. Land acquisition for purposes of a scheme or Development Plan to be deemed for a public purpose.[107] Land needed for purpose of a Town Planning scheme or Master Plan shall be deemed to be land needed for a public purpose.

81. Contracts by officers appointed by Government to execute municipal works and payment for such works[108]**—**Notwithstanding anything contained in section […..competency of Municipality to lease, sell and contract] any person appointed by the Government to execute any work on behalf of a Municipality, may, subject to such control as the Government may prescribe, make such contracts as are necessary for the purpose of executing such works to the extent of the sum provided for such work; and the *Municipality* shall pay to the person so appointed such sums as may be required for the said purpose, to the extent aforesaid

82. Power of State Government to acquire lands included in a scheme[109]**—**
(1) The State Government may acquire lands for the purpose of implementing any scheme under this Bill as prescribed under the law prevailing at the time of such acquisition.
(2) The State Government shall draw up the compensation, rehabilitation and resettlement schemes to be provided to the affected persons, as provided under the law prevailing at the time of acquisition of land.

83. Provisions relating to land and other properties[110]**-** (1) Any land or other property transferred to the Municipality by the Government shall not,

[107] Section 70, Karnataka Town and Country Planning Act, 1961
[108] Section 74, Karnataka Municipalities Act, 1964
[109] Section 71, Karnataka Town and Country Planning Act, 1961
[110] Section 178, Karnataka Municipal Corporations Act,1964

unless, otherwise expressly provided in the instrument of transfer, belong by right of ownership to the corporation, but shall vest in it subject to the terms and conditions of the transfer and on the contravention of any of the said terms and conditions, the land or other property with all things attached thereto, including all fixtures and structures thereon, shall vest in the Government and it shall be lawful for the Government by order to resume possession thereof.

(2) The Government may, by notification and after consultation with the Municipality, take over for a public purpose any land or other property, movable or immovable, belonging to or vesting in the corporation on such terms as it may determine.

84. Inventory and map of immovable properties of Municipality[111] (1) The Municipality shall maintain an inventory and a map of all immovable properties of which the Municipality is the owner or which vest in it, or are acquired by it or which the Municipality holds in trust for the Government.
(2)The copies of updated inventories and maps shall be deposited in the office of the Director of Local Bodies by each Municipality within one year from the commencement of this [Bill]
(3) The Chief Municipal Officer shall in case of the inventory of an immovable property, prepare an annual statement indicating changes, if any, in the said inventory and shall place the same before the Municipality and also send a copy thereof to the Director of Local Bodies appointed under Section[…to be mentioned] of the provisions of this [Bill]
(4) For the purpose of preparing such maps referred to in the previous sub-section, the Municipality shall have regard to the guidelines framed and published on the website of the concerned Ministry, under schemes and programmes by the Central or the State Government as the case may be.[112]

85. Maintenance of records of urban land and properties[113] The Municipality may, in consultation with other concerning departments or authority, as the case may be, prepare, maintain and regularly update the record of the urban land and all properties, including private properties, situated within the municipal area, in such manner as may be prescribed.

[111] Section 74 of Rajasthan Municipalities Act, 2009, section 105 of Bihar Municipal Act,
[112] For example under the Rajiv Awas Yojana launched in June 2011 in pursuance of the vision of "Slum Free India", several optional guidelines were issued to assist the Urban Local Bodies like Guidelines for Reforms,s for GIS, MIS and GIS-MIS integration, for preparation of Slum-free City Plan of Action, for Community Participation *inter alia*
[113] Section 75, Rajasthan Municipalities Act, 2009

86. Power of the State Government to make rules and orders[114][115](1) The Government may make rules and orders for the purpose of carrying into effect the provisions of this [Bill] and prescribe forms for any proceeding for which it considers that a form should be provided

(2) In particular and without prejudice to the generality of the foregoing power, the Government shall make rules –

(i) for regulating the sale or disposal of immovable property and land[116]

(ii) for prescribing the manner of preparing and maintaining records of urban land situated in the municipal limits[117]

(iii) for prescribing the Chapters, materials and schemes to be incorporated in the City Development Plan[118]

87. Disposal of property and interest therein[119] (1) Any property belonging to the Municipality may be disposed of with the prior approval of the Government in the manner hereinafter provided, namely:-

(a) With the sanction of the Standing Committee, the Chief Municipal Officer may sell, exchange, or grant lease of, or otherwise dispose of, by public auction, any movable property, and may grant lease of, or let out on hire, any immovable property, belonging to the Municipality and subject to the provisions of section [...general provisions relating to contracts] the lease of such immovable property of the Municipality or concession of any right of fishing or grazing or of gathering and taking fruit and the like, may be granted for any term not exceeding [.....][120]years;

(b) Such lease or concession of right aforesaid, shall be granted subject to the condition that the grantee shall not erect any permanent structure on the premises aforementioned.

(c) every such disposal, lease or concession made or granted under clause (a) of sub-section (1) shall be reported to the standing committee within fifteen days.

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[114] The powers relating to planning and development under the provisions of the [Bill]
[115] Section 337 , Rajasthan Municipalities Act, 2009
[116] Clause (xix) of section 337 of Rajasthan Municipalities Act, 2009
[117] Clause (xx) of section 337 of Rajasthan Municipalities Act, 2009
[118] Clause (xxx) of section 337 of Rajasthan Municipalities Act, 2009
[119] Section 176, the Karnataka Municipal Corporation Act 1976, Section 106, Model Municipal Law 2003 and section 104, Bihar municipal Act, 2007
[120] The number of years may be made five or ten, depending on the purpose for which it is leased out. For example if the said property is leased for growing a certain kind of crop, then the lease period can be determined on the basis of the time of harvesting,, as in case of fruits, or years required for full growth in case of trees,

(2) With the sanction of the standing committee the Chief Municipal Officer may dispose of by sale or exchange any movable property of the Municipality or

(3) With the sanction of the Municipality, the Chief Municipal Officer may, lease, sell or otherwise dispose of any movable property of Municipality.

(4) The sanction of the standing committee under sub-section (2) or that of the Municipality under sub-section (3) may be given either generally or for any class of cases or specially for any particular case.

(5) The Chief Municipal Officer may lend or let out on hire any movable property of Municipality on such conditions and for such periods as may be specified in the rules or regulations.

(6) Notwithstanding anything contained in this [Bill],-

(a) no movable property of Municipality, exceeding such sum in value as may be prescribed shall be sold otherwise than by public auction;

(b)(i) no property of Municipality, whether movable or immovable of whatever value shall be transferred free of cost or for an upset price;

(ii) no lease of any immovable property exceeding [……..]years shall be granted;

Provided that the lease may be subject to renewal[121]

(iii) no immovable property of Municipality shall be disposed of by sale or by other transfer, except with the previous sanction of the Government

(7) the Municipality may, with the prior approval of the State Government, for valuable consideration, sell or otherwise transfer, any immovable property belonging to the Municipality which is not required for carrying out the purposes of this [Bill],

(8) the Municipality shall not transfer any immovable property vested in it by virtue of this [Bill], but shall cause the same to be maintained, controlled and regulated in accordance with the provisions of this [Bill]and the rules and the regulations made thereunder

[121] Newly added, this is in view of the leased property being used in the case of growing fruit bearing trees or crops, or where the timber from such trees are ready to sell after the tree has attained the required number of years for growth and fit to be sold in the market, eg. Mahagony etc, or for the purpose of extracting oil as in the .case of Eucalyptus trees

Provided that the Government may authorize, in the public interest, the disposal of such immovable property by the Municipality, if the Municipality so requires, for reasons to be recorded in writing.

Explanation. - "valuable consideration" shall, in relation to any immovable property, mean anything of considerable value in terms of money or property given in lieu of transfer, by way of sale or otherwise, of such immovable property

88. Invitation of tenders[122].- (1)Except as is otherwise provided under sub-section(2) at least seven days before entering into any contract or the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding such amount as may be notified by the Government from time to time,[123] the Chief Municipal Officer shall give notice by advertisement inviting tenders for such contract which shall be published in such newspapers having such circulation as may be prescribed.
Provided that a notice inviting tenders shall not be invalidated merely on the ground that it has not been published in the local newspapers[124]

(2) Such invitation to tenders, mentioned in sub-section (1) shall also be published on the website of the Municipality and bulletin be made available at the office of the Chief Municipal officer [125]

(3) The standing committee may, at the instance of the Chief Municipal Officer and for reasons which shall be recorded in its proceedings, authorise such Officer to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

(4) On receipt of the tenders made in pursuance of the notice given under sub-section (1), the Chief Municipal Officer may, accept or reject any tender in accordance with the provisions of the Karnataka Transparency in public procurements Act, 1999 (Karnataka Act 29 of 2000)[126]

Provided that, such officer who is due to retire in the next six months, shall accept such tender only with the prior approval of the Municipality[127]

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[122] Section 183, Karnataka Municipal Corporation Act, 1976, and section 347 of Karnataka Municipalities Act, 1964 referred
[123] On practical enquiry, it was learnt that nowadays, tenders are invited irrespective of the amount of work involved
[124] The Karnataka Transparency in Public Procurement Act, 1999, rule 6- 3
http://www.municipaladmn.gov.in/sites/municipaladmn.gov.in/files/pdf/ActsandRules/kttpact_2000.pdf
[125] Newly added based on The Karnataka Transparency in Public Procurement Act, 1999
[126]
http://www.municipaladmn.gov.in/sites/municipaladmn.gov.in/files/pdf/ActsandRules/kttpact_2000.pdf
[127] Section 13, The Karnataka Transparency in Public Procurement Act, 1999

Provided further that any tender received under this section, may be on the ground of changes in the scope of procurement, failure of anticipated financial resource, accidents, calamities, or any other ground as may be prescribed which would render the procurement unnecessary or impossible and the same shall be duly reported by the Chief Municipal Officer to the Municipality[128]

(5) For any tender exceeding an amount of one crore, the Municipality shall constitute a Tender Scrutiny Committee for processing received tenders, for evaluation and preparation of a report for the Municipality[129]

89. Provisions relating to transfers of property and contracts[130](1)Every Municipality shall be competent, subject to the prescribed restrictions and conditions to lease, sell, regularize, allot or otherwise transfer any movable or immovable property belonging to it, including municipal land as also any Government land and so far as is not inconsistent with the provisions and purposes of this [Bill] and the rules made thereunder, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes:

Provided that, no such lease, sale, regularization, allotment or transfer and contract shall be binding on a Municipality unless it is in conformity with the provisions of this [Bill] and the rules made thereunder;
Provided further that no lease, sale, regularization, allotment or transfer of, or any other contract with respect to any Government land shall be valid unless it is confirmed by the prescribed authority in the prescribed manner and on the prescribed conditions.

Explanation.-for the purposes of this section, the expression "Government land" means any land

(a)whether situate within or out of the municipal area, as the State Government may by general or special order vest in the Municipality, under clause (m) of sub-section (1) of section [...vesting of property in Municipality].

[128] Based on section 14 of The Karnataka Transparency in Public Procurement Act, 1999
[129] Section 10, The Karnataka Transparency in Public Procurement Act, 1999
[130] Section 73 of the Rajasthan Municipalities Act, 2009

(b)Class B kharab lands[131]

(c) which may be placed at the disposal of a Municipality by the State Government.

(3) Where in pursuance of any lease, sale, allotment, transfer or any other contract made by a Municipality or by the Chief Municipal Officer, or officer of a Municipality, in contravention of the provisions of this section, any person has entered into the possession of any Municipal land or Government land, such person shall be deemed to be in unauthorized occupation within the meaning of the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 (Karnataka Act No. 32 of 1974) and shall be liable for eviction from such land and to all the liabilities as to the payment of rent or damages for use and occupation under the said Act, unless notwithstanding anything contained in that Act, such lease, sale, allotment, transfer or contract is confirmed by the State Government or the officer authorized as aforesaid, in the prescribed manner :

Provided that where any such lease, sale, allotment, transfer or contract is not confirmed as aforesaid, the consideration, if any, received by the

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[131] Kharab land is a term that finds reference in various property related documents. "Phut" or "pot" Kharab is a technical term for a particular classification of land . under the Karnataka Land Revenue Act 1964 the word pot Kharab has been defined under Rule 21 (2) of the Karnataka Land Revenue Rules, 1966 .Land included as unarable is treated as "Pot Kharab" and, are classified as A Kharab which is unfit for agriculture at the time of survey including the farm buildings or threshing floors of the holder; and, B Kharab.w hich is not assessed because, (i) it is reserved or assigned for public purpose; (ii) it is occupied by a road or recognized footpath or by a tank or stream used by persons other than the holders for irrigation, drinking or domestic purposes; (iii) used as burial ground or cremation ground; (iv) assigned for village potteries; B Kharab land belongs to the Government and the same can neither be converted nor conveyed. Even though the 'B' kharab is conveyed it remains as 'B' kharab land to be reserved or assigned for public purpose and will not confer any right, title and interest over the said 'B' kharab land. In ,ILR 1973 Mysore 56 *Rusool Khan vs. State of Mysore* in para 6 of the Judgment, the court observes "Kharab land is so called because it is not cultivable and is a classification made for the purpose of revenue exemption and is also capable of ownership and cannot be regarded as an adjunct to cultivate land which gets transferred along with cultivable land. Acquisition of title to the Kharab land is similar to acquisition of title to the cultivable land".*also see,* https://pattanshettiassociates.wordpress.com/2014/12/04/kharab-land-and-its-treatment-in-karnataka/ The Supreme Court in *R. Hanumaiah v. State of Karnataka,* (2010) 5 SCC 203 the above case specified the nature of proof required for declaration of the title against the government as follows: Suits for a declaration of the title against the government, though similar to suits for a declaration of the title against private individuals differ significantly in some aspects.The first difference is in regard to the presumption available in favor of the government. 1) All lands which are not the property of any person or which are not vested in a local authority, belong to the government. 2) All unoccupied lands are the property of the government unless any person can establish his right or title to any such land. This presumption available to the government, is not available to any person or individual.

Municipality, Chief Municipal Officer, or officer of the Municipality for such lease, sale, allotment, transfer or contract shall, be refunded to the person evicted from such land.

90. Transfer of property may be subject to conditions[132]**—**The grant, lease, sale or other transfer of movable or immovable property by the Municipality may be subject to such conditions as the Municipality may specify and notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law, for the time being in force, the grant, lease, sale or other transfer shall be subject to such conditions.

91. General Provisions relating to contracts[133](1) The Municipality may enter into any contract and perform such contracts as it may consider necessary or expedient for carrying into effect the provisions of this [Bill]

(2) Subject to the rules made in this behalf, the following provisions shall apply with respect to the making of contract for any of the purposes of this [Bill], namely:-

(a) every contract shall be made by or on behalf of the Municipality by the Chief Municipal Officer;

(b) no contract for any performance which, in accordance with the provisions of this [Bill] the Chief Municipal Officer may not carry out without the sanction of the Municipality or of the State Government shall be made by him unless such sanction has been given;

(c) any contract involving any expenditure exceeding such limits as may be specified in the rules shall be made by the Chief Municipal Officer, unless the requirement regarding the procedure to be followed has been followed, and unless the authority which is competent to accord sanction has accorded such sanction and where the sanction to be accorded is by the State Government unless such sanction has been so accorded

(3) These provisions shall apply to any variation of the contract involving an increase of such percentage over the expenditure involved in the original contract as may be prescribed.

(4) Subject to such rules as may be made in this behalf every contract to be entered into by the Chief Municipal Officer on behalf of the Municipality shall be entered into in such manner and form as would bind him if it were

[132] Section 73 of Karnataka Municipalities Act , 1964
[133] Section 182 of the Karnataka Municipal Corporation Act, 1976

made on his own behalf and may in like manner and form be varied or discharged.

(5) No contract executed otherwise than as provided in this section shall be binding on the Municipality.

92. Prohibition of the use of area reserved for parks, playgrounds and civic amenities for other purposes.[134]- The Municipality shall not sell or otherwise dispose of any area reserved for public parks and playgrounds and civic amenities, for any other purpose and any disposition so made shall be null and void.

93. Power of Municipality to make bye- laws[135](1)Every Municipality may, from time to time, make bye-laws not inconsistent with this [Bill] and the rules made thereunder –

a. for prescribing the form of and the manner of keeping of maps, drawings and description of underground utilities[136]
b. for prescribing the terms and conditions subject to which the precautions to be taken during construction or repair of street[137]
c. for regulating the erection of all kind of buildings[138]
d. for regulating the projections of the building under section [139][……setting back projecting buildings]
e. regulating the conditions on which permission may be given for the temporary occupation of, or the creation of temporary structures on public streets, or for projections over public streets;[140]
f. regulating the erection or use of buildings for grain shops or grain stores, the use of sites for erection of buildings and, in localities intended for residential purposes, the erection or use of buildings for shops, market places, manufacturing, places of public resort or for any other purpose[141];
g. preventing the erection of building without adequate provision being made for the laying out and location of streets;[142]

(2) Every Municipality shall, before making any bye-laws under this section, publish, in such manner as shall in its opinion be sufficient, for the

[134] Section 39- Karnataka Urban Development Authority Act, 1987
[135] Section 340, Rajasthan Municipalities Act, 2009
[136] Clause (c), Section 340, Rajasthan Municipalities Act, 2009
[137] Clause (e), Section 340, Rajasthan Municipalities Act, 2009
[138] Clause (f), Section 340, Rajasthan Municipalities Act, 2009
[139] Clause (h), Section 340, Rajasthan Municipalities Act, 2009
[140] Clause(t), Section 340, Rajasthan Municipalities Act, 2009
[141] Clause (v), Section 340, Rajasthan Municipalities Act, 2009
[142] Clause(w), Section 340, Rajasthan Municipalities Act, 2009

information of persons likely to be affected thereby, a draft of the proposed by-laws together with a notice specifying a date on or after which the draft will be taken into consideration and shall, before making the bye-laws, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

94. Savings of certain irregularities[143] When work is given on contract at unit rates and the number of units is not precisely determinable, the contract shall not be deemed to contravene the provisions of section [..General Provisions relating to contracts] or section [...invitation of tenders] merely by reason of the fact that the pecuniary limits laid down therein are eventually exceeded.[144]

95. Security to be taken for performance of contracts[145] The Chief Municipal Officer shall take sufficient security for the due performance of every contract into which he enters after a tender has been accepted, and may in his discretion take security for the due performance of any other contract into which such Chief Municipal Officer enters.

96. Decision of claims to the property by or against the Municipality[146] (1) In any municipal area to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the municipal council, or by any person as against the municipal council it shall be lawful for the Chief Municipal Officer after enquiry, of which due notice has been given to pass an order deciding the claim.

(2) Any person shall be deemed to have had due notice of an enquiry or order under this section if the notice has been given in the prescribed manner.

(3) Any suit instituted in any civil court after the expiration of one year from the date of any order passed under subsection (1), or, if one or more appeals have been made against such order within the period of limitation, then from

[143] Section 184 , the Karnataka Municipal Corporation Act, 1976

[144] Defined under Blacks Law Dictionary as a Construction contract where the client pays a set sum for each unit of work when it is completed., https://thelawdictionary.org/unit-price-contract/ Under, a fixed price contract ,which comes under construction contracts, the contractor agrees to a fixed contract price, or a fixed rate per unit of output, which in some cases is subject to cost escalation clauses. http://www.mca.gov.in/Ministry/pdf/Ind_AS11.pdf

[145] Section 185, the Karnataka Municipal Corporation Act 1976 and section 348, Karnataka Municipalities Act, 1964

[146] Section 178 A , the Karnataka Municipal Corporation Act 1976,and section 82 , Karnataka Municipalities Act, 1964

the date of any order passed by the final appellate authority, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order provided that the plaintiff has had due notice of such order.

97. Objects not provided for by this [Bill][147] The State Government may with the consent of the *Municipality* transfer to the Municipality, the management of any institution or the execution of any work not provided for by this [Bill] and it shall thereupon be lawful for the [Municipality] to undertake such management or execution:

Provided that in every such case the funds required, for such management or execution shall be placed at the disposal of the Municipality by the State Government.

98. Power of Municipality to determine whether works shall be executed by contract[148]**-** The Municipality, shall for any particular case, have the power to determine whether the Chief Municipal Officer shall execute work by contract or otherwise.

99. Effect of notifying of Municipality In respect of every area which shall be notified as a municipal area under the provisions of this [Bill], all contracts made or subsisting on the date so notified shall be deemed to have been made by such Municipality in exercise of the power conferred on it by this [Bill].[149]

100. Saving to any project or Scheme.[150]**-** Notwithstanding anything contained in any provision of this [Bill] or in any plan sanctioned under the provisions of this [Bill], the Municipality shall be at liberty to make and carry out any project or scheme not covered by any of the plans, if in the opinion of the Municipality, it is necessary to do so or is expedient in public interest, and such plan shall be deemed to be modified to that extent.

[147] Section 179, the Karnataka Municipal Corporation Act 1976
[148] Based on section 180 of the Karnataka Municipal Corporation Act, 1976
[149] Newly added
[150] Section 181, Rajasthan Municipalities Act, 2009

CHAPTER – VII - FINANCIAL MANAGEMENT OF MUNICIPALITIES

PART A – MUNICIPAL FINANCE AND MUNICIPAL FUND

101. State Finance Commission- (1) The State Finance Commission shall review the financial position of the Municipalities and make recommendations to the Governor as to-

(a) the principles which should govern;

(i) the distribution, between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State which may be divided between them and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities; and

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities; and

(c) any other matter referred to the State Finance Commission in the interest of sound finances of the Municipality.

(2) Every recommendation made by the State Finance Commission together with an explanatory memorandum as to the action taken thereon shall be laid before the State Legislature.[151]

102. Implementation of recommendations of the State Finance Commission - After taking into consideration the recommendations of the State Finance Commission, the State Government shall determine-

(a) the devolution of net proceeds of the taxes, duties, tolls, surcharges, cess and fees to the Municipalities,

(b) the assignment of taxes, duties, tolls and fees to the Municipalities,

(c) the sanction of grants-in-aid to the Municipalities from the Consolidated Fund of the State, and

(d) the other measures required to improve the financial position of the Municipalities.

[151] No change has been made with regards to this section as it is comprehensive.
Provided the recommendations made by the state Finance Commission shall be laid before the state legislature within a period of 90 days.

Explanation - "other measures" includes measures that shall be determined by the State Government after assessing the status of the fiscal deficit of the Municipalities and its need for additional capital to carry out its functions.[152]

103.Financial assistance from State Government- (1) The State Government may, from time to time, give grants or financial assistance to the Municipality with or without direction as to the manner in which such grants or financial assistance shall be applied.

(2) The State Government may, for giving such grants or assistance, lay down a scheme, which may include the conditions of release of such grants or assistance and may provide for the division of Municipalities into different classes for that purpose.

(3) The State Government may give grants to the Municipality for implementation, in full or in part, of any scheme included in the annual development plan of the Municipality.[153]

104.Municipal Fund - (1) There shall be a fund to be called the Municipal Fund which shall be held by the Municipality in trust for the purposes of this Act (Draft Model Act), and all moneys realized or realizable under this Act and all moneys otherwise received by the Municipality shall be credited thereto.

Explanation- "all moneys" includes all proceeds of land or other property sold by the municipal council and all rents accruing by gifts or transfers from Government or private individuals or otherwise.

(2) Subject to such directions as the State Government may issue in this behalf, and keeping in view the classification of municipal areas, the receipts including taxes and fines collected, and expenditures of the Municipality shall be kept under such heads of accounts, including those for water-supply, drainage and sewerage, solid waste management, road development and maintenance, slum services, commercial projects and other account heads as may be specified and the general account head, in such manner, and in such Form, as may be prescribed, so as to facilitate the imposition of user charges and preparation of any subsidy report under this Act.

Explanation 1:- For the purposes of this section, “commercial projects” shall include municipal markets, market development projects, property

[152]This provision has been retained from the Rajasthan Municipal law. An explanation to the "other measure" has been inserted to provide a clarification on the various measures that could be funded.

[153]The same provision from the Rajasthan Municipal Law and the Model Municipal Law 2003 has been retained as it is comprehensive.

development projects, and such other projects of a commercial nature as may be specified by the Municipality from time to time.

Explanation 2:- For the purposes of this section, "municipal areas" shall mean as provided under section _____ of this Act.
Explanation 3:- For the purposes of this section, "as may be specified" shall mean as provided from time to time by the Authority through notification.

(3) Every head of account specified under sub-section (1) shall be split up into a revenue account and a capital account and all items of receipts and expenditures shall be kept appropriately under such revenue account and expenditure account, as the case may be.[154]

(4) Items of income to be credited to the Municipal Fun consist of the following namely:-[155]

(a) Taxes, duties, cess and surcharges levied under this Act or any other law, the rent from properties, fees from licenses and permissions and its income from other miscellaneous items;

(b) Shares of the taxes levied by the Government and transferred to the Municipality and grants released to the Municipality by the Government;

(c) Grants released by the Government for the implementation of schemes, projects and plans formulated by the Municipality;

(d) Grants released by the Government for the implementation of the schemes, projects and plans assigned or entrusted to the Municipality under this Act; and

(e) Money raised through donations and contributions from the public and non-governmental agencies.

105.Application of Municipal Fund - The moneys credited to the Municipal Fund from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations and the bye-laws made there under and for payment of all sums

[154] Certain additions have been made in bold font in order to make the section simpler to understand and safe from ambiguities
Explanation 1 under clause 1 has been inserted from the KMA 1964.
The 'Authority' mentioned under clause 2 Explanation 3 shall be renamed once the preliminary authority constituted under this Act is determined.
[155] Section 283, Kerala Municipality Act, 1994

payable out of the Municipal Fund under any other law for the time being in force.[156]

106. Payments not to be made out of Municipal Fund unless covered by budget grant- No payment of any sum out of the Municipal Fund shall be made unless such expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available, notwithstanding any reduction or transfer thereof under the provisions of this Act:

Provided that this section shall not apply to any payment in the following cases, namely: -

(a) refund of taxes and other moneys which are authorized by this Act,

(b) repayment of moneys belonging to contractors or other persons and held in deposit and all moneys collected by the Municipality,

(c) temporary payment for works urgently required by the State Government in the public interest,

(d) expenses incurred by the Municipality on special measures on the outbreak of dangerous diseases, natural or technological hazards or in any other emergent case,

(e) sums payable as compensation under this Act or the rules or the bye-laws made thereunder,

(f) sums payable-

(i) under orders of the State Government on failure of the Municipality to take any action required by the State Government under any provision of this Act, or

(ii) under any other law for the time being in force, or

(iii) under the decree or order of a civil or criminal court against the Municipality, or

(iv) under a compromise of any claim, suit or other legal proceeding, or

[156] The same provision from the Rajasthan Municipal Law and the Model Municipal Law 2003 has been retained as it is comprehensive.
The provisions concerning application of Municipal Fund were detailed and specific to the functions where the fund for their respective functions were to be applied. Hence, by retaining this comprehensive definition we can accommodate all possible functions that are to be carried out by various authorities may present.

(v) on account of the cost incurred in taking immediate action by any of the municipal authorities to avert a sudden threat or danger to the property of the Municipality or to human life, or

(vi) on account of salaries or wages, and

(g) such other cases as may be determined by bye-laws.[157]

107. Procedure when money not covered under budget grant is paid – Whenever any sum is paid in any of the cases referred to in the proviso to section (Payments not to be made out of Municipal Fund unless covered by budget grant.), the Chief Municipal Officer shall forthwith communicate the circumstances of such payment to the Standing Committee, and, thereupon, the Standing Committee may take, or recommend to the Municipality to take, such action under the provisions of this Act as may appear to it to be feasible and expedient for covering the amount of such payment.[158]

108. Municipal Fund to be used for works urgently required in public interest, under directions from State Government-

(1) On a requisition, in writing, by the State Government, the Standing Committee may, at any time, require the Chief Municipal Officer to undertake the execution of any work certified by the State Government to be urgently required in the public interest and, for this purpose, to make payment for such work from the Municipal Fund in so far as such payment may be made without unduly interfering with the regular work of the Municipality.

(2) The cost of all work so executed, and the proportionate establishment charges for executing such work, shall be paid by the State Government and credited to the Municipal Fund.

(3) On receipt of a requisition under sub-section (1), the Standing Committee shall forthwith forward a copy thereof to the Municipality together with a report of the steps taken in pursuance of the said requisition.[159]

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[157] The provision from Rajasthan Municipal Law has been retained. It has comprehensively explained the payments which may to be made from the Municipal Funds in case the budget grant has provided for the same. Also it has explained to which aspects this provision does not hold true.

[158] This provision has been retained from the Model Law 2003. The same is not provided for in the Rajasthan Municipal Law. BY inserting this provision arbitrary payments without budget approval shall be governed and cross checked. This will be helpful in accounting and auditing. Hence the Model law provision has been retained. The Authorities and Bodies mentioned may be altered on the basis of the authorities prescribed by the CMR Team under Audit and Accounting, or the Colleges that are working on other chapters of this law.

[159] This provision has been adopted from the Model Law to have an additional level of check carried out by the Standing Committee to check on arbitrary expenditures.

109. Power to incur expenditure beyond the limits of Municipality. - Notwithstanding anything contained elsewhere in this Chapter, the Municipality may, with the approval of the State Government, authorize expenditure to be incurred beyond the limits of the municipal area for creation of physical assets relating to the core functions of the Municipality outside the limits of such municipal area and for maintenance thereof for carrying out the purposes of this Act.[160] Provided that the prescribed area shall not fall within the limits of any other municipal area as prescribed under this Act.

110. Exclusive use of Municipal Fund for particular purpose. - (1) Notwithstanding anything contained elsewhere in this Chapter, the State Government may, by order, require the Municipality to earmark a particular portion of the Municipal Fund or a particular grant or a part thereof, or any item of receipt under any head of account, or any percentage thereof, or any share of tax receivable by the Municipality other than taxes, duties and fines assigned to the Municipality under this Act or any part thereof, to be utilized exclusively for such purpose related to municipal functions as may be specified by the State Government, and it shall be the duty of the Municipality to act accordingly.

(2) The Appropriate Authority may, for carrying out the purposes of sub-section (1), make rules for different classes of Municipalities.[161]

111. Operation of accounts. -

Subject to the other provisions of this Act, payment from the Municipal Fund shall be made in such manner as may be prescribed in the rules made by the Appropriate Authority.[162]

112. Investment of Surplus moneys: (1) Surplus money standing at the credit of any of the heads of accounts of the Municipal Fund which are not required, either immediately or at any early date, to be applied for the purposes of this Act by the Municipality, may, in accordance with such regulations as may be

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The Rajasthan Municipal Law is silent upon the 3rd Clause as it does not have the separate authority formulated as Empowered Standing Committee.
The power vests in the municipality itself to take a call regarding urgent public works. Hence, to check for red tappism and corruption we have suggested an Empowered Standing Committee.
[160]Retained the Rajasthan Provision it is the same as the model law and it is comprehensive.
[161]Retained the Rajasthan Provision it is the same as the model law and it is comprehensive.
[162]Retained the Rajasthan Provision. The provision under the Model law is giving exclusive power to the Municipality. Here on the basis of the State Government Rules the operations of accounts shall be carried out.

made by the Municipality in this behalf, be transferred by the Municipality, either in whole or in part, to any other head of account of the Municipal Fund:

Provided that no such money shall be transferred permanently from any of the heads of accounts to any other head of account without the previous approval of the Municipality:

Provided further that such surplus moneys standing at the credit of the Commercial Projects Account of the Municipal Fund shall not be transferred to the General Account of the Municipal Fund.

(2) Surplus money which are not transferred under sub-section (1) may be invested in public securities or small savings schemes, approved by the State Government, or deposited at interest with such scheduled bank as may be determined by the Standing Committee.

(3) Profit or loss, if any, arising from the investment as aforesaid shall be credited or debited, as the case may be, to the account to which such profit or loss relates.[163]

PART B - BUDGET ESTIMATES

113. Submission of the estimates of income and expenditure by the Chief Municipal Officer of the concerned area in consultation with the Municipal Council - The Chief Municipal Officer of the concerned area in consultation with the Municipal Council shall, on or before the fifteenth day of January each year prepare and submit to the Standing Committee a detailed estimate of income and expenditure for the ensuing year, and, if it is in his opinion necessary or expedient to vary taxation or to raise loans shall submit his proposals in regard thereto.[164]

114. Preparation of Budget Estimates of Municipal Areas by the Standing Committee - (1) The standing committee of the concerned Municipal area shall, on or as soon as maybe, after the fifteenth day of January consider the estimates and proposals of the Chief Municipal Officer, as prescribed in Section 113 of this Bill and after having obtained proposals, if any, of other Standing Committees and such further detailed information, if any, as it shall think fit to require from the Chief Municipal Officer and having regard to all

[163] Adopted from Model Law 2003. The section is comprehensive and includes the function of the Empowered Standing Committee which is not present under the Rajasthan Municipal Law.
The term Scheduled bank used in the Section is the appropriate bank as compared to the nationalised bank, the reason being the Scheduled bank can act as "Currency Chest" and they get special preference from RBI.

the requirements of this Act, shall prepare therefrom, subject to such modifications and additions therein or thereto as it shall think fit, a budget estimate of the income and expenditure of the concerned Municipal Area[165] for the ensuing year.

(2) In such budget estimate, the Standing Committee shall[166],-

(a) provide for the payment, as they fall due of all instalments of principal and interest for which the concerned Municipal area may be liable on account of loans;

(b) provide for the payment as it falls due, of any amount towards contributions, fees or such other amounts as may be payable by the concerned Municipal area to the State Government;

(c) allow for a cash balance at the end of the year of not less than 5% of the proposed revenue for the next financial year under General Account Revenue.

(3) The Chief Municipal Officer shall cause the budget estimate as finally approved by standing committee, to be printed and shall, not later than the first day of February, forward a printed copy thereof to each councillor.

115.Preparation of Budget and its approval[167] - (1) The Budget to be prepared by the Standing Committee of each Municipal area under section 15 shall be prepared and submitted before the Council in the prescribed form and manner, and get approved with modifications as it deems fit.

(2) The working balance shown in the budget should not be less than 5% of the current year's estimated receipts excluding the receipts from endowments Government grants, contributions and debt heads.

(3) The estimated receipts should be detailed and real and apparent differences, if any, from the actual receipts of the last year should be accompanied by detailed notes and explanations.

(4) It shall include necessary provision for all fixed charges and discharge of debts.

(5) The Standing Committee shall, if it is found necessary during the course of a year that the estimates relating to its receipts or the expenditure in respect of the various services undertaken by it as shown in the Budget require modifications, prepare a supplementary or revised Budget and lay it before the Council for approval.

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[165] CLASS A,B,C,D

[166] S.167(2) (3)of Karnataka Municipal Corporations Act, 1976

[167] S.167(1)of Karnataka Municipal Corporations Act, 1976

(6) While incurring expenditure, no amount other than those included in the current budget estimates shall be expended except under unavoidable emergent circumstances. No expenditure, out of the amount granted by the Government for the implementation of any Scheme, project or plan entrusted and delegated to the Municipality under this Act shall be incurred for any other purpose including the implementation of any other scheme, project or plan.

(7) The Standing Committee shall provide in its budget estimates a separate fund to be called Poverty Alleviation Fund for implementing poverty alleviation programmes in the municipal area, which shall be utilized subject to such guidelines as the Government may issue from time to time.[168]

116. Enclosures to the Budget Estimates-

(1) Annual Statement of Expenditure[169]

(a)The Chief Municipal Officer shall, at the end of every year, prepare, and submit to the Municipality, an annual statement showing -

(i) the amount which has been paid into the Sinking Fund or Sinking Funds during the year under section 33,

(ii) the date of the last investment made during the year,

(iii) the aggregate amount of the securities in the hand of such Municipal area at the end of the year, and

(iv) the aggregate amount which has been applied for the purpose of repayment of the loan

(b) A copy of every such annual statement shall be submitted to the State Government by the Chief Municipal Officer.

(2) Inventory of properties of Municipal area (Register and Map)[170]

(a) The Standing Committee shall maintain a register and a map of all the immovable properties of which the concerned Municipal area is the owner or which vest in it, or which the concerned Municipal area holds in trust for the Government, and a register of all movable properties belonging to the concerned Municipal area.

(b) The Standing Committee shall, in the case of the inventory of an immovable property, prepare an annual statement indicating the changes, if any, in the said inventory and shall place the same along with the budget estimate.

(3) Report on services provided at subsidised rates[171]

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[168] Section 284, Kerala Municipality Act, 1994

[169] S.84(7), S.119 Model Municipal Law, 2003

[170] S.84(7), 107(2) Model Municipal Law, 2003

[171] S.85(1) of Model Municipal Law, 2003

(a) The Chief Municipal Officer shall, while preparing the budget estimate, append thereto a report indicating services being provided at subsidised rates if any and, if so, the extent of the subsidy, the reasons thereof, the source from which the subsidy is being met, and the sections or categories of the local population who are the beneficiaries of such subsidy, may include services like
(i) water-supply and disposal of sewage, and
(ii) mechanised scavenging, transporting and disposal of solid wastes.

And such other services which the Municipal area may consider essential for the public welfare

Explanation - A service shall be construed as being provided at a subsidized rate if it's total cost, comprising the expenditure on operation and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.
(4) Report on environmental status [172]

The Chief Municipal Officer shall take into consideration any report prepared in consultation with the State Pollution Control Board, on environmental imbalances as submitted to the respective authorities at the time of submission of the budget estimates.

117. Consideration of the Budget Estimate by Municipal Council[173] - At a meeting of the concerned Municipal area which shall be called for some day in the first week of February the budget estimate prepared by the Standing Committee shall be laid before the Municipal Council.

(1) The Municipal Council shall consider the budget estimate and the recommendations, if any, of the Standing Committee thereon, and shall, by the fifteenth day of March in each year, adopt the budget estimate for the ensuing year with such changes as it may consider necessary, and submit the budget estimate so adopted to the State Government as the case may be.
(2) The budget estimate received by the State Government under sub-section (1) shall be returned to the Municipal Council before the thirty-first day of March of that year with or without modifications of the provisions relating to subventions by the State Government.

[172] S.278(2) Model Municipal Law, 2003

[173] S.168 of Karnataka Municipal Corporations Act, 1976

118. Publication of Accounts- The annual accounts of the budget estimates when sanctioned, shall be open to public inspection, and shall be published in such manner as may be prescribed in this behalf.

119. Power to alter the budget grant (revision or readjustment[174]) - The Municipal area may, from time to time, during a year -

(a) increase the amount of any budget grant under any head,
(b) make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year,
(c) transfer the amount of any budget grant or portion thereof under one head to the amount of budget grant under any other head, or
(d) reduce the amount of the budget grant under any head:
Provided that nothing shall be done under Sub-section (1) without[175] the recommendation of the Standing Committee.

120. Supervision of Budgetary Grants - The Standing Committee, in addition to the powers and duties assigned to it under the regulations shall supervise the utilization of the budget grants.

PART C - ACCOUNTS AND AUDIT

121. Maintenance of Accounts and Audit –

(1) Chief Municipal Officer shall prepare and maintain accounts of receipts and expenditures of the Municipality.
(2) The Chief Municipal Officer shall, within one month of the close of a financial year, cause to be prepared a financial statement containing an income and expenditure account and a receipts and payments account for the preceding financial year in respect of the accounts of the Municipality and a balance sheet of the assets and liabilities of the Municipality for the preceding financial year.
(3) The Chief Municipal officer shall as far as possible maintain the accounts on electronic medium and cause for an automated financial statement at the end of the financial year. A half yearly report shall be generated and reviewed by the internal audit team within 15 days from the end of the six month period.
(4) The Chief Municipal Officer shall be responsible for identifying and maintenance of the accounting software and the service provider in such a

[174] S.87 of Model Municipal Law, 2003, S.173 Karnataka Municipal Corporations Act, 1976
[175] S.61A(3)(a), 62(5)(a),Karnataka Municipal Corporations Act, 1976

manner so that least human intervention is involved and highest precision is achieved.

Explanation: The Chief Municipal Officer shall appoint a service provider to audit the automation through a certified Information Systems Auditor. This audit shall be an annual audit.

(5) In Case of any special tax, cess, surcharge or fund the Chief Municipal Officer shall empanel a team of special auditors to conduct a special audit and submit a report within 45 days of the appointment of such special auditors.

122. Conducting of Audits (1) Internal audit

(a) The Chief Municipal Officer shall appoint internal auditors in accordance with the rules prescribed under this Bill, to conduct [176] an internal audit within a period of two months from the date of receipts of the financial statement for the preceding financial year.
(b) The internal audit team shall provide a detailed audit report to the external auditor who shall be appointed by the Government as prescribed by the rules.
(c) The Internal audit team shall be responsible to facilitate and meet requirements of the external auditor to complete the audit within the prescribed time.
(d) the internal audit team shall maintain the continuous accounts of the municipality and shall send a copy of the reports thereof to the Government.
(e) the internal auditors shall also report on any other matter relating to the accounts of the municipality as required by the Government.
(f) An abstract of every annual report of a Municipality as certified by the auditor showing its receipts under each head, the charges for the establishment, works undertaken, the sum expended on each work, the balance if any, remaining unexpended together with the audit report thereon shall be submitted to the officer authorised by Government, in this behalf, not later than fifteenth day of the second month of the next financial year.
(g) On receipt of the report referred to in sub-section (11) (CAG Report) the said officer shall forthwith consolidate it and submit to the Government.
(h) The Government shall-

[176] The Rules framed under this Bill.

(i) cause the accounts of the Municipality together with the audit report thereon received by it under sub-section (14) to be laid before the Legislative Assembly; and
(ii) cause the accounts of the Municipality to be published in such manner as may be prescribed.

(2) Special Audit – (a) In addition to the audit of annual accounts, the Government or the Municipality may, if it thinks fit, appoint an Auditor to conduct special audit pertaining to a specified item or series of items, and the procedure relating to audit shall apply *mutatis mutandis* to such special audit.
(b) The Chief Municipal Officer in consultation with the Government may require the appointment of a Special Auditor.

(3) External Audit - (a) As soon as may be after the first day of April in every year and not later than thirtieth day of June of the current year, the Municipality shall submit to the Government [177] a report on the administration during the preceding year in such form and with such details as the State Government may direct.
(b) The Chief Municipal Officer, shall prepare the report and place it before the Municipality for consideration and forward it to the State Government with the resolution of the Municipality thereon.
(c) The report shall be published in such manner as the Municipality may direct.
(d) The external auditor shall be appointed for a period of one year, by the State Government on or before the 1st Day of April every year, shall be published in the Official Gazette.
(e) The external auditors shall be responsible for auditing all the financial statement of the municipality and the sinking fund which has been created specifically for repayment of the borrowings of the Municipality, including the internal audit report before the thirtieth day of June of the current year.
(f) The reappointment of the external auditor shall not be for more than two consecutive terms.
(g) During the tenure of appointment if there are any disciplinary proceedings against the external auditors, the State Government shall immediately remove such auditors and fresh auditors shall be appointed within a period of 15 days therefrom.
(h) The External Auditor so appointed may –

[177] Referred Provisions are – Section 94(Model Law), 100(Rajasthan Model Law), Section 302(Karnataka Municipalities Act)

(i) require, by a notice, in writing, the production before him, or before any officer subordinate to him, of any document which he considers necessary for the proper conduct of the audit,

(ii) require, by a notice, in writing, any person accountable for, or having the custody or control of, any document, cash or article, to appear in person before him or before any officer subordinate to him,

(iii) require any person so appearing before him, or before any officer subordinate to him, to make or sign a declaration with respect to such document, cash or article or to answer any question or prepare and submit any statement, and

(iv) cause physical verification of any stock of articles in course of examination of accounts.

(i) The external auditor shall present the audit report to the Standing Committee within fifteen days of its completion.

(j) The Standing Committee shall consider the report of the Auditor as early as possible and shall, if necessary, take prompt action thereon, and shall also, if necessary, surcharge the amount of any illegal payment on the person making or authorizing it, and charge against any person responsible therefore the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not, brought into account by such person, and shall, in every such case, certify the amount due from such person :

Provided that any person aggrieved by an order of payment of certified sums may appeal to the State Government whose decision on such appeal shall be final.

(k) The Standing Committee may call for any book or document if, in its opinion, such book or document is necessary for its work and may send for such officers of the Municipality as it may consider necessary for explaining any matter in connection with its work.

123.Audit by Comptroller & Auditor General (CAG) - The internal and external audit members shall provide and submit the audit reports along with all necessary documentation for auditing the financial statement and balance sheet to the CAG.

PART – D – BORROWINGS

124.Comprehensive debt limitation policy - The Chief Municipal Officer shall frame a comprehensive debt limitation policy in consonance with the rules and regulations given by the State Government, if any, applicable in the case of

loans, including short-term loans, to be raised by the Municipalities, laying down, inter alia, the general principles governing the raising of loans by the Municipalities, the limit of the loans which any Municipality may raise having regard to its financial capacity, the rate of interest to be paid for such loans, and the terms and conditions, including the period of repayment thereof.[178]

125. Power of Municipality to borrow money.[179]

(1) The Municipality may in pursuance of any resolution passed at a special meeting of the Council borrow by way of debenture or otherwise on the security of all or any of the taxes, duties, fees, service charges and dues authorised by or under this Act, any sums of money which may be required, -

(a) for the construction of works; or

(b) for acquisition of lands and buildings; or

(c) for slum clearance and construction of tenements; or

(d) to pay off any debt due to the Government; or

(e) to repay a loan raised by the Municipality; or

(f) for town improvement Schemes; or

(g) for any public utility Schemes maintained or proposed to be maintained by the Municipality; or

(h) purchase of vehicles, locomotive engines, boilers and machinery necessary for carrying out the purposes of this Act; or

(i) any other purpose for which the Municipality is, by or under this Act or any other law for the time being in force, authorized to borrow.

Provided that

(i) no loan shall be raised without the previous sanction of the Government or otherwise

than in accordance with the provisions of the Act, the rules issued thereunder;

(ii) the amount of the loan, the rate of interest and the terms including the date of floatation, the time and method or repayment and the like shall be subject to the approval of the Government.

(2) When any sum of money has been borrowed under sub-section (1) no portion thereof shall, without the previous sanction of the Government, be applied for any purpose, other than that for which it was borrowed.

(3) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Government.

[178] Subject to the provisions of Fiscal Responsibility and Budget Management Act, 2003

Provided that any loan proposed to be raised which goes beyond the limits set by the comprehensive debt limitation policy as aforesaid shall require the previous sanction of the State Government in regard to its purpose, the quantum, the rate of interest and the period for repayment, and the other terms and conditions, if any:

Explanation. - The expression "dues under this Act" in sub-section (1) shall, for the purposes of clause (e) of that sub-section, be deemed to include the income derivable from the public utility concern referred to in that clause:

Provided further that in addition to the loans as aforesaid, the Municipality may also take a loan from the state government or any statutory body or public sector corporation.

126. Power of Municipality to Issue Bonds - The Municipality shall for the purpose of borrowing, issue tax free Municipal Bonds as per the SECURITIES AND EXCHANGE BOARD OF INDIA (Issue and Listing of Debt Securities by Municipality) Regulations, 2015.[180]

127. Power of Municipality to open credit account with bank - Notwithstanding anything contained in Section (power of Municipality to borrow), the Municipality may, where the raising of a loan is sanctioned by the State Government under that section, instead of raising such loan or any part thereof, take credit, on such terms as may be approved by the State Government, from any scheduled bank, to be kept in a cash account bearing the name of the Municipality to the extent of such loan or any part thereof and, with the sanction of the State Government, may grant mortgage of all or any of the properties vested in the Municipality by way of securing the repayment of the amount of such credit or of the sums advanced from time to time on such cash account with interest.

128. Power of Municipality to raise short-term loan - Notwithstanding anything contained in this chapter, the Municipality may, within the limits set by the comprehensive debt limitation policy framed under section (Comprehensive Debt Limitation Policy), from time to time, take a short-term loan repayable within such period, not exceeding twelve months, from any other scheduled bank, for such purpose, not being a purpose referred to in sub-section (1) of section (Power of Municipality to borrow), on such terms,

[180] Provided under Chapter III Requirements for Public Issue, Chapter IV Listing of Debt Securities, Requirements for Both Public Issues And Private Issues, Chapter V Conditions for Continuous Listing and Trading of Debt Securities, Chapter VI Obligations of Issuers

and on furnishing such security for the repayment of such loan, as may be approved by the State Government.

129.Maintenance and investment of sinking funds - (1) The Municipality shall maintain sinking funds for the repayment of money borrowed on debentures issued and shall pay by quarterly instalments into such sinking funds such sum as will be sufficient for the repayment within the period fixed for the loan of all moneys borrowed on debentures issued and in the event of default in payment of quarterly instalments, the grants due from Government shall be remitted to the Sinking Fund.

(2) All moneys paid into the sinking funds shall, as soon as possible, be invested by the Secretary in-

(a) securities of the Central or the State Government; or

(b) securities guaranteed by the Central or the State Government; and shall be invested in the name of the (Sinking Fund) board consisting of the Secretary to the State Finance Commission and the Chief Municipal Officer to be held by them for the purpose of repaying at due date the debentures issued by the Municipality. Every such investment shall be reported by the Secretary to the Council within fifteen days.

(3) All dividends and other sums received in respect of any such investment shall as soon as possible after receipt, be paid into the sinking funds and invested in the manner laid down in sub-section (2).

(4) Where any part of a sinking fund is applied in paying off any part of a loan before the period fixed for repayment the interest which would otherwise, have been payable on such part of the loan shall be paid into the sinking fund and invested in the manner laid down in sub-section (2).

(5) Any investment made under this section may, subject to the provisions of sub section (2), be varied or transposed.

130.Application of sinking fund. - The Sinking Fund board under sub-section (2) of section ……. may apply a sinking fund or any part thereof in or towards the discharge of the loan or part of a loan for which such fund was created and, until, such loan or part is wholly discharged shall not apply the same for any other purposes:

Provided that when any loan or part thereof has been consolidated under the provisions of this Act[181], the trustees shall transfer to the sinking funds of the

[181] "Power of Municipality to consolidate loans.— (1) Notwithstanding anything to the contrary contained in this Chapter the Municipality may consolidate all or any of its loans and for the purpose may invite tenders for a new loan (to be called the Municipal consolidated loan 19....) and invite the holders of Municipal debentures to exchange their debentures for scrip of such loan.

consolidated loan so created such part of the sinking funds of the original loans as may be proportionate to the amount of the original loans incorporated in the consolidated loan.

131. Power to discontinue payment towards Sinking Fund

If, at any time, the sum standing at the credit of a Sinking Fund established under section (Establishment of Sinking Fund) for the repayment of any loan is of such amount that if allowed to accumulate at the rate of interest sanctioned under the first proviso to sub-section (1) of section (Power of Municipality to borrow), it will be sufficient to pay off the loan within the period approved by the State Government under the said proviso, further payments towards such fund may be discontinued.

132. Investment of amount at the credit of sinking fund - (1) All moneys paid into a Sinking Fund shall, as soon as possible, be invested by the (Sinking Fund) board in

(a) Government securities, or

(b) securities guaranteed by the Central Government or any State Government, or

(c) debentures issued by the Municipality, or

(d) such other public securities as may be approved by the State Government, and shall be held by the Municipality for the purpose of repaying, from time to time, the loans raised by it by the issue of debentures or otherwise.

(2) All dividends and other sums received in respect of any investment under sub-section (1) shall, as soon as possible after their receipt, be paid into the Sinking Fund and shall be invested in the manner laid down in that sub-section.

(3) Moneys standing at the credit of two or more Sinking Funds may, at the discretion of the Standing Committee, be invested together as a common fund, and it shall not be necessary for the Standing Committee to allocate the securities held in such investments to the several Sinking Funds.

(4) Subject to the provisions of sub-section (1), any investment made under this section may, from time to time, be varied or transposed.

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(2) The term of any such consolidated loan and the form of its scrip and the rates at which exchange into such consolidated loan shall be permitted shall be subject to the prior approval of the Government. (3) The period for the extinction of any such consolidated loan shall not, without the sanction of the Government, extend beyond the farthest date within which any of the loans to be consolidated would be otherwise repayable. (4) The Municipality shall provide for the repayment of any such consolidated loan by a sinking fund in the manner laid down in section 303 having regard to the amount transferred to such sinking fund under section 308."

133.Power of Municipality to reserve a portion of debentures, issued for raising loan for investment - (1) For the purpose of investment of any portion of the Municipal Fund, including Sinking Fund, in the debentures issued by the Municipality for raising a loan, the Municipality may, within the limits set by the comprehensive debt limitation policy framed under section (Comprehensive debt limitation policy), reserve and set apart any portion of such debentures for issue at par thereto in the name of the Municipality, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of raising the loan.

(2) The issue of any debentures by the Municipality under sub-section (1) shall not operate to extinguish or cancel such debentures, but every such debenture shall be valid in all respects as if it were issued to, and in the name of, any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Municipality of any debenture issued by it shall not operate to extinguish or cancel such debenture and every such debenture shall be valid and negotiable in the same manner and to the same extent as if it were held by, or transferred, assigned or endorsed to, any other person.

134.Debentures issued to two or more persons jointly - Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872.

(1) When any debenture or security issued under this Act is payable to two or more persons jointly and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of such persons.

Provided that nothing in this sub-section shall affect any claim by the legal representative of a deceased person against such survivor or survivors.

(2) When two or more persons are joint holders of any debenture or security issued under this Act, any one of such person may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the municipal council by any other such persons.

135.Issue of Duplicate securities - (1) When a debenture issued under this Act is alleged to have been lost, stolen, or destroyed either wholly or in part and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Chief Municipal Officer and on producing proof to his satisfaction of the loss, theft or destruction and of the justice of the claim obtain from him an order-

(a) if the debenture alleged to have been lost, stolen or destroyed is payable more than six years after the date of publication of the notification referred to in sub-section (2),-

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture, and
(ii) for the issue of a duplicate debenture payable to the applicant, or
(b) if the debenture alleged to have been lost, stolen or destroyed is payable not more than six years after the date of publication of the notification referred to in sub-section (2),-(i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and
(ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due.
(2) an order shall not be passed under sub-section (1) until after the issue of such notification of the loss, theft or destruction of the debentures as may be prescribed by the Municipality, and after the expiration of such period as may be prescribed by the Municipality nor until the applicant has given such indemnity as may be required by the Municipality against the claims of all persons deriving title under the debenture lost, stolen or destroyed.
(3) A list of the debentures in respect of which an order is expressed under sub-section (1) shall be published in the official Gazette.
(4) If at any time before the Municipality becomes discharged under the provisions of section from liability in respect of any debenture the whole of which is alleged to have been lost, stolen, or destroyed, such debenture is found any order passed in respect thereof under this section shall be cancelled.

136.Renewal of debentures - (1) A person claiming to be entitled to a debenture issued under this Act, may on applying to the Chief Municipal Officer and on satisfying him of the justice of his claim and delivering the debenture receipted in such manner and paying such fee as may be prescribed by the Chief Municipal Officer, obtain a renewed debenture payable to the person applying.
(2) Where there is a dispute as to the title to a debenture issued under this Act in respect of which an application for renewal has been made, the Chief Municipal Officer may-
(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring such party to be entitled to such debenture; issue a renewed debenture in favour of such party;
(b) refuse to renew the debenture until such a decision has been obtained; or
(c) after such inquiry as is hereinafter provided and on consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance with the provisions of sub-section (1), unless within that

period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation:- For the purposes of this sub-section the expression final decision means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(3) For the purpose of the inquiry referred to in sub-section (2), the Chief Municipal Officer may himself record, or may request any magistrate of the First Class to record or to have recorded, the whole or any part of such evidence as the parties may produce the evidence or may direct any Magistrate subordinate to him to record the evidence and shall forward the record of such evidence to the Chief Municipal Officer.

(4) The Chief Municipal Officer or any Magistrate acting under this section may if he thinks fit, record evidence on oath.

137.Liability in respect of debenture renewed – (1) When a renewed debenture has been issued under section (Renewal of Debentures) in favour of any person the debenture so issued shall be deemed to constitute a new contract between the Municipality and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Municipality of any other person to the debenture so renewed.

138.Discharge in certain cases - When the duplicate debenture has been issued under section (issue of duplicate securities), or when a renewed debenture has been issued under section (Renewal of Debentures) or when the principal sum due on a debenture in respect of which an order has been made under section (issue of duplicate securities), for the payment of the principal sum without the issue of a duplicate debenture-has been paid on or after the date on which such payment became due, the Municipality shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued or in respect of which such payment has been made, as the case may be,-

(a) in the case of duplicate debenture after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section (issue of Duplicate Securities) or from the date of the last payment of interest on the original debenture whichever is later;

(b) in the case of a renewed debenture after the lapse of six years from the date of the issue thereof; and

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the Notification referred to in subsection (3) of section (issue of Duplicate Securities).

139.Power of Municipality to invest in its own debentures - (1) For the purpose of investing any portion of the municipal fund, including the sinking funds, the Municipality may reserve and set apart for issue at par, to and in the name of Municipality, any portion of the debentures to be issued on account of any loan, provided that the intention to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures to the Municipality as aforesaid shall not operate to extinguish or cancel any such debentures, but every debenture so issued shall be valid in all respect as if issued to and in the name of any other person.

(3) The purchase by, or the transfer assignment or endorsement to, the Municipality, of any debenture issued by the Municipality shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

140.Manner of repayment of Loans - Every loan raised by the Municipality under section (power of municipality to raise loan) shall be repaid within the time approved under that section and such repayment shall be made from a Sinking Fund established under section (Establishment of sinking fund) in respect of such loan or partly from such Sinking Fund and, to the extent to which such Sinking Fund falls short of the sum required for the repayment of such loan, partly from the money borrowed (power of municipality to raise loan) for the repayment of such loan. Provided that the consent to borrow money for the purpose of repayment of the loan shall be initiated through a resolution passed by the Standing Committee and approved by state finance commission.

141.Form and effect of debentures - All debentures issued under this chapter shall be in such form as the Municipality may, with the previous sanction of the Government, determine, and shall be transferrable in such manner as shall be therein expressed and the right to sue in respect of the money secured by any of such debentures shall vest in the holders thereof for the time being without any preference by reason of some such debentures being prior in date to others

142. Power of Municipality to encourage public-private partnerships and convergence with other Government schemes[182] - The Municipality has the power to carry out civic as well as development activities in the municipal area through public-private partnerships mode of 'Build-Operate-Transfer' and convergence with existing as well as new Government schemes so as to reduce the financial burden on the Municipality. Such projects will be undertaken in accordance with bye-laws prepared for this purpose under the Act.

143. Grants and loans by the Central Government - The Central Government, State Government or other entities may make such grants, contribution, aid, assistance, advances and loans to the Municipality as may be deemed necessary for the performance of the functions under this Chapter and all such grants, loans, contributions, aid, assistance and advances so made shall be on such terms and conditions, as may be determined by such government or entity making grants, contribution, aid, assistance, advances or loans.

144. Priority of payment for interest and repayment of loans - All payments due from the Municipality on account of interest on loans or the repayment of loans shall be made in priority out of all other dues from the Municipality in connection with the obligations under this chapter.

145. Power to raise finances – (1) The Standing Committee shall recommend the Municipality to raise finances or borrow for the effective implementation of the object and purposes of this Chapter through loans or debentures or issuing bonds or any other financial instrument from such sources (other than the State and the Central Government) and on such terms and conditions as may be approved by the State Government.

(2) The State Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Municipality under the provisions of this Chapter.

146. Budget – (1) The Standing Committee shall by such date in each year as may be prescribed, prepare and submit to the Municipality for approval, a budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.

(2) The budget prepared by the Standing Committee, in so far as it does not require any revenue contribution from the State Government, shall be final

[182] Financing of Smart Cities, http://smartcities.gov.in/upload/uploadfiles/files/Financing%20of%20Smart%20Cities.pdf

and can be adopted by the Municipality without the need for any prior approval of the State Government. However, the budget prepared by the Standing Committee, to the extent that it requires any revenue contribution from the State Government, would be subject to the final approval from the State Government and be subject to such change or terms and conditions as the State Government may prescribe in this regard.

147.Annual Report – (1) The Standing Committee shall prepare for every year a report of its activities during that year and submit the report to the Municipality in such form, on or before such date as may be prescribed by the Rules under this Chapter.

(2) The Standing Committee shall at the end of each financial year submit an audited annual statement to the Municipality including but not limited to the following:

a. amount of debt, loan raised;
b. details of the investment made during the year;
c. mode of repayment including the amount that has been earmarked for the Sinking Fund;
d. amount of securities that have been created or raised; and
e. any other matter specified by the State Government.

148.Returns: The Standing Committee shall furnish to the Municipality such reports, returns and other information as the State Government may time to time require.

149.Public Notices: Every public notice given under this Chapter shall be in writing under the signature of the _____ with its seal and shall be caused or pasted or put up at prominent place in the locality affected thereby, affixing copies thereof at conspicuous public places within the said locality and by publishing the same in one prominent local, English and one Hindi daily newspaper published and having circulation in the Municipal area in their two consecutive issues.

150.Authentication of the Order and documents of the Municipality: All permissions, orders, decisions, notices and other documents of the Municipality shall be authenticated by the signature of the Concerned Officer or any other officer authorized by the Municipality in this behalf.

CHAPTER – IX – MUNICIPAL REVENUE

PART A – SOURCES OF INTERNAL REVENUES

151. Internal Revenues of Municipality

The internal revenues of the Municipality shall consist of its receipts from the following sources, namely: -

(a) taxes levied by the Municipality,

(b) user charges, pro-rata charges[183], deposits[184], surcharges and cess[185] levied by the Municipality for provision of civic services, and

(c) fees and fines, spot[186] or otherwise, levied for performance of regulatory and other statutory functions.

(d) rents from Municipal assets.

(e) Income from Municipal undertaking.

(f) Income from Municipal investments.

152. Power to levy taxes - (1) Every Municipality may, and if so required by the State Government shall, levy, at such rate and from such date as the State Government in each case direct by notification in the Official Gazette and in such manner as is laid down in this Act and as may be provided in the rules made by the State Government in this behalf, the following taxes, namely: -

(a) a tax on property which includes tax on land, buildings, lands (including vacant lands) situated within the municipal limits.

(b) a profession tax.

(c) a tax on display or advertisement, other than advertisements published in newspapers, exhibited to public view in any manner whatsoever.

(d) a tax on land or building used for erecting hoardings or any other structures for advertisement;

(e) a tax on deficit in parking spaces in any residential or non-residential building.

(f) a tax on vehicles plying within the Municipality;

(g) a tax on boats moored within the Municipality;

(h) a tax on all vehicles (excluding motor vehicles as defined in the *(Motor Vehicles Act, 1939), boats or animals used for riding, draught or burden and

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[183] 'Pro-rata charges' means proportionate charges towards cost of improvement of sewerage systems levied by the municipal council from time to time payable by owner or occupier or developer of any building.

[184] Security deposits charged from the applicants during fresh application process especially for services such as water supply, drainage, sewerage, electricity connections, etc.

[185] Added from the Rajasthan municipality authority act sec101

[186] Especially in instances of littering in public or other offences under the Act for which fines may be issued at the time of the offence.

kept for use within the municipal area, whether they are actually kept within or outside such area;
(i) a tax on pilgrims and tourists
(j) a tax on congregations
(k) a tax for pollution control from the trade and industries which are the source of environment pollution within the municipal limits;
(l) a tax on pets
(m) a tax on cinemas, theatres, circuses, carnivals and other performance and show.
(n) tax on congestion by individual vehicle owners[187]
(o) tax on timber brought to the Municipality area[188]
(2) nothing in this section shall authorise or be deemed to authorise the imposition or levy of any tax which the State Government has no power under the Constitution to impose or levy in the State.
(3) the levy, assessment and collection of taxes under this section shall be in accordance with the provisions of this Act and the rules and the by-laws made thereunder.

153. Power to levy user charges, fee, surcharges, cess - (1) The municipality may levy a surcharge, cess on a tax, or a user charge, or a fee, as may be determined by the regulation, resolution, by-laws, notifications, orders on by any law in existence with regards to the same.

Explanation: "Cess" maybe imposed for a specific purpose and period as identified in this Act.

"Tax" is a compulsory contribution collected by the Government from the public at large and is to be used for a public purpose.

"Surcharge" is an additional charge or tax levied on an existing tax and is permanent in nature.

"Fee" is imposed by the Government for a specific facility or service being provided or rendered.

(2) In case of default of payment of fees for any of the services provided by the Municipality beyond a period specified in the bye-laws prepared for this purpose, such fees along with the surcharge may be recovered from the defaulter as taxes.[189]

[187] The London congestion charge has reduced traffic on the roads by 30% and CO2 emissions have fallen by 20% since its inception.
[188] Section 230, Kerala Municipality Act, 1994
[189] Derived from Rule 25, Draft Karnataka Bye Laws for Solid Waste Management

(3) The Municipality may, in accordance with bye-laws specified for this purpose, levy a land conversion cess from the landholder from rural to urban use, and from residential to commercial use.[190]

(4) Municipality may levy service cess on sanitation, water supply, street light and drainage in all places for providing such new services at the rate fixed through bye-laws prepared for this purpose.[191]

(5) Municipality may levy a surcharge on road tax for pollution at the time of registration of vehicles.

154. Exemption from taxation – (1) None of the taxes specified in sections ….. and ……. shall be leviable by a Municipality in respect of any property belonging to or vested in it.

(2) None of the taxes specified in section ….. clauses shall be leviable in respect of any lands, buildings, vehicles, conveyance and boats belonging to or vested in the State or Central Government.

155. Procedure, preliminary to imposing of tax - A Municipality, before imposing a tax shall observe the following preliminary procedure namely: -

(a) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified, and prepare a draft of the rules prescribing the tax and shall in such rules specify-

(i) the classes of persons or of property or of both which the Municipality proposes to make liable, and any exemptions which it proposes to make,

(ii) the amount or rate at which the Municipality proposes to assess each such person or class of persons,

(iii) in the case of a rate on buildings or lands or both, the basis for each class of the valuation on which such rate is to be imposed, and

(iv) all other matters which the State Government may require to be specified therein;

(b) when such resolution has been passed the Municipality shall publish the draft rules so prepared with a notice in the form set forth in the First Schedule;

(c) any inhabitant of the Municipality objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemption, proposed may, within one month from the publication of the said notice, send his objection in writing to the Municipality and the Municipality shall take all such objections into

[190] *Ibid.*
[191] *Id.*

consideration, or shall authorize a committee to consider the same and report thereon, and, unless it decides to abandon the proposed tax, shall by special resolution direct the imposition of the tax with effect from a date to be specified in the resolution.

156. Power to suspend, reduce or abolish any existing tax - A municipality may, at any time for the sufficient reason suspend, modify or abolish any existing tax. Suspension, modification or abolition of a tax made by Municipality shall be approved by the State Government.

PART – B – ASSESSMENT OF AND LIABILITY TO TAX ON BUILDING AND LANDS

157. Description & Class of property tax - (1) Unless exempted under this Act or any other law for the time being in force, property tax shall be levied every financial year on all buildings or vacant lands or both situated within the municipal areas as mentioned under the Act and according to the rate that is prescribed herein under.

(2) Levy of Property Tax on Commercial Buildings: -[192] Property tax shall be levied in case of-

(a) Commercial building at 0.5 percent of taxable capital value of the building irrespective of Class A, B or C

(3) Levy of Property Tax on Residential Buildings Property tax shall be levied in case of-

(a) Residential building and buildings other than commercial at such percentage not being less than 0.2 percent of taxable capital value of the building irrespective of Class A, B or C

(4) Rate of Property Tax in case of Vacant Land[193] - (a) property tax shall be levied on vacant land at the rate of 0.1 percent of taxable capital value irrespective of Class A, B or C

(5) Notwithstanding anything contained under this part, no property tax shall be levied on a vacant land situated within the Municipal areas mentioned above having a population of less than five thousand

(6) Luxury Tax - Any built up area beyond 4,0000 square ft forming part of a residential building shall fall within the heading 'area liable to pay luxury tax' and hence shall be entitled to pay luxury tax which shall be 5 percent of the property tax which is based on the guidance value.

[192] The provision has been modified by understanding how the municipal fund functions according to Model Law (Sec 7 –Classification of municipal areas) . We have divided them in class A, B, C depending on the population in the areas. This provision was taken from KMA, 1964 Sec 101

[193] Class A, B & C have been divided on basis of population % have also been modified accordingly. Municipal Area has been taken instead of municipal council.

Any built up area beyond 10,0000 square ft forming part of a building used for commercial purpose shall fall within the heading 'area liable to pay luxury tax' and hence shall be entitled to pay luxury tax which shall be 5 percent of the property tax which is based on the guidance value.

158.Enhancement of property tax[194] **-** Notwithstanding anything contained in sections mentioned above, the property tax assessed and levied shall not be assessed each year thereafter but shall stand enhanced by 15 percent once every three years, if there is no change in the guidance value, commencing from the financial year (the year of passing of this Act).

Provided that the Municipal areas may enhance such property tax up to 30 percent once in three years and different rates of enhancement may be made to different areas and different classes of buildings and lands: Provided further that the non-assessment of property tax under this section during the block period of three years shall not be applicable to a building in respect of which there is any addition, alteration or variation to it.

Provided also that nothing contained in this section shall be deemed to affect the power of State Government to direct an earlier revision of property tax.

159.Rebate for Self-occupied buildings [195] - A rebate at the rate of fifty percent of the property tax shall be allowed in respect of any residential building or part of a residential building which is self [196]occupied by the owner of such building who is a senior citizen.

160.General Exemptions[197] - (1) Notwithstanding anything contained in the above mentioned provisions under this Chapter, the Act shall not be applicable in case of:

(a) places set apart for public worship;

(b) choultries for the occupation of which no rent is charged and choultries the rent charged for occupation of which is used exclusively for charitable purposes;

(c) places used for the charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and such similar institutions run purely on philanthropic lines as are approved by Government

(d) such ancient monuments protected under the specified statute or parts thereof as are not used as residential quarters or public offices;

[194] Provision taken from KMA 102A, year not specified-Instead of Municipal council municipal areas has been added

[195] Referred provisions are - KMA Sec 103, KMCA Sec 108A Sub Sec 4

[196] Added

[197] Referred provisions is - KMCA Sec 110

(e) charitable hospitals and dispensaries providing treatment to patients free of cost but not including residential quarters attached thereto;
(f) such hospitals and dispensaries maintained by railway administrations as may from time to time be notified by Government, but not including residential quarters attached thereto;
(g) burial and cremation grounds included in the list published by the Commissioner under specified statutes
(h) government lands set apart for free recreational purposes and all such other Government land as may be notified by it, from which in the opinion of the Government no income could be derived;

(i) building or lands exclusively used for, -

(i) students' hostels which are not established or conducted for profit;

(ii) educational purposes by recognised educational institutions;

(i) buildings or lands belonging to the Central Government or any State Government used for purposes of Government and not used or intended to be used for residential or commercial purposes;
(j) buildings, if the owner thereof belongs to below poverty line and used as his own dwelling house and having a plinth area of less than thirty square meter.
(2) Notwithstanding anything contained in the foregoing provisions of this Part, the municipal council may exempt fifty percent of the property tax on the residential building or land belonging to an ex-serviceman or family of a deceased ex-serviceman, in the manner as may be prescribed.
Explanation. - For the purpose of this sub-section-
(a) "ex-serviceman" means a person who has served in any rank in the regular Army, Navy and Air Force of the Union and includes a person who has served in Defence Security Corps, the General Reserve Engineering Force, the Lok Sahayak Sena and Para Military Forces;
(b) "family of the deceased ex-serviceman" means the father, mother, the surviving spouse and minor children of the deceased ex-serviceman:
Provided that in respect of a building, it must be used by the ex-serviceman or member of the family of a deceased ex-serviceman for the purpose of their residence:
Provided further that the ex-serviceman or his family as the case may be shall submit a certificate from Sainik Welfare Board, Karnataka that such person -

(i) is an ex-serviceman or as the case may be he is a member of the family of the deceased e-serviceman;

(ii) is a resident of Karnataka; and

(iii) is residing in such building.

(c) Notwithstanding the exemptions granted under this sub-section it shall be open to the municipal council to collect service charges for providing civic

amenities and for general or special services rendered at such rates as may be prescribed.

161. Property Tax – A first charge on property and movables[198] - The property tax on buildings and lands shall, subject to the prior payment of the land revenue, if any, due thereon to the Government be a first charge upon the said buildings or lands and upon the movable property, if any, found within or upon such buildings or lands and belonging to the person liable to such tax.

162. Tax from whom primarily leviable[199] - (1) Every tax imposed in the form of property tax shall be payable primarily, if such property is -

(a) held from Government or from the municipal authority, then by the actual occupier -

(b) held by the owner, then by such owner;

(c) let out, then by such lessor;

(d) sub-let, from the superior lessor;

(e) not let out, then from the person in whom the right to let out such property vests;

(f) a vacant land and has been let out for any term exceeding one year to a tenant and such tenant has built upon the vacant land, the property tax upon such land occupied by such building and building erected thereon shall be primarily payable by the said tenant.

(2) The liability of several owners of any building which is, or purports to be, severally owned in parts or flats or rooms, for payment of the rate on the building or any instalment thereof payable during the period of such ownership shall be joint and several.

163. Obligation of transferor and transferee to give notice of transfer[200] - (1) Whenever the title of any person primarily liable to the payment of the property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration if it be registered or after the transfer is

[198] Sec 111 KMCA
[199] See 112 KMCA and 110 KMA
[200] Sec 114 KMCA

effected, if no instrument be executed, give notice of such transfer to the respective authority.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise shall give notice of such transfer to the respective authority within one year from the death of such person.

(3) Whenever such transfer comes to the knowledge of the respective authority or authorised officer through such notice the name of the transferee shall be entered in the property tax register.

(4) Every person who makes a transfer as aforesaid without giving such notice to the authority specified under this act, in addition to any other liability which such person may incur through such neglect, continue to be liable for the payment of the property tax assessed on the premises transferred until such person gives notice or until the transfer shall have been recorded in the Municipality registers.

Nothing in this section shall be held to affect –

(a) the liability of the transferee for the payment of the said tax, or

(b) the prior charge of the municipal council under section …….

164.Review by the Chief Municipal Officer[201] - Where the Chief Municipal Officer, either *suo moto* or otherwise, after making such enquiry if considers necessary and is satisfied that any transfer of title was recorded in the Municipality register by fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material, the said officer may within a period of three years from the date of such recording of transfer of title reopen the case and pass such order as he may think fit:

Provided that no such order shall be made provided a reasonable opportunity of being heard is given to those who are likely to be affected thereby.

Provided also that if property tax has not been paid by the owner or the occupier as the case maybe, along with the penalty, any claim with regard to transfer of title on the grounds of fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material may not be accepted unless and otherwise the court or respective authority deems it unjust and unreasonable.

[201] See Sec 114 A KMCA

165.Owner's obligation to give notice of construction or re-construction or demolition of building - (1) If any building in the Municipality is constructed or re-constructed, the owner shall give notice thereof to the Municipality, within fifteen days from the date of completion or occupation of the building whichever is earlier.

(2) If any building in the Municipality is demolished or destroyed, the owner shall, until notice thereof is given to the respective authority, be liable for the payment of the property tax for which such owner would have been liable had the building not been demolished or destroyed.

166.Remission of tax in areas included or extended in the middle of half year--[202]- (1) Where any area is included within a municipal area the owner of every building or land in such area shall –

(a) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay property tax in respect for that half-year; and

(b) if such date falls within the first four months of a half-year, be entitled to a remission of so much tax not exceeding half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(2) Where any area is excluded from a municipal area, the owner of every building or land in such area shall be entitled-

(a) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year; and

(b) if such date falls within the last four months of a half-year, to a remission of so much tax not exceeding a half of the property tax payable in respect thereof for that half year, as is proportionate to the number of days in that half-year succeeding such date.

(3) No remission shall be granted under sub-section (2) in respect of any building or land unless an application in writing for such remission is made to the Chief Municipal Officer within three months from the date of exclusion of the area in which the building or land is situated.

167.Assessment of property tax[203] - (1) Every owner or occupier who is liable to pay property tax under this Act shall submit every year to the respective authority, as the case may be or the officer authorised by the respective

[202]Taken from Kerala Muncipal Law
[203] KMA

authority in this behalf (hereinafter referred to as authorised officer), a return in such form, within such period and in such manner as may be prescribed:

Provided that, if the owner or occupier who is liable to pay tax files his returns and also pays the property tax which is due within one month from the date of commencement of the financial year such owner or occupier shall be allowed a rebate of five percent on the tax payable by him.

(2) Before any owner or occupier submits any return under sub-section (1) such owner or occupier shall pay in advance full amount of the property tax payable by him on the basis of such return and shall furnish along with the return, a satisfactory proof of payment of such tax and the tax so payable shall for the purposes of this Act be deemed to be the property tax, due from such owner or occupier.

(3) If the respective authority, as the case may be or the authorised officer is satisfied that any return submitted under subsection (1) is correct and complete, such authorised officer shall assess the property tax in accordance with the provisions of this Act and the rules made thereunder and shall send a copy of the order of assessment to the owner or occupier concerned. Assessment under this sub-section shall be concluded within one year from the date of submission of return under sub-section (1).

(4) If any owner or occupier fails to submit a return as required under sub-section (1) or fails to pay in advance full amount of property tax as required under sub-section (2), submits an incomplete or incorrect return, the respective authority as the case may be or the authorised officer, shall cause an inspection of such property and may also cause such local enquiry as may be considered necessary, and based on such inspection and information collected, such authorised officer shall assess the property tax and send a copy of the order of assessment to the owner or occupier concerned.

(5) While deciding whether the returns filed by the owner or occupier, if is incomplete or incorrect the authorized officer shall refer the property register which is maintained and which includes the details with regard to the respective property[204];

(6) While making an assessment of tax under sub-section (3) or (4), the respective authority, as the case may be, or the authorised officer may also direct the owner or occupier to pay in addition to the tax assessed as penalty, as follows -

[204] This provision can be inserted in the Rules framed thereunder.

(a) in case of failure to pay amount of property tax due and to submit a return, rate of two per cent per month of the amount of property tax assessed and due;

(b) in the case of submitting knowingly an incorrect or incomplete return, a penalty not exceeding two times the amount of difference between the tax assessed and the tax paid along with returns;

(c) in case of failure to submit return after payment of property tax in full, a penalty not exceeding two thousand rupees;

168.Levy of penalty on unlawful buildings[205] - (1) Whoever unlawfully constructs or reconstructs any building or part of a building - (i) on his land without obtaining permission under this Act or in contravention of any condition attached to such permission;

(ii) on his land in breach of any provision of this Act or any rule or byelaw made thereunder or any direction or requisition lawfully given or made under this Act or such rules or bye-law; shall be liable to pay every year a penalty, which shall be equal to twice the property tax leviable on such building so long as it remains as unlawful construction without prejudice to any proceedings which may be instituted against such person in respect of such unlawful construction:

Provided that such levy and collection of penalty shall not be construed as regularisation of such unlawful construction or reconstruction.

(2) Penalty payable under sub-section (1) shall be determined and collected by such authority and in such manner as may be prescribed. The penalty so payable shall be deemed to be the tax due.

(3) Any person aggrieved by the determination and collection of penalty under sub-section (2) may within thirty days from the date of receipt of the order appeal to the Chief Municipal Officer whose decision thereon shall be final.

(4) The Chief Municipal Officer may after giving a reasonable opportunity of being heard to the Appellant and authority specified pass such order as it deems fit.

169.Survey of lands and buildings and preparation of property register[206] - (1) The authority specified under this act or as the case may be, shall, subject to the general or special orders of the Government, direct a survey of buildings

[205] 107 KMA
[206] KMA

or vacant land or both within the Municipal area with a view to the assessment and updation of property tax and may obtain the services of any qualified person or agency for conducting such survey and preparation of property register.

(2) A property register shall be maintained in such manner and containing such particulars in respect of buildings or vacant land or both as may be prescribed.

(3) For the purpose of preparation of property register or assessment of property tax the authority specified or as the case may be or any person authorised by such authority in this behalf may enter, inspect, survey or measure any vacant land or building after giving notice to the owner or occupier before such inspection and the owner or occupier shall be bound to furnish necessary information required for the purpose.[207]

(4) A property register so prepared shall be digitized for ease in future re-assessment and updation.

170. Preparation and Publication of property Tax register[208] - (1) A Property tax register in respect of buildings or vacant lands or both in the municipal area containing such particulars shall be prepared and revised in such manner as may be prescribed.

(2) The authorised officer may on an application made by any person and subject to payment of such fees as may be specified by the respective authority from time to time, permit such person to inspect the Property tax register or grant certified extract of the entries in the register or certified copies thereof. Digital record of said register shall also be made available to such persons for examination on request.

171. Form of notice[209] – The notice to be given under this part shall be in the form specified in schedule --- as the case may be and shall state clearly and correctly all the particulars required by the said form.
Whenever such transfer comes to the knowledge of the specified authority, through a notice as mentioned above, the name of the transferee shall be entered in the property tax register.

172. Liability for payment of taxes on buildings or lands continue in the absence of notice of transfer.[210]- (1) Every person primarily liable for the

[207] Number of days to be mentioned prior to giving notice to the owners, in the Rules to be framed under this Bill.
[208] 106 KMA
[209] 112 KMA

payment of property tax who transfers such title to or over such premises without giving notice of such transfer to the authority specified as aforesaid, shall, in addition to any other liability which such person incurs through such neglect, continue to be liable for the payment of all taxes from time to time payable in respect of the said premises, until such person gives such notice, or until the transfer has been recorded in the registers of the municipal council.

(2) Nothing in this section shall be deemed to affect the liability of the transferee for the said taxes or to affect the prior claim of the municipal council on the premises conferred for the recovery of the taxes due thereon.

173.Power to assess in case of avoidance from assessment of property-[211] Notwithstanding anything contrary contained in this Bill or the rules made thereunder if for any reason, any person liable to pay any of the taxes, cess, rates, fees or charges leviable under this part has avoided assessment in any year, the specified authority, or the authorised officer may at any time within six years from the date on which such property should have been assessed, serve on such person a notice assessing such property to the tax, rate, cess, charges or fees due and demanding payment thereof within fifteen days from the date of such service; and the provisions of this Bill and rules made thereunder shall so far as may be, apply as if the assessment was made in the year to which tax, rate, cess, charges or fee relates.

PART - C - TAX ON LANDS AND BUILDINGS AND RELATED TAXES OTHER THAN PROPERTY TAX

174.Levy of surcharge on transfer of lands and buildings - (1) The duty on transfers of immovable property shall be levied in the form of a surcharge at the rate of two percent of the duty imposed by the Karnataka Stamp Act, 1957, on instruments of sale, gift, mortgage, exchange and lease in perpetuity, of immovable property situated within the limits of a smaller urban area. Provided that no such duty is leviable in respect of a mortgage where the amount secured by the mortgage does not exceed two thousand and five hundred rupees.

(2) On the introduction of the transfer duty, —

(a) section 28 of the [Karnataka] Stamp Act, 1957, shall be read as if it specifically required the particulars to be set forth separately in respect of property situated within the municipal area.

[210] 114 KMA
[211] 115 KMA

(b) section 61 of the same Act shall be read as if it referred to the municipal council as well as the Government.

(3) The Government may make rules for regulating the collection of the duty, the payment thereof to the specified authority and the deduction of any expenses incurred by the Government in the collection thereof.

(4) No duty shall be chargeable, —

(i) in respect of any instrument executed by or on behalf of or in favour of the Government in cases where but for this exemption the Government would be liable to pay the transfer duty under this section in respect of such instrument, or

(ii) in respect of any instrument exempt from stamp duty under the Karnataka Stamp Act, 1957.

175.Fee on deficits of parking spaces in residential and non-residential buildings – (1) The Chief Municipal Officer can close any portion of a public street or open area falling within the jurisdiction of the specific municipal area and declare it as a 'fee parking area'. The Chief Municipal Officer shall for the development and maintenance of the fee parking area invite tenders and collect a deposit fee which shall be non-refundable, such tender shall be valid for a period which shall be notified by the above mentioned authority from time to time.

(2) Owners or users of every vehicle which are parked on the street[212] shall obtain a permit from the Chief Municipal Officer by paying a permit fee which shall be valid for a period of one year and liable to be renewed every year.

(3) In case of default of the sub clause (2) the Chief Municipal Officer shall make rules to collect a penalty which will be 2 percent of the permit fee.

(4) Parking fees are collected by authority selected on the basis of municipal area as may be specified by the Rules framed under this Bill[213].

176.Levy of fire tax - (1) There may be levied a fire tax on Lands and Buildings which are situated in any area in which this Act is in force and on which property tax by whatever name called is levied by any local authority in that area.

(2) The fire tax shall be levied in the form of a surcharge on the property tax at such rate in terms of percentage of such property tax as the Government may, by notification in the Official Gazette, determine from time to time.

(3) No fee shall be levied on any building vested in or under the control or possession of the Government or public Authority owned by the Government.

[212] Adapt the same definition of street

[213] Framing of Rules for the management and handling of parking, may be necessary.

177.Mode of assessment, collection, etc. of fire tax - (1) The authorities to assess, collect and enforce payment of property tax under this Bill, authorizing the local authority of the area to levy such tax shall, on behalf of the State Government and subject to any rules made under this Bill, assess, collect and enforce payment of the fire tax in the same manner as the property tax is assessed, paid and collected; and for this purpose, they may exercise all or any of the powers have under this Bill and the provisions of this Bill including provisions relating to returns, appeals, reviews, references and penalties shall apply accordingly.

(2) Such portion of the total proceeds of the fire tax as the State Government may determine shall be deducted to meet the cost of collection of the fire tax.

(3) The proceeds of the fire tax collected under this Bill reduced by the cost of collection shall be paid to the State Government in such manner and at such intervals as may be prescribed.

178.Removal of unauthorised advertisements - (1) If any advertisement is exhibited, erected, fixed or retained in contravention of the provisions of this Act or regulations made thereunder, or after the written permission for the exhibition, erection, fixation or retention thereof for any period shall have expired or become void as per section 97(C), the Chief Municipal Officer shall, by notice in writing, require the owner or occupier of the land, building, wall, hoarding, frame, post or structure or vehicle upon or over or in which the same is exhibited, erected, fixed or retained to take down or remove or renew such advertisement after giving a fifteen days' notice in writing.

(2) In case of non-compliance of clause (1), Chief Municipal Officer shall enter any land, building, property or vehicle and have the advertisement dismantled or removed and realize from the owner or occupier of the land such charges for removal of advertisement as may be fixed by the Standing Committee from time to time.

PART - D - OTHER TAXES AND TOLLS

i. ***Levy of tax for Urban Planning and Development***

179.Levy of betterment tax - (1) Where, as a consequence of execution of any improvement scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has, in the opinion of the Chief Municipal Officer, increased or will increase, the Chief Municipal Officer shall be entitled to levy on the owner of the land or any person having an interest therein a betterment tax in respect of the increase in capital value of the land resulting from the execution of such scheme.

(2) Such increase in value shall be the amount by which the capital value of land, on the completion of the execution of the scheme estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme, estimated in like manner, and the betterment tax shall be one-third of such increase in value.
(3) A notice with regard to such increase in value fixed as in Clause (2) of Section …. shall be served to every person and any other person who takes an interest in respect of his land within one month of such decision.
(4) Upon receipt of the notice every person and any other person who takes interest in respect of his land shall make a reply to the authority specified within three months from the date of notice with his consent or objection.
(5) In cases where the owner of the land or any person having an interest therein is liable to pay the betterment tax as prescribed by the authority it shall be levied from such date as prescribed by the Chief Municipal Officer; provided that the person has an objection to the value assessment, he shall be called in for a hearing and to give reasons in writing for his objections in the assessment appointed under the Act.
(6) In matters where objections in such cases have to be decided, the final decision shall lie with the arbitrator appointed according to section ….. of the Act for this purpose.
(7) Additional penalty on betterment tax for illegal construction shall be subject to one-half of the market value of the unauthorised development or construction.

Illustration: If a builder has been authorised to develop four floors in a commercial complex and built six floors instead then, the betterment tax on the floors built shall be calculated by levying one-third betterment tax on the authorised four floors built and one-half betterment tax on the market value of the unauthorised two floors.

180.Assessment of betterment tax by the Chief Municipal Officer - (1) When it appears to the Chief Municipal Officer that an improvement scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Chief Municipal Officer specified under the Act shall, by a resolution passed in this behalf declare that for the purpose of determining such tax, the execution of the improvement scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed has been served under the above section to the successor in interest of such person, that the Chief Municipal Officer proposes to assess the amount of the betterment tax payable in respect of such land.

(2) The Chief Municipal Officer shall then assess the amount of betterment tax payable by each person concerned after giving such person an opportunity of being heard as per section ……. and such person shall within three months from the date of receipt of such notice given in writing of such assessment from the Chief Municipal Officer specified under the Bill in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Chief Municipal Officer specified is accepted by the person concerned within the period specified, such assessment shall be final.

181.Manner of payment of betterment tax - Betterment tax shall be paid within such time as may be specified by the Chief Municipal Officer with interest at such rates as prescribed by Municipality.

182.Recovery of betterment tax – (1) Where any person liable to pay betterment tax fails to pay the same within the time specified by the Chief Municipal Officer or makes default in payment of two consecutive instalments or any three instalments, the Municipality shall be entitled to recover the whole or part of the amount due together with interest from the said person or his successor-in -interest in such land in the manner provided by the Chief Municipal Officer for the recovery of taxes.

(2) Where any money is due and not so recovered, the Chief Municipal Officer may, after giving public notice of his intention to do so and not less than one month after the publication of such notice, sell the land or the interest of the said person or his successor-in-interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance, if any, to the defaulter.

183.Settlement of betterment tax by arbitrator - (1) If the person concerned does not accept the assessment made by the Chief Municipal Officer ad fails to give the Chief Municipal Officer the information required under …… within the period specified therein, the matter shall be determined by an arbitrator appointed by the Government.

(2) An arbitrator appointed under sub-section (1) shall be a person who, —

(i) has for at least five years held a judicial office in the State; or

(ii) has for at least five years been an Advocate.

(3) If the Government is satisfied after such inquiry, as it thinks fit that any arbitrator appointed under sub-section (1) is found to be guilty of misconduct, it may remove him.

(4) If any such arbitrator dies, resigns, becomes disqualified, is removed, or refuses to perform or in the opinion of the Government, neglects to perform or

becomes incapable of performing his functions, the Government shall forthwith appoint another arbitrator.

(5) When the arbitrator has made his award, such arbitrator shall sign it and forward it to the municipal council and such award shall, subject to the provisions of sub-section (6), be final and conclusive and binding on all persons.

(6) Any party aggrieved by an award including the finding on costs, within thirty days from the date of the communication thereof, appeal to the District Judge having jurisdiction over such municipal area and any order or decision of the said District Judge shall be final and conclusive and binding on all persons.

PART – E – PAYMENT AND RECOVERY OF TAXES

a. Recovery of Taxes by Municipality

184. Manner of recovery of taxes - Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be determined by regulations: -

(a) by presenting a bill, or

(b) by serving a notice of demand, or

(c) by distraint and sale of a defaulter's movable property, or

(d) by attachment and sale of a defaulter's immovable property, or

(e) in the case of property tax on any land or building, by attachment of rent due in respect of such land or building, or

(f) by a certificate under any law for the time being in force regulating the recovery of any dues as public demand.

185. Presentation of bill - (1) When any tax has become due, the Chief Municipal Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due:

Provided that no such bill shall be necessary in the case of –

(a) a tax on advertisements,

(b) a tax on tourists and congregations, and

(c) a toll or any other taxes the municipality deems fit:

Explanation I. - A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting or by courier agency or by

electronic mail to the person liable for payment of the amount included in the bill, and, in such case, the date of certificate of posting, or the date on which it is delivered by the courier agency or by electronic mail shall be deemed to be the date of presentation of the bill to such person.

Explanation II. - "courier agency" shall mean any agency engaged in door to door delivery of time-sensitive documents, utilizing the services of a person, either directly or indirectly, to carry such documents.

Explanation III. - "electronic mail" shall include e-mail or facsimile transmission.

(2) Every such bill shall specify the particulars of the tax and the period to which the bill relates.

(3) To ensure payment and recovery of its tax dues, the Municipality shall, by regulations, provide for –

(a) issue of notice of demand, charging of notice fee, levy of interest for delayed payment at a rate as may be specified, and the amount of penalty therefor,

(b) issue of warrant for attachment, distress, and sale of movable property for recovery of tax dues,

(c) attachment and sale of immovable property for recovery of tax dues, and

(d) recovery of dues from a person about to leave the municipal area

186. Time and manner of payment of taxes - (1) All sums due to the Municipality shall be payable within a period of one month from the date it becomes due failing which a penalty of 2% per month on the sum due shall be recoverable in addition to the sums due and shall be recoverable as provided under this Act.

(2) Manner of payment of taxes shall be as notified from time to time.

(3) Notwithstanding the provisions under this Act, if any property tax has been paid within the due date, for a continuous period of 5 years, an additional rebate of 5% on the annual property tax payable on the sixth year shall extended.

187. Recovery of taxes - (1) For every ward there shall be a Surveyor or such number of surveyors as required for the recovery of all taxes due to the Municipality. The Chief Municipal Officer may if required liaison with the

Electricity Board[214] and utilize the services of the personnel in charge to raise the bill by visiting the property in a door to door basis.

(2) It shall be the duty of the Surveyor to prepare a list of all properties under such surveyor's jurisdiction and the details as to the property tax paid by such persons within such date as prescribed by Municipality.

(3) If any property is due in payment of property tax for one or more years, the surveyor shall forthwith cause a bill (as per .....) to be presented to the occupier for the recovery of the property tax.

(4) The surveyor shall submit the list so prepared vide ..... to the Assistant Revenue Officer along with a list of bills issued vide Sec ..... within 15th of June every year.

(5) For every recovery of property tax made pursuant to Sec 120 ..... the surveyor shall be rewarded a sum equivalent to 5% of the amount paid.

(6) It shall be the duty of the Assistant Revenue Officer to ensure compliance under Sections 120 (a-e).

(7) If any person has defaulted in paying the property tax, notwithstanding Sec ....., the Assistant Revenue Officer shall be penalized to the sum of 10% of the total amount outstanding to be deducted from such Revenue Officer's salary immediately falling due after the detection of such default, by the Chief Municipal Officer after giving an opportunity of being heard. Any appeal against the orders of the Chief Municipal Officer shall lie to the High Court of Karnataka within 30 days from the date of order.

(8) Notwithstanding the appointment of Surveyor it shall be the duty of the Assistant Revenue Officer to procure the list vide Sec .....

188.Distress - (1) If the person on whom a notice of demand has been served under sub-section (3) of section ....., does not within thirty days from the service of such notice of demand, either, —

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the municipal council, or of such officer as the municipal council by rule may appoint in this behalf, or of Chief Municipal Officer, if any as to why he should not pay the sum demanded in the said notice, or

(c) prefer an appeal in accordance with the provisions against the demand, such person shall be deemed to be in default, and thereupon such sum not exceeding twenty per cent of the amount of the tax as may be determined by the Chief Municipal Officer, may be recovered from such person by way of penalty, in addition to the amount of tax as an arrear of tax; and the tax and penalty with all costs of the recovery may be levied under a warrant caused to be issued by the municipal council in the form set forth in Schedule ..... or to

[214] BESCOM in Bangalore or BWSSB since they visit every house as part of the billing

the like effect, by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter: Provided that where any measures precautionary or otherwise have been taken in respect of any such property for the recovery of any sum claimed by the Government, any proceedings under this part in respect of such property shall abate.

(2) Every warrant issued under this section shall be signed by the Chief Municipal Officer, of the municipal council causing the same to be issued.

(3) Where the property is in the area under the control of the municipal council, the warrant shall be addressed to an officer of the municipal council.

(4) Where the property is in another municipal area, the warrant shall be addressed to the Chief Municipal Officer of that area.

(5) It shall be lawful, for any officer to whom a warrant issued under subsection (2) is addressed or endorsed, if the warrant contains a special order authorising him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance: Provided that such officer shall not enter or break open the door of any apartment occupied by women, until he has given three hours' notice of his intention, and has given such women an opportunity to withdraw.

(5) It shall also be lawful for any such officer, authorised by the warrant, to distraint, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant issued under subsection (1), as defaulter, subject to the following conditions, exceptions and exemptions, namely: —

(a) the following property shall not be distrained: —

(i) necessary wearing apparel and bedding of the defaulter, his wife and children, and their cooking and eating utensils,

(ii) tools of artisans;

(iii) books of account; or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed, grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person authorised by or under sub-section (2) to sign a warrant or of the person to whom the warrant was addressed, should not have been so distrained, they shall forthwith be released;

(c) the officer shall, on distraining the property forthwith make an inventory thereof and shall before removing the same give to the person in possession thereof at the time of distraint a written notice in the form set forth in Schedule XII;

(d) (i) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge;

(ii) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and upon the notice board of the municipal office, and also, when the property is land assessed for payment of revenue to the concerned authority in which the land is situated

(e) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Municipal Officer shall be void as against all claims of the municipal council enforceable under the attachment.

189.Sale of goods and property distrained or attached - (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was when distrained, to the effect that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(2) If not sold at once under sub-section (1), the property distrained or a sufficient portion thereof or if the property attached is immovable property, a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant and distress or attachment and detention of property, is paid, be, or the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Municipal Officer, and the proceeds, or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to the Government in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid.

(3) Where the sum due together with costs is paid by the defaulter as aforesaid, the attachment of any immovable property shall be deemed to have been removed. Sale of movable or immovable property under subsection (2) shall be held in the manner laid down in section …….. and the rules framed in that behalf.

190.Procedure in respect of sales, etc. - (1) When any sale of either movable or immovable property is ordered under the provisions of this Chapter, the officer concerned shall issue a proclamation of the intended sale, specifying the time and place of sale, together with any other particulars as he may think necessary. Such proclamation shall be made by beat of drum at such places and in such other manner as the Chief Municipal Officer may direct.

(2) A notice of the intended sale of immovable property and of the time and place thereof shall be affixed on the notice board of the municipal office or the office of the Municipal area in which the immovable property is situated and at such other places as may be prescribed.

(3)In the case of movable property, a notice of the intended sale shall be affixed on the notice board of the municipal office and at such other places as may be prescribed. The notice shall also be published in such other manner as may be prescribed.

(4) No sale shall be held on a public holiday nor until the expiration of at least thirty days in the case of immovable property or seven days in the case of movable property, from the latest date on which any of the notices referred to in sub-section (2) have been published.

(5) If the defaulter or any person on his behalf pays the sum due and all other charges, at any time before the property is knocked down, to the officer conducting the sale, the sale shall be stayed.

(6) In respect of sale of movable property (other than property sold under sub-section (1) of section ……..), the person who is declared to be the purchaser shall deposit immediately twenty-five per cent of the amount of his bid, and in default of such deposit, the property shall forthwith be again put up for auction and sold. The full amount of purchase money shall be paid by the purchaser on the next working day after the day on which he is informed of the sale having been confirmed by the Chief Municipal Officer. On payment of such full amount of the purchase money, the purchaser shall be granted a receipt for the same and the sale shall become absolute as against all persons whatsoever.

(7) In respect of sale of immovable property, the person who is declared to be the purchaser shall deposit twenty-five per cent of the amount of his bid, and, in default of such deposit, the property shall forthwith be again put up for auction and sold. The full amount of purchase money shall be paid by the purchaser before the sixteenth day from that on which the sale of the property took place.

(8) In default of payment of the full amount or part thereof, of purchase money within the period specified under sub-section (5) or sub-section (6), the Chief Municipal Officer may in his discretion direct that the deposit, after deducting therefrom the expenses of the sale, in whole or in part, shall be forfeited to the

municipal council, and that the property shall be resold, and thereupon the deposit shall stand forfeited as directed and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold. If the proceeds of the resale which is held by reason of the default of the purchaser is less than the price bid by such defaulting purchaser, the difference shall be recoverable in the manner provided in this part from him by the municipal council as an amount due from him to the municipal council.

(8) Every resale of property in default of payment of the purchase money, or after the postponement of the first sale, shall, except when such resale takes place forthwith, be made after the issue of a fresh notice in the manner specified in this section for original sales.

(9) Any person owning or claiming any interest in immovable property sold under this section may at any time within thirty days from the date of the sale deposit in the municipal office,-

(i) a sum equal to ten per cent of the purchase money; and

(ii) a sum equal to the sum due for which the immovable property was sold together with interest at nine per cent per annum thereon and the expenses of attachment, management, and sale and other costs due in respect of the sum due; and may apply to the Chief Municipal Officer to set aside the sale. On such deposit and application being made, the Chief Municipal Officer shall by order set aside the sale and shall repay to the purchaser the purchase money deposited by him together with the ten per centum deposited by the applicant:

Provided that if two or more persons make such deposit and application, the application of the first depositor shall be accepted:

Provided further that if the applicant is also an applicant under subsection (10), his application under this sub-section shall not be considered unless he withdraws his application under sub-section (10).

(11) At any time within thirty days from the date of sale of immovable property, an application may be made to the Chief Municipal Officer to set aside the sale on the ground of some material irregularity, or mistake or fraud, in publishing or conducting it; but save as otherwise provided in sub-section.

(11) No sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Chief Municipal Officer that he has sustained substantial injury by reason thereof. If the application is allowed, the Chief Municipal Officer shall set aside the sale and direct a fresh sale.

(11) On the expiration of thirty days from the date of sale, if no application is made under sub-section (9) or sub-section (10), or if an application made under sub-section (10) is rejected, the Chief Municipal Officer shall make an order confirming the sale:

Provided that if the Chief Municipal Officer considers that in the interest of justice the sale should be set aside for any reason, he may, for reasons to be recorded in writing and on such conditions as he may deem proper set aside the sale.

(12) Whenever the sale of any property is not confirmed or is set aside, the purchaser shall be entitled to refund of his deposit or purchase money, as the case may be.

(13) If any claim to any movable property distrained under this part is made by any person, the Chief Municipal Officer shall after a summary enquiry, admit or reject the claim. If the claim is admitted wholly or partly, the property shall be dealt with accordingly. Except in so far as the claim is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as provided in section ……..

(14) Where the municipal council itself purchases any immovable property under sub-section (16) it shall on payment by the defaulter within one year from the date of sale of the amount of bid offered by municipal council and the expenses of attachment, management, sale and other costs together with interest at nine per cent per annum thereon, re-convey the property to the defaulter.

Provided that no employee of the Municipality or his immediate family shall be entitled to purchase the property aforementioned.

(15) After sale of the immovable property by auction as aforesaid, the Chief Municipal Officer shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(16) It shall be lawful for the municipal council to offer a bid in the case of any immovable property put up for auction, provided the previous approval of the standing committee is obtained to such bidding.

(17) The surplus of the sale proceeds, if any, shall immediately after the sale of the property be credited to the municipal fund, and notice of such credit shall be given at the same time to the owner or person in whose possession the property was at the time of distraint or attachment, and the same shall be refunded to such person on a written application if made within three years from the date of the notice. Any sum not claimed within three years from the date of such notice shall be the property of the municipal council.

191. Sale outside the Municipality - Where the warrant is addressed outside the municipal area the Chief Municipal Officer may, by endorsement direct the officer to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer to sell the property and to do all things incidental to the sale in accordance with the provisions of

sections .... and ..... and to exercise the powers and perform the duties of the Chief Municipal Officer under sub-sections (1) and (2) of section ..... in respect of such sale except the power of suspending the warrant. Such officer shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Municipal Officer by whom it was issued who shall dispose of the same in accordance with the provisions of .....

192. Procedure when distraint is impracticable. — (1) If, for any reason, the distraint or a sufficient distraint of the defaulter's property under the foregoing provisions of this Chapter is impracticable, the municipal council may prosecute the defaulter before a magistrate of the first class:

Provided that an occupier of a building or vacant land , in respect of which any tax remains unpaid in whole or in part, shall not be liable to prosecution in respect of any sum recoverable from him unless he has wilfully prevented distraint or a sufficient distraint of movable property found on the building or vacant land.

(2) Every person who is prosecuted under sub-section (1), shall be liable on proof, to the satisfaction of the magistrate, that he wilfully omitted to pay the amount due by him or to pay a fine not exceeding twice the amount which may be due by him on account of, —

(a) the tax and warrant fee, if any, and

(b) if the distraint has taken place, the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained.

(3) Whenever any person is convicted of an offence under sub-section (2), the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council the sum, if any, due under the heads specified in clauses (a) and (b) of sub-section (2), and may in his discretion also recover summarily and pay to the municipal council such amount, if any, as he may fix as the cost of the prosecution.

193. Recovery of surcharges and charges how made - (1) Every sum certified due from any person under this section shall be paid by such person into the treasury or bank in which the funds of the municipal council concerned are lodged, within one month from the receipt by him of the decision of the chief Municipal Officer, unless within that time such person has applied to the court or to the Government.

(2) The said sum, if not duly paid, or if an application has been made to the Court or to the Government against the decision of the Chief Municipal Officer as provided such sum as the court or the Government shall declare to be due,

shall be recoverable, on an application made by the Chief Municipal Officer to the Court, in the same manner as an amount decreed by the court in favour of the Chief Municipal Officer.

194.Summary proceedings may be taken against persons about to leave the Municipality. – (1) If the Municipality shall at any time have reason to believe that any person, from whom any sum recoverable under the provisions of this part is due or is about to become due, is about to remove himself from the municipal area, Chief Municipal Officer may cause a bill for the sum due or about to become due to be presented to such person and demand immediate payment thereof.

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due or about to become due by him, the amount shall be leviable by attachment and sale of the movable or immovable property of the defaulter in the manner herein before prescribed, except that it shall not be necessary to serve on the defaulter any notice of demand and the warrant for attachment and sale may be issued and executed without any delay.

195.Appeals relating to taxation - An appeal against an assessment, or any alteration of an assessment, and, in all cases in which no appeal has been made as aforesaid an appeal against a notice of demand, may be made to the empowering standing committee within 30 days of the service of the notice of the demand. The municipal council in consultation with state government if it deems fit may constitute a taxation tribunal to hear on matters relating to this Act.

196.Bar to jurisdiction of civil and criminal courts in matter of taxation - (1) No objection shall be taken to a valuation or assessment nor shall the liability of a person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Act.

(2) The order of the appellate authority confirming, setting aside or modifying an order in respect of valuation or assessment or liability to assessment or taxation shall be final:

Provided that it shall be lawful for the appellate authority, upon application or on its own motion, to review any order passed by it in appeal by a further order passed within three months from the date of the original order.

197.Duty to recover the taxes - The Chief Municipal Officer or any officer authorized by him shall be responsible for proper levy and recovery of the taxes imposed under this Act.

198.Rewards - (1) Whistle-blower**-** The Chief Municipal Officer shall reward any person who has helped the municipality to identify any defaulter in payment of any kind of taxes/fees specified under this act with a 10% reward on the actual amount recovered**.**

(2) Waste Management **-** Any person who has been able to manage the waste generated in their premise either residential or non-residential, in such a manner that there is no further treatment required shall be eligible to a flat 25% rebate on his property tax subject to the satisfaction of the Chief Municipal Officer. The claimant shall make a written representation to the Chief Municipal Officer seeking an authorised officer to visit the premises to ascertain his claim.

CHAPTER – X – URBAN INFRASTRUCTURE AND SERVICES

PART – A – COMMERCIAL PROJECTS, PRIVATE SECTOR PARTICIPATION AGREEMENTS AND ASSIGNMENT TO OTHER AGENCIES

199. Commercial projects and receipts therefrom.- The Municipality may, either on its own or through public or private sector agencies, undertake the planning, construction, operation, maintenance or management of commercial infrastructure projects, including district centers, shopping centers, bus or truck terminals and tourist lodges with commercial complexes and any other type of commercial projects on commercial basis.

200. Undertaking of project by Municipality or by other agency - Notwithstanding anything contained elsewhere in this Act, but subject to the provisions of any State law relating to planning, development, operation, maintenance and management of municipal infrastructure and services, a Municipality may, in the discharge of its functions specified in section 45 section 46, and section 47 -

(a) promote the undertaking of any project for supply of urban infrastructure or services by participation of a company, firm, society, trust or anybody corporate or any institution, or government agency or any agency under any other law for the time being in force, in financing, construction, maintenance and operation of such project of a Municipality irrespective of its cost,

(b) consider and approve the undertaking of any project relating to urban infrastructure or services by a company, or firm, or society, or body corporate in terms of a private sector participation agreement or jointly with any such agency, and

(c) consider and approve the undertaking of any project relating to urban infrastructure or services by any institution, or government agency or any agency under any other law for the time being in force, or jointly with any such agency.

201. Types of private sector participation agreements - (1) Private sector participation agreements shall be such as may be prescribed.

(2) Without prejudice to the generality of the foregoing provisions of this section, such agreements include the following:

(a) Build-Own-Operate-Transfer Agreement,

(b) Build and Transfer Agreement,

(c) Build-Lease-Transfer Agreement,

(d) Build-Operate-Transfer Agreement,

(e) Lease and Management Agreement,

(f) Management Agreement,
(g) Rehabilitate-Operate-Transfer Agreement,
(h) Rehabilitate-Own-Operate-Transfer Agreement,
(i) Service Contract Agreement, and
(j) Supply-Operate-Transfer Agreement.

202. Functions assigned to Municipality or other agencies In the discharge of its obligations assigned under section 47, the Municipality may, wherever considered appropriate in the public interest,-
(a) discharge any of its obligations on its own, or
(b) enter into any private sector participation agreement with prior approval of the State Government, on such terms and conditions as may be provided in the agreement.

PART – B – POWER REGARDING STREETS, ETC.

203. Power of Municipality to order work to be carried out or to carry it out itself in default – (1) The Municipality may –

i. if any person who applies for permission under the provisions of this Chapter and is permitted expressly by the Municipality to carry out himself the works relating to the forming of the extension or lay-out or the making of a street, does not so carry it out; or
ii. if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Municipality, by notice, require the person forming the extension or lay-out or the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part, including in cases where the owners of the land and of the building thereon are different, the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.
iii. If any such work is not carried out within the time specified in the notice under sub-section (A), the Municipality may, if it thinks fit, execute it or cause it to be executed and the expenses incurred shall be paid by the persons or owners referred to in sub-section (A) in such proportions as may be determined by the Municipality. Such expenses may be recovered from the persons concerned as if they were arrears of land revenue.

204. Power regarding streets:

1. It shall be lawful for the Municipality to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same,

and to widen, open, enlarge, or otherwise improve any such streets, and to turn, divert, discontinue, or close any such streets, and subject to the provisions of this Chapter to lease or sell any such land used or acquired by the Municipality for the purposes of such streets, as may not be required for any public street or for any other purpose of this Act:

2. Provided that no public street vesting in the Municipality shall be diverted, discontinued or closed before the Municipality publishes its intention of doing so and calls for objections and obtains the approval of the Government or such other officer as may be authorised by Government to whom a copy of the resolution of the Municipality and the objections thereto shall be forwarded.
3. In laying out or making or in turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addition to the land required for the carriage way and foot way and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and subject to the provisions of this Act may sell such additional land or lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may deem fit.

205. Power to require repair of streets and to declare such streets public.

(1) When the Municipality considers that in any street, not being a public street, or in any part of such street, within the municipal area, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the municipal council may by written notice require the respective owners of the vacant lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in such manner and within such time as may be specified in such notice.

(2) After such work has been carried out by such owners or as provided under this Act by the Municipality at the expense of such owners, the street or part thereof in which such work has been done, shall on the joint requisition of a majority of the said owners, be declared by a public notice, put up therein by the Municipality, to be a public street.

(3) If the notice under this Chapter is not complied with and such work is executed by the Municipality as provided in this Act, the expenses thereby incurred shall be apportioned by the Municipality, between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such vacant lands or buildings.

206. Power to declare any street a public street subject to objections by owners: Municipality may, at any time, by notice fixed up in any street or part of a street not maintainable by the Municipality give intimation of its intention to declare the same to be public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street, lodges or lodge objections thereto at the municipal office, the Municipality may, by notice in writing put up in such street, or such parts, declare the same to be a public street.

207. Temporary closure of streets: The Municipality may, by an order in writing temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water supply or lighting or any of the purposes of this Act: Provided that the Municipality shall with all reasonable speed cause the repair or work to be completed.

208. The regular line of public street - (1) It shall be lawful for the Municipality to prescribe, with the sanction of the Government, a line on either side or both sides of any public street within the municipal area, and the municipal council may, from time to time, with the like sanction, prescribe a fresh line in substitution of any line so prescribed or for any part thereof: Provided that;

i. at least one month previous to prescribing such line or such fresh line, as the case may be, the Municipality shall notify the same in the official Gazette and shall give public notice of it and it shall also put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed and shall further give notice to the owners or occupiers of the lands affected by such alignment;

ii. the Municipality shall consider any written objection or suggestion in regard to such proposal delivered at the office of the municipal council within such time as it may specify in such public or special notice; and

iii. the municipal council shall prepare a map of the area comprised within the said line and the street concerned and a statement specifying the lands enclosed therein which shall be open for the inspection of the public.

iv. The line for the time being so prescribed shall be called the 'regular line of the public street'.

209.Control of construction of buildings within regular line of streets – (1) Except under the provisions of this Act, no person shall construct or reconstruct any portion of any building, within the regular line of the public street without the permission of the Municipality.

(2) Where the Municipality refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall thenceforth be acquired by the Municipality and deemed part of the public street.

(3) Compensation, the amount of which shall, in case of dispute be ascertained and determined in the manner provided in The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall be paid by the Municipality to the owner of any land acquired by the Municipality under this Act for the value of the said land and also for any loss, damage, or expense incurred by him in consequence of any action taken or order passed by the Municipality under this Act.

(4) Whoever contravenes the provisions of this Act, shall be punished with fine which may extend to _____ rupees; and the Municipality may;

i. Direct that the building be stopped, and
ii. By a written notice, require such building or portion thereof to be altered or demolished, as it may deem necessary.

210.Setting back projecting buildings – (1) If any part of a building projects beyond the regular line of a public street as prescribed under this Act or beyond the front of the building on either side thereof, the Municipality may;

i. if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or
ii. if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burnt down or has fallen down require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed, or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building; and the portion of the land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Municipality.

(2) If any land, not vested in the Municipality whether open or enclosed, lies within the regular line of a public street and is not occupied by a building other than a platform, verandah, step or other external structure, the Municipality, after giving the owner of the land not less than fifteen days'

written notice of its intention, or if the land is vested in the Government, then with the permission in writing of the Deputy Commissioner, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same; and the land so acquired shall thenceforward be deemed a part of the public street, and shall vest in the Municipality.

(3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, shall be paid by the Municipality to the owner of any land added to a street under this Act or acquired under this Act, for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under the provisions of this Act.

(4) When the amount of compensation has been so ascertained and determined or when a ruinous or dangerous building falling under subsection (1) has been demolished under the provisions of this Act, the Municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

211. Setting forward the regular line of street – (1) The Municipality may upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(2) If the land which will be included in the premises of any person permitted under sub-section (1) to set forward a building belongs to the Municipality, the permission of the Municipality to set forward the building shall be a sufficient conveyance to the said owner of the said land and the price to be paid to the Municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

212. Buildings at corner of streets – (1) The Municipality may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent or otherwise as it may determine, and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity.

(2) For any land so acquired, the Municipality shall pay compensation as per applicable law in force.

(3) In determining such compensation, allowance shall be made for any benefit accruing to the same premises from the improvement of the street.

213. Roofs and external walls of buildings not to be made of inflammable materials – (1) The external roofs and walls of buildings erected or renewed after the coming into force of this Act shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials except with the written consent of the Municipality which may be given either specially in individual cases, or generally in respect of any area specified therein.

(2) The Municipality may, at any time, by written notice, require the owner of any building which has an external roof or wall made of any such materials as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the date on which this Act came into force, and whether it was made with or without the consent of the Municipality.

(3) Whoever, without such consent as is required by sub-section (1), makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (2) suffers to remain, any roof or wall of such materials as aforesaid, shall be punished with fine which may extend to _____ rupees, and with a further fine which may extend to _____ rupees for every day on which the offence is continued after the date of the first conviction.

214. Level of buildings: No building shall be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or proposed by the Municipality, or into some stream or river, or into the sea or some cesspool or other suitable place which may be approved by the Municipality.

215. Rat-proof building for warehouse for storing grain: Subject to the provisions of any law regulating the construction of warehouses, the Municipality may require that any building, used or intended to be used as a warehouse for the storage of grain, shall be protected or erected so as to render such building rat-proof and may for this purpose prescribe the plan and the design to be adopted and the materials to be used for such building.

216. Notice of new buildings – (1) Before beginning to construct any building, or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the municipal council is empowered under this Act to enforce a removal or set back, or to construct or reconstruct which the Municipality is empowered under this Chapter to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Municipality notice thereof in writing and shall furnish to it at the same time, a plan showing the levels at which the foundation and lowest floor of such building are proposed to be laid, by

reference to some level known to the Municipality, and all information required by the bye-laws or demanded by the Municipality regarding the limits, dimension, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

(2) No construction or reconstruction referred to in sub-section (1) shall be begun unless permission for the execution of the work is granted under this section.

(3) Save as otherwise provided in this Act or the rules and bye-laws made thereunder, the Municipality may;

i. either give permission to construct, alter, add or reconstruct according to the plan and information furnished, or
ii. impose in writing conditions, in accordance with this Act and the rules and bye-laws made thereunder, as to level, drainage, sanitation, design, materials or to the dimensions and cubical contents of rooms, doors, windows, and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any existing building or street, existing or proposed, or the purpose for which the building is to be used, or
iii. direct that the work shall not be proceeded with, unless and until all questions connected with the respective location of the building, and any such street have been decided to its satisfaction, or
iv. refuse permission to construct, alter, add or reconstruct according to the plan and information furnished, in the undermentioned circumstances, the reasons for refusal being stated in the order:
    a) that the work or the use of the site for the work or any of the particulars comprised in the site-plan, ground-plan, elevations, sections, or specifications would contravene some specified provision of any law or some specified order, rule, declaration or bye-law made under any law;
    b) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or byelaws;
    c) that any of the documents referred to in this Section have not been signed as required under rules or bye-laws;
    d) that any information or documents required by the Municipality under the rules or bye-laws have not been duly furnished;

e) that streets or roads have not been made as required under this Act;

f) that the proposed building would be an encroachment upon Government or municipal land;

g) that the site of such building does not abut on a street or a proposed street, and there is not access to such building from any such street by a passage or pathway appertaining to such site and not less than twelve feet wide at any part;

h) that the person so applying has no right to the land in question or has no right to construct, alter, add or reconstruct;

i) that the land on which any building is proposed to be erected or any building situated on which is proposed to be altered, added to or reconstructed is required by the municipal council and action to acquire it is being taken:

Provided that the direction under clause (iii) shall not be in force after one year from the date on which the direction is given

v. Before issuing any orders under this Section, the Municipality may, within one month from the receipt of such notice, either issue;

   i. a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

   ii. may demand further particulars

vi. A building proposed in a notice given under this Section may be proceeded with in such manner, as may have been specified in such notice, as is not inconsistent with any provision of this Act or any rule or bye-law for the time being in force thereunder, in the following cases, that is to say:

   i. in case the Municipality, within one month from the receipt of the notice given under this Section, has neither

      a. passed orders under this Act, and served notice thereof in respect of the intended work; nor

      b. issued under this Act, any provisional order or any demand for further particulars;

   ii. in case the Municipality having issued such demand for, and having received in accordance with the bye-laws in force in this behalf, such further particulars, has issued no further orders within one month from the receipt of such particulars.

vii. No person who becomes entitled under this Act to proceed with any intended work of which notice is required under this Act, shall

commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless a fresh application is made under this Act and fresh permission is granted under this Chapter or deemed to be granted under this Chapter.

viii. The Chief Municipal Officer authorised may inspect any building during the construction, reconstruction or erection thereof and if he finds that the work;

   i. is otherwise than in accordance with the plans or specifications which have been approved, or
   ii. contravenes any of the provisions of this Act or any rule, bye-law, order or declaration made under this Act, he may by notice require the owner of the building within a period stated either;
      a. to show cause why such alterations should not be made; or
      b. to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans, specifications or provisions;
      c. If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice. If the owner shows cause as aforesaid the Chief Municipal Officer in charge shall by an order cancel the notice or confirm the same subject to such modifications as he may think fit.

ix. Notwithstanding anything contained in this section, the Chief Municipal Officer in charge may at any time stop the construction, reconstruction or erection of any building if in his opinion the work in progress endangers human life.

x. If the Chief Municipal Officer is satisfied;

   i. that the construction, reconstruction or erection of a building;
      1. has been commenced without obtaining the permission of the Municipality; or
      2. is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which the permission was granted; or
      3. is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or bye-law made under this Act or of any direction or

requisition lawfully given or made under this Act or such rules or bye-laws, or

ii. that any alterations required by any notice issued under this Section have not been duly made.

he may make a provisional order requiring the owner or the builder to demolish the work done, or so much of it as, in the opinion of the Chief Municipal Officer, has been unlawfully executed, or make such alterations as may, in the opinion of the Chief Municipal Officer, be necessary to bring the work into conformity with this Act, rules, bye-laws, direction or requisition as aforesaid, or with the plans or particulars on which such permission was based, and may also direct that until the said order is complied with, the owner or builder shall refrain from proceeding with the building.

xi. The Chief Municipal Officer shall serve a copy of the provisional order made under this Chapter on the owner of the building together with a notice requiring him to show cause within a reasonable time not being less than three days, to be specified in the notice why the order should not be confirmed.

xii. If the owner fails to show cause to the satisfaction of the Chief Municipal Officer, he may confirm the order, with any modification he may think fit to make and such order shall then be binding on the owner.

xiii. If within a reasonable time mentioned in the order made under this Chapter, the owner does not comply with it, the Chief Municipal Officer may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the order.

xiv. The Chief Municipal Officer may recover any reasonable expenses incurred under this Chapter from the person to whom the order was addressed in the same manner as tax on building under this Act, and may in taking measures utilise any materials found on the property concerned or may sell them and apply the sale proceeds towards the payment of the expenses incurred.

Explanation: The expression "to erect a building" throughout this Chapter includes;

a. any material alteration, enlargement or reconstruction of any building, or of any wall including compound wall and fencing, verandah, fixed platform, plinth, doorstep, or the like whether constituting part of a building or not;

b. the conversion into a dwelling house of any building not originally constructed for human habitation or, if originally so constructed subsequently appropriated for any other purpose;
c. the conversion into more than one dwelling house of a building originally constructed as one dwelling house only;
d. the conversion of two or more places of human habitation into a greater number of such places;
e. the conversion into a place of religious worship or into a building for a sacred purpose of any building not originally constructed for such purpose;
f. the conversion into a stall, shop, warehouse or godown, stable, factory or garage of any building not originally constructed for use as such or which was not so used before the change;
g. such alteration of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security or stability; and
h. the addition of any rooms, buildings or other structures to any building;

and a building so altered, enlarged, re-constructed, converted or added to, shall, for the purpose of this Chapter be deemed to be new building.

xv. If within a period of six months from the date on which permission is refused under this Chapter and the land is not acquired by the Municipality or if within such period, an application has not been made to the Deputy Commissioner for the institution of proceedings for compulsory acquisition under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, or if the Municipality abandons the proposal to acquire the land, the Chief Municipal Officer shall intimate the person concerned that the refusal to build or alter is withdrawn and the application shall be further considered on merits.

217. Sanction accorded under misrepresentation: If at any time after the sanction for any building or work has been accorded, the Chief Municipal Officer is satisfied that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under this Chapter, he may by order in writing cancel such sanction for reasons to be recorded in writing and any building or work commenced, erected or done shall be deemed to have been commenced, erected or done without such sanction:

Provided that, before making any such order the Chief Municipal Officer shall give a reasonable opportunity to the person affected to show cause as to why such order should not be made.

218.Power of Government to prohibit the erection of buildings in certain areas without permission – (1) Notwithstanding anything contained in this Act, the Government may, in the public interest and after consulting the Municipality, prohibit by notification the erection of any building within a specified area in a municipal area , except with the permission granted by the Government in this behalf:

Provided that such permission shall not be refused in the case of land which has been set apart as a building site by the Government or the Municipality prior to the publication of such notification.

i. The grant of any permission under this Chapter may be subject to such conditions as may be fixed by the Government in each case or prescribed generally.
ii. Whoever erects any building contrary to the provisions of this Chapter or the conditions imposed under this Chapter shall, be punished with fine, which may extend to _____ rupees.
iii. The Government may demolish any building erected contrary to the provisions of this Chapter or the conditions imposed under this Chapter.

219.Completion certificates: permission to occupy or use – (1) Every person erecting a building or executing a work as is described in this Chapter shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Municipal Officer at his office a notice in writing of such completion, and shall give to the officer of the Municipality deputed for the purpose all necessary facilities for the inspection of such building or of such work:

Provided that

i. such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and
ii. the Chief Municipal Officer may, not later than one month from the date of receipt of notice of completion, by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or in the absence of such address, affixed to a conspicuous part of the building to which such notice relates;
    a. give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

b. refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act, or of any rule or bye-law made under this Act at the time in force or of any order passed under this Chapter intimating to the person who gave the notice under this Chapter the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under this Chapter is not at the time of such notice the owner of such building or work, then such owner, to cause anything which is contrary to any provision of this Act or of any rule or bye-law made under this Act at the time in force or of any order passed under this Chapter to be amended or to do anything which by any such provision or rule or bye-law or order he is required to do but has omitted to do.

iii. No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until;

a. the permission referred under this Chapter has been received, or

b. the Chief Municipal Officer has failed for one month after the receipt of the notice of completion, to intimate as aforesaid his refusal of the said permission.

iv. Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to _____ rupees and in the case of a continuing contravention or non-compliance, with an additional fine which may extend to _____ rupees for every day during which such contravention or noncompliance continues after the conviction for the first such contravention or non-compliance.

220. Regulation of huts: It shall not be lawful for any person to erect any hut, shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Municipality and obtaining its permission and the Municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Municipality may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to it may seem necessary. If any hut or shed or range or block is built without giving such notice to the

Municipality, the Municipality may give written notice to the owner or builder thereof or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as, having regard to the sanitary considerations, the Municipality may think fit.

221.Improvement of huts – (1) Whenever the Chief Municipal Officer thinks fit that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into force, or subsequently erected, are by reason;

i. of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or
ii. of the want of a plinth or of a sufficient plinth or of sufficient drainage, or
iii. of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, he shall cause a notice to be affixed a conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Chief Municipal Officer for that purpose to take down and remove such hut or shed, or to execute such operations as the Chief Municipal Officer may deem necessary for the avoidance of such risk.

(2) Any person aggrieved by an order of the Chief Municipal Officer under this Section may apply to the Municipality to cancel, amend or revise such order, and the Municipality may, on such application cancel, amend or otherwise revise the order.

(3) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the Chief Municipal Officer may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as he may deem necessary to prevent such risk.

(4) If such huts or sheds are pulled down by the Chief Municipal Officer, he shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the Municipality until the person interested therein shall obtain an order of a competent court for the payment of the same:

Provided that, in case any huts or sheds, existing at the time when the land on which they are situate, first became part of a municipal area should be pulled down under this section by order of the Chief Municipal Officer or in pursuance of his notice, compensation shall further be made to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner prescribed under this Act or rules made there under.

222.Burial Ground, Crematoria, Cremation Ground: It shall mean a designated area assigned by the Municipality either for laying the dead to rest with dignity or to perform the last rites of a person by burning the body in accordance with performance of all religious and customary rituals and practices, or in any other manner of performing the last rites as prescribed by religious and customary faith and text. It also includes electronic crematories.

223.Burials and burial grounds - (1) The Municipality shall be responsible for-

(a) Constructing and maintaining burial grounds and cremation grounds; and

(b) Acquiring, maintaining, changing and regulating places for the disposal of the dead;

(c) Maintaining the number of burials, on a monthly basis.

Explanation – For the purposes of compliance with sub clause (c) the maintenance of number of burials shall be recorded in a register which is to be maintained by the Chief Municipal Officer. Such information shall be submitted by each burial ground and cremation ground to the collector on a monthly basis.

(2) No new burial or burning ground shall be made without the permission in writing of the Municipality and otherwise than in accordance with the terms and conditions of such permission.

224.Establishment of new crematories and maintenance of the existing crematories - (1) The Chief Municipal Officer of the concerned area in consultation with the Standing Committee, propose the sanctioning of new crematories or burial grounds.

(2) The Chief Municipal Officer of the concerned area would conduct surprise visits to the burial grounds and crematories twice in three months to scrutinize the condition and records of the burial and crematories. The Chief Municipal Officer shall make a budget proposal to the Standing Committee with regard to the maintenance and construction of any additional structures.

(3) Chief Municipal Officer shall levy appropriate fine in case of contravention of any of the provisions with regard to burial and crematories.

225.Power in respect of burial and burning places - (1) The Chief Municipal Officer may, by public notice, order any burial or burning ground situated within municipal limits or within one kilometre thereof, which shall be certified by the Director of Public Health or District Medical and Health Officer as the case may be, to be dangerous to the health of persons living in the neighbourhood, to be closed from a date to be specified in the notice and shall, in such case if no suitable place for burial and burning exists within a reasonable distance, provide a fitting place for the purpose before the aforesaid date.

(2) No new burial or burning ground shall be made without the permission in writing of the Municipality and otherwise than in accordance with the terms and conditions of such permission.

(3) Should any person, without the permission of the Municipality, bury or burn or cause or permit to be buried or burnt any corpse at any place which is not a burial or burning ground or in any burning or burial ground made or formed contrary to the provisions of this section or after the date fixed thereunder for closing the same, he shall be punished with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

(4) Any person aggrieved by any orders made by the Chief Municipal Officer under the power conferred upon it by this section may, within thirty days from the date of such order, exclusive of the time requisite for obtaining a copy thereof, appeal to the Standing Committee and no such order shall be liable to be called in question otherwise than by such appeal.

(5) The order of the appellate authority confirming, setting aside or modifying the notice or order appealed from shall be final: Provided that the notice or order shall not be modified or set aside until the appellant and the Municipality have had reasonable opportunity of being heard.

226.Regulation of the removal of corpses - (1) The Municipality may by public notice prescribe routes by which routes alone corpses may be moved to a different burial or burning grounds therein.

(2) Whoever removes a corpse to a burial or burning ground by a route other than the route prescribed therefore shall be punishable with a fine which shall not be less than one thousand rupees but which may extend to five thousand rupees

227.Power to license fuel shops at burning grounds - (1) The Municipality may grant and renew licenses in accordance with bye-laws to be framed by it in the manner laid down in, to persons applying for the same and on payment

of such fee as it may fix, for the sale at all or any of the burning grounds, of fuel and other articles required or used for the cremation of corpses.

(2) The Municipality may on good and sufficient cause being shown, revoke or withdraw any license granted or renewed under sub-section (1).

(3) Where in respect of a burning ground any license has been granted or renewed under sub-section (1) –

(a) the Municipality shall, from time to time, prescribe a scale of rates for the sale of fuel and other articles required or used for the cremation of corpses, and

(b) No person, not so authorized, shall sell or offer for sale any such fuel or other article within three hundred meters of such burning ground.

(4) Whoever –

(a)being the holder of a license in respect of a burning ground granted or renewed under subsection (1), charges for the sale of fuel or other article sold there at a rate higher than the rate fixed by the Municipality under sub-section (3), or

(b) Notwithstanding the revocation or withdrawal of his license under sub-section (2), carries on such sale, or

(c) being a person not so authorized sells fuel or other article within three hundred meters of the burning ground in respect of which license granted or renewed under sub-section (1) is in operation, shall be punishable with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees and, in a case covered by clause (a), shall be further liable to have the license cancelled.

(5) The municipality shall provide places to be used as burial or burning grounds or crematoria, either within, or with the sanction of the State Government outside the limits of the city; and may charge and levy rents and fees for the use thereof: Provided that the municipality shall itself undertake the cremation of unclaimed dead bodies free of charge.

(6) If the municipality provides any such place without the limits of the municipality all the provisions of this Act and all bye-laws framed under this Act for the management of such places within the corporation shall apply to such place and all offences against such provisions or bye-laws shall be cognizable by a magistrate as if such places were within the municipality limits.

228.Powers to cause corpses to be buried or burnt - (1) The Municipality may, in case of unclaimed bodies after the expiration of not less than twenty-four hours from the death of the person and in case of unnatural death after completion of formalities under the law for the time being in force, cause the corpse of such person to be buried or burnt.

(2) In such case the corpse shall be disposed off, so far as may be possible, in a manner consistent with the religious tenets of the deceased as far as they may be ascertained.

(3) Subject to the provision contained in sub-section (4) the expenses incurred by the Municipality in causing the corpse of a deceased person to be buried or burnt under this section shall be recoverable as a debt due from the estate of such person.

(4) The Municipality may from time to time make provision from out of the municipal fund, for the burial or burning free of charges, of corpses of paupers within the limits of the Municipality.

229.Removal of carcasses of dead animals in municipal area - (1) In every municipal area the Municipality shall provide proper and convenient places for the disposal of the carcasses of animals.

(2) Whenever any animal in the charge of any person dies otherwise than by slaughter for sale or for religious purpose, such person shall, within twenty four hours, either:

(a) convey the carcasses to a place provided or appointed under sub-section (1) or to a place beyond two kilometers of the municipal limit, or

(b) give notice of the death to the Municipality which shall thereupon cause the carcass to be removed and disposed off.

(3) The occupier of any premises in or upon which any animal shall die or in or upon which the carcass of any animals shall be found shall also take action in respect of such carcass in accordance with sub-section (2).

(4) In respect of every carcass of a dead animal removed and disposed of by the Municipality under clause (b) of subsection (2), the Municipality may charge from the person giving notice of the death to the Municipality such fee as it may prescribe and may recover the same, if not paid in advance, from the person giving the notice in the manner provided for the recovery of municipal claims under this Act.

(5) Whoever being bound to act in accordance with subsection (2) of this section fails so to act shall be punishable with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

230. Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves - (1) If the Chief Municipal Officer is of opinion –

(a) that any registered or licensed place for the disposal of the dead or any place provided for such disposal by the Municipality or by the Government is in such a state or situation as to or to be likely to become dangerous to health of persons living in the neighbourhood thereof; or

(b) that any burial ground is overcrowded with graves, and if in the case of a public or burning ground or other place as aforesaid another convenient place duly authorized for the disposal of the dead exists or has been provided for the persons who would ordinarily make use of such place, he may with the consent of the municipality and the previous sanction of the Standing Committee, give notice that it shall not be lawful after a period to be named in such notice, to bury, burn or otherwise dispose of any corpse at such place.

(2) Every notice given under sub-section (1) shall be affixed to some part of such place.

(3) After the expiry of the period named in such notice it shall not be lawful to bury, burn or otherwise dispose of a corpse at such place except with the permission of the Municipality.

231.Prohibition in respect of corpse - No person shall,

(a) bury or cause to be buried any corpse or part thereof in a grave whether dug or constructed of masonry or otherwise in such manner that the surface of the coffin or the surface of the body where no coffin is used, is at a less depth than eight meters from the surface of the ground; or

(b) build or dig or cause to be built or dug any grave in any burial ground at a less distance than four meters from the margin of any other existing grave; or

(c) Without the sanction in writing, of the Chief Municipal Officer, or an order in writing of a magistrate reopen a grave already occupied; or

(d) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground and not cause the burial or burning of the same to commence within six hours after its arrival at such place; or

(e) when burning or causing to be burnt a corpse or part thereof, permit the same or any part thereof or its clothing to remain without being completely reduced to ashes; or

(f) Carry through any street a corpse or part thereof not decently covered; or

(g) While carrying a corpse or part thereof within the city leave the same in or near any street for any purpose whatever; or

(h) Remove, otherwise than in a closed receptacle, any corpse or part thereof, kept or used for the purpose of dissection

232.Provision of Electronic Cremation within the premises of an existing crematoria - (1) The Municipality by order, within the existing crematorium, make provisions for electronic crematoria.

(2) The Municipality shall with the help of existing electronic crematoriums make provisions for the maintenance and functioning of such crematoriums.

(3) A person can book such crematoriums online with the help of the official website of the Municipality and make prior arrangements for either traditional or electronic cremation.
(4) The person in-charge as may be appointed by Municipality of such crematoria shall confirm such bookings based on the availability of the method of cremation.

233.Disposal of the dead in certain special circumstances / events
(1) In case of epidemics, like, Cholera, Ebola, Typhus, Plague, etc. the Municipality shall make it mandatory for the bodies to be cremated electronically so that the infection does not spread to nearby localities and affect other people living in and around the epicenter of the affected area.
(2) In the event of an epidemic arising under sub-section (1) the Crematoria shall provide vehicles to bring the bodies to the Crematoria to avoid further spread of infection and such vehicles should be thoroughly cleaned and disinfected thereafter.
(3) In the event of occurrence of mass deaths where it is impossible to identify kith and kin due to the extent of degradation and disfigurement the bodies have suffered, then the municipality along with the Crematoria shall have the authority to accelerate the burial or cremation of such bodies. The Crematoria shall have a team in place that shall look into the cremation of such bodies and shall dispose these bodies by performing basic rites that are performed to dispose any dead body with dignity.

234.Register of registered, licensed, and provided places and prohibition of use of other places – (1) A record to be maintained at the corporation office in which the places registered, licensed, or provided cremation grounds shall be recorded and the plans of such places shall be filed in the office of the Chief Municipal Officer and respectively maintained under his jurisdiction.
(2) If a corpse buried in a place, has not been registered and licensed, as provided under this Act, the Magistrate may direct the exhumation of the corpse and its burial in an authorised place after the preferred complaint by the Chief Municipal Officer.

235.Prohibition against making of vault or grave in any place of public worship - No person shall make a vault or grave, or cause any corpse be buried within the walls or underneath any place of public worship:
Provided the Chief Municipal Officer may, subject to the general or special orders of the Government, authorise the making of a vault or grave within the precincts of or underneath any place of public worship and the burial of

priests or religious ministers in such vault or grave, or in an existing vault or grave.

PART – C – DUTIES OF MUNICIPALITY FOR HEALTH AND HYGIENE

236. Punishment for depositing or throwing any rubbish or solid waste in contravention of the provisions of this Act — Whosoever deposits or throws any rubbish, solid waste, filth or carcasses in contravention of the provisions in this Chapter shall on conviction be punishable with fine which shall not be less than one thousand rupees but may extend to five thousand rupees.

237. Provision for bathing facilities- (*1*) The Municipality may from time to time:

(a) Construct or provide and maintain public bathing-houses which are gender specific and may also set apart a sufficient number of convenient tanks or runs of water or portions of a river for the same; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes and for all purposes connected with the health, cleanliness and comfort of the inhabitants within the Municipality,

(b) If a sufficient number of public wash-houses or places be not maintained under sub-section (1) the Municipality may without making any charge therefor appoint suitable places for the exercise by washer men of their calling.

(2) The Municipality may charge such fees as the Standing Committee may deem fit for the use of any place set apart under clause (*a*) of sub-section (*1*).

(3) Copies of all orders passed and notices issued by the Municipality and for the time being in force under this section shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

238. Regulation of Public Bathing, Washing, etc. - (1)The Chief Municipal Officer may, by order-

(a) Regulate or prohibit the use of any river, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or any part of any river or other public place, for bathing or washing including animals.

(b) Prohibit steeping[215] in a water body which may render the water thereof offensive or dangerous to health,

(c) Prohibit bathing or washing of clothes in any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well by a person suffering from any contagious or infectious disease,

(d) Prohibit any person engaged in any trade or manufacture from causing to flow into any lake, tank, reservoir, cistern, well, duct or other place for storage of water, or drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture, or wilfully do any act connected with any such trade or manufacture whereby such water is likely to be fouled or corrupted, except as otherwise provided under the provisions of this Bill.

(e) Prohibit, by notice, the washing of clothes by washer men in pursuance of their calling, except at such places as may be licensed for this purpose.

(2)Any person who contravenes any provision of this section, shall, on conviction, be punished with fine which may extend to one thousand rupees.

239.Provision of public privies - (1) The Municipality shall provide and maintain in proper and convenient places a sufficient number of public privies and shall cause the same to be kept clean and in proper order. It shall also carry out repairs or alterations from time to time.

(2) The Municipality may license for any period not exceeding one year the provision and maintenance of privies for public use.

(3) No person shall keep a public privy without a licence under sub-section (2).

(4) Every licensee of a public privy shall maintain it in clean and proper order, for which fees as may be prescribed by the Municipality may be charged from the users of such privies.

240.Latrines to afford privacy — All latrine shall be so constructed as to afford privacy to its user and to screen the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

241.Erection of latrine and urinal in factories, schools and public places - (1) The Municipality may give notice to an owner, occupier or controller of commercial complexes, schools, private hospitals, hotels, restaurants, rest houses, bazaars, community centres, marriage halls, cinema halls, auditoria, clubs, entertainment centres, amusement parks and other like private places to erect sufficient latrines and urinals for the facility of users of such places as the municipal authorities may think proper. It shall also be lawful for the Chief Municipal Officer, to direct the management of such places to maintain and keep such latrines and urinals clean and odorless. The Chief Municipal Officer should also direct the management of such places to maintain latrines and urinals for genders separately.

(2) The Chief Municipal Officer or any other Officer authorized by him shall visit, from time to time, such latrines/ urinals to ensure that necessary steps are being taken for sanitation and hygiene.
(3) The management of such places shall be bound to comply with the orders and directions of the Chief Municipal Officer in this connection.
(4) The person in charge of such places shall be punished, on conviction, with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees in case of non-compliance of the orders or directions of the Chief Municipal Officer.

242.Cost of altering, repairing and keeping in proper order privies, etc. — (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal area shall, unless constructed at the cost of the municipal council, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the municipal council may, by written notice, require such owner to alter, repair and put the same in good order in such manner as it thinks fit.
(2) The municipal council may, by written notice, require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into force of this Act, which, in the opinion of the municipal council, is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleansed or kept in good order.

243.Maintenance of establishment for removal of rubbish and filth - (1) The Municipality shall maintain an establishment under the control of the Chief Municipal Officer for the removal of rubbish and filth from privies which are not connected with a public drain.
(2) The Municipality shall, if so required by the Government make provision for the preparation of compost manure from rubbish and filth.

244.Penalty from urinating in public spaces - The Municipality will levy a penalty of not less than 1000 rupees on finding public urination in the municipal area. This penalty will be doubled if the offender is found caught committing the same offence.

245.Power to make bye-laws — Subject to the provisions of this Act and the rules made thereunder, every Municipality may from time to time make, alter or rescind bye-laws for maintenance of health and hygiene.

246. Water Conservation and generation – (1) Conservation of water and prevention of wasting of water shall be one of the primary objectives of the Advisory Committee.

(2) Generation of potable water by treatment and/or from atmospheric moisture shall be budgeted for.

(3) Apportionment of water from all resources within the Municipal area shall be assessed and applied.

(4) Rain water harvesting, ground water conservation, treatment of sewage and effluents conversion of sea water to portable water shall be made by involving private stake holders and citizens.

(5) All technological advancements to conserve and generate water shall be deliberated by the Advisory Committee and implemented wherever possible.

247. Food Safety Management - The Chief Municipal Officer shall be responsible for Food Safety Management which includes:

a. Evaluating food premises and food transportation vehicles, and issuing certificates of acceptability to compliant premises.
b. Monitoring compliance with legal requirements, and instituting remedial and preventative measures where applicable.
c. Examining, sampling and analysing foodstuffs and examining food labels.
d. Presenting workshops and educating people in both the formal and informal food sectors on food safety.

248. Power to stop dangerous quarrying.- If in the opinion of the Chief Municipal Officer, the working of any quarry, or the removal of stone, earth or other materials from any place is dangerous to persons residing in or having legal access to the neighbourhood. If thereof or creates or is likely to create a nuisance, the Commissioner, may, with the approval of the standing committee, by notice, require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.[216]

PART – D - OTHER NUISANCES

249. Optic Fibre Cable and other cables - (1) Laying of cables.- The Chief Municipal Authority shall ensure that,

(a) If any scheme for laying of overhead cables on poles specifically erected for the purpose, as far as possible, shall be allowed only in exceptional cases, as

[216] Maharashtra Municipal Corporation Act,

the same tends to interfere with the overhead electricity distribution systems apart from disturbing the aesthetics of the eco system.

(b) The applicant earmarks a pre-defined route alignment along the internal road circulation network, as per the specifications (with or without a duct) by the Chief Municipal Officer as a part of this development works for laying the cable infrastructure, so as to avoid repeated digging and or to facilitate the infrastructure providers seeking license to lay the cable in future.

(c) lf an applicant desires of sharing already laid or installed cable infrastructure, can do so after depositing the amount of rupees five thousand with the prior permission of the Chief Municipal Officer.

(d) Incomplete application not being in accordance with the application form provided by the office of the Chief Municipal Officer will not processed and shall be rejected.

(e) The Municipality may provide ducts and lay the optical fibre cable with sufficient bandwidth capacity or redundancy as part of this development plans, which may be leased out to an applicant on a recurring charge basis as may be determined by the Standing Committee.

(2)Laying or installing cable without License.-

(a) From the date of commencement of these rules, any cable already laid or installed for which license has not been granted by the Chief Municipal Officer, the service provider shall either remove the cable infrastructure immediately or apply for license within a period of thirty days of publication of final notification of these rules in the official Gazette. To get such unauthorized action compounded for which he shall be liable to pay a compounding fee, which shall be calculated at the rate of fifty percent of the applicable charges along with arrears if any due to the Municipality, subject to the conditions that such cable infrastructure fulfils the conditions of these rules. Wherever any rectification is required in this process, the Chief Municipal Officer shall grant him thirty days period to undertake such rectifications.

(b) lf the applicant does not apply or remove the cable infrastructure he shall be called upon to show cause as to why action should not be taken against him as per provisions of the Act. lf the applicant fails to reply to show cause or take corrective measures, the Chief Municipal Officer shall proceed to remove the unauthorized cable structure at the cost and risk of such service provider.

(3) Penalty - whoever contravenes any provisions of the rules or fails to comply with any order or direction lawfully given to him under the rules, shall be punishable with fine which shall not be more than five thousand rupees. In addition, in case of continuing contravention with fine which shall not be more

than Rupees three hundred for every day during which the breach continues after the first breach.[217]

250. Construction and Demolition waste - (1) Construction Practices And Safety

(a) The various construction activities like; demolition, excavation, blasting, actual construction from foundation level up to completion shall be in accordance with Part VII Construction Practices and Safety of the National Building Code of India.

(b) The safety measures to be adopted during the various construction operations, including storage of materials on the construction site and Corporation / public land shall be in accordance with Part VII Construction Practices and Safety of the National Building Code of India.[218]

(2) The Chief Municipal Officer may take such measures as may have been provided under the law prevailing the Construction and Demolition Waste Management Rules, 2016.

(3) The Chief Municipal Officer may as an interim measure stop such construction or re-construction of any building, if he is of the opinion that the work in progress endangers human life.[219]

251. Regulating the display of advertisements in the city - The Chief Municipal Officer may, for the purpose of securing cleanliness, safety and order, by notification –

(1) Prohibit the advertisement, regulate the erection, exhibition, fixation, retention or display of all or any class of advertisements in any street public road, or public or private place, public or private building, wall, hoarding, structure, lamp-posts, poles in or adjoining or visible from or abutting any public place or road, or public park or part thereof or in any place of public resort, and Shopping Mall Film theatre and other Indoor Places.

(2) Regulate the erection, exhibition, fixation, retention or display of advertisements in any manner in non-prohibited areas.

Explanation – "Hoarding" shall mean any surface of a structure erected on the ground or any portion of a roof or parapet or wall of any building that includes characters, letters or illustrations applied thereto and displayed in any manner whatsoever, out of doors, for the purpose of advertising, or to give information with a view to attract public to any place, persons, public performance, articles of merchandise whatsoever. This will include any

[217] URBAN DEVELOPMENT SECRETARIAT NOTIFICATION No: UDD201/MNE 2015, Bengaluru, Dated: 09-09-2015

[218] Karnataka Building Bye law, 2003

[219] Section 309, Karnataka Municipal Corporation Act.

surface for display erected on a structurally sound structure with Bi-Pole or Mono-Pole support. The display surface may be used to display multiple advertisements such as in a Tri-Ad, Tri-Vision or a Scroller, etc.

(3) The structures of all hoardings along with their supports and the rear side of the hoarding will be painted in a uniform 'Dark Green' enamel paint at least twice a year. In case of failure to comply with such directions, the Chief Municipal Officer shall issue a notice giving the agency seven days' time to get the entire structure painted failing which the Chief Municipal Officer shall get the hoarding structure painted and charge the Agency for the same along with a penalty of Rs. 5000/- (Rupees Five thousand only)

(4) Whoever commits a breach,

(a) Shall be issued a show cause notice by the Chief Municipal Officer, which shall be replied to within 7 working days failing which, or in case of confirmation of breach, be punishable:-

(i) With a fine which may extend to Rs. 5000 (Rupees five thousand only) and in case of continuing breach, with fine which may extend to Rs. 500 for every day during which the breach continues after issue of notice for the first breach;

(ii) With a fine which may extend to Rs. 750 for every day during which the breach continues after receipt of notice from the Chief Municipal Officer to discontinue such breach.

(iii) The Chief Municipal officer may deface the display of any un-authorized advertisement after issue of a written notice of three days.

(iv) In the case of repeated defaults, the Chief Municipal officer may, at his discretion, not renew the registration of an Agency, after providing an opportunity to the Agency to explain why such action not be taken against it and for reasons to be recorded in writing and communicated to the Agency.

(v) Any unauthorized advertisement shall attract the penalty at the rate of not less than Rs.1,00,000/- For any general violation with regard to all types of advertisements, the Chief Municipal Officer shall penalize the concerned Agency at a rate not less than the maximum of rupees 2,00,000/-[220]

PART – E - POWER TO REGULATE EXCAVATIONS AND DANGEROUS QUARRYING

252. Quarrying, Blasting, cutting timber or building operation – (1) No person shall quarry, blast, cut timber, or carry on building operations in such manner as to cause, or is likely to cause, danger to persons passing by, or dwelling or working in, the neighborhood.

[220] Advertisement Bye law, 2006(Bangalore Mahanagara Palike)

(2) In the opinion of the Chief Municipal Officer, if the working or any other activities carried out by the quarry is dangerous to persons residing in or having a right of access to the neighborhood thereof, or creates or is likely to create a nuisance, the Chief Municipal Officer may, by written notice, require the owner of the said quarry not to continue or to take such other measures in respect of such quarry or place as the Chief Municipal Officer shall direct for the purpose of preventing the danger or of abating the nuisance.

(3) If such quarry or place is vested in Government, the Chief Municipal Officer shall not take any action, unless the District Collector has consented to take an action : Provided further that, the Chief Municipal Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers, near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger and any expense incurred by the municipality in taking action under this section shall be paid by such owner or the person responsible for such working or removal.

(4) Provided that if the owner or any person having control of the quarry does not respond to the notice given by the Chief Municipal Officer within 30 days of the receipt of the notice, the Chief Municipal Officer shall cause the District Collector to seal such quarry and levy a penalty of rupees five thousand.

253.Duty of the licence holder to inform the municipality – (1) Whoever has been issued with the license to carry on or continue quarrying in a municipal area should intimate the municipality within 30 days of receiving the license order.

(2) In case of quarrying by government authority a copy of work order shall be sent to the Chief Municipal Officer. It shall be the duty of the Chief Municipal Officer to conduct frequent inspection to the quarry and take immediate action in case of dangerous quarry. (3) In case of failure to notify the municipality there shall be a penalty of Rupees 2,000 it shall be recovered as arrears to property tax.

254.Power to stop dangerous Excavation - (1) The Chief Municipal Officer may, by a general order, or by a special order affecting such portion of the municipal area as may be specified therein, prohibit.

(a) the making of excavation for the purpose of taking earth therefrom or storing rubbish or offensive matter therein, or

(b) the digging of cesspool, tanks, ponds, wells or pits, without his special permission.

(2) No person shall make any excavation referred to in clause (a), or dig any cesspool, tank, pond, well or pit referred to in clause (b), of sub-section (1) in contravention of any such order.

(3) If any such excavation is made, or any such cesspool, tank, pond, well or pit is dug in contravention of the order under sub-section (1), the Chief Municipal Officer may, by notice, in writing, require the owner or the occupier of the land, on which such excavation is made or such cesspool, tank, pond, well or pit is dug, to fill it up with earth or other material approved by him.

(4) If, during excavation or any other operation for the purpose of construction of any building or execution of any work, any of the underground utilities (such as electric or telephone cables, water-supply, drainage and sewerage mains, and gas pipes) is touched or is likely to be touched, or if the Chief Municipal Officer is of opinion that such excavation may cause danger to the public, the Chief Municipal Officer may, by order, in writing, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.

PART – F - CONTROL OF POLLUTION

255. Control of Pollution - Subject to provisions of any law relating to air, water or noise pollution for the time being in force and in accordance with any notification by the state government in that behalf, the municipality may function as a competent authority for enforcement of such law.

256. Power to require wells, tanks, etc. to be rendered safe – (1) Where in any municipal area, any well, tank, reservoir, pool, depression or excavation, or any bank is in the opinion of the Chief Municipal Officer, in a ruinous state for want of sufficient repairs, protection or enclosure and is a nuisance or is dangerous to passers-by, the Chief Municipal Officer may, by notice, in writing, require the owner or the part-owner or any other person claiming to be the owner or the part-owner thereof, or failing any of them, the occupier thereof, to repair, protect or enclose it in such manner as he thinks necessary, and if, in the opinion of the Chief Municipal Officer, the danger is imminent, he shall forthwith take such steps as he thinks necessary to avert such danger.

(2) If, in the opinion of the Chief Municipal Officer— (a) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water course, or any collection of a water ; or any cistern or other receptacle for water whether within or outside a building ; or any land on which water is accumulated, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Municipal Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Municipal Officer shall prescribe; or take such measures with respect to the same including treatment by such physical, chemical or biological methods for removing or abating the nuisance as may be prescribed in the notice.

257.Improper Use of Land And Property - (1) If, for any reason, it shall appear to the Municipality that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the Council shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall, in such notice, call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice ; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the Council invalid or insufficient, the Council may, by an order in writing, prohibit the further use of such building or room as a dwelling.

Explanation- The aforementioned provision may include any land or building, by reason of it being dilapidated, neglected, abandoned or unoccupied,

(a) is in a filthy or unwholesome state, or

(b) has become a resort of –

(i) idle and disorderly persons, or

(ii) persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or

(c) is used for gambling or immoral purposes, or (d) is likely to occasion a nuisance or

(d) overgrown with prickly-pear or rank and noisome vegetation.

(2) When any such prohibition as aforesaid has been made by the Municipality shall immediately, if it appears to it to be necessary, cause a proper hoarding or fence to be put up for the protection of passengers. All expenses incurred by the Municipality under this subsection shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as arrears of tax recoverable under this Act: Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality, instead of itself causing a hoarding or fence to be put up, to issue in the first instance a notice in writing to the owner or occupier to put up a proper hoarding or fence and, in the event of the owner or occupier failing to put up within two days from the service of such notice, a hoarding or fence which the Municipality considers sufficient in the circumstances of the case, the Municipality shall at once cause such hoarding or fence to be put up and thereafter proceed to recover the expenses incurred by the Municipality as provided in this subsection.

(3) If the owner or occupier fails to comply with the notice issued under this section and the building falls, the owner and occupier of the building shall, without prejudice to any action that may be taken against them under the

provisions of this Act or any other law for the time being in force, be liable, jointly and severally, for any damage caused by the debris of such building. The Chief Municipal Officer may impose a fine which may extend to 5000 rupees, and in the case of continuing non-compliance with further fine which may extend to five hundred rupees for every day after the first, during which such non-compliance continues.

258. Polluter to pay - (1) The Municipality may, by regulations, provide for recovery of charges and imposition of penalty on those persons who are directly responsible for causing pollution of any kind referred to in this chapter.

(a) Municipality shall levy a 5% cess on all manufacturers of disposable products such as tin, glass, plastics packaging, etc., or brand owners who introduce such products in the market to provide necessary financial assistance to local authorities for establishment of effective waste management system.[221]

(b) The surveyor shall identify and a penalty of 10% of the property tax will be levied on any household washing their vehicles on the street.[222]

(c) All the stores that generate waste including shopkeepers, medical stores, bakery stores, ice-cream parlours, and all retail stores shall maintain dustbin in conspicuous places with segregation for dry and wet waste which shall be collected by the municipality regularly. They must also provide for a sign for dustbin and encourage the customers to use the same.[223] A penalty of 2% on the property tax shall be recovered as arrears on property tax in case of failure to maintain such dustbins.

(2) The surveyor appointed by the Municipality shall check for persons situated within the municipal limits who are directly responsible for causing pollution of any kind referred to in this chapter shall recover charges by imposing penalty as specified in this Section.

PART - G - POWER TO MAINTAIN TREES, HEDGES ETC.

259. Removal and trimming of hedges, trees, wild vegetation etc - (1)The Municipality may, by written notice, require the owner or occupier of any land to trim or prune the hedges thereof bordering any public street so that the said hedges may not exceed such height from the level of the street and such width as the Municipality may direct and to cut down, chop or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which it deems

[221] (PLEASE ADD THIS IN OTHER TAXES)
[222] This is in lieu of wastage of water during car washing.
[223] Add if not covered already.

likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhangs on any public tank, well or other provision for water supply as to pollute, or to be likely to pollute, the water thereof.

(2) If the owner or occupier fails to comply with the notice issued to him under sub-section (1) within the period specified in the notice, the Municipality may cause to trim or prune such hedges and the expenses incurred thereby may be recovered from owner or occupier of land in such manner as arrears of property tax under this Act.

(3) The Municipality shall be in charge of pruning the trees on the streets and has the power to sever a tree in case it is dilapidated or dangerous. However, the standing committee shall issue a written order in case more than 10 tress have to be severed in a particular street within a period of two years.

(4) The municipality shall maintain all the tress in the street in such a manner that it does not cause any hindrance to the residents and other authorities like the electricity board. The municipality shall encourage individuals or organisations which plant and maintain trees. However planting of trees like Teak and Sandal, Blackwood, Mahua and Khair (and other reserved species) shall be subject to the provisions under the Karnataka Preservation of Trees Act, 1976.

260.Precaution in case of dangerous trees - (1) If any tree or any branch of a tree or the fruit of any tree appears to the Chief Municipal Officer or any person authorised by Chief Municipal Officer to be likely to fall and thereby endanger any person or any structure, the Chief Municipal Officer or the person authorised by Chief Municipal Officer may by notice require the owner of the said tree to secure, lop or cut down the said tree so as to prevent any danger therefrom.

(2) If immediate action is necessary, the Chief Municipal Officer or the person authorised by Chief Municipal Officer before giving such notice or before the period of such notice expires, secure, lop or cut down the said tree or remove the fruit thereof or fence off a part of any street or take such other temporary measure as he thinks fit to prevent danger, and the expenses incurred thereby may be recovered from owner of the tree in such manner as arrears of property tax under this Act.

(3) The Chief Municipal Officer may direct the owner of any tree which has caused pecuniary damage to any person or property in case the tree was a dangerous tree, to cut or trim such dangerous tree or part thereof.

Explanation - dangerous tree is one whose branch or fruit appears to be likely to fall and thereby endanger any person or any property.

(4) Any department other than the municipal council felling or trimming the trees on a street shall obtain permission from the municipality before doing so.

Provided further that the said department shall be responsible to clear all the debris and dispose it off in the area earmarked for such disposal. In case of failure to clear the debris as prescribed above, the Chief Municipal Officer may recover the same from the department.

PART – H – WATER SUPPLY

261. Duty of Municipality to supply water - It shall be the duty of the Municipality to provide on its own or arrange to provide through any agency water-supply for domestic, industrial, and commercial purposes.

Provided the provisions of this Chapter shall not apply to any municipal area for which separate arrangement for water supply are made by or under any law for the time being in force.

262. Construction of works - (1) The Municipality may with the sanction of the Government construct, lay or erect filtration plants, reservoirs, machinery, conduits, pipes or other works for supplying water and may provide tanks, reservoirs, machinery mains, fountains and other conveniences within the Municipal area for the use of inhabitants.

(2) The Municipality may cause existing water works to be maintained and supplied with water or it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

263. Trespass on water supply premises - No person shall except with permission duly obtained from the Chief Municipal Officer or any officer authorised in this behalf, enter on land vested in the Municipality along which a conduit or pipe runs or on any premises connected with water supply.

264. Prohibition of building over water mains - (1) Without the permission of the Chief Municipal Officer or any officer authorised in this behalf, no building, wall or other structure shall be newly erected and no street shall be constructed over any water mains owned, operated or in possession of Municipality.

(2) If any building wall or other structure be so erected or any street be so constructed, the Chief Municipal Officer or any officer authorised in this behalf, may cause the same to be removed or otherwise dealt with as shall appear to him fit and the expenses thereby incurred shall be paid by the person contravening the provisions of subsection (1).

265.Control over house connections - All house connections, whether within or without the premises to which they belong, with the water supply main shall be under the control of the Municipality but shall be altered repaired, and kept in proper order at the expense of the owner of the premises to which they belong or for the use of which they were constructed and in conformity with the bye-laws made in that behalf.

266.Payment to be made for water supplied - Notwithstanding anything contained in any law, contract or instrument, for all water supplied under this Act payment shall be made at such rates, at such times and under such conditions as may be specified by bye-laws and different rates may be prescribed for supply of water for different purposes.

267.Private water supply for domestic purposes - (1) The Chief Municipal Officer may, on application by the owner or occupier of any building, arrange in accordance with the bye-laws to supply water thereto for domestic consumption and use.

(2) It shall not be lawful for the owner of any dwelling house which may be newly constructed or reconstructed to occupy it or cause or permit it to be occupied until he has obtained a certificate from the Chief Municipal Officer that there is provided within, or within a reasonable distance of the house, such supply of wholesome water as appears to the Chief Municipal Officer to be sufficient for the domestic consumption and use of the inmates of the house.

(3) Where on any land, there are two or more super structures, and the owner of the land is not the owner of all the super structures, the Chief Municipal Officer or any officer authorised in this behalf may, if it appears to him that the super structures are without a proper supply of water for domestic consumption and use and that such supply can be furnished from the main not more than thirty-five meters distance from any part of any such super structure, by notice require the owner of the land to obtain such supply.

268.Supply of water for domestic purpose not to include any supply for certain specified purpose - The supply of water for domestic purposes shall not be deemed to include any supply,-

(a) for any trade, manufacture or business;
(b) for gardens or for purposes of irrigation;
(c) for building purposes;
(d) for fountains, swimming baths, public baths or tanks or for any ornamental or mechanical purposes;

(e) for animals, where they are kept for sale or hire for the sale of their produce or any preparation therefrom;
(f) for the consumption and use by the inmates of hotels, boarding houses and residential clubs;
(g) for the consumption and use by the persons resorting to theatres and cinemas;
(h) for constructing or for watering streets; or
(i) for washing vehicles where they are kept for sale or hire;

but shall be deemed to include a supply,-

(j) for flushing privies or drains; and
(k) for all baths other than swimming baths or public baths.

269.Water supply for domestic purposes not to be used for non-domestic purposes - No person shall, without the written permission of the Chief Municipal Officer use or allow to be used for other than domestic purposes water supplied for domestic purposes.

270.Power to supply water for non-domestic purposes - (1) The Chief Municipal Officer may with the sanction of the designated Standing Committee supply water for any purposes other than a domestic purpose on such terms and conditions consistent with the bye-laws made thereunder on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.

(2) When an application under sub-section (1) is received, the Chief Municipal Officer may, subject to such charges and rates as may be fixed by the bye-laws, lay or allow to be laid the necessary pipes and water fittings of such dimensions and description as may be prescribed by the bye-laws and may arrange for the supply of water through such pipes and fittings.

271.Supply of water to Government and local authorities.- The Municipality may supply water to the Government or any other local authority on such terms as to payment, the period and the conditions of supply as shall be determined by it.

272.Public water supply.- (1) The Municipality shall provide a supply of wholesome drinking water within the Municipal area and shall erect sufficient stand pipes, fountains and other conveniences for the gratuitous supply of water.

(2) The Chief Municipal Officer or any officer authorised in this behalf, may close a public hydrant or other convenience when it is no longer required for the supply of wholesome water to the public.

273.Power to lay mains.- (1) Notwithstanding anything contained in any other law for the time being in force, the Municipality may lay a main whether within or outside the local limits of the Municipal area,-

(l) in any street or any land vested in the Government, the Municipality or any other local authority;

(m) with the consent of every owner and occupier of any land not forming part of a street, in, over or on that land, and may inspect, repair, alter or renew or may at any time remove any main so laid:

Provided that where the consent required for the purpose of this subsection is withheld, the Municipality may, after giving the owner or occupier of the land a written notice of its intention so to do, lay the main in, over or on that land without such consent.

(2) Where the Municipality, in exercise of the powers under this section, lays a main in, over or on any land not forming part of a street or land referred to in clause (b) of sub-section (1), or inspects, repairs, alters, renews or removes a main so laid in, over or on any such land it shall pay compensation to every person interested in that land for any damage done to, or injurious affection of that land by reason of the inspection, laying, repair, alteration, renewal or removal of the main.

274.Power to lay service pipes, etc.- (1) The Municipality may in any street or in any land referred to under the provisions of this Act, whether within or outside the local limits of the Municipal area lay such service pipes with such stopcocks and other water fittings as it may deem necessary for supplying water to premises and may from time to time inspect, repair, alter or renew and may at any time remove any service pipe laid in such street or land whether by virtue of this section or otherwise.

(2) Where a service pipe has been lawfully laid in, over or on the land not forming part of a street or land referred to in sub-section (1), such officers as the Chief Municipal Officer may authorise may enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution thereof but shall pay compensation for any damage done in the course of such action.

275.Provision of fire hydrants.- (1) The Chief Municipal Officer or any officer authorised in this behalf shall fix hydrants on water mains (other than trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out and shall keep in good order and from time to time renew every such hydrant.

(2) To denote the situation of every hydrant placed under this section, letters, marks or figures shall be displayed prominently on some wall, building or other structure near such hydrant.

(3) As soon as any such hydrant is completed, the Chief Municipal Officer shall deposit a key thereof at such place where a public fire engine is kept and in such other places as he deems necessary.

(4) The Municipality may, at the request and expense of the owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a pipe is laid (and not being a trunk main) and being of sufficient dimensions to carry a hydrant fix on the pipe and keep in good order and renew one or more fire hydrants, to be used only for extinguishing fires as near as conveniently may be to that factory, workshop, trade premises or place of business.

(5) The Municipality shall allow all persons to take water for extinguishing fires from any pipe on which a hydrant is fixed without any payment.

276.Power to require owners of premises to set up pumps, etc. - The owner of every premises when so required by the Municipality shall provide a pump and set up electric pumps or other contrivances whereby water may be caused to reach to the top of the topmost story of such premises.

277.Supply of water – The Chief Municipal Officer may permit the owner, lessee or occupier of any premises to connect the premises by means of supply of pipes for conveying through the premises supply of water for his domestic purposes from the Municipality water works subject to the rules framed under the Act.

278.Laying of supplying pipes, etc.- (1) An owner, lessee or occupier of any premises who desires to have supply of water for his domestic purposes from the Municipality water works shall comply with the following requirements, namely:-

a. he shall give to the Chief Municipal Officer fourteen days' notice of his intention to lay the necessary supply pipe; and
b. he shall lay the supply pipe at his own expense having first obtained as respects any land not forming part of a street, the consent of the owner or occupiers thereof:

Provided that where any part of the supply pipe is to be laid in a street he shall not himself break open the street or lay that part of the pipe.

(2) Upon the receipt of the notice referred to in sub-section (1), the Chief Municipal Officer shall lay the necessary communication pipe and any part of

the supply pipe which is to be laid in a street and shall connect a communication pipe with the supply pipe.

(3) The expenses reasonably incurred by the Chief Municipal Officer in executing the work which he is required or authorised by this section to execute shall be repaid to the Municipality by the person by whom the notice was given and may be recovered from such person as an arrear of water rate under this Act:

Provided that if under the provision of this section the Chief Municipal Officer lays a main in lieu of the supply pipe the additional cost incurred in laying the main instead of a supply pipe shall be borne by him.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the Chief Municipal Officer may, within a reasonable time after the service of the notice upon him, require the person giving the notice to pay to it in advance, the cost of the work as estimated by Municipality or to give security for payment thereof to its satisfaction.

(5) If any payment made to the Municipality under sub-section (4) exceeds the expenses which it would be entitled to recover from the person giving the notice, the excess shall be repaid by it and if and so far as those expenses are not covered by the payment, the Municipality may recover the balance from such person as an arrear of water rate under this Act.

279.Power to require separate service pipes - (1) The Municipality may require the provision of a separate service pipe for each of the premises supplied or to be supplied by it with water.

(2) If, in the case of any premises already supplied with water but not having a separate service pipe, the Municipality gives notice to the owner of the premises requiring the provision of such a pipe, the owner shall, within three months, lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a street, and the Municipality shall, within fourteen days after the owner has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a street and make all necessary communications.

(3) If an owner upon whom a notice has been served under sub-section (2) fails to comply therewith the Municipality may itself execute the work which the owner was required to execute and recover the expenses reasonably incurred by it in executing the work as an arrear of water rate under this Act.

280.Stopcocks.- (1) On every service pipe laid the Municipality may fit a stopcock enclosed in a cover box or a pit of such size as may be reasonably necessary.

(2) Every stopcock fitted on a service pipe shall be placed in such position as the Municipality deems most convenient:

Provided that,- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises; and

(b) a stopcock in a street shall be placed as near to the boundary thereof as is reasonably practicable.

281.Power to provide meters.- (1) The Municipality may provide a water meter and attach the same to the service pipe in premises connected with the Municipality water works.

(2) The expenses of attaching a meter under sub-section (1) shall be paid by the owner of the premises.

(3) The use, rent to be paid for such use, maintenance and testing of meters shall be regulated by the bye-laws.

282.Presumption as to correctness of meters.- Whenever water is supplied by the Municipality through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

283.Prohibition of waste or misuse of water.- (1) No person shall wilfully or negligently cause or suffer any water fitting which he is liable to maintain,- (a) to be or remain so out of order or so in need of repair; or (b) to be or remain so constructed or adopted or to be so used, that the water supplied to him by the Municipality is or is likely to be wasted, misused or unduly consumed, or contaminated before use, or that foul air or an impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to the Municipality.

(2) If any water fitting which any person is liable to maintain is in such a condition or so constructed or adapted as aforesaid, the Municipality, without prejudice to any action under any other provisions of this Act, may require that person to carry out any necessary repairs or alterations and if he fails to do so within forty-eight hours may itself carry out the work and recover from him the expenses reasonably incurred by it in so doing, as an arrear of water rate payable under this Chapter.

284.Power to enter premises to detect waste or misuse of water - The Chief Municipal Officer or any officer authorised by the Chief Municipal Officer may,

between sunrise and sunset, enter any premises supplied with water by the Municipality in order to examine if there is any waste or misuse of such water and the Chief Municipal Officer or such officer shall not be refused admittance to the premises nor shall he be obstructed by any person in making his examination.

285. Power to test water fittings - The Chief Municipal Officer or other officer may test any water fitting used in connection with water supplied by the Municipality.

286. Water pipes, etc., not to be placed where water will be polluted.- (1) No water pipe shall be laid in a drain or on the surface of an open channel or house gully or within six meters of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted; and except with the approval of the Municipality no cistern shall be construed within six meters of a privy or cesspool.

(2) No privy or cesspool shall be constructed or made within six meters of any water pipe or cistern or in any position where the pipe or cistern is likely to be injured or the water therein polluted.

287. Power to cut off water supply.- (1) The Chief Municipal Officer may cut off the supply of water from any premises,-

a. if the premises are unoccupied;
b. if the owner or occupier neglects to comply with any lawful order or requisition regarding water supply issued by the Chief Municipal Officer within the period specified therein;
c. if any charges or any other sum due for water or for the cost of making a connection or the hire of a meter or the cost of carrying out any work or test connected with the water supply which is chargeable to any person by or under this Act is not paid within fifteen days after a bill for such charges or sums has been presented or served;
d. if after receipt of a notice from the Chief Municipal Officer requiring him to refrain from so doing, the owner or occupier continues to use the water or to permit it to be used in contravention of the provisions of this Act or any rule or bye-laws made thereunder;
e. if the owner or occupier wilfully or negligently damages his meter or any pipe or tap conveying water;
f. if the owner or occupier refuses to admit the Chief Municipal Officer or any person authorised by him in this behalf into the premises which he proposes to enter for the purpose of executing any work or

of placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents the Chief Municipal Officer or any person authorised by him doing such work, from placing or removing such apparatus or making such examination or inquiry;

g. if any pipes, taps, works or fittings connected with the water supply are found on examination by the Chief Municipal Officer or any person authorised by him to be out of repair to such an extent as to cause waste or contamination of water;

h. if the owner or occupier causes pipes, taps, works or fittings connected with the Municipality water supply to be placed, removed, repaired or otherwise interfered with in contravention of the provisions of this Act, the rules or bye-laws made thereunder:

Provided that the Chief Municipal Officer shall not cut off the supply of water unless notice of not less than three days has been given to the owner or occupier of the premises.

(2) (a) The owner and the occupier of the premises shall be jointly and severally liable for the payment of all the sums referred to in clause (c) of sub-section (1).

(b) The sums referred to in clause (a) shall be a charge on the premises.

(3) The expenses of cutting off the supply shall be payable by the owner and occupier of the premises jointly and severally.

(4) In respect of any premises from which water supply is cut off under clause (c) of sub-section (1), as soon as any money for non-payment of which water has been cut off together with the expenses of cutting off the supply has been paid by the owner or occupier, the Chief Municipal Officer shall cause water to be supplied as before on payment of the cost of reconnecting the premises with the water works.

(5) Action taken under this section against any person shall be without prejudice to any penalties to which he may otherwise be liable.

288. Joint and several liability of owners and occupiers for offence in relation to water supply - If any offence relating to water supply is committed under this Act on any premises connected with the Municipality water works, the owner, the person primarily liable for the payment of the charges for water, and the occupier of the said premises shall be jointly and severally liable for such offence.

289. Non-liability of Municipality when supply is reduced or not made in certain cases - The Municipality shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water in the case of

unusual drought, other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

290. Right of user of conduits, lines, etc.- (1) The Municipality may place and maintain conduits and lines of mains or pipes over, under, along or across any immovable property whether within or outside the local limits of the municipal area without acquiring the same, and may at any time for the purpose of examining, repairing, altering or removing any conduits or lines of mains or pipes, enter on any property over, under, along or across which the conduits or lines of mains or pipes have been placed:

Provided that the municipality shall not acquire any right other than a right of user in the property over, under, along or across which any conduit or line of mains or pipes is placed.

(2) In the exercise of the powers conferred upon it by this section, the municipality shall cause as title damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by it.

291. Power of owner of premises to place pipes through land belonging to other persons.- (1) If it appears to the Municipality that the only or most convenient means of water supply to any premises is by placing or carrying any pipe over, under, along or across the immovable property of another person, it may by order in writing, authorise the owner of the premises to place or carry such pipe over, under, along or across such immovable property:

Provided that before making any such order the Municipality shall give to the owner of the immovable property a reasonable opportunity of showing cause within such time as may be specified in the bye-laws made in this behalf as to why the order should not be made: Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe is placed or carried.

(2) Upon the making of an order under sub-section (1), the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe over, under, along or across such immovable property or for the purpose of repairing the same.

(3) In placing or carrying a pipe under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall,-

a. cause the pipe to be placed or carried with the least practicable delay;

b. fill in, reinstate and make good at his own cost with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe; and
c. pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe.

(4) If the owner of the immovable property, over, under, along or across which a pipe has been placed or carried under this section whilst such immovable property was not built upon, desires to erect any building on such property, the Municipality shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe in such manner as shall be approved by Municipality and to fill in, reinstate and make good the immovable property as if the pipe had not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Municipality it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe should be closed, removed or diverted.

292. Power to execute work after giving notice to the person liable.- (1) When under the provisions of this Chapter any person may be required or is liable to execute any work, the Municipality may, in accordance with the provisions of this Act and of any bye-laws made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by it for this purpose.

(2) The expenses incurred or likely to be incurred by the Municipality in the execution of any such work shall be payable by the said person and the expenses incurred by the Municipality in connection with the maintenance of such work shall be payable by the person or persons enjoying the amenities and conveniences rendered possible by such work.

(3) The expenses referred to in sub-section (2) shall be recoverable from the person or persons liable therefor as an arrear of water charges payable under this Chapter.

293. Work connected with water supply to be done by licensed plumber.- (1) No person other than a licensed plumber shall execute any work connected with water supply and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Chief Municipal Officer the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Chief Municipal Officer the name of such plumber.
(3) When any work is executed except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Municipality without prejudice to the right of the Municipality to prosecute under this Act the person at whose instance such work has been executed.
(4) The Municipality may make bye-laws for the guidance of licensed plumbers and a copy of all such bye-laws shall be attached to every license granted to plumbers by the Municipality.
(5) The Municipality may prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of this Chapter.
(6) No licensed plumber shall, for any work referred to in sub-section (5), demand or receive more than the charge prescribed therefor under that subsection.
(7) The Municipality shall make bye-laws providing for,- (a) the exercise of adequate control on all licensed plumbers; (b) the inspection of all works carried out by them; and (c) the hearing and disposal of complaints made by the owners or occupiers of premises with regard to the quality of work done, material used, delay in execution of work, and the charges made by a licensed plumber.
(8) No licensed plumber shall contravene any of the bye-laws made in this behalf or execute carelessly or negligently any work under this Act or make use of bad materials, appliances or fittings.
(9) If any licensed plumber contravenes sub-section (8), his license may be suspended or cancelled whether he is prosecuted under this Act or not.

294.Prohibition of certain acts relating to water supply.- (1) No person shall,-

a. wilfully obstruct any person acting under the authority of the Municipality in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such work, or deface or destroy any works made for the same purpose; or
b. wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Municipality; or

c. unlawfully obstruct the flow of or flush, draw off or divert or take water from any water work belonging to the Municipality or any water course by which any such water is supplied; or
d. obstruct any officer or other employee of the Municipality in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water work; or
e. bathe in, at or upon any water work or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water work or wash or clean therein any cloth, wool or leather or the skin of any animal or cause water of any sink, or drain or any steam engine or boiler or any polluted water to turn or be brought into any water work, or do any other act whereby the water in any water work is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

295.Bye-laws regarding water supply.- (1) The Municipality may make bye-laws relating to water supply to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing provision, such bye-laws may provide for,-

a. the power of the Municipality,- (i) to stop the supply of water, whether for domestic purposes or not, or for gratuitous use; and (ii) to prohibit the sale and use of water for the purpose of business;
b. the connection of supply pipes for conveying to any premises a supply of water from Municipality water works;
c. the making and renewing connections with Municipality water works;
d. the power of the Municipality to take charge of private connections;
e. the power of the Municipality to alter the position connections;
f. the equitable distribution of water supplied to occupiers;
g. the size, material, quality, description and position of the pipes and fittings to be used for the purpose of any connection with or any communication from any Municipality water works and the stamping of pipes and fittings and fees for such stamping;
h. the size, material, quality and description of pipes, cisterns and fittings which are found on an examination to be so defective that they cannot be effectively repaired;

i. the provision and maintenance of meters when water is supplied by measurement;
j. the prohibition of fraudulent and unauthorised use of water and the prohibition of tampering with meters;
k. the maintenance of pipes, cisterns and other water works;
l. the licensing of plumbers and fitters and for the compulsory employment of licensed plumbers and fitters;
m. any other matter which is to be or may be provided for by byelaws made under this Chapter.

(3) In making any bye-laws under this section, the Municipality may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees and in case of continuing breach with an additional fine which may extend to ten rupees for every day during which the breach continues after receipt of a notice from the Municipality to discontinue such breach.

PART – I – DRAINAGE AND SEWERAGE

296. Drainage and sewers to vest with the municipality - (1) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water courses, in, alongside or under any street, whether constructed out of the municipality fund or otherwise and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind collected by the municipal council from the streets, houses, privies, sewers, cess-pools or elsewhere shall be vested in and belong to the municipal council.

(2) All public and other drains and sewers which are vested in the Municipality are hereinafter in this Act referred to as municipal drains or sewers and shall be under the survey of the municipal council.

(3) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such municipal drains or sewers so much of the subsoil appertaining thereto as may be necessary for the said purpose shall be deemed also to vest in the Municipality.

(4) All drains, sewers, ventilation-shafts, pipes and all appliances and fittings connected with the drainage and sewerage works constructed, erected or set up out of the funds of the Municipality in or upon premises not belonging to the Municipality whether,-

(a) before or after the date on which a Municipality is established under this Act, and

(b) for the use of the owner or occupier of such premises or not, shall, unless the municipal council has otherwise determined, or does at any time otherwise determine, vest in the Municipality.

297.Powers for making drains etc. -(1) In order to carry out any drainage scheme, it shall be lawful for a municipal council to carry any drain, sewer, conduit, tunnel, culvert, pipe or water-course through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal area.

(2) The municipal council or any officer appointed by it for such purpose may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the Municipality has been already constructed, or may repair or alter any drain vested in the Municipality.

(3) In the exercise of any power under this section, no un-necessary damage shall be done, and compensation, shall be paid by the municipal council to any person who sustains damage by the exercise of such power.

298.Alteration, discontinuance cleansing, etc., of drains. - Subject to such terms and conditions as may be specified by regulations from time to time, the Chief Municipal Officer, or any other agency authorized by him/her in this behalf, may –

(a) enlarge, alter the course of, lessen, or arch over, or otherwise improve, any municipal drain within the municipal area,

(b) discontinue, close up, or destroy any such drain,

(c) properly flush, clean, and empty such drain, and

(d) restrict throwing, emptying, or turning into any municipal drain, or into any drain communicating into the municipal drain, any matter likely to damage the drain or interfere with the free flow of its contents or affect prejudicially the treatment and disposal of its contents, or any chemicals, refuse or waste steam, or any liquid which is dangerous or is the cause of a nuisance or is prejudicial to health, or any petroleum Class 'A', petroleum Class 'B' or petroleum Class 'C'.

Explanation. - For the purposes of this section, the expression "petroleum Class 'A', petroleum Class 'B' or petroleum Class 'C'" shall have the same meaning as in the Petroleum Act, 1934.

299.Powers in relation to drainage - Subject to such terms and conditions as may be specified by regulations from time to time, the Chief Municipal Officer, or any other agency authorized by him/her in this behalf, may –

(a) permit the owner or the occupier of any premises having a drain, or the owner of a private drain, to have his drain made to communicate with the municipal drain for discharge of foul water,
(b) close or limit use of existing municipal drain by the owner or the occupier of any premises having a private drain or the owner of a private drain,
Provided that,-

(i) no drain may be closed, discontinued or destroyed by the Chief Municipal Officer except on condition of his providing another drain equally effectual for the drainage of the premises and communicating with any municipal sewer which he/she thinks fit; and

(ii) the expenses of the construction of any drain so provided by the Chief Municipal Officer and of any work done under clause (b) shall be borne by the municipal council.

(c) require the owner of any land or building, which is without sufficient means of effectual drainage, to construct a drain and to provide all such appliances and fittings as may be necessary for drainage of such undrained land or building,

(d) require the group of owners of a block of premises, which may be drained more economically or advantageously in combination than separately, to undertake at their own expense any work necessary for drainage of such block of premises to be drained by a combined operation,

(e) require the owner of any land or building to carry out such construction, repair or other work as may be necessary for effectual drainage of such land or building

(f) require any courtyard, alley or passage between two or more buildings to be paved by the owner or owners of such buildings with such materials and in such manner as may be approved by the municipal council, or

(g) authorize any person, who desires to drain his land or building into a municipal drain through a drain of which he/she is not an owner, to use the drain or declare such person to be the joint owner thereof.

300.Power in respect of sewers etc. constructed in an un-authorized manner, rebuilt or unstopped - The Municipal Council may, by written notice require that any sewer, drain, privy, urinal, water closet, house-gully or cesspool on any land within the municipal limits, constructed, or rebuilt or unstopped,—
(*a*) after such land became part of a municipal area, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or bye-laws of the municipal council, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped, be demolished, or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped, and every person so constructing, rebuilding or unstopping, any such sewer, drain, privy, water-closet, house gully or cesspool, whether he/she does or does not receive such notice, or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

301.Proper traps and covers for municipal drains and sewers - All covered sewers and drains, all cesspools, whether public or private, shall be provided by the municipal council or other person to whom they severally belong, with proper traps, or other coverings or means of ventilation and the municipal council may, by written notice, call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

302.Maintenance of sewers and sewage disposal works - The municipal council shall maintain and keep in repair all municipal sewers and sewage disposal works and shall construct as many new drains and sewage disposal works as may from time to time be necessary for effectual sewerage of the city.

303. New premises not to be erected without drains - (1) In areas in which municipal sewers are provided it shall not be lawful to erect or to re-erect any premises or to occupy any such premises unless,-

(a) a drain be constructed of such size, materials and description, at such level and with such fall as shall appear to the Chief Municipal Officer to be necessary for the effectual drainage of such premises;

(b) there have been provided and set up on such premises such appliances and fittings as may appear to the Chief Municipal Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the said premises and of effectually flushing the drain of the said premises and every fixture connected therewith.

(2) The drain so constructed shall empty into a municipal sewer.

(3) The provisions of this section shall be applicable to premises any part of which is situated within a distance of thirty-five meters from a municipal sewer.

304.Appointment of places for the emptying of sewers and disposal of sewage - The Chief Municipal Officer may cause any or all of the municipal sewers to empty into and all sewage to be disposed of at such place or places as he/she considers suitable:

Provided that no place which has not been before the commencement of this Act used for any of the purposes specified in this section shall, after such commencement be used therefor without the approval of the Commissioner:

Provided that on and after such date as may be appointed by the municipal council in this behalf no sewage shall be discharged into any watercourse until it has been so treated in such manner as may be prescribed in the bye-laws made in this behalf, so as not to affect prejudicially the purity and quality of the water into which it is discharged.

305.Special provisions relating to trade effluent - Subject to the provisions of this Act and the bye-laws made thereunder and of any other law for the time being in force, the occupier of any trade premises may, with the approval of the municipal council or, so far as may be permitted by this Act or the byelaws made thereunder or any other law for the time being in force, without such approval, discharge into the municipal drain any trade effluent proceeding from such premises.

306.Special provisions regarding drainage of trade effluent - Notwithstanding anything contained in this Act or, the rules or bye-laws made thereunder or any usage, custom or agreement, where, in the opinion of the Chief Municipal Officer –

(1) any trade premises are without sufficient means of effectual drainage and treatment of trade effluent; or

(2) the drains thereof, though otherwise not objectionable, are not adapted to the general drainage system of the municipal area; or

(3) the effluent is not of specified purity, the Chief Municipal Officer may, by notice, in writing, require the owner or the occupier of such premises-

(a) to discharge the trade effluent in such manner, at such times, through such drains, and subject to such conditions, as may be specified in the notice, and to cease to discharge the trade effluent otherwise than in accordance with the notice,

(b) to purify the trade effluent before its discharge into a municipal drain and to set up for purifying the trade effluent such appliances, apparatus, fittings and plants, as may be specified in the notice,

(c) to construct a drain of such material, size and description, and laid at such level, and according to such alignment, and with such fall and outlet, as may be specified in the notice,

(d) to alter, amend, repair or renovate any purification plant, existing drain, apparatus, plant-fitting or article used in connection with any municipal or house-drain.

307. Connection with waterworks mains and drains not to be made without permission - (1) No person shall, without the permission of the Chief Municipal Officer, make any connection with any municipal cable, wire, pipe, drain or channel or with the house connection of any other person.
(2) The Chief Municipal Officer may, by notice, require any connections made in contravention of sub-section (1) to be demolished, removed, closed, altered or re-made.

308. Buildings, railways and private streets not to be erected or constructed over municipal drains or sewers without permission - (1) Without the written permission of the Chief Municipal Officer no private street shall be constructed and no building, wall, fence or other structure shall be erected on any municipal sewer constructed or maintained by, or vested in, the Municipality.
(2) Even where a structure is built near a sewer there shall be a minimum clearance of 1.0 meter or half the diameter of the sewer (whichever is greater) from the edge of the sewer or manhole on the sewer.
(3) If any private street be constructed or any building, wall, fence or structure erected on any sewer as aforesaid without the written permission of the Chief Municipal Officer, he/she may remove or otherwise deal with the same as he/she thinks fit.
(4) The expenses incurred by the Chief Municipal Officer in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or, as the case may be, by the person offending and shall be recoverable as an arrear of charges payable under this Act.

309. Chief Municipal Officer not to sanction building plan unless plan relating to water supply etc. is in conformity with rules and regulations - Any building plan submitted to the Chief Municipal Officer for sanction shall conform to such rules or regulations relating to water-supply, drainage, privy, urinal accommodation, within the premises, and sewerage as may be made in this behalf, and no building plan shall be sanctioned by the Chief Municipal Officer unless it so conforms.

310. Maps of underground water mains, supply pipes, drains, etc - The Chief Municipal Officer shall cause to be maintained complete survey maps, drawings and descriptions of water-supply mains, supply-pipes, municipal drains, sewers, and connections thereto from all premises in the municipal area.

311. Right of user of property for laying sewers - (1) The municipal council may place and maintain sewers over, under, along or across any immovable property whether within or outside the local limits of the Municipality, without acquiring the same, and any officer or servant of the municipal council may at any time for the purpose of examining, repairing, altering or removing any sewer enter on any property over, under, along or across which the sewers have been laid:
Provided that the Municipality shall not acquire any right other than a right of user in property over, under, along or across which any sewer is laid.

(2) In exercise of the powers conferred under this section, the municipal council shall cause as little damage as may be possible, and shall make full compensation for any damage caused by it.

312. Right to carry drain through land or into drain belonging to other person-how and on what conditions to be authorized by the Municipality - (1) If the owner or occupier of any building or land proves to the satisfaction of the municipal council that he/she cannot connect the same with any municipal drain otherwise than by means of a drain to be constructed through land, belonging to or occupied by or in the use of some other person, the municipal council, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in its opinion insufficient, by an order in writing, authorize the owner or occupier first mentioned to carry his/her drain into, through or under the said land or into the said drain, as the case may be, in such manner and on such conditions as prescribed under sub-section (2).
Provided that before making any such order the Chief Municipal Officer shall give to the owner of the immovable property a reasonable opportunity of showing cause within forty-five days as to why such an order should not be made.
Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under along or across which any such sewer is laid.
(2) An order made under sub-section (1) may contain directions as to,

(a) the payment of rent or compensation by the owner of the premises;
(b) the construction of a drain for the premises for the purpose of connecting it with the aforesaid drain;
(c) the entry upon the land in which the aforesaid drain is situate with assistants and workmen at all reasonable hours;
(d) the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the aforesaid drain.
(3) Every such order shall be a complete authority to the person in whose favour it is made or to any agent or other person employed by him/her for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset and, subject to all the provisions of this Act, to do all such acts and execute all such works as may be necessary-
(a) for the construction or connection of the drain as may be authorized by the said order;
(b) for renewing, repairing, or altering the same as may be necessary from time to time;
(c) repairing, flushing, cleaning or emptying the said drain or any part thereof.
(d) for discharging any responsibility attaching to him/her under the terms of the order as to maintaining,
(4) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the buildings or vacant lands for the benefit of which the work is done, shall,—
(*a*) cause the work to be executed with the least practicable delay;
(*b*) fill in, reinstate and make good at his/her own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and
(*c*) pay compensation to any person who sustains damage by the execution of the said work.
(5) If the owner of the immovable property, over, under, along or across which a pipe has been placed or carried under this section whilst such immovable property was not built upon, desires to erect any building on such property, the municipal council shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe in such manner as shall be approved by him/her and to fill in, reinstate and make good the immovable

property as if the pipe had not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the municipal council it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe should be closed, removed or diverted.

313. Power to affix shafts etc. for ventilation of drain or cesspool and testing of drain - Subject to such terms and conditions as may be specified by regulations from time to time, the Chief Municipal Officer may, either on his/her own or through any other agency, authorized by him/her in this behalf, -

(a) erect upon any land or building, or affix to the outside of any building, or to any tree, any shaft or pipe as may appear to him/her to be necessary for the purpose of ventilating any drain or cesspool, whether vested in the Municipality or not, and

(b) examine the condition of a private drain or cesspool within the municipal area in respect of which there is reasonable ground for believing that such private drain or cesspool is in such condition as is prejudicial to health, or is a nuisance, by applying any test other than a test by water under pressure, and if he deems it necessary, by opening the ground, in accordance with the bye-laws made in this behalf.

314. Power to execute work after giving notice to person liable - (1) When under the provisions of this Chapter any person may be required or is liable to execute any work, the Chief Municipal Officer, in accordance with the provision of this Act and of any bye-laws made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by it for this purpose.

(2) The expenses incurred or likely to be incurred by the Chief Municipal Officer in the execution of any such work shall be payable by the said person and the expenses incurred by the Chief Municipal Officer in connection with the maintenance of such work shall be payable by the person or persons enjoying such amenities and convenience rendered possible by such work.

(3) The expenses referred to in sub-section (2) shall be recoverable from the person or persons liable therefor as an arrear of charges payable under this Act.

315. Work connected with the municipal sewerage system to be done by licensed plumber - (1) No person other than a licensed plumber shall execute

any work concerned with drainage and no person shall permit any such work to be executed except by a licensed plumber:
Provided that if in the opinion of the Chief Municipal Officer the work is of trivial nature permission may be granted in writing for the execution of such work by a person other than a licensed plumber.
(2) Every person who employs a licensed plumber to execute any work shall when so required furnish to the Chief Municipal Officer the name of such plumber or contractor.
(3) The Municipality shall, by bye-laws, provide for-
(a) the terms and conditions of engagement of such licenced plumbers;

(b) their duties and responsibilities, and guidelines for their functions;

(c) the charges to be paid to them for different types of works;

(d) the hearing and disposal of complaints made by the owners or occupiers of any premises with regard to their work; and

(4) When any work is executed except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled by the municipal council without prejudice to the right of the council to prosecute under this Act the person at whose instance such work has been executed.

(5) If any licensed plumber contravenes any bye-law made under sub-section (3) or of the conditions of his license, his license may be suspended or cancelled whether he is prosecuted under this Act or not.

(6) Whoever contravenes the provisions of sub-section (1) or (2), shall be punished with fine which may extend to five hundred rupees.

316. Power of entry to waterworks and drainage and sewerage installations - It shall be lawful for the Chief Municipal Officer or any officer authorized by the municipal council for such purpose, to enter, for any purpose of this Act, between sunrise and sunset, with such assistance as he may deem necessary, into and upon any building or vacant land:
Provided that, except when herein otherwise provided, no building or vacant land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours written notice thereof having been given to the said occupier:
Provided also that, in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers and no apartment in the actual occupancy of a woman shall be entered until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

317.Power to examine and test sewers etc. believed to be defective - (1) Where it appears to the Chief Municipal Officer that there are reasonable grounds for believing that a private sewer or cesspool is in such condition as to be prejudicial to health or to be a nuisance or that a private sewer communicating directly or indirectly with a municipal sewer is so defective as to admit sub-soil water, he/she may examine its condition and for that purpose may apply any test, other than a test by water under pressure, and if he deems it necessary, open the ground.

(2) If, on examination, the sewer or cesspool is found to be in proper condition, the Chief Municipal Officer shall, as soon as possible, reinstate any ground which has been opened by him/her and make good the damage done by him/her.

318.Inspection of drains etc. - (1) The municipal council or any officer appointed by it for such purposes may, subject to the provisions of this Act, inspect any sewer, drain, privy, water closet, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any vacant lands or buildings with assistants and workmen and cause the ground to be opened where he or it may think fit, doing as little damage as may be.

(2) The expense of such inspection, and of causing the ground to be closed and made good as before, shall be borne by the municipal council unless the sewer, drain, privy, water-closet, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment, or of any bye-law of the municipal council in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cesspool, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under this Act.

319.Preventive Inspection - Where there is reason to believe that, in any building or on any land, a work has been executed in connection with any municipal drainage works or other municipal undertaking in contravention of the provisions of this Act or of rules or bye-laws made hereunder, the Chairperson, the Vice Chairperson, the Chief Municipal Officer or a Health officer may at any time and without notice inspect such building or land:

Provided that in the case of a building used as a human dwelling due regard shall be had to the social and religious customs of the occupiers thereof

320.Power of Municipality to execute certain works without allowing option to persons concerned of executing the same – (1) The municipal

council may, if it thinks fit, cause any work of the nature to which any of the provisions of sections related to drainage and sewage apply, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the municipal council shall, by a general or special order or resolution, sanction the execution of such work at the charge of the municipal fund.

(3) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or vacant lands shall, if supplied, constructed or erected at the expense of the municipal council, be deemed to be municipal property, unless the municipal council shall have transferred its interest therein to the owner of such buildings or vacant lands.

321.Power to carry wires, pipers, drains etc. through private property - The Chief Municipal Officer may carry any cable, wire, pipe, drain or channel of any kind to establish or maintain any system of drainage or lighting, through, across, under or over any road, street or place laid out for a road or street and after giving reasonable notice to the owner or occupier may place and maintain posts, poles, standards, brackets or other contrivances to support cables, pipes, channels, wires and lights on any pole or post in the city not vested in the Government and under the control of the Government and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose for which it is intended to be used, or for removing the same:

Provided that such work shall be done so as to cause the least practicable nuisance or inconvenience to any person:

Provided further that the Chief Municipal Officer shall, with the sanction of the standing committee, pay compensation to any person who sustains damage by the exercise of such power.

322.Power to cut off sewerage connection - The Chief Municipal Officer may cut off sewerage connection to any premises.

(1) if the premises are unoccupied;

(2) if the owner or occupier contravenes the provision of this Act or neglects to comply with any lawful order or requisites regarding water supply or sewerage connection issued by the municipal council within the period specified therein;

(3) if any charges or any other sum due for water supply or sewerage connection or the cost of carrying out work or test conducted with water

supply or sewerage, chargeable on the owner or occupier under this Act, is not paid within fifteen days after issue of bills for such charges;
(4) on receipt of requisition from any statutory authority on the ground of violation of any statutory provisions by the owner/occupier/developer of the building.

323.Written notice to owner or occupier to bring about sufficient drainage of houses - (1) (a) Where any premises are, in the opinion of the municipal council, without sufficient means of effectual drainage and a municipal sewer or someplace approved by the municipal council for the discharge of filth and other polluted and obnoxious matter is situated at a distance not exceeding thirty five meters from any part of the said premises, it may, by written notice, require the owner of the said premises,-
(i) to make a drain emptying into such municipal sewer or place;
(ii) to construct a closed cesspool or soakage pit and fitting as may appear to the municipal council to be necessary for the purpose of gathering and receiving the filth and other polluted and obnoxious matter from and conveying the same off the said premises and effectually flushing such drain and every fixture connected therewith;
(iii) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is injurious to health;
(iv) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing, which is or is likely to be injurious to health;
(v) to provide and set up all such appliances and fittings as may appear to the municipal council to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts by down-take pipes so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises;
(vi) to carry out any work to improve or remodel an existing drain which is inadequate, insufficient or faulty.
(b) Where, in any case not provided for in clause (a), any premises are, in the opinion of the municipal council, without sufficient means of effectual drainage, it may, by written notice, require the owner of the premises,-
(i) to construct a drain up to a point to be prescribed in such notice but not at a distance of more than thirty five meters from any part of the premises; or
(ii) to construct a closed cesspool or soakage pit and drain or drains emptying into such cesspool or soakage pit.

(c) Any requisition for the construction of any drain under clause (b) may contain any of the details specified in clause (a).
(2) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the municipal council directs.
(3) Where a drain connecting any premises with a municipal sewer is sufficient for the effectual drainage of such premises and is otherwise unobjectionable, but, is not, in the opinion of the municipal council, adapted to the general system of sewerage in the local area it may by written notice addressed to the owner of the premises, direct,-
(a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or

(b) that such drain shall, from such date as may be specified in the notice in this behalf, be used for the drainage of filth and polluted water only or of rain water and unpolluted sub-soil water only:

Provided that,-

(i) no drain may be closed, discontinued or destroyed by the municipal council under clause (a) except on condition of its providing another drain equally effectual of the drainage of the premises and communicating with any municipal sewer which it thinks fit; and

(ii) the expenses of the construction of any drain so provided by the municipal council and of any work done under clause (a) shall be borne by the municipal council.

(4) Notwithstanding anything contained in previous subsections, it shall be mandatory for every owner or occupier of a building or land to take connection, in the prescribed manner, from the sewerage system as soon as it is laid in that area by any agency, for the proper discharge of waste water from toilet, kitchen and bathroom.

(5) Where any person disobeys the directions of the municipal council given under sub-section (1), he/she shall, on conviction, be punished with a fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

324.Drainage of premises etc. through an application by the owner or occupier - (1) Subject to such conditions as may be prescribed by regulations made in this behalf, the owner or occupier of any premises having a private

drain, or the owner of any private drain within a local area may apply to the municipal council to have his drain made to communicate with the municipal sewers and thereby to discharge foul water and surface water from that premises or that private drain:

Provided that nothing in this sub-section shall entitle any person to discharge directly or indirectly into any municipal sewer,-

(i) any trade effluent from any trade premises except in accordance with the regulations made in this behalf; or

(ii) any liquid or other matter the discharge of which into municipal sewers is prohibited by or under this Act or any other law.

(2) Any person desirous of availing himself/herself of the provisions of clause (a) shall give to the municipal council notice of his/her proposal, and at any time within one month after receipt thereof, the municipal council may, by notice to him/her, refuse to permit the communication to be made, if it appears to it that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the sewerage system and for the purpose of examining the mode of construction and condition of the drain it may, if necessary, require it to be laid open for inspection.

(3) The municipal council may, if it thinks fit, construct such part of the work necessary for connecting a private drain with a municipal sewer as is in or under a public street and in such a case, the expenses incurred by the municipal council shall be paid by the owner or occupier of the premises, or, as the case may be, the owner of the private drain and shall be recoverable from the owner or occupier as an arrear of charges payable under this Act.

325.Sewage and rain water drains to be distinct - Whenever it is provided in the Act that steps may be taken for the effectual drainage of any premises, the municipal council may require that there shall be one drain for offensive matter and sewage and another drain for rain-water and un-polluted sub-soil water, each emptying into separate municipal drains or other places set apart by the municipal council for the discharge of drainage or into other suitable places.

326.Level of buildings not to be lower than the level of drainage and sewer systems - No building shall hereafter be built upon lower level than will allow the drainage thereof being laid into some public sewer or drain either then existing or projected by the municipal council or into some stream or some cess pool or other suitable place which may be approved of by the municipal council.

327.Troughs and pipes for rain water - (1) The municipal council may, by written notice require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water especially rain water from the roof and other parts of such building, and for discharging the same into drains specifically meant for this purpose such manner as it may think fit so that it shall not fall upon persons passing along the street or cause damage to the street.

(2) Where any owner or occupier of the building fails to comply with the requirements envisaged in the notice under subsection (1) and thereby contravenes the provisions thereof, he/she shall, on conviction, be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

328.Obligation to provide for facilities allowing waste water recycle and reuse - Subject to such terms and conditions as may be specified by regulations from time to time, the Chief Municipal Officer may, either on his/her own or through any other agency, authorized by him/her in this behalf, -

(a) provide for on-site treatment system in any land or building whether vested in the Municipality or not, to handle 100% of wastewater generated to the quality standards suitable for reuse, as prescribed by Central or State Pollution Control Board, as applicable.

(b) provide for use of treated waste water for at least 25% of the total water required for landscaping and flushing activities as prescribed under the bye-laws to be prepared for this purpose.

329.Compliance with laws protecting ecologically fragile areas - The municipal council or any agency authorized by the council shall, while conducting construction and maintenance works for drainage and sewerage systems, comply with all laws related to eco-sensitive zones, coastal zones, heritage areas and water bodies especially backwaters, wetlands, rivers and streams.

330.Provision of facilities while taking up construction and maintenance of drainage, sewers and cess pools - (1) Every person intending to start construction and maintenance of drainage, sewers and cess pools in such circumstances as that the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall before beginning such works,—

(*a*) first obtain a license in writing from the municipal council so to do, and

(*b*) take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts to be fixed across or in any of the streets, to prevent the passage of carriages, carts, or other vehicles or of cattle or horses while such works are carried on, and

(c) cause the same to be sufficiently lighted and guarded during the night

(2) When any work referred to in sub-section (1) is being executed by the municipal council in any public street it shall, make adequate provision for,—

(*a*) the passage or diversion of traffic;

(*b*) proper access to all premises approached from such street; and

(*c*) any drainage, water-supply, or means of lighting, which are interrupted by reason of the execution of such work.

(3) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the municipal council, shall be punished with fine which may extend to five hundred rupees.

(4) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to one thousand rupees, and with further fine which may extend to five hundred rupees for every day or night, as the case may be, on which such contravention continues after the date of the first conviction.

331.Erection of latrine and urinal in factories, schools and public places - (1) The municipal council may give notice to an owner, occupier or controller of commercial complexes, schools, private hospitals, hotels, restaurants, rest houses, bazaars, community centers, marriage halls, cinema halls, auditoria, clubs, entertainment centers, amusement parks and other like private places to erect sufficient latrines and urinals for the facility of users of such places as the municipal authorities may think proper. It shall also be lawful for the Chief Municipal Officer, to direct the management of such places to maintain and keep such latrines and urinals clean and odorless. The Chief Municipal Officer should also direct the management of such places to maintain latrines and urinals for ladies separately.

(2) The Chief Municipal Officer or any other Officer authorized by him/her shall visit, from time to time, such latrines/ urinals to ensure that necessary steps are being taken for sanitation and hygiene.

(3) The management of such places shall be bound to comply with the orders and directions of the Chief Municipal Officer in this connection.

(4) The person in charge of such places shall be punished, on conviction, with fine which shall not be less than ten thousand rupees but which may extend to

twenty thousand rupees in case of non-compliance of the orders or directions of the Chief Municipal Officer.

332.Licensing of public privies - (1) The Chief Municipal Officer may license for any period not exceeding one year the provision and maintenance of privies for public use.

(2) No person shall keep a public privy without a license under subsection (1).

(3) Every licensee of a public privy shall maintain it in clean and proper order.

333.Provision of privies both permanent and temporary, etc. - (1) In case the municipal council is of opinion that any privy, or cesspool, or additional privies, or cesspools, should be provided in or on any building or vacant land, or shifted or removed from any building or vacant land or, in any municipal area in which a water-closet system has been introduced, that water closets should be substituted for the existing privies in or on any building or vacant land, or that additional water-closets should be provided therein or thereon, the municipal council may, by written notice, call upon the owner of such building or vacant land to provide such privies, cesspools or water-closets as the municipal council may deem proper.

(2) The municipal council, may, by written notice, require any person or persons employing workmen or laborers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the municipal council may direct, and to cause the same to be kept in proper order, and to be daily cleansed.

(3) The municipal council may, by written notice, require the owner or occupier of any land upon which there is a privy or urinal to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighborhood, or to alter as it may direct any privy-door or trap-door which opens on to any street, and which it deems to be a nuisance.

(4) Every owner or occupier of the ground on which any block of huts stands shall, within such time and in accordance with such directions as may be specified in a notice issued by the Chief Municipal Officer, provide flush-out or other privies for the use of the inhabitants of such block of huts or alter or remove from an unsuitable place to a more suitable place any existing privy and shall keep the same clean and in proper order.

(5) The Chief Municipal Officer may, by notice require any owner or manager of a market, cart stand, cattle stand, poultry, theatre, railway station or other place of public resort within such time as may be specified in such notice to

provide and maintain for the separate use of persons of each sex, flush-out or other privies of such description and number and in such a position as may be specified and to keep the same clean and in proper order.

(6) Any person, disobeying the direction of the municipal council given under this section, shall on conviction, be punished with simple imprisonment which shall not be less than one month but which may extend to two months and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

334.Cost of altering, repairing and keeping in proper order privies, etc. - (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal area shall, unless constructed at the cost of the municipal council, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the municipal council may, by written notice, require such owner to alter, repair and put the same in good order in such manner as it thinks fit.

(2) The municipal council may, by written notice, require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into force of this Act, which, in the opinion of the municipal council, is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleansed or kept in good order.

335.Precautions while entering deep manhole or sewer - (1) While entering a deep manhole or sewer where dangerous gas or oxygen deficiencies may be present, municipality workers or any persons authorized by the municipal council for this purpose shall take the following precautions:

(a) allow no smoking or open flames and guard against sparks

(b) erect warning signs

(c) use only safe gas-proof electric lighting equipment

(d) test for noxious gases and oxygen deficiencies

(2) If the atmosphere is normal, workmen may enter with a safety belt attached and with two men available at the top. For extended jobs, the gas tests shall be repeated at frequent intervals depending on circumstances.

(3) If oxygen deficiency or noxious gas is found, the structure shall be ventilated with pure air by keeping open at least one manhole cover each on upstream and downstream side for quick exit of toxic gases or by artificial means such as portable air blowers. The gas tests shall be repeated and the atmosphere cleared before entering. Adequate ventilation shall be maintained during the work and the test repeated frequently

(4) If the gas or oxygen deficiency is present and it is not practicable to ventilate adequately before workers enter a manhole, mask shall be worn and extreme care shall be taken to avoid all sources of ignition.
(5) Workmen descending a manhole shaft to inspect or clean sewers, shall tie each ladder step or rung carefully before putting the full weight on it to guard against insecure fastening due to corrosion of the rung at the manhole wall.
(6) When work is going on in deep sewers, at least two men shall be available for lifting workers from the manhole in the event of serious injury.

336.Non-taking of connection or discharging sewage etc.- Whoever does not take connection from sewerage system or causes or allows the water of any sink or sewer, any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain or be thrown or put upon any street or open space or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the municipal council, or who fails to comply with any conditions prescribed in such permission, shall be punishable with fine which shall not be less than five thousand.

337.Penalty of pro-rata charges for unauthorized connections - Whoever unauthorisedly obtains sanitary connections by any means from the sanitary connections to the sewerage system of the municipal council in contravention of the provisions of this Act and regulations made thereunder shall, in addition to any other penalty and pro-rata charges payable, be liable to pay up to 50% of the pro-rata charges payable, as determined by the council, subject to such conditions as may be specified in the regulations for such connection

Explanation: Pro-rata charges' means proportionate charges towards cost of improvement of sewerage systems levied by the municipal council from time to time payable by owner or occupier or developer of any building.

338.Discharging of sewerage - Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or vacant land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the municipal council or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to one thousand rupees.

339.Certain matters not to be passed into municipal drains and sewers - (1) No person shall throw, empty or turn into any municipal sewer or into any drain or sewer communicating with a municipal sewer,-

(a) any matter likely to injure the sewer or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical, refuse or waste steam, or any liquid of a temperature higher than forty-five degrees centigrade, being refuse or steam which, or a liquid of which, when so heated, is, either along or in combination with the contents of the sewer, dangerous, or the cause of a nuisance, or prejudicial to health; or

(c) any dangerous petroleum.

340.Encroachment on municipal drains and sewers - (1) Whoever makes any encroachment in any land or space not being private property, whether such land or space belongs to or vests in the Municipality or not, except steps over drain in any public street shall on conviction be punished with simple imprisonment which shall not be less than three months but which may extend to three years and with fine which shall not be less than thirty thousand rupees but which may extend to fifty thousand rupees:

Provided that the court may for any adequate or special reasons to be mentioned in the judgment impose a sentence of imprisonment for a term of less than three months.

(2) No building shall be newly erected or rebuilt over any sewer, drain, culvert or gutter vested in the Municipality without the written consent of the municipal council.

(3) Whoever shall have built or set up or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction except steps over drains in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise or any other thing in such street, or in or over or upon, any open drain, gutter, sewer, or aqueduct, in such street, shall, on conviction, be punished with simple imprisonment which may extend to one month or with fine which may extend to five thousand rupees or with both.

(4) The municipal council or any officer authorized by it in this behalf shall have power to remove any such obstruction or encroachment and the expenses of such removal shall be paid by the person who has caused the said obstruction or encroachment.

(5) Whoever, not being duly authorized in that behalf, removes earth, sand, or other material from, or makes any encroachment in or upon, any open space which is not private property shall be punished on conviction with imprisonment which shall not be less than two months but which may extend to six months or with fine which shall not be less than thirty thousand rupees but which may extend to fifty thousand rupees or with both.

(6) Notwithstanding anything contained in the foregoing provisions, the municipal council or the officer authorized by it in this behalf shall, in addition to the action taken as provided in this section, also have power to seize or attach any property along with tools and vehicles found on the land or space referred to in this section or, as the case may be, attached to such land or space or permanently fastened to anything attached to such land or space.

(7) Nothing contained in this section shall prevent the municipal council from allowing any temporary occupation of, or erection in, any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual, or from allowing the occupation of, or temporary erection of structure on, any such streets or spaces for any other purposes in accordance with bye-laws made under this Act.

(8) Whoever, being an employee of the municipal council, or being on deputation with the municipal council from any department of the Government, specifically entrusted with the duty to remove or to stop or to prevent the encroachment or obstruction, himself/herself encroaches or helps others to encroach, or willfully or knowingly, neglects or deliberately omits to remove or stop or prevent such encroachment or obstruction shall, on conviction, be punished with imprisonment for a term which shall not be less than three months but which may extend to three years or with fine which may extend to thirty thousand rupees or with both:

Provided that no court shall take cognizance against such employee for the offence punishable under this sub-section except with the previous sanction of the municipal council.

341. Prohibition of certain acts - No person shall,-

(1) willfully obstruct any person acting under the authority of the municipal council or the Chief Municipal Officer in setting out the lines of any works or pull up or remove any pillar, posts or stake fixed in the ground for the purpose of setting out lines of such work, or deface or destroy any works, made for the same purpose; or

(2) willfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, or other work or apparatus belonging to the Municipality; or

(3) unlawfully obstruct the flow of or flush, draw off, divert or take sewage from any sewage work belonging to the Municipality; or

(4) break or damage any electrical transmission line maintained by the Municipality; or

(5) throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any waterworks or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause the water of any sink or drain or any steam-engine or boiler or any polluted water to turn, or to be brought, into any waterworks of the Municipality; or

(6) obstruct any officer or other employees of the municipal council in the discharge of his/her duties under this Chapter or refuse or willfully neglect to furnish him/her with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any sewage work.

342. Drainage and sewerage charge, cess, etc. - (1) User charges shall be fixed for different categories of users namely industrial, commercial and domestic users in accordance with bye-laws prepared for this purpose.

(2) Deposits shall be collected for establishment of new connections and charges levied for operation and maintenance of drainage and sewerage connections.

(3) Along with charges mentioned in sub-sections (1) and (2) the municipal council shall levy rentals, prorate charges, taxes, and other charges and these charges shall stand automatically increased by 10% per year with effect from January 1 of each successive year.

(4) These charges would be used for the following activities:

(a) to cover operating expenses, taxes, interest payments and to provide for adequate maintenance and depreciation, contribution to pension fund including all expenses incurred during the year;

(b) to meet repayment of loans and other borrowings;

(c) to finance year to year improvement; and

(d) to provide for such other purposes beneficial to the drainage system and disposal of sewage in the municipality area, as the municipal council may determine.

(5) The municipal council shall aim to provide subsidized drainage and sewerage connections to slum areas and low-income neighborhoods in accordance with bye-laws prepared for this purpose.

343. Entrustment of operation and maintenance of sewerage works and billing and collection of sewerage charges - The municipal council may, with the approval of the State Government, entrust the work of operation and maintenance of sewerage works in the municipal area and the work of billing and collection of sewerage charge or sewerage cess to any agency under any law for the time being in force or any private agency.

344. Power of State Government to exercise control over imperfect, inefficient or unsuitable waterworks, drainage works or sewerage works - (1) If, at any time, it appears to the State Government that any waterworks, or drainage works, or sewerage works executed by, or vested in, the Municipality, are maintained, or worked, or run in an imperfect, inefficient or unsuitable manner, the State Government may, by an order, in writing, direct the municipal council to show cause within the period specified in the order why the waterworks, the drainage works or the sewerage works, as the case may be, with all plants, fittings and appurtenances thereof should not be handed over to the control and management of any person or any agency belonging to the State Government or any authority under any law for the time being in force, as may be specified in the order.

(2) If no cause is shown to the satisfaction of the State Government within the period specified in the order referred to in sub-section (1), or the cause shown appears to be untenable, the State Government may, by order, in writing, direct that the waterworks, the drainage works or the sewerage works, as the case may be, with all plants, fittings and appurtenances thereof shall be handed over, for such period as it may fix, to the control and management of such persons, or agency, or authority, and on such terms and conditions, as the State Government may determine.

(3) During the period fixed under sub-section (2), the complete control and management of such waterworks, drainage works or sewerage works, as the case may be, shall vest in the person, or the agency, or the authority so appointed who shall engage such establishment for the purpose of maintaining and working of such waterworks, drainage works or sewerage works, as the case may be, as the State Government may from time to time determine; and such establishment may include the employees of the municipal council who were employed, or have been employed, in the maintenance or working of such waterworks, drainage works or sewerage works.

(4) The cost of such establishment, including costs of all materials, implements and stores, shall be paid from the Municipal Fund within such period as may be fixed by the State Government.

345.Coordination between agencies on schemes related to drainage and sewerage - (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, municipal council will be in charge of overall coordination of schemes relating to drainage and sewerage being undertaken by Karnataka Urban Water Supply and Drainage Board and Bangalore Water Supply And Sewerage Board within its territorial jurisdiction.

Provided that in urban areas wherein the Karnataka Urban Water Supply and Drainage Board and Bangalore Water Supply And Sewerage Board do not have any schemes at present, the concerned municipal council will be responsible for the drainage and sewage related works in that area.

(2) The municipal council shall provide necessary assistance to these agencies for the proper execution of schemes mentioned in sub-section (1).

(3) For areas where the Karnataka Urban Water Supply and Drainage Board and Bangalore Water Supply And Sewerage Board are running schemes, these agencies shall be responsible for:

(a) Application by owners and occupiers to drain into sewer

(b) Drainage of undrained premises

(c) Cost relating to drainage and sewerage schemes

(d) Operation and maintenance of all works connected with such schemes

(e) Collection of necessary rentals, fees, cess and other charges relating thereto.

(4)With effect from the date on which any drainage or sewerage undertaking of municipal council vests in the Karnataka Urban Water Supply and Drainage Board, Bangalore Water Supply And Sewerage Board or such other agencies, every officer or other employee of the concerned municipal council employed in connection with the drainage and the sewerage undertaking, as the case may be, shall stand transferred to and become an officer or other employee of above-mentioned agencies.

346.Bye-laws regarding sewerage - (1) The municipal council may make bye-laws relating to sewerage to carry out the purposes under this Act.

(2) In particular and without prejudice to the foregoing provisions, such bye-laws may provide for,-

(a) the regulation or prohibition of the discharge or deposit of offensive or obstructive matter, polluted water or other polluted and obnoxious matter into sewers;

(b) the regulation in any manner not specifically provided for in this Act, of the construction, alteration, maintenance, preservation, cleaning and repairs of sewers, ventilation shafts, pipes, latrines, urinals, cesspools and other sewerage works;

(c) the cleaning of sewers;

(d) the prohibition of erection of buildings over sewers without the permission of the municipal council or the Chief Municipal Officer;

(e) the connection of private drains with municipal sewers;

(i) to alter the position of connections;

(ii) throwing or emptying into municipal sewers certain matters;

(f) the location and construction of cesspools;

(g) the covering and ventilation of cesspools;

(h) the period or periods of the day during which trade effluent may be discharged from any trade premises into municipal sewers;

(i) the exclusion from trade effluent of all condensing matter;

(j) the elimination from trade effluent before it enters municipal sewer, of any constituent which in the opinion of the municipal council would, either alone or in combination with any matter with which it is likely to come into contact while passing through municipal sewers, injure or obstruct those sewers or make specially difficult or expensive the treatment or disposal of the sewage from those sewers;

(k) the maximum quantity of trade effluent which may, without any consent or permission, be discharged from any trade premises into municipal sewers on any one day and the highest rate at which trade effluent may, without such consent or permission be discharged from any trade premises into municipal sewers;

(l) the regulation of the temperature of trade effluent at the time of its discharge into municipal sewers and the securing of the neutrality of trade effluent (that is to say, that it is neither acidic nor alkaline) at the time of such discharge;

(m) the charge to be paid to the municipal council by occupiers of trade premises for the reception of trade effluent into municipal sewers and disposal thereof;

(n) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into municipal sewers from trade premises;

(o) the provision and maintenance of such meters as may be required to measure the volume of any effluent being discharged from any trade premises into municipal sewers, and the testing of such meters;

(p) the charges to be paid to the municipal council or agencies authorized by it by occupiers of trade premises for the reception of trade effluents into municipal sewers and disposal thereof;

(q) treatment and reuse of greywater;

(r) any other matter which has to be or may be provided for by byelaws made under this Chapter.

(3) No regulation or its cancellation or modification shall have effect until the same shall have been approved by the Government.

(4) The Government may, by notification, rescind any regulation made under this section and thereupon, the regulation shall cease to have effect.

(5) In making any regulation under this section the municipal council may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees and in case of continuing breach with an additional fine which may extend to five hundred rupees for every day during which the breach continues after the receipt of a notice from the municipal council to discontinue such breach.

PART – J – WASTE MANAGEMENT

347.Duty of Municipality in respect of solid wastes management and handling - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf:

(1) to implement the provisions of the Solid Waste Management Rules, 2016 made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) to regulate the management and handling of construction and demolition to the extent such rules apply to the Municipality.

(2) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State

Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;
(3) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;
(4) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;
(5) provide training on solid waste management to waste-pickers and waste collectors;
(6) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation.
(7) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient.
(8) involve communities in waste management and promotion of home composting, bio-gas generation, decentralised processing of waste at community level;
(9) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the municipal council;
(10) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;
(11) make an application in Form-I of the Solid Waste Management Rules, 2016 for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tonnes per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;
(12) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;
(13) prepare and submit annual report in Form IV of the Solid Waste Management Rules, 2016 on or before the 30th April of the succeeding year to the Chief Municipal Officer or Director, Municipal Administration or designated Officer;
(14) the annual report shall then be sent to the Secretary -in-Charge of the State Urban Development Department or and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;

(15) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;

(16) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;

(17) ensure that provisions for setting up of centres for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and

(18) create public awareness through information, education and communication campaign and educate the waste generators;

(19) additionally frame bye-laws on following subject matters:

(a) system to recognise organisations of waste pickers or informal waste collectors or Self Help Groups and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;

(b) setting up of material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste;

(c) setting up of recycling centres and swap shops for dealing with solid waste which can be upcycled;

(d) establishing waste deposition centres for domestic hazardous waste;

(e) construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation adhering to the guidelines issued by the Ministry of Urban Development from time to time and standards prescribed by the Central Pollution Control Board; and

(f) criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these provisions and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed.

348. Duties of Municipality for construction and demolition waste management - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf:

(1) to implement the provisions of the Construction and Demolition Waste Management Rules, 2016 made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) to regulate the management and handling of construction and demolition to the extent such rules apply to the Municipality;
(2) issue detailed directions with regard to proper management of construction and demolition waste within its jurisdiction in accordance with the provisions of these rules and the municipal council shall seek detailed plan or undertaking as applicable, from generator of construction and demolition waste;
(3) chalk out stages, methodology and equipment, material involved in the overall activity and final clean up after completion of the construction and demolition;
(4) seek assistance from concerned authorities for safe disposal of construction and demolition waste contaminated with industrial hazardous or toxic material or nuclear waste if any;
(5) make arrangements and place appropriate containers for collection of waste and shall remove at regular intervals or when they are filled, either through own resources or by appointing private operators;
(6) shall give appropriate incentives to generator for salvaging, processing and or recycling preferably in-situ;
(7) shall examine and sanction the waste management plan of the generators within a period of one month or from the date of approval of building plan, whichever is earlier from the date of its submission;
(8) shall keep track of the generation of construction and demolition waste within its jurisdiction and establish a data base and update once in a year;
(9) shall device appropriate measures in consultation with expert institutions for management of construction and demolition waste generated including processing facility and for using the recycled products in the best possible manner;
(10) shall create a sustained system of information, education and communication for construction and demolition waste through collaboration with expert institutions and civil societies and also disseminate through their own website;
(11) shall make provision for giving incentives for use of material made out of construction and demolition waste in the construction activity including in non-structural concrete, paving blocks, lower layers of road pavements, colony and rural roads; and
(12) shall get the collected waste transported to appropriate sites for processing and disposal either through own resources or by appointing private operators.

349.Duties of Municipality for bio-medical waste management - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf:

(1) to implement the provisions of the Bio-medical Waste Management Rules, 2016 made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) to regulate the management and handling of biomedical wastes to the extent such rules apply to the Municipality;

(2) Provide or allocate suitable land for development of common bio-medical waste treatment facilities in their respective jurisdictions as per the guidelines of Central Pollution Control Board;

(3) Collect other solid waste (other than the biomedical waste) from the health care facilities as per the Solid Waste Management Rules, 2016; and

(4) Tie up with the common bio-medical waste treatment and disposal facility to pick up bio-medical waste generated in households from the Material Recovery Facility (MRF) or from the house hold directly, for final disposal in the manner as prescribed in the Bio-medical Waste Management Rules, 2016.

350.Duties of Municipality for E-waste management - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf:

(1) to implement the provisions of the E- Waste Management Rules, 2016 made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) to regulate the management and handling of e-waste to the extent such rules apply to the Municipality;

(2) to ensure that e-waste if found to be mixed with municipal solid waste is properly segregated, collected and is channelized to authorised dismantler or recycler;

(3) to ensure that e-waste pertaining to orphaned products is collected and channelized to authorised dismantler or recycler;

Explanation: 'Orphaned products' means non-branded or assembled electrical and electronic equipment as specified in Schedule I of the E- Waste Management Rules, 2016 or those produced by a company, which has closed its operations, And

(4) till such time extended producer responsibility is implemented under the E-Waste (Management) Rules, 2016, the municipal council or a person/ agency, authorised by the council, as the case may be shall ensure Door to Door Collection or Point to Point Collection, as the case may be for E-Waste, at least once in two weeks.

351. Duties of Municipality for hazardous wastes management - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf, to implement the provisions of the rules made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) under the guidance of State Pollution Control Board.

352. Duties of Municipality for plastic waste management - It shall be the duty of the municipal council, either on its own or through any other agency authorized by it in this behalf:

(1) to implement the provisions of the Plastic Waste Management Rules, 2016 made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986) to regulate the management and handling of plastic waste to the extent such rules apply to the Municipality in the following manner:

(a) Plastic waste, which can be recycled, shall be channelized to registered plastic waste recycler and recycling of plastic shall conform to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time.

(b) Use of plastic waste (preferably the plastic waste which cannot be further recycled) shall be encouraged for road construction as per Indian Road Congress guidelines or energy recovery or waste to oil etc. The standards and pollution control norms specified by the prescribed authority for these technologies shall be complied with;

(c) Thermo set plastic waste shall be processed and disposed off as per the guidelines issued from time to time by the Central Pollution Control Board;

(d) The inert from recycling or processing facilities of plastic waste shall be disposed of in compliance with the Solid Waste Management Rules, 2016 or as amended from time to time;

(2) to be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.

(3) to be responsible for setting up, operationalisation and co-ordination of the waste management system and for performing the associated functions, namely:-

(a) ensuring segregation, collection, storage, transportation, processing and disposal of plastic waste;

(b) ensuring that no damage is caused to the environment during this process;

(c) ensuring channelization of recyclable plastic waste fraction to recyclers;

(d) ensuring processing and disposal on non-recyclable fraction of plastic waste in accordance with the guidelines issued by the Central Pollution Control Board;
(e) creating awareness among all stakeholders about their responsibilities;
(f) engaging civil societies or groups working with waste pickers; and
(g) ensuring that open burning of plastic waste does not take place.
(4) to seek assistance of producers for setting up system for plastic waste management and such system shall be set up within one year from the date of final publication of this Act.
(5) to frame bye-laws elaborating on the above-mentioned provisions with regard to management of plastic waste in its jurisdiction in accordance with the Plastic Waste Management Rules, 2016.

353. Duties of Ward Committees with regard to waste management - (1) The ward committees set up in accordance with Karnataka Municipal Corporations (Ward Committee) Rules, 2016 shall work with the municipal council for proper waste management and sanitation work in the ward.
(2) The ward committees will prepare ward action plan which shall take into account consideration of the ward requirement, budgetary allocations, infrastructure requirement while aligning it with the Ward Micro Plan and other policies of the municipal council. In this regard, the ward committee shall asses the type and quantity of waste generated in the ward, existing processing capacity, plans for additional processing and facilities.
(3) The Ward Micro Plan shall contain the collection times for different categories of wastes, details of the collection vehicles and points, block-wise map of the Ward, roads/streets for street sweeping, manpower and other information required for effective implementation of the waste management as may be considered appropriate by municipal council.
(4) The officers authorised by the municipal council shall monitor and review the implementation of the Ward Micro Plan and prepare Ward action taken report on a monthly basis for onward submission to the Chief Municipal Officer. Such officers shall have right to enter, at all reasonable times, with such assistance as he/she considers necessary, any place for the purpose of
(a) performing any of the functions entrusted to him/her by the municipal council under this Act, or
(b) determine compliance of the provisions of this Act with regard to waste management.

354. Rights of property of Municipality in things deposited in receptacles - All things deposited in depots or places provided to carry out provisions regarding waste management and all wastes collected by the

municipal employees or contractors or any other agency authorized in this behalf shall be the property of the Municipality and the municipal council may dispose it as it may deem proper.

355. Entrustment of management and handling of wastes and billing and collection of charge - Notwithstanding anything contained elsewhere in this Act, for the purposes of management and handling of municipal wastes and for development of infrastructure, if any, for collection, storage, segregation, transportation, processing and disposal of such wastes, a charge shall be levied, and payment thereof shall be made, at such rate as the municipal council may fix from time to time:

Provided that the charge as aforesaid shall, as far as practicable, be such as shall cover the costs on account of management and handling of municipal wastes and development of infrastructure, if any, for collection, storage, segregation, transportation, processing and disposal thereof and also the costs of debt-servicing, depreciation of plant and machinery, and other charges, if any:

Provided further that the Chief Municipal Officer may, with the prior approval of the municipal council, entrust development of infrastructure for collection, storage, segregation, transportation, processing and disposal of wastes and the work of management and handling of municipal wastes and of billing and collection of the charges as aforesaid to any agency under any law for the time being in force or to any other agency.

356. Door to Door Collection of segregated waste - (1) Door to door collection shall be implemented by municipal council or a person/ agency, authorised by the council, as the case may be, for all and/or certain categories of segregated waste, in all Wards of the municipality from:

(a) doorsteps of households, shops, commercial establishments and offices, where the distance between the gate and the doorsteps is not more than 5m;

(b) entry gate or a designated location on the ground floor in a housing society, multi storied buildings or apartments, gated communities, institutions, residential, commercial, institutional complexes or premises which do not fall within premises set out in clause (a) or bulk waste generators; and/or

(c) slums and informal settlements.

(2) In addition to door to door collection, the municipal council or a person/ agency, authorised by the council, as the case may be, shall collect waste from public spaces such as parks, markets, roads, streets, gardens and similar areas at specified times and days.

(3) The municipal council may make bye-laws providing for:

(a) specific time slots including relevant day of the week for different categories of waste including bulky waste,
(b) route maps for collection including stops, starting and ending times,
(c) number of vehicles, push carts and pourakarmikas that will be allotted to each Ward,
(d) mode of communicating arrival of waste collectors,
(e) manner in which segregated waste must be kept aside so as to prevent attacks by dogs, cows, pigs and other animals,
(f) spot fines and penalties for waste generators who are not complying,
(g) setting up of secondary storage facilities such as wet/dry waste storage/collection depots, material recovery facilitates or transfer stations or for respective processing at compost plants, bio-methanation plants, recycling plants, waste to energy plant or any other site/plant designated by the municipal council,
(h) Vehicles for transportation of waste including auto tippers, smaller motorised vehicle and manually driven push carts for congested lanes; possessing separate compartments for carrying bio-degradable, non-biodegradable waste and domestic hazardous waste, announcement systems, GPS tracking mechanisms and such other useful features,
(i) Processing and disposal of different categories of waste including bio-degradable waste, recyclable non bio-degradable waste, domestic hazardous waste, non-recyclable non-bio-degradable waste, construction and demolition waste, slaughterhouse waste and other special wastes such as leaf litter, coconuts and sugarcane among others.

357.Point to Point Collection - Until the services of a door to door collection system are provided, the municipal council may notify certain areas within its jurisdiction which are inaccessible for collection vehicles/pushcarts or for any other reason deemed appropriate by the municipal council, for point to point collection. For implementation of point to point collection, the council shall designate collection points/ spots/ locations where segregated waste shall be deposited by the waste generator.

358.Covered vehicles for transportation of waste - The vehicles used for transportation of waste shall be covered in such a manner that the collected waste is not;
(1) exposed to open environment,
(2) visible to the public and

(3) scattered on the road and/or pavements during transportation.

359.Deposit centre for Domestic Hazardous Waste - Appropriate number of deposit centre(s) for the collection and receipt of domestic hazardous waste will be set up within the jurisdictional limits of the municipality by the municipal council at suitable location(s) in accordance with guidelines prescribed by the Karnataka State Pollution Control Board and other appropriate governmental agencies.

360.Disposal at landfills - (1) The non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities which cannot be processed in any manner will be disposed in a Landfill in a scientific manner. The municipal council shall ensure that the residue from different processing facilities shall not exceed 25% of the waste delivered to the processing facility and shall be further reduced to 15% within 5 (five) years from the effective date of this Act.

(2) All old open dumpsites and existing operational dumpsites shall be investigated and analysed for their potential of bio mining and bio-remediation and wheresoever feasible, necessary actions to bio-mine or bio-remediate the sites, shall be taken;

(3) In absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.

361.Removal of night soil - (1) The municipal council may from time to time fix the hours during which only it shall be lawful to remove any night soil or other such offensive matter.

(2) Whoever,-

(*a*) when the municipal council has fixed such hours, and given public notice thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except during the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the municipal council or not,-

(i) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof and of the stench therefrom, or

(ii) willfully or negligently slops or spills any such offensive matter in the removal thereof, or

(iii) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(iv) places or sets down in any public place any vessel containing such offensive matter, or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid through any street or by any route, other than such as shall from time to time be appointed for that purpose by the municipal council by public notice, shall be punished with fine which may extend to five thousand rupees.

362.Explicit pricing of carry bags - (1) The shopkeepers and street vendors willing to provide plastic carry bags for dispensing any commodity shall register with the municipal council. The municipal council shall, within a period of six months from the date of final publication of this Act, by notification or an order under this Act make provisions for such registration on payment of plastic waste management fee of minimum rupees forty eight thousand @ rupees four thousand per month. The concerned municipality may prescribe higher plastic waste management fee, depending upon the sale capacity. The registered shop keepers shall display at prominent place that plastic carry bags are given on payment.

(2) Only the registered shopkeepers or street vendors shall be eligible to provide plastic carry bags for dispensing the commodities.

(3) The municipal council shall utilize the amount paid by the customers for the carry bags exclusively for the sustainability of the waste management system within their jurisdictions.

363.Review of the Empanelled Vendors and Agents - (1) The municipal council shall regularly review the facilities and operations of the empanelled vendors and agents to ensure that they are in compliance with the empanelment conditions (if applicable), provisions of waste management rules and this Act.

(2) In the event of any non-compliance, the municipal council can take action against the defaulting empanelled vendors and agents including notice of remedial action, cancellation of the empanelment certificate or contract for services, imposition of fines and penalties as set out in this Act.

364.Penalties - (1) Whoever contravenes or fails to comply with any of the provisions of the waste management rules on solid waste, plastic waste, bio-medical waste, e-waste, construction and demolition waste and hazardous waste or provisions of this Act shall on conviction-.

(a) be punished with a fine as specified in the bye-laws for this purpose.

(b) In case of second contravention or non-compliance, the municipal council shall have the power to levy a fine which could be up to twice of the amount set out against the offence.

(c) In case of third contravention or non-compliance, the municipal council shall have the power to levy a fine which could be up to thrice of the amount set out against the offence.

(d) In case of fourth contravention, the municipal council shall have power to cancel trade license, recover the penalty amounts as per the taxes under the provisions of Chapter (Chapter on taxation) of this Act, as the case may be or take any other appropriate action as may be notified from time to time.

(2) The fine or penalty shall stand automatically increased by 10% per year (to the nearest multiple of Rs. 10) with effect from January 1 of each successive year. The municipal council, in accordance with applicable law, may at any time alter or amend or vary the amounts provided in the bye-laws created for this purpose in order to increase the penalties.

(3) The municipal council shall take appropriate action including penalties, initiation of disciplinary action, deductions from salaries against the employees of the council, if any of them mix segregated wastes at any point of collection or transportation, fails to pick up waste during the specified time-slots, or otherwise, violate the provisions of this Act and waste management rules mentioned in sub-section (1).

(4) In the event an Agent or Empanelled Vendor contravenes or fails to comply with any of the provisions of the provisions of this Act and waste management rules mentioned in sub-section (1), the municipal council shall have the power to take any one or more of the following actions

(a) levy a fine which may extend up to fifty thousand rupees for the first offence and for a second or subsequent offence with fine which may extend up to twice the penalty amount for the first offence,

(ii) termination of contract or arrangement with the municipal council for waste management services including cancellation of the empanelment certificate, and/or suspension or revocation of any license to operate any waste collection, transportation or processing facility under provisions of this Act and waste management rules mentioned in sub-section (1).

(5) In the event the Ward Committee and/or any member thereof fails to discharge its functions relating to waste management as set out in provisions of this Act and waste management rules mentioned in sub-section (1), notices or directions issued under bye-laws under this Act for this purpose will be made applicable.

(6) The municipal council is at liberty to initiate appropriate proceedings under any other law in addition to any action under this Act and/or, as the case may be the Environment (Protection) Act, 1986, the Indian Penal code, 1860, the Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act 1981 for violation of any provisions thereunder.

(7) All amounts collected as spot fines and penalties by the municipal council under these provisions shall be transferred to a separate bank account maintained for funds for waste management to be used towards:

(a) operation and maintenance costs for providing waste management services

(b) salaries of personnel,

(c) incentives, grants and other uses as may be considered appropriate by the municipal council from time to time.

365. Punishment for littering on streets and depositing or throwing any waste - Whoever

(1) throws, deposits or causes to be thrown or deposits any waste in any public place, including in any type of water body (natural or manmade) except in a manner provided for in this Act and the Environment (Protection) Act, 1986 and rules therein;

(2) litters upon any street, road, sidewalk, playground, garden, traffic island or other public place;

(3) drives or moves any truck or other goods vehicle and causes contents or litter to be blown off or deposited upon any road, sidewalks, traffic island, playground, garden or other public place

(4) does not scoop or clean up any litter created by pet animal on the street or any public place,

shall be liable to pay a penalty not exceeding five hundred rupees on the spot to be imposed by an officer authorized by the municipal council in this behalf.

366. Depositing dust, etc. - (1) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung or ashes, or garden, kitchen or stable refuse, or filth of any kind, or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on the bank of any river, water-course

or nallah, except at such places, in such manner and at such hours as shall be fixed by the municipal council, and whoever commits or suffers any member of his family to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to five thousand rupees.

(2) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matter above described or, except with the permission of the municipal council, any night soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert, tunnel or water-course or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to five thousand rupees.

367.Non-removal of filth, etc. - Whoever, being the owner or occupier of any building or vacant land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or vacant land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or vacant land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to five thousand rupees and with further fine which may extend to one thousand rupees for every day on which such offence is continued, after the date of the first conviction.

368.Prohibition of the practice of employing persons for carrying night soil as head-load - (1) Notwithstanding anything contained in this Act or in any other law, custom, usage, agreement or practice to the contrary, and save as provided in sub-section (3), no person shall employ or allow himself/herself to be employed for wages or salary for carrying night-soil as head-load or by the manual handling thereof.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with fine which may extend to five hundred rupees and with further fine which may extend to fifty rupees for every day on which such offence is continued, after the date of the first conviction and if any person is convicted for the fifth time of an offence for the contravention of the provisions of sub-section (1) he shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(3) Nothing in this Act shall apply to any person who employs or allows himself/herself to be employed for carrying night-soil as head-load or by the

manual handling thereof in any hospital, clinic, nursing home or other similar institution or as a member of any organization engaged in social service or to any person who himself/herself carries or collects night-soil for the preparation, use or manufacture of manure.

CHAPTER –XI– PLANNING AND DEVELOPMENT

PART – A – OUTLINE DEVELOPMENT PLAN AND MASTER PLAN

369. Declaration of intention and preparation of Outline Development Plan[224]: (1) Every Municipality, before carrying out a survey of the area under its jurisdiction for the purpose of preparing a Master Plan for such area, shall make a declaration of its intention to prepare such plan and shall despatch a copy of such resolution with a copy of plan showing only boundary of the entire area proposed to be included in the master plan to the District Planning Committee; which shall forward it to the Government. A notice of such declaration shall be published in the Official Gazette and also in one or more newspapers in English and local language, and in the official website, in the prescribed manner calling suggestions from the public within a period of thirty days;

Provided that no such declaration of intention need be made when the master plan is prepared and published by the Director for Town Planning

(2) If within one month from the date of publication of the declaration under sub-section (1) any member of the public communicates in writing to the Municipality, any suggestion relating to such plan, the same shall be considered by the Municipality and may, at any time, before sending the Plan to the District Planning Committee make such modification in the plan as it thinks fit;

(3) A copy of the plan showing the boundaries of the municipal area included in the master plan shall be opened to public at all reasonable hours at the office of the Chief Municipal Officer.

370. Power of entry for carrying out surveys for preparing outline development plan[225] For the purpose of carrying out a survey for preparation of an outline development plan and for the purpose of preparing of such plan, any person authorised by the Director or the Planning Authority or any public servant or person duly authorised or appointed under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in the land, enter upon, survey and mark out such land and do all things necessary for such purpose.

371. Preparation of Master Plan[226] (1) The Municipality shall, carry out a survey of the area within its jurisdiction and shall, not later than two years

[224] Section 10, Karnataka Town and Country Planning Act, 1961
[225] Section 11, Karnataka Town and Country Planning Act, 1961
[226] In the preparation of Master Plan henceforth, the new approach of Procedure based Planning which integrates local issues like land ownership, socio-economic status and contribute to bottom-up approach

from the date of declaration of the municipal planning area, prepare and publish in the prescribed manner a master plan for such area and submit it to the Government, through the Director, for provisional approval.

(2) If the master plan is not prepared, published and submitted within the period specified in sub-section (1), the Government may authorise the Director to prepare and publish such plan in the prescribed manner and direct the cost thereof to be recovered from the Municipality as the case may be out of its funds, notwithstanding anything contained in any law relating to the said fund.

(3) Notwithstanding anything contained in sub-section (2), if any municipal area is amalgamated with any other such area or is sub-divided into two or more such areas , the master plan prepared for the area by the Municipality so converted, amalgamated or sub-divided shall, with such alterations and modifications as the Government may approve, be deemed to be the master plan for the area of the new municipal area or areas into or with which the former municipal area was converted, amalgamated or sub-divided.

372.Contents of Master Plan [227](1) The Master Plan shall consist of a series of maps and documents indicating the manner in which the development and improvement of the entire planning area within the jurisdiction of the Municipality are to be carried out and regulated, such plan shall include proposals for the following, namely:

(a) Zoning of land use for residential, commercial, industrial, agricultural, forests, quarries and hillocks, recreational, educational and other purposes together with Zoning Regulations;

(b) A complete street pattern, indicating major and minor roads, national highways, and state highways, and traffic circulation pattern, for meeting immediate and future requirements with proposals for improvements; further to also provide for a sound and effective electric power lines for the respective Planning Areas as maybe applicable;

(c) Areas reserved for parks, playgrounds, and other recreational uses, public open spaces, public buildings and institutions and area reserved for such other purposes as may be expedient for new civic developments;

(d) Areas reserved for water bodies, such as lakes, rivers, ponds, marsh lands, and such other water bodies; further to also provide for plans regarding the effective drainage and sewerage in the respective Planning Areas;

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and will be more effective in critical areas of urban policies and development where Zonal Development Policies and Master Plan Development policies could not make impact at local level could be adopted. This approach has been adopted for preparing the Master Plan of Delhi, 2021http://www.itpi.org.in/pdfs/apr2_10.pdf

[227] Section 12, Karnataka Town and Country Planning Act, 1961

(e) Areas earmarked for spatial planning;[228]
(f) Areas earmarked for future development and expansion;
(g) Reservation of land for the purposes of Central Government, the State Government, or public utility undertaking or any other authority established by Law, and the designation of lands being subject to acquisition for public purposes or as specified in Master Plan or securing the use of the land in the manner provided by or under this [Bill].
(h) Declaring certain areas, as areas of special control and development in such areas being subject to such regulations as may be made in regard to building line, height of the building, floor area ratio, architectural features and such other particulars as maybe prescribed;
(i) Stages by which the plan is to be carried out.
Explanation I- **"Building Line"** means the line up to which the plinth of a building adjoining a street may lawfully extend and includes the lines prescribed, if any, in any scheme;
Explanation II -**"Floor Area Ratio"** means the quotient of the ratio of the combined gross floor area of all the floors, excepting areas specifically exempted under the regulations, to the total area of the plot.
(2) The following particulars shall be published and sent to the District Planning and Development Committee, and the District Planning Committee shall further send it to Government along with the master plan, namely:-
(i) A report of the surveys carried out by the Municipality as the case maybe before the preparation of such plan;
(ii) A report explaining the provisions of the Master Plan;
(iii) Regulations in respect of each land use zone to enforce the provisions of such to enforce the provisions of such plan and explaining the manner in which necessary permission for developing any land can be obtained from the office of the Chief Municipal Officer as the case maybe;
(iv) A report of the stages by which it is proposed to meet the obligations imposed on the Municipality, as the case maybe by such plan.
(3) Master Plan shall indicate "Heritage Buildings" and "Heritage Precincts" and shall include the regulations made therein for conservation of the same.

PART – B - CITY PLAN/ CITY DEVELOPMENT PLAN

373.City Development Plan (1) Every Municipality shall subject to the provisions of any other law for the time being in force, with a view to securing planned and integrated development of the city and balanced use of land carry out a detailed survey of the city prepare a City Development Plan for such

[228] Newly inserted

periodicity and containing such Chapters, materials and schemes as may be prescribed by the rules framed by the State Government in this behalf.

(2)The City Development Plan mentioned in sub-section (1) shall be prepared in consultation with the District Collector and other District level Officials of the following Departments of the Governments namely:-

(i) Public Works,

(ii) Public Health,

(iii) Irrigation,

(iv)Medical and Health,

(v) Education,

(vi) Local Self Government,

(vii)Planning, Urban Trust/ City Development Authority, if any

Any other Department or Agency which the Municipality may consider necessary to consult.

(3) The preparation of a City Development Plan under this section shall involve:

(a)Field studies including Existing Land Use survey, electoral survey and household survey.

(b) In-depth analysis of the existing land-use, land potential, land suitability, data analysis, demographic projections, economic, financial, infrastructure, physical, environmental and institutional aspects and situational assessment

(c) Formulation of a strategy to bridge the present and future growth of the city.

(4) The Municipality may take the assistance and opinion of experts and knowledgeable persons, in urban planning for the preparation of the City Development Plan with the help of the aforesaid departments with the co-ordination of the District Collector

(5) The City Development Plan as prepared under sub-section (1) shall be sent to the shall be sent to the District Planning and Development Committee for inclusion in the District Master Development Plan.

(6) The District Planning Committee, as the case may be, shall include the City development Plan or such elements of the Plan as it may find appropriate in the District Master Development Plan as the case may be after due deliberations in the committee and with the concerned Municipality; and it shall thereafter submit the Plan prepared by it to the Government for inclusion in the State Plan and also for allocation of resources from the Government for execution of the Plan.

374.City Investment Plan and financing strategy[229] (1) Every Municipality shall prepare a City Investment Plan and for carrying out the objectives and vision outlined in the City Development Plan.

(2) The City Investment Plan, shall be an aggregate investment plan including within its purview a financial strategy and financial alternatives for carrying out the objectives, strategies, programmes and vision outlined in such Plan subject to the provisions of this [Bill]

(3) Such Plan shall make an estimate and approximation, and provides an order of investment, arrived at by using financial norms or standards for service provision and upgradation or directly estimating the cost of implementing a reform agenda

(4)Every Municipality shall for the effective implementation of the City Development Plan, subject to regulations under the [Bill] take into consideration financing options, namely:-

(a) Municipal government's own resources

(b) State government grants and loans

(c) Financing institutions

(d) Capital market

(e) Off-shore financing

(f) Central government grants

(g) Private sector Investments

[229] The Jawaharlal Nehru National Urban Renewal Mission has outlined this aspect

PART – C - Development

375.Development of Plans- In addition to the planning functions, the Urban Planning and Development Authority shall take up development functions such as;

(a)Planning and implementation of schemes to provide for:

1. Residential sites
2. Commercial sites
3. Industrial sites
4. Civic Amenity sites, and
5. Parks and Playgrounds
6. Urban Forestry and Gardens

(b)Construction of Commercial Complexes

(c)Construction of houses for Economically Weaker Sections, Low Income Group, Middle Income Group, High Income Group

(d)Development of major infrastructure facilities.

376.Declaration of Development Areas[230] (1) As soon as may be after a plan comes into operation as provided in section [...Date of Operation and Implementation of Master Plan or any other plan], the Municipality may, with the approval of the Government and by notification in the Official Gazette, declare any area in the city to be a development area for the purposes of this [Bill].

(2) On or after the date on which notification under subsection (1) is published in the Official Gazette, no person shall institute or change the use of any land or carry out any development of land without the permission in writing of the Municipality: Provided that, no such permission shall be necessary-

(i) for carrying out works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance thereof;

(ii) the carrying out of works in compliance with any order or direction made by any authority under any law for the time being in force;

(iii) the carrying out of works by the Municipality in exercise of its powers under any law for the time being in force;

(iv) for the carrying out by the Central or state Government or any local authority any works-

[230] Section 166 of the Rajasthan Municipalities Act, 2009

(a) required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street; and

(v[231]) for the construction of a road intended to give access to land solely for agricultural purposes;
(vi[232]) for normal use of land which has been used temporarily for other purposes; and (vii[233]) in case of land, normally used for one purpose and occasionally used for any other purpose, for the use of land for that other purpose on occasion.

377.Penalty for unauthorized development or for use otherwise than in conformity with the Plan[234]**-** (1) Any person who, whether at his own instance or at the instance of any other person commences, undertakes or carries out development or changes the use of any land-
(a) without permission required under this [Bill]; or
(b) which is not in accordance with any permission granted or in contravention of any condition subject to which such permission has been granted; or
(c) after the permission for development has been duly revoked; or
(d) in contravention of any permission which has been duly modified, shall, on conviction, be punished with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to one hundred rupees for every day during which the offence continues after conviction for the first commission of the offence.

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of a Plan without being allowed to do so under the provisions of this [Bill], or, where the continuance of such use has been allowed under this [Bill], continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall, on conviction, be punished with fine which may extend to two thousand rupees; and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

[231] Section (vi) under the Rajasthan Municipalities Act, 2009
[232] clause (vii) under the Rajasthan Municipalities Act, 2009
[233] Clause (viii) under the Rajasthan Municipalities Act, 2009
[234] Section 167, Rajasthan Municipalities Act, 2009

378.Power to require removal of unauthorized development.[235]-(1) Where any development of land has been carried out as indicated in sub-section (1) of section[…Penalty for unauthorized development or for use otherwise than in conformity with the Plan] the Municipality may, subject to the provisions of this section, serve on the owner a notice requiring him, within such period being not exceeding one month, as may be specified therein after the service of the notice, to take such steps as may be specified in the notice-

(a) in cases specified in clause (a) or (c) of sub-section (1) of section[…Penalty for unauthorized development or for use otherwise than in conformity with the Plan] to restore the land to its condition existing before the said development took place; and

(b) in cases specified in clause (b) or (d) of sub-section (1) of section[…Penalty for unauthorized development or for use otherwise than in conformity with the Plan] to secure compliance with the conditions or with the permission as modified: Provided that, where the notice requires the discontinuance of any use of land the Municipality shall serve a notice on the occupier also.

(2) In particular, such notice may, for purposes of subsection (1), require-

(a) the demolition or alteration of any building or works;

(b) the carrying out on land of any building or other operations; or

(c) the discontinuance of any use of land.

(3) Any person aggrieved by such notice may, within the period specified in the notice and in the manner determined by bye-laws, apply for permission under the provisions of this [Bill] for retention on the land, of any building or works or for the continuance of any use of the land, to which the notice relates and pending the final determination or withdrawal of the application, the mere notice itself shall not affect the retention of buildings or works or the continuance of such use.

(4) If the permission applied for is granted, the notice shall stand withdrawn; but if the permission applied for is not granted, the notice shall stand; or if such permission is granted for the retention only of some buildings or works, or for the continuance of use of only a part of the land, the notice shall stand withdrawn as respects such buildings or works or such part of the land, but shall stand as respects other buildings or works or other parts of the land, as the case may be; and thereupon the owner shall be required to take steps specified in the notice under sub-section (1) as respects such other buildings, works or part of the land.

[235] Section 168 of Rajasthan Municipalities Act, 2009

(5) If within the period specified in the notice or within the same period after the disposal of the application under sub-section (4), the notice or so much of it as stands is not complied with, the Municipality may-

(a) prosecute the owner for not complying with the notice and where the notice requires the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b) where the notice requires the demolition or alteration of any building or works or carrying out of any building or other operations, itself cause the restoration of the land to its condition before the development took place and secure compliance with the conditions of the permission or with the permission as modified by taking such steps as the Municipality may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operation; and recover the amount of any expenses incurred by it in this behalf from the owner as arrears of land revenue.

(6) Any person prosecuted under clause (a) of sub-section (5) shall, on conviction, be punished with fine which may extend to five thousand rupees, and in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

379.Power to stop unauthorized development[236].-(1) Where any development of land as indicated in sub-section (1) of section[…Penalty for unauthorized development or for use otherwise than in conformity with the Plan] is being carried out but has not been completed, the Municipality may serve on the owner and the person carrying out the development, a notice requiring the development of land to be discontinued from the time of the service of the notice, and thereupon, the provisions of sub-sections (3), (4), (5) and (6) of section […Power to require removal of unauthorized development] shall, so far as may be applicable, apply in relation to such notice, as they apply in relation to notice under that section .

(2) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served shall, on conviction, be punished with fine which may extend to five thousand rupees, and when the non-compliance is a continuing one, with a further fine which may extend to five hundred rupees for every day after the

[236] Section 169, Rajasthan Municipalities Act, 2009

date of the service of the notice during which the non-compliance has continued or continues.

(3) Notwithstanding anything contained in this Chapter, where any person continues to carry out unauthorized development after receiving a notice under sub-section (1), the Municipality or any officer authorized by it in this behalf, shall, in addition to any prosecution or other proceedings or action that may be initiated under this [Bill], have the power to require any police officer to remove the person by whom the erection of the building has been continued and all his assistants and workmen from the place of the unauthorized development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly. In addition to such removal of persons, the Municipality may also confiscate such construction materials, tools etc. which such person was using for unauthorized development.

(4) After a requisition order under sub-section (3) has been complied with, any person or his assistants and workmen subsequently continuing unauthorized development shall, on conviction, be punishable with fine which may extend to five thousand rupees and in case of continuing offence, with a further fine which may extend to two hundred rupees for every day during which such offence continues after the conviction for the first commission of the offence.

(5) No compensation shall be claimed by any person for any damage which he may sustain in consequence of the discontinuation of the unauthorized development under this Act.

380. Removal or discontinuance of unauthorized temporary development summarily[237].-(1) Notwithstanding anything hereinbefore contained in this Chapter, where any person has carried out any development of a temporary nature unauthorizedly as indicated in sub-section (1) of section [...Penalty for unauthorized development or for use otherwise than in conformity with the Plan], the Municipality may, by an order in writing direct that person to remove any structure or work erected, or discontinue the use of land made, in an unauthorized manner as aforesaid, within fifteen days of the receipt of the order; and if thereafter, the person does not comply with the order within the said period, the Municipality or any officer authorized by it in this behalf may get such work summarily removed or get such use summarily discontinued without any notice as directed in the order; and any unauthorized development made again shall similarly be summarily removed or discontinued without making any order as aforesaid:

[237] Section 170, Rajasthan Municipalities Act, 2009

Provided that standing crops shall not be summarily removed and reasonable period not exceeding six months shall be allowed to the person concerned by the Municipality for the crop to be cut and gathered.
(2) The decision of the Municipality on the question of what is development of a temporary nature shall be final.

381.Sanction for sub-division of plot or lay out of Private Street[238].-(1) Every person who intends to sub-divide his land or his plot or make or lay out a private street on such land or plot on or after the date of the operation of plan under section [...date of operation and implementation of Plan] shall submit the intended layout plan for such purpose together with such particulars and such fees, as may be determined by byelaws or by Government orders, to the Municipality for sanction.

(2) The Municipality may, within the period specified in the bye-laws, sanction such plan either without modifications or subject to such modifications or conditions as it considers expedient or may refuse to give sanction, if the Municipality is of opinion that such division or laying out of street is not in any way consistent with the proposals of the plan.

(3) No compensation shall be payable for the refusal of a sanction or for the imposition of modifications or conditions in the sanction.

(4) If any person does any work in contravention of subsection (1), or in contravention of the modifications or conditions in any sanction given under sub-section (2), or in spite of refusal of sanction under the said sub-section (2), the Municipality may direct such person by notice in writing to stop any work in progress and after making an inquiry in the manner determined by bye-laws remove or pull down any work or restore the land to its original condition.

(5) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served shall, on conviction, be punished with fine which may extend to five thousand rupees, and when the non-compliance is a continuing one, with a further fine which may extend to two hundred rupees for every day after the date of the service of the notice during which the non-compliance has continued or continues.

382.Recovery of expenses incurred[239]-Any expenses incurred by the Municipality under sections [...Power to require removal of unauthorized

[238] Section 171, Rajasthan Municipalities Act, 2009
[239] Section 172, Rajasthan Municipalities Act, 2009

development] [….Power to stop unauthorized development], […Removal or discontinuance of unauthorized temporary development summarily] and [….Sanction for sub-division of plot or lay out of Private Street] shall be a sum due to the Municipality under this Act from the person in default or the owner of the land or plot and shall be recovered as arrears of land revenue.

383. Making of planning scheme or project and its contents[240]— (1) Subject to the provisions of this [Bill], for the purpose of implementing the proposals in the [Master Plan published under subsection (4) of section ……..],or any other plan envisaged under the provisions of this [Bill]or otherwise, the Municipality, may make one or more town planning schemes, or projects and schemes for the integrated development of the city or any municipal area, or part thereof as may be considered necessary for the area within its jurisdiction or any part thereof.

(2) Such scheme or project may make provisions for any of the following matters namely:

(a) acquisition, development, reservation and sale or leasing or exchange of any property for purpose of public utilities such as roads, streets, open spaces, parks, gardens, recreation and play grounds, hospitals, dispensaries, educational institutions, green-belts, dairies, housing development, development of markets, shopping centers, commercial complexes, cultural centers, administrative centers, transport facilities and public purposes of all kinds;

(b) preparation of layout plan of any land comprised in the scheme and lay-out of new streets or roads; construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;

(c) the construction, alteration and removal of buildings, bridges and other structures;

(d), water supply, drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal and other conveniences;

(e) street lighting, construction and alteration of streets, including private streets

(f) the preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;

(g) The imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, size, height and character of buildings allowed in specified areas, the purposes to which buildings or specified areas may or may not be

[240] Section 26, Karnataka Town and Country Planning Act, 1961, and section 173 of the Rajasthan Municipalities Act, 2009 has been considered, wherein the clauses have been subject to changes since provisions from both the Acts were considered for incorporation.

appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in Specified periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs and hoardings

(h) re-distribution of sites belonging to owners of property comprised in the scheme;

(i) closure or demolition of buildings or portion of building unfit for human habitation;

(j) demolition of obstructive building or portions thereof;

(k) construction and reconstruction of buildings;

(l) provision of accommodation for any class of the inhabitants;

(m) sanitary arrangements required for the area comprised in the scheme;

(n) provision of accommodation for any class of the inhabitants;

(o) provisions of facilities for communications;

(p) re-construction of plots for the purpose of buildings, roads, drainage inclusive of sewerage, surface or sub-soil drainage

(q)construction, alteration and removal of buildings, bridges and other structures;

(r) preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;

(s) reservation of land in any scheme to such extent as may be prescribed in the rules made by the State Government for the purpose of providing housing accommodation to the members of Scheduled Castes, Scheduled Tribes, the Backward Classes and weaker sections of the society, including disabled, handicapped and mentally retarded persons and unassisted elderly persons;

(t) Provision of open spaces

(u) any other work of a nature such as would bring about environmental improvements which may be taken up by the Municipality

(v) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order, made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

(w) such other matters not inconsistent with the objects of this [Bill] as may be prescribed

(3)The draft project or scheme shall contain the following particulars, namely:[241] -

(a) the area, ownership and tenure of each original plot;

(b) the particulars of land allotted or reserved under clause (a) of sub-section (2) with a general indication of the uses to which such land is to be put and the terms and conditions subject to which such land is to be put to such uses;

[241] Also contained in Section 32, Karnataka Town and Country Planning Act, 1961

(c) the extent to which it is proposed to alter the boundaries of original plots;
(d) the estimate of the net cost of the scheme to be borne by the appropriate Municipality;
(e) a full description of all the details of the scheme under sub-section (2) as may be applicable; (f) the laying out or relaying out of land either vacant or already built upon;
(g) the filling up or reclamation of low laying, swampy or unhealthy areas or levelling up of land; and
(h) any other particular as may be determined by the bye-laws.

384.Municipality to prevent unauthorized constructions:[242] (1) Notwithstanding anything contained in section [.....Making of town planning schemes and its contents] clause *(i),* the Municipality shall through an officer or Officers or any other persons authorized in this behalf issue directions for demolition of illegal religious structures or shrines constructed by any person or persons within the area under its jurisdiction.
(2)Such directions shall include prevention of construction of any temples, churches, mosques or *gurudwaras* in any public place, parks or streets or any religious structure or removal and or relocation of such structures.
(3) For the purpose of carrying out the provisions in sub-section (1) the Municipality as the case may be shall frame a policy for the eviction of encroachments on public lands.
(4) Such Policy shall aim at identification and removal, relocation or regularization of such encroachments by way of religious structures in the interest of free movement of the public, protection of public interest, maintenance of public order and use of land for public purposes.

[242] Newly added, On the application by K R Pradeep Kumar of Thiruvananthapuram District in 2013,the supreme court direction which later became a final ruling banned fresh encroachment of roads, pavements and sideways by construction of religious structures. The bench said the time has come to ban such constructions that temples, mosques, churches and gurudwaras on public places abutting roads which significantly restrict movement of vehicles and citizens right to use such road cannot be impeded by constructing temple, mosque , church or gurudwara http://timesofindia.indiatimes.com/articleshow/18081295.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst,https://www.livelaw.in/sc-pulls-states-not-removing-illegal-roadside-religious-structures/ In Union of India v. State of Gujarat [SLP (C) No. 8519 of 2006 and W.P. (C) No. 314 of 2010]. In an order dated 13th September2011 (reported in 2011 (12) SCALE 237) the GNCTD informed the Supreme Court that it had decided to remove/shift 13 unauthorized religious structure, https://indiankanoon.org/doc/197017021/

385.Right of entry[243].—(1) For the purpose of making or execution of any town planning scheme, any person or persons authorized by the Municipality or any public servant or person duly appointed or authorised under this [Bill], may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

386.Land in respect of which a town planning scheme, project etc. may be made[244] **(**1) A Municipality may make a town planning scheme or any such project or scheme, envisaged under the provisions of section [...Making of planning scheme or project and its contents]in accordance with the provisions of this [Bill] in respect of any land which is,—

i. In course of development
ii. Likely to be used for building purposes, and
iii. Already built upon.

(2) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreation grounds, parking spaces or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not.

387.Declaration of intention to make a town planning scheme, project or other scheme[245]**.**—(1) A Municipality having jurisdiction over any such land as is referred to in section [.....Land in respect of which a town planning scheme may be made] or over any such area as is referred to in section [....Making a town planning scheme, project etc and its contents], may by resolution declare its intention to make a town planning scheme, project or other scheme in respect of the whole or any part of such land or development area.[246]

(2) Within twenty-one days from the date of such declaration of intention to make a Town Planning scheme, the Municipality shall publish it in the prescribed manner and a copy despatched thereof to the State Government through the Director.

Provided that, in respect of any project or scheme other than a town planning scheme, the Municipality shall , not later than thirty days from the date of such declaration of intention to make such project or scheme, publish the

[243] Section 27, Karnataka Town and Country Planning Act, 1961
[244] Section 28, Karnataka Town and Country Planning Act, 1961
[245] Section 29, Karnataka Town and Country Planning Act, 1961
[246] Also referred, section 174 of Rajasthan Municipalities Act, 2009

declaration in the Official Gazette and in such other manner as may be determined by bye-laws[247].

(3) The Municipality shall send a plan showing the area which it proposes to include in the town planning scheme, the Government through the Director, in case of town planning scheme and in other cases to the State Government, and display a copy of the same in the official website with one copy of such Plan kept open at the office of the Chief Municipal officer for inspection by the public.

388.Making and publication of draft scheme or project [248].—(1) Within a period of twelve months from the date of publication of declaration of intention to make a scheme under section [..Declaration of intention to make a town planning scheme, project or other scheme], the Municipality shall make in consultation with the Director, in case of a town planning scheme, or otherwise, such project or scheme in draft for the area in respect of which the declaration [declaration of intention to make a town planning scheme under section……] has been made.

(2) Such draft mentioned in sub-section (1) shall be published in such form and manner as may be determined by bye-laws together with a notice inviting objections and suggestions from any person with respect to the said draft project or scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.

Provided that on application by the Municipality in that behalf, the State Government may from time to time, by notification extend the aforesaid period by such period as may be specified not exceeding six months.

(3) The Municipality shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (2) and shall, after giving a reasonable opportunity to such persons affected thereby as are desirous of being heard, approve the draft project or scheme as published or make such modifications, as it may deem fit

(4) Immediately after a project or scheme is approved under sub-section (3) with or without modifications, the Municipality shall publish in the Official

[247] The time period for publication of town planning scheme (as envisaged under the Karnataka Town and Country Planning Act, 1961)and other schemes or projects (as envisaged under the section 174 of Rajasthan Municipalities Act, 2009) has been so retained , but it can be deliberated , whether the differentiation ought to be retained or whether the time period should be unified to ease procedural aspects under the provisions of the Karnataka Municipalities Bill,2019

[248] Section 30, Karnataka Town and Country Planning Act, 1961, section 174 of Rajasthan Municipalities Act, 2009 have been integrated

Gazette and in such other manner as may be determined by bye-laws, a final project or scheme and specify the date on which it shall come into operation.

(5) If the draft scheme is not made and published within the period specified or within the period so extended under sub-section (1), the Government or an officer authorised by the Government in this behalf may make and publish in the prescribed manner a draft scheme for the area in respect of which the declaration of intention to make a scheme has been made by the Municipality within a further period as may be prescribed from [249]the date of the expiry of the extended period.

(6) Notwithstanding anything contained in the foregoing sub-sections, the procedure as laid down therein shall not be required to be followed in case the project or scheme is to be carried out on any land vested in the Municipality and no demolition of any building or removal of persons living thereat is involved in its execution.[250]

389.Consideration of objections and sanction of draft town planning scheme[251]—(1) If, within one month from the date of publication of the draft scheme under sub-section (1) or sub-section (2) of section [……making and publication of draft scheme, project etc], as the case may be, any person affected by such scheme communicates in writing to the Municipality, any objection relating to such scheme, the Municipality shall consider such objection and may, at any time before submitting the draft scheme to the State Government, as hereinafter provided, modify such scheme in such manner as it thinks fit.

(2)The Municipality shall, within four months from the date of its publication under sub-section (1) or sub-section (2) of section […..making and publication of a draft scheme], submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it, to the State Government through the Director and shall at the same time apply for its sanction.

(3) After receiving such application and after making such inquiry as it may think fit, the State Government, in consultation with the Director, may by notification, within six months from the date of its submission, either sanction

[249] In case of a Town Planning Scheme, the period is nine months, as provided under the Karnataka Town and Country Planning Act, 1961, but this may be decided finally

[250] These provisions as mentioned under the Rajasthan Municipalities Act are applicable to any project or scheme, other than Town Planning schemes to which the provisions of Karnataka Town and Country Planning Act, 1961 are applicable

[251] Section 34, Karnataka Town and Country Planning Act, 1961 This provision has been mentioned separately in view of the provision under the Karnataka Town and Country Planning Act, 1961, which applies exclusively , for town planning schemes, and different time limits

such scheme with or without modifications and subject to such conditions as it may think fit to impose, or refuse to give sanction.

(4) If the State Government sanctions such scheme, it shall in such notification on its official website and otherwise, make known the availability of draft scheme so sanctioned for inspection of the public.

390. Power of State Government to require the Municipality to make a scheme.[252]—(1) Notwithstanding anything contained in sections […..declaration of intention to make a town planning scheme and […..Making and contents of a planning scheme or other project], the Government may, in respect of any Municipality after making such inquiry as it deems necessary by notification, require such Municipality to make and publish in the prescribed manner and submit for its sanction through Director a draft scheme in respect of any land in regard to which a town planning scheme may be made under section […land in respect of which a Town Planning Scheme may be made]

(2) For the purpose of this [Bill] and the rules made thereunder, the requisition under sub-section (1) by the State Government shall be deemed to be the declaration of intention to make a scheme

(3) The Municipality may, and if so required by the State Government it shall, direct the Chief Municipal Officer to prepare a Development Scheme in respect of any area of the City.

391. Reconstituted plot.[253]—(1) In the draft scheme the size and shape of every reconstituted plot shall be determined, so far as may be, to render it suitable for building purposes and where the plot is already built upon, to ensure that the building as far as possible complies with the provisions of the scheme as regards open spaces.

(2) For the purpose of sub-section (1) the draft scheme may contain proposals,-

(a) to form a reconstituted plot by the alteration of the boundaries of an original plot;

(b) to form a reconstituted plot by the transfer, wholly or partly, of the adjoining lands;

(c) to provide that the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership, shall

[252] Section 31, Karnataka Town and Country Planning Act, 1961 and section 180, of Rajasthan Municipalities Act, 2009

[253] Section 33, Karnataka Town and Country Planning Act, 1961

hereafter with, or without alteration of boundaries, be held in ownership in common as reconstituted plot;

(d) to allot a plot to any owner dispossessed of the land in furtherance of the scheme; and

(e) to transfer the ownership of a plot from one person to another.

392. Restrictions after declaration to make a town planning scheme, or other project or scheme[254] **(**1) On or after the date of the declaration of intention to make a town panning scheme by a Municipality under section [….Declaration of intention to make a scheme] or the notification issued by the State Government under section […. Power of State Government to require the Municipality to make a scheme] is published,—

(a) no person shall within the area included in the scheme erect or proceed with any building work or remove, pull down, alter, make additions to, or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or change the user of any land or building or carry out any development ,unless such person has applied for and obtained necessary permission which shall be contained in a commencement certificate granted by such Municipality in the form prescribed;

Provided that it, in the case of any other project or scheme it shall be lawful for any person to undertake such development within the village abadi limits in accordance with the permission granted by the Gram Panchayat so far as such permission is consistent with such draft scheme or scheme

(b) The Municipality on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt and may, after inquiry and in consultation with the Director of Town Planning, either grant or refuse such certificate or grant it subject to such conditions as the Authority may, with the previous approval of the Director, think fit to impose.

Provided that if no decision is communicated to the applicant within three months from the date of such acknowledgment, the applicant shall be deemed to have been granted such certificate;

(c) if any person contravenes the provisions contained in clause (a) or clause (b), the Municipality shall in writing require such person to stop any work in progress, and after making inquiry in the prescribed manner, remove, pull

[254] Section 35, Karnataka Town and Country Planning Act, 1961, and section 177 of Rajasthan Municipalities Act,2009

down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition

(d) any expenses incurred by the Authority under clause (c) shall be a sum due to such Municipality under this [Bill] from the person in default or the owner of the plot.

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Municipality under sub-section (1) except in respect of a building or work begun or a contract entered into before the date on which the Municipality published a declaration of intention to make a scheme under section[…Declaration of intention to make a scheme] or the State Government published a notification under section [….Power of State Government to require Municipality to make a scheme] and only in so far as such building or work has proceeded at the time of the publication of such declaration or notification:

Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the Municipality

(3) Where under clause (j) of sub-section (2) of section [..Town Planning Scheme and its contents] or under a draft scheme under section […..contents of a draft scheme]—

(a) the purpose to which any plot of land may not be used has been specified, such plot of land shall, within such period of not less than one year as may be specified in the final scheme, cease to be used for such purpose and shall be used only for the purposes specified in the Scheme;

(b) the purpose to which any existing building may not be used has been specified, such building shall, within such period of not less than three years as may be specified in the scheme, cease to be used for the purpose other than the purpose specified in the scheme;

(c) the purpose to which any plot of land with existing buildings may not be used has been specified in the scheme and the existence of such buildings is inconsistent with the provisions of the scheme, such buildings shall, within such period of not less than ten years as may be specified in the scheme cease to exist:

Provided that such period shall not be less than the reasonable life of the building; No compensation shall be payable for any plot of land or building adversely affected by the making of town planning scheme.

(4) Any person aggrieved by the decision of the Municipality under this section may, within sixty days from the date of the decision, appeal to the prescribed authority or if no authority has been prescribed, to the State Government and the order of such prescribed authority or State Government in appeal shall be final.

(5) The restrictions imposed by sub-sections (1) and (2) shall cease to operate in the event of the State Government refusing to sanction the draft scheme or the final scheme.

393. Redevelopment Scheme[255] Where the Chief Municipal Officer upon information in his possession is satisfied in respect of any area-

(a) that the buildings in any area are by reasons of disrepair or unsanitary conditions unfit for human habitation or are by reason of their bad arrangements or the narrowness or bad arrangement of the street or the want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of the area, and

(b) that the most satisfactory method of dealing with the conditions in the area is the re-arrangement and reconstruction of the streets and buildings in accordance with re-development schemes, he may frame a redevelopment scheme in respect of the area. Such a scheme shall fulfil all the requirements in the case of a regular scheme as provided in sections [..Making and contents of Projects and Schemes] and section [...Preparation of Projects and Schemes].

394. Submission of project and scheme to the Municipality for approval[256].- Every development scheme shall, as soon as may be after it has been framed, be submitted by the Chief Municipal Officer for approval to the Municipality and the Municipality may either approve the scheme without modification or with such modifications as it may consider necessary or reject the scheme and require the Chief Municipal Officer to have a fresh scheme framed according to such directions as the Municipality may give.

395. Lapse of Scheme[257].- (1)If the Municipality fails to implement the project or scheme approved under sub-section (3) of section [...making and publication of a draft scheme or Project]within a period of two years from the date of publication thereof under sub-section (4) of section [...making and publication of a draft scheme or Project it shall, on the expiration of the said period of two years, lapse. (2) If such publication is not made by the State

[255] Section 175, Rajasthan Municipalities Act, 2009
[256] Section 176, Rajasthan Municipalities Act, 2009
[257] Section 178, Rajasthan Municipalities Act, 2009 and section 30 of the, Karnataka Town and Country Planning Act, 1961 have been referred.

Government within the further period specified in sub-section (5), of section [...making and publication of draft scheme or project] the declaration of intention to make a scheme shall lapse, and until a period of three years has elapsed from the date of such declaration, it shall not be competent to the Municipality to declare its intention to make any town planning scheme for the same area or for any part of it.

396. Modification or withdrawal of project or Scheme[258] (1) The Municipality, after making such inquiry as it may deem fit, may, if it is of the opinion that it is necessary or expedient so to do, by notification published in the Official Gazette, declare that the project or scheme approved under sub-section (3) of section [...making and publication of a draft scheme or Project] is withdrawn and upon such declaration, no further proceedings shall be taken in regard to such project or scheme.

(2) If the Municipality, after approval of any project or scheme under sub-section (3) of section [...making and publication of a draft scheme or Project], at any time, considers it necessary to make certain modifications therein, which in its opinion do not effect material alteration in the character of the project and scheme, may make suitable modifications.

397. Saving to any project or Scheme[259] Notwithstanding anything contained in any provision of this [Bill] or in any plan sanctioned under it, the Municipality shall be at liberty to make and carry out any project or scheme not covered by the said plan, if in the opinion of the Municipality, it is necessary to do so or is expedient in public interest, and the said plan shall be deemed to be modified to that extent.

398. Power of the State Government to suspend rule, bye-law, etc[260].— (1) When a Municipality has published a declaration of intention to make a scheme under section [..... Declaration of intention to make a scheme] or the State Government has published a notification under section [..Power of State Government to require the Authority to make a scheme], the State Government may, by notification, suspend to such extent only as may be necessary, for the proper carrying out of the scheme, any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend.

[258] Section 179, Rajasthan Municipalities Act, 2009
[259] Section 181, Rajasthan Municipalities Act, 2009
[260] Section 36, Karnataka Town and Country Planning Act, 1961

(2) Any order issued under sub-section (1) shall cease to operate in the event of the State Government refusing to sanction the final scheme or in the event of the coming into force of the final scheme.

399.Duties in respect of Town Planning[261] (1) There shall be person or persons in the Standing Committee of a Municipality[262] experienced in town planning, hereinafter referred to as the Officer for Town Planning[263] who shall be subordinate to the Director of Town Planning and shall perform his duties under this [Bill], subject to the general control and supervision of the Director; and such person shall in accordance with the provisions of this [Bill] and the rules made thereunder,-

(a) define and demarcate the areas allotted to, or reserved, for a public purpose or purpose of the Municipality and the reconstituted plots;

(b) determine in the case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons;

(c) fix the difference between the total of the values of the original plots and the total of the values of the plots included in the final scheme;

(d) determine whether the areas used, alloted or reserved for a public purpose or purpose of the Municipality wholly or partly to the owners or residents within the area of the scheme;

(e) estimate the portion of the sums payable as compensation on each plot used, allotted reserved for a public purpose or purpose of the Municipality which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;

(f) calculate the contribution to be levied on each plot used, allotted or reserved for a public purpose or purpose of the Municipality which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(g) determine the amount of exemption, if any, from the payment of the contribution, that may be granted in respect of plots exclusively occupied for religious or charitable purposes;

(h) estimate the increment to accrue in respect of each plot included in the final scheme;

(i) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme;

[261] Based on section 38, Karnataka Town and Country Planning Act, 1961

[262] Under the provisions of the Karnataka Municipalities Bill 2019, every the Standing Committee [with the status of "Authority"] of a Municipality, which shall consist of person or persons experienced in Town Planning

[263] Suggested for the purposes of this Bill

(j) calculate the contribution to be levied on each plot included in the final scheme; (k) determine, as the case may be, the amount to be deducted from or added to the contribution leviable from a person;
(l) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of a right in the original plot;
(m) estimate in reference to claims made before him, the compensation to be paid to the owner of any property for rights injuriously affected by the making of a Town Planning scheme for the Municipality
(n) draw in the prescribed form the final scheme in accordance with the draft scheme sanctioned by the State Government under section [consideration of objections and sanctions of the draft scheme]
Provided that he may make variation from the sanctioned draft scheme, subject to the condition that any variation estimated by him to involve an increase of [……] percent in the costs of the scheme or rupees […….] lakh, whichever is lower, shall require the sanction of the State Government:
Provided further that such person shall make no substantial variation without the consent of the Municipality and without hearing any objections which may be raised by the owners concerned.
(2) If there is any difference of opinion between the Officer for Town Planning mentioned in Section […….Duties in respect of Town Planning] the Municipality to whether the whether variation made by such Officer is substantial or not, the matter shall be referred by the Municipality to the State Government through the Director and the decision of the State Government shall be final and conclusive.
(3) The Officer for Town Planning in the preparation of any draft scheme shall decide all matters referred to in sub-section (1) within a period of twelve months from the date of his appointment as such Officer.
Provided that the State Government may, from time to time by order in writing, extend the said period by such further period as may be specified in the order.

400. Certain decisions of the Officer for Town Planning to be final subject to an appeal to the Director[264].—From every decision of the Officer for Town Planning, an appeal shall lie to the Director within one month from the date of the decision and subject to the orders in such appeal, the decision of such Officer shall be final and conclusive, except in the following matters
(a) estimate the portion of the sums payable as compensation on each plot used, allotted or reserved for a public purpose or purpose of the Municipality which is beneficial partly to the owners or residents within the area of the

[264] Section 39, Karnataka Town and Country Planning Act, 1961

scheme and partly to the general public, which shall be included in the costs of the scheme;

(b) calculate the contribution to be levied on each plot used, allotted or reserved for a public purpose or purpose of the Municipality which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(c) estimate the increment to accrue in respect of each plot included in the final scheme;

(d) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme;

(e) calculate the contribution to be levied on each plot included in the final scheme;

(f) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of a right in the original plot;

(g) estimate in reference to claims made before him, the compensation to be paid to the owner of any property for rights injuriously affected by the making of a Town Planning scheme;

401.Appeal to the Court[265]—(1) Any decision of the Officer for Town Planning under clauses (e), (f), (h), (j) and (m) of sub-section (1) of section [.....Duties in respect of Town Planning] shall be forthwith communicated to the party concerned and any party aggrieved by such communication of the decision, may appeal to the District Judge within the local limits of whose jurisdiction the area included in the scheme is situated.

(2) The District Judge may transfer an appeal filed before him to the Additional District Judge for disposal.

(3) The District Judge or the Additional District Judge, as the case may be, after making such inquiry as he may think fit, may either direct the Officer to reconsider his proposals or accept, modify, vary or reject the proposals of such Officer and shall decide all matters arising out of clauses (e), (f), (h), (i), (j) and (m) of sub-section (1) of section [....Duties in respect of Town Planning]

(4) The District Judge or the Additional District Judge hearing an appeal under this section may require the Officer for Town Planning to be present during the hearing, who on such requisition shall be present at the proceedings before the Judge and shall assist the Judge in an advisory capacity, but shall be exempted from giving evidence.

(5) The decision of the District Judge or the Additional District Judge, as the case may be, under sub-section (3) shall be final and conclusive and binding on all persons. A copy of the decision in appeal shall be sent to the Officer for Town Planning.

[265] Section 40, Karnataka Town and Country Planning Act, 1961

402.Decision of the Officer for Town Planning to be final if no appeal is filed and variation of scheme in accordance with decision in appeal[266].— (1) Where no appeal has been made under section [Appeal to the Court of Law], the decision of the Officer for Town Planning under clauses (e), (f), (h), (i), (j) and (m) of subsection (1) of section [……duties in respect of Town Planning] shall be final and conclusive.

(2) Where an appeal referred to in sub-section (1) has been so made, and a copy of the decision in appeal is received by such Officer, he officer shall, if necessary, make variation in the scheme in accordance with such decision and shall then forward the final scheme together with a copy of his decision under section […….duties in respect of Town Planning] and a copy of the decision in appeal under section [Appeal to the Court]to the Director, for obtaining the sanction of the State Government to the final scheme.

403.Disputed ownership[267](1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which the Municipality has declared under section […….declaration of intention to make a scheme] its intention to make a town planning scheme and any entry in the Record of Rights or Mutation Register relevant to such disputed claim is inaccurate or inconclusive, an inquiry may be held on an application being made by the Municipality or the Officer for Town Planning, at any time prior to the date on which such Officer draws up the final scheme under sub-section (1) of section [……..duties in respect of Town Planning], by such Officer as the State Government may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(2) Such decision shall not be subject to an appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable, after such decree has been brought to the notice of the Municipality or the Officer for Town Planning either by the Civil Court or by some person affected by such decree.

404.Preparation of preliminary scheme in certain cases[268].—If a draft scheme as sanctioned by the State Government under section […….considerations of objections and sanction of draft scheme] contains any of the following works,-

[266] Section 41, Karnataka Town and Country Planning Act, 1961
[267] Section 42, Karnataka Town and Country Planning Act, 1961
[268] Section 43, Karnataka Town and Country Planning Act, 1961

(i) construction or alteration of bridges,

(ii) roads, open spaces, gardens and recreation grounds,

(iii)drainage, inclusive of sewage, surface drainage and sewage disposal,

(iv) water supply,

(v) any other work which, in the opinion of the Officer for Planning, is for a public purpose, such Officer shall, on the application of the Municipality, prepare in regard to such scheme in the prescribed manner a preliminary scheme in accordance with the provisions of section [….duties in respect of Town Planning]

Provided that it shall not be necessary for such Officer at this stage to exercise the powers referred to in clauses (c), (d), (e), (f), (g), (h), (i), (j), (k), (m) and (n) of sub-section (1) of such section

405.Final scheme[269]. (1) Within a period of three months from the date of receipt of the final scheme from the Director under sub-section (2) of section [……..Decision of the Officer for Town Planning to be final if no appeal is filed and variation of scheme in accordance with decision in appeal], the State Government may, by notification, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the State Government may make such modifications as may, in its opinion, be necessary for the purposes of correcting any error, irregularity or informality.

(2) If the State Government sanctions such scheme, it shall state in the notification,-

(a) the place at and manner in which the final scheme is kept open to inspection by the public;

(b) the price at which copies may be obtained;

(c) a date (which shall not be earlier than one month after the date of publication of the notification) on which all the liabilities created by the scheme shall take effect and the final scheme shall come into force:

Provided that the State Government may, from time to time postpone such date by notification by such period not exceeding three months at a time as it thinks fit.

(3) On and after the date fixed in such notification the Town Planning scheme shall have effect as if it were enacted in this [Bill].

[269] Section 45, Karnataka Town and Country Planning Act, 1961

406.Effect of final scheme[270]—(1) On the day on which the final scheme comes into force,—

(a) all lands required by the Municipality shall, unless it is otherwise determined in such scheme, vest absolutely in such Municipality free from all encumbrances;

(b) all rights in the original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the Officer for Town Planning;

(2) On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the Municipality.

407.Power to enforce scheme[271].—(1) On and after the day on which the final scheme comes into force the Municipality may, after giving the prescribed notice and in accordance with the provisions of the scheme,—

(a) remove, pull down or alter any building or other work in the area included in the scheme, which is such as to contravene the scheme or in the erection or carrying out of which, any provisions of the scheme has not been complied with;

(b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to the Municipality that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the Municipality under this section may be recovered from the persons in default or from the owner of the plot in the manner provided for the recovery of sums due to such Municipality under the provisions of this [Bill].

(3) If any question arises as to whether any building or work contravenes a Town Planning scheme, or whether any provision of a Town Planning scheme is not complied with in the erection of any such building or the carrying out of any such building or work, it shall be referred to the State Government or the Director if authorised by the State Government in this behalf, and the decision of the State Government or the Director, as the case may be, shall be final and conclusive and binding on all persons.

408.Power to vary town planning scheme on ground of error, irregularity or informality[272].—(1) If after the final scheme has come into force, the Municipality considers that the scheme is defective on account of an error,

[270] Section 46, Karnataka Town and Country Planning Act, 1961
[271] Section 47, Karnataka Town and Country Planning Act, 1961
[272] Section 48, Karnataka Town and Country Planning Act, 1961

irregularity or informality, an application in writing may be made by the Municipality to the State Government through the Director for the variation of the scheme.

(2) If on receiving such application or otherwise, the State Government is satisfied that the variation required is not substantial, the State Government shall publish a draft of such variation in the prescribed manner.

(3) The draft variation published under sub-section (2) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clause (a) to (l) of sub-section (2) of section [……..declaration of intention to make a draft scheme], the draft variation shall also contain such other particulars as may be prescribed.

(4) The draft variation shall be open to the inspection of the public at the office of the Municipality.

(5) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing his objections to such variation to the State Government through the Director and send a copy thereof to the Municipality

(6) After receiving the objections under sub-section (5), the State Government may, after consulting the Municipality and after making such inquiry as it may think fit, by notification, approve the variation with or without modification or refuse to make the variation.

(7) From the date of the notification making the variation, with or without modifications, such variation shall take effect as if it were incorporated in the scheme.

409.Power to revoke or vary town planning scheme.[273]—(1) Notwithstanding anything contained in section […….power to vary scheme on ground of error, irregularity or informality], a Town Planning scheme may at any time be varied or revoked by a subsequent scheme made, published and sanctioned in accordance with this [Bill]

(2) The State Government,-

(a) on the application of the Municipality, or

(b) of its own motion, after making such enquiry as it deems fit and after giving the Municipality an opportunity to be heard, may at any time, after consulting the Director, by notification, revoke a Town Planning scheme if it is satisfied that under the special circumstances of the case the scheme should be revoked.

[273] Section 49, Karnataka Town and Country Planning Act, 1961

410.Compensation when the final scheme is varied or revoked and apportionment of costs.[274]—(1) If at any time after the day on which the final scheme has come into force, such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the Municipality in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

(2) In the event of sanction to final scheme being refused by the State Government or a final scheme being revoked, the State Government may direct that the costs of the scheme shall be borne by or paid to the Municipality by the owners concerned, in such proportion as the State Government may in each case determine.

411.Joint Town Planning Schemes for more than one Municipality[275](1) Wherever necessary, Joint Municipal Boards may be constituted, under sub-section (2) of section […….State Town Planning Boards] to make a declaration of the intention to make a Joint Town Planning Scheme in respect of the contiguous areas of more than one Municipality, in the manner provided in section [… declaration of intention to make a Town Planning scheme], and thereafter the Board shall have all the powers and be liable to all the duties of the Municipalities in respect of [Bill] and all the provisions in respect of procedure shall apply, so far as may be applicable.

(2) The draft joint town planning scheme shall specify the parts of the scheme to be executed by the Municipalities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas, as if they are separate schemes:

Provided that any part of a Joint Town Planning Scheme may be executed jointly by two or more Municipalities.

(3) Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by section sub-section (2) of section [……..Effect of final scheme.] and section […shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by such officer as the Joint Town Planning Board may specify in the order.

412.Power of Municipality to undertake works and to incur expenditure for the development (1) The Municipality may,-

(a) draw up detailed schemes (hereinafter referred to as "development scheme") for the development of the municipal area under its jurisdiction ; and

[274] Section 50, Karnataka Town and Country Planning Act, 1961
[275] Section 51, Karnataka Town and Country Planning Act, 1961

(b) with the previous approval of the Government, undertake from time to time any works for the development of such area and incur expenditure therefor and also for the framing and execution of development schemes.

(2) The Municipality may also from time to time make and take up any new or additional development schemes,-

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

(ii) on the recommendation of the Government ,or the District Planning and Development Committee [if necessary funds for framing and carrying out the scheme are placed at the disposal of the Municipality, or

(iii) otherwise.

(3) Notwithstanding anything in this [Bill] or in any other law for the time being in force, the Government may, whenever it deems necessary require the Municipality to take up any development scheme or work and execute it subject to such terms and conditions as may be specified by the Government.

413.Role of Other Urban Development Authority/Authorities to undertake work and incur expenditure for development[276]

(1) Every Urban Development Authority, (hereinafter referred to as 'Authority') may undertake work and incur expenditure for the purpose of development of any municipal area coming under its jurisdiction.

Explanation: Other Urban Development Authority, hereinafter referred to as ''means the Bangalore Development Authority constituted under section 3 of the Bangalore Development Authority Act, 1976[277] and the Karnataka Urban Development Authority[278] constituted under section 3 of the Karnataka Urban Development Authority Act, 1987.

(2)The Authorities referred to in sub-section (1) may, (a) draw up detailed schemes (hereinafter referred to as "development scheme") for the development of the municipal area falling under its jurisdiction and (b) with the previous approval of the Government, undertake from time to time any works for the development of such area and incur expenditure therefor and also for the framing and execution of development schemes.

(3) Such Authorities may also from time to time make and take up any new or additional development schemes,-

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

[276] Based on Section 15 of the Bangalore Development Authority Act, 1976, section 15, Karnataka Urban Development Authority Act, 1987

[277] Which is the Development Authority for the development of the City of Bangalore and areas adjacent thereto and for matters connected therewith ;

[278] Urban Development Authorities for the planned development of major and important urban areas in the State and the areas adjacent thereto, and for matters connected therewith, but not applicable to the Bangalore Metropolitan Area.

(ii) on the recommendations of the Municipality [279], if the Municipality places at the disposal of the Authority, the necessary funds for framing and carrying out any scheme, or

(iii) otherwise.

(3) Notwithstanding anything in this Act or in any other law for the time being in force, the Government may, whenever it deems it necessary require the aforesaid Authorities to take up any development scheme or work and execute it subject to such terms and conditions as may be specified by the Government.

414.Particulars to be provided for in a development scheme.(1)Every development scheme referred to in section [.....Power of Municipality to undertake works and incur expenditure for development, etc] and section [..Role of Other Urban Development Authority/ Authorities, to undertake work and incur expenditure for development] shall within the limits of the area comprised in the scheme, provide for,-

(a) the acquisition of any land which in the opinion of the Municipality or Other Urban Development Authorities, will be necessary for or affected by the execution of the scheme;

(b) laying and relaying out all or any land including the construction and reconstruction of buildings and formation and alteration of streets;

(c) drainage, water supply and electricity;

(d) the reservation of not less than [.....]per cent of the total area of the layout for public parks and play grounds and an additional area of not less than [....] per cent of the total area of the layout for civic amenities.

(2) may, within the limits aforesaid, provide for, -

(a) raising any land which may be considered expedient to raise to facilitate better drainage ;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area ;

(c) the sanitary arrangements required ; and

(d) establishment or construction of markets and other public requirements or conveniences.

(3) may, within and without the limits aforesaid provide for the construction of houses.

415.Procedure on completion of scheme[280].(1) When a development scheme has been prepared, a notification shall be drawn up stating

[279] Substituted for the term local authority for the purpose of the Karnataka Municipalities Bill 2019

[280] Based on Section 17 Bangalore Development Authority Act, 1976, section 17 of Karnataka Urban Development Authority Act, 1987 with slight alterations for the draft Bill 2019

(1) the fact of a scheme having been made; and
(2) the limits of the area comprised therein, and
(3) naming a place where particulars of the scheme *are applicable*,
(4) a map of the area comprised therein,
(5) a statement specifying the land which is proposed to be acquired
(6) land in regard to which a betterment tax may be levied

which may be seen at all reasonable hours at the office of the Chief Municipal Officer or the Urban Development Authorities as the case may be and shall, be displayed on the website of the Municipality and , or such Authorities by which the scheme has been prepared.

(2)In case of such scheme being prepared by the Urban Development Authority, a copy of the said notification shall be sent to the Municipality which shall, within thirty days from the date of receipt thereof, forward such notification to such authority, for transmission to the Government as hereinafter provided, any representation which the Municipality may think fit to make with regard to the scheme.

(3) The Authority shall also cause a copy of the said notification to be published in the official Gazette, the official website, and two consecutive local newspapers, and affixed in some conspicuous part of the office of the Deputy Commissioner, the office the Municipality and in such other places as the Authority may consider necessary.

(4) If no representation is received within the time specified in sub-section (2), the concurrence of the Government to the scheme shall be deemed to have been given.

(5) During the thirty days next following the day on which such notification is published in as mentioned in sub-section (3), the Urban Development Authority shall serve a notice on every person whose name appears in the assessment list prepared by the concerned Municipality or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which is proposed to be acquired in executing the scheme or in regard to which the Municipality proposes to recover betterment tax requiring such person to show cause within thirty days from the date of the receipt of the notice why such acquisition of the building or land and the recovery of betterment tax should not be made.

(6) The notice shall be signed by or by the order of the Commissioner or by the Chief Municipal Officer of the Municipality wherein the development scheme is framed by the Municipality under section[.....Power of Municipality to undertake works and incur expenditure for development, etc] and shall be

served, in the manner prescribed for service of notice under Civil Procedure Code, 1908

416.Sanction of scheme.[281]- (1) After publication of the development scheme and service of notices as provided in section [… procedure on sanction of scheme] and after consideration of representations, if any, received in respect thereof, the Urban Development Authority mentioned in the explanation to section[….Role of Other Urban Development Authority/Authorities to undertake work and incur expenditure for development] or the Municipality, wherein the development scheme is framed by the Municipality, shall submit such scheme, making such modifications therein as it may think fit, to the State Government for sanction, furnishing,-

(a) a description with full particulars of the scheme including the reasons for any modifications inserted therein ;

(b) complete plans and estimates of the cost of executing the scheme;

(c) a statement specifying the land proposed to be acquired ;

(d) any representation received under sub-section (2) of section [……procedure on sanction of scheme]

(e) a schedule showing the rateable value[282], as entered in the municipal assessment book on the date of the publication of a notification relating to the land under the section [……procedure on sanction of scheme] or the land assessment of all land specified in the statement under clause(c) ; and

(f) such other particulars, if any, as may be prescribed.

(2) Where any development scheme provides for the construction of houses, the Authority or Municipality as the case may be, shall also submit to the Government plans and estimates for the construction of the houses.

(3) After considering the proposal submitted to it the Government may, by order, give sanction to the scheme.

417.Upon sanction, declaration to be published giving particulars of land to be acquired[283]- (1) Upon sanction of the development scheme, the

[281] Based on the provisions of Section 18 Bangalore Development Authority Act, 1976, section 18 of Karnataka Urban Development Authority Act, 1987

[282] The Karnataka Municipal Corporation (Amendment)Act, 2000, proposes to abolish the system of determining rateable value on the basis of annual gross rent to which a building may reasonable be expected to be let from month to month or from year to year for the purpose of assessment to property tax

[283] Based on Section 19 , Bangalore Development Authority Act, 1976 and Karnataka Urban Development Authority Act, 1987

Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Municipality or any other Urban Development Authority, for the purposes of the scheme is required for a public purpose.

(2) Such declaration shall state the limits within which the land proposed to be acquired is situated, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose and the Municipality or Authority shall, upon the publication of the said declaration, proceed to execute the scheme.

(4) If at any time it appears to the Municipality or such Authority concerned that an improvement can be made in any part of the scheme, it may alter the scheme for the said purpose and shall subject to the provisions of sub-sections (5) and (6), forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of executing the scheme as altered exceeds, by a greater sum than five ***per cent*]** the estimated cost of executing the scheme as sanctioned, the Municipality or Authoriuty concerned shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the schedule referred to in clause (e) of sub-section (1) of section [...Sanction of scheme] the provisions of sections [...procedure for sanction]and 18[...sanction of scheme] and of sub-section (1) of this section shall apply to the part of the scheme so altered in the same manner as if such altered part were the scheme.

418.Functions assigned by the Government[284]The Government may by general or special order ,require a Municipality to perform such other municipal functions as the Government may, having regard to the necessity and the resources of the Municipality, think fit to be performed by such Municipality.

419.Power to exempt municipal area from the operation of any provisions of the [Bill] unsuited thereto[285] The Government may, by notification, and for reasons to be recorded in writing, exempt such municipal areas as the case may be from the operation of any provisions of this [Bill] considered unsuited thereto, and thereupon the said provisions shall not apply to such areas, until such provisions are applied thereto by notification.

[284] Section 47 of Rajasthan Municipalities Act, 2009
[285] Section 10, Rajasthan Municipalities Act, 2009

(2) While a notification under sub-section (1) remains in force, the Government may make rules consistent with the provisions of this [Bill] in respect of any matter within the purview of such provisions from the operation of which the municipal areas aforesaid are exempted.

CHAPTER – XII –MUNICIPAL REGULATORY COMMISSION, MUNICIPAL VIGILANCE AUTHORITY, MUNICIPALITIES UNION AND ITS FUNCTIONS DIRECTION AND CONTROL OF THE STATE GOVERNMENT OVER MUNICIPALITIES

PART – A - STATE MUNICIPAL REGULATORY COMMISSION[286]

420. Definitions - In this chapter, unless the context otherwise requires, -

(a) "Chairperson" means the Chairperson of the State Commission;

(b) "High Court" means the High Court of the State;

(c) "member" means a member of the State Commission, and includes the Chairperson, and a member of a regional branch of the State Commission;

(d) "State Commission" means the Karnataka Municipal Regulatory Commission constituted under (Section).

421. Constitution and incorporation of State Commission: (1) The State Government shall, within three months from the date of commencement of this Act, by notification, constitute a State Commission to be known as the Karnataka Municipal Regulatory Commission.

(2) The State Commission shall be a body corporate, having perpetual succession and a common seal, and shall have the power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the name as aforesaid, sue or be sued.

(3) The head office of the State Commission shall be at such place as the State Government may, by notification, specify.

(4) The State Commission shall consist of such members including the Chairperson, being not more than five, as the State Government may determine:

Provided that the State Government may establish one or more regional branches of the Municipal Regulatory Commission for such area or areas as the State Government may determine, and each such regional branch shall have not less than two and not more than three members.

(5) The Chairperson and the other members shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in dealing with problems relating to, urban affairs, municipal finance, economics, engineering, law or management and the State Government shall in consultation with the Chief Justice of the High Court appoint any person as

[286]The provisions on the State Municipal Regulatory Commission are based on the Model Municipal Law, 2003

the Chairperson from amongst persons who are or have been the judges of the High Court, who shall be the Chief Executive of the State Commission:

Provided that the members of a regional branch of the Municipal Regulatory Commission for an area shall be persons having adequate knowledge of that area:

Provided further that the State Government may appoint one of the members of a regional branch of the State Commission from amongst the persons who are or have been the District and Sessions Judges after consultation with the Chief Justice of the High Court:

(6) The Chairperson and the other members shall be appointed by the State Government on the recommendation of the Selection Committee constituted under section this Act, and shall not hold any other office.

422.Constitution of Selection Committee by State Government. (1) The State Government shall, for the purposes of selection of members, constitute a Selection Committee consisting of – Constitution of

(a) a person, who has been the judge of the High Court, to be the Chairperson, and

(b) (i) the Chief Secretary to the State Government, and

(ii) an expert having not less than ten years' experience in infrastructure finance, to be nominated by the State Government :

Provided that nothing contained in this sub-section shall apply to the appointment of a person, who is or has been the judge of the High Court, as the Chairperson.

(2) No appointment of a member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal, and six months before the superannuation, or the expiry of the term of office, of a member, make a reference to the Selection Committee for filling up of such vacancy.

(4) The Selection Committee shall finalize the selection of a member within one month from the date of reference to it by the State Government.

(5) Upon reference by the State Government, the Selection Committee shall recommend a panel of two names for every vacancy in the office of a member.

(6) Before recommending any person for appointment as a member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his function as a member.

423.Term of office, salary and allowances and other conditions of service of Chairperson and other members (1) The Chairperson and the other members shall hold office as such for a term of five years from the date of entering upon office, but shall not be eligible for re-appointment :

Provided that no Chairperson or any other member shall hold office as such after he has attained, - (a) in the case of the Chairperson, the age of sixty-five years, and

(b) in the case of any other member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and the other members shall be such as may be prescribed.

(3) The Chairperson and every other member shall, before entering upon office, make, and subscribe to, an oath of office and of secrecy in such Form and manner, and before such authority, as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1) or subsection (2), the Chairperson or any other member may –

(a) relinquish his office by giving, in writing, to the Governor a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section ,,,.

(5) The Chairperson or any other member ceasing to hold office as such shall be ineligible for further employment under the Central Government or any State Government for a period of two years from the date from which he ceases to hold such office, and shall not –

(a) accept any commercial employment for a period of two years from the date from which he ceases to hold such office, and

(b) represent in any manner any person before the State Commission or any similar Commission constituted by any other State Government.

Explanation. - For the purposes of this sub-section, - (i) "employment under the Central Government or any State Government" shall include employment under a local authority or any other authority within the territory of India or under the control of the Central Government or a State Government or under any corporation or society owned or controlled by the Central Government or a State Government;

(ii) "commercial employment" shall mean employment in any capacity under, or as agent of, a person engaged in any trading, or commercial, industrial, or financial business, in any public utility undertaking, and shall include employment as a director of a company or partner of a firm, and shall also include setting up of practice, either independently or as a partner of a firm or as an adviser or a consultant.

424. Removal of Chairperson and other members (1) Subject to the provisions of sub-section (3), the Chairperson or any other member shall only be removed from his office by order of the Governor on the ground of proved misbehaviour after the High Court, on a reference being made to it by the Governor, has, on inquiry held in accordance with such procedure as may be prescribed in that behalf by the High Court, reported that the member ought, on such ground, to be removed.

(2) The Governor may suspend the Chairperson or any other member in respect of whom a reference has been made to the High Court under sub-section (1) until the Governor has passed orders on receipt of the report of the High Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by order, remove from office the Chairperson or any other member, if he –

(a) has been adjudged an insolvent, or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(c) has become physically or mentally incapable of acting as a member, or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functioning as a member, or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson or any other member shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the High Court, on a reference being made to it in this behalf by the Governor, has, on an enquiry held by it in accordance with such procedure as may be prescribed in this behalf by the High Court, reported that the member ought, on such ground, to be removed.

425. Officers of State Commission and other staff (1) The State Commission may appoint a Secretary to exercise such powers, and perform such duties, under the control of the Chairperson, as may be specified by regulations made by the State Commission.

(2) The State Commission may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required to assist the State Commission in the discharge of its functions.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the Secretary and the other officers and employees of the State Commission shall be such as may be determined by the State Commission by regulations with the approval of the State Government.

(4) The State Commission may appoint consultants to assist the State Commission in the discharge of its functions on such terms and conditions as the State Commission may, by order, determine.

426.Functions of the State Commission (1) Notwithstanding anything contained elsewhere in this Act, the State Commission shall discharge the following functions, namely :-

(a) set standards for the provision of municipal services in the State including standards relating to quality, continuity and reliability of such services and ensure a fair deal to the citizens,

(b) suggest avenues for participation of private sector in the provision of municipal services,

(c) promote competition, efficiency and economy in the activities of the Municipalities in the provision of municipal services.

(2) Without prejudice to sub-section (1), the State Government may, by notification, confer any of the following functions on the State Commission, namely:-

(a) to aid and advise the State Government on any matter concerning the provision of municipal services in the State and the formulation of state policies in this regard,

(b) to aid and advise the State Government or any other Municipal authority in the determination of rate or the principles for determination of charges for any other services, in accordance with the provisions of this Act and the rules and the regulations made thereunder.

(c) to collect and record information concerning the provision of municipal services in the State, and to publish data and forecasts on the demand for, and the use of, municipal services in the State,

(d) to adjudicate upon the disputes and differences between any municipal authority and any suppliers of municipal services in the public or private sector on behalf of such municipal authority, or to refer such matters for arbitration,

(e) to co-ordinate with the environmental regulatory agencies and to evolve policies and procedure for appropriate environmental regulation of municipal services, and

(f) to aid and advise the State Government on any other related matters referred to the State Commission by the State Government.

427.State Municipal Advisory Committee (1) The State Commission may, by notification, constitute, with effect from such date as it may specify in such notification, a Committee to be known as the State Municipal Advisory Committee.

(2) The State Municipal Advisory Committee shall consist of not more than twenty-one members to represent the interest of commerce, industry, transport, agriculture, labour, consumers of civic services, Municipalities, non-governmental organizations and academic and research bodies in the municipal affairs sector.

(3) The Chairperson and the other members shall be the *ex officio* Chairperson and the *ex officio* members, respectively, of the State Municipal Advisory Committee.

428. Objects and functions of State Advisory Committee: The objects and functions of the State Municipal Advisory Committee shall be to advise the State Commission on –

(a) major questions of policy;

(b) matters relating to quality, continuity and extent of municipal services provided by the municipal authorities;

(c) protection of consumers of municipal services; and

(d) improvement of overall standards of performance, efficiency and economy in the provision of municipal services by municipal authorities.

429. Representation before State Commission: The State Commission shall authorize any person as it deems fit to represent the interest of the consumers of municipal services in the proceedings before it.

430. Appeal to High Court in certain cases (1) Any person aggrieved by any decision or order of the State Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal or revision shall lie to any Court from any decision or order of the State Commission.

(3) Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the State Commission to the person aggrieved by the said decision or order:

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

431. Budget of State Commission. The State Commission shall prepare, in such Form, and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the State Commission, and forward the budget to the State Government.

432.Accounts and audit of State Commission. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such Form as may be determined by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be determined by him, and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

433.Annual Report of State Commission (1) The State Commission shall prepare every year in such Form, and within such time, as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government and shall be laid, as soon as may be after it is received, before the State Legislature.

434.Transparency in State Commission: The State Commission shall ensure transparency while exercising the powers and discharging the functions under this Act.

435.Directions by State Government (1) In the discharge of its functions, the State Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

436.Proceedings before State Commission All proceedings before the State Commission shall be deemed to be judicial proceedings within the meaning of Section 193 and section 228 of the Indian Penal Code and the State Commission shall be deemed to be a Civil Court for the purposes of section 345 and section 346 of the Code of Criminal Procedure, 1973.

437.Protection of action taken in good faith No suit, prosecution or other legal proceeding shall lie against the State Government or the State Commission or any officer of the State Government or any member, officer or other employee of the State Commission for anything which is in good faith done or intended to be done under this chapter or the rules or the regulations made thereunder.

438.Punishment for noncompliance of orders or directions under the Act. Whoever fails to comply with any order or direction given under this chapter within such time as may be specified in the said order or direction or contravenes, or attempts to contravene, or abets the contravention of, any of the provisions of this chapter or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to twenty-five thousand rupees, or with both, in respect of each such offence, and, in the case of a continuing offence, with an additional fine which may extend to one thousand rupees for every day during which the offence continues after conviction for the first such offence.

439.Punishment for noncompliance of directions given by State Commission. (1) In case any complaint is filed before the State Commission by any person or if the State Commission is satisfied that any person has contravened any directions issued by the State Commission under this chapter, or the rules or the regulations made thereunder, the State Commission may, after giving such person an opportunity of being heard in the matter, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this chapter, such person shall pay, by way of penalty, a fine which shall not exceed twenty-five thousand rupees for each such contravention and, in the case of a continuing contravention, with an additional fine which may extend to one thousand rupees for every day during which the contravention continues after first such contravention.

(2) Any amount payable under this section, if not paid, may be recovered as an arrear of land revenue.

440.Power of Seizure The State Commission or any officer, not below the rank of a Gazetted Officer, specially authorized in this behalf by the State Commission may enter any building or place where the State Commission has reason to believe that any document relating to the subject-matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

441.Cognizance of Offences No Court shall take cognizance of an offence punishable under this chapter except upon a complaint, in writing, made by the State Commission or by any officer duly authorized by the State Commission in this behalf.

442.Delegation The State Commission may, by general or special order in writing, delegate to any member, or any officer of the State Commission, or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this chapter, except the power to adjudicate disputes and the power to make as it may deem necessary.

443.Overriding effect Save as otherwise provided in this Act, the provisions of this chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

444.Power of to make rules and regulations The State Government may, by notification, make rules to carry out the purposes of this chapter and the State Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

PART – B - STATE MUNICIPAL VIGILANCE AUTHORITY

445.State Municipal Vigilance Authority (1) The State Government may, by notification, appoint a State Municipal Vigilance Authority in such manner, consisting of a Chairperson and such other members, and on such terms and conditions, as may be prescribed, for inquiring into any complaint of corruption, misconduct, lack of integrity or any other kind of malpractice or misdemeanour on the part of any officer or other employee of a Municipality and for making recommendations to the President/Mayor of the concerned Municipality.

(2) No Councillor and no officer or other employee of any Municipality shall be eligible to be appointed as the Chairperson or as other member of the State Municipal Vigilance Authority.

446. Formation of State Municipalities Union and its functions (1) All or any of the Municipalities in the State may combine to form a Union to be called the Karnataka State Municipal Boards Union or by any such other name as may be notified by the State Government, provided that no such Union shall be formed unless more than half the number of Municipalities in the State severally pass a resolution signifying their intention to become members thereof.

(2) The functions of the Union formed under sub-section (1) of this section shall be-

(i) to examine issues of common interest to Municipalities;

(ii) to disseminate information regarding such issues;

(iii) to make suitable representations to the State Government and other agencies on matters of common interest;

(iv) to provide assistance and consultancy services to the Municipalities on the improvement of municipal administration; and

(v) to perform such other functions as the State Government may from time to time assign to it.

(3) The following matters shall be regulated and governed by the rules made by the State Government, namely: -

(a) the constitution and aims and objects of the Union;

(b) the amount and the method of contribution by the Municipalities to the Union;

(c) the management and control of finances of the Union including maintenance of accounts and their audit; and

(d) other such matters as may be necessary for the purpose of this section:

Provided that no person shall be eligible to represent in the Union unless he is for the time being the Chairperson of a Municipality.

PART – C – DIRECTION AND CONTROL OF THE STATE GOVERNMENT OVER MUNICIPALITIES

447. Chief Controlling Authority: The Director of Municipal Administration shall subject to the control and orders of the Government, be the chief controlling authority in respect of all matters relating to the administration of this Act and for that purpose may exercise all powers necessary in that behalf.[287]

448. Power of State Government to call for records etc. : The State Government or the Director of Municipal Administration may, at any time, require any municipal authority –

[287] Based on Section 303, Karnataka Municipalities Act, 1964

(a) to produce any record, correspondence, or other documents,
(b) to furnish any return, plan, estimate, statement, accounts, or statistics, and
(c) to furnish or obtain any report, and thereupon such municipal authority shall comply with such requirement

449.Power of inspection and supervision[288] : The Director of Municipal Administration, Deputy Commissioner, or any officer of the State Government authorised by the Government by a general or special order, shall have power,—

(a) to enter upon and inspect, or cause to be entered upon and inspected, any immovable property occupied by any municipality or any institution under its control or management, or any work in progress under it or under its direction;
(b) to call for any extract from the proceedings of any municipality or of any committee, or for any book or document in the possession of or under the control of a municipality, and any return, statement, account, or report which he may think fit to require such municipality to furnish;
(c) to require any information or explanation which an auditor can require under sub-section ……..;
(d) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipal council or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipal council, and to make a written replay to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.
(e) to conduct enquiry in any matter of the Municipality as directed by the State Government and to ask to produce relevant record as also to take into possession the record which is to be submitted along with his enquiry report to the State Government.

450.Power to inspect office of the Municipality[289] (1) The Director of Municipal Administration, Deputy Commissioner or any officer authorised by the State Government in this behalf shall have power to inspect the office of any Municipality and call for any information or records of any such Municipality.

(2) The officer authorised under sub-section (1) shall submit the records for the orders of State Government, if he is so directed by the State Government or

[288] Based on Section 304, Karnataka Municipalities Act, 1964 and Section 310, Rajasthan Municipalities Act, 2009
[289] Based on Section 305, Karnataka Municipalities Act, 1964 and Section 311, Rajasthan Municipalities Act, 2009

if he is satisfied that any order or proceeding of the Municipality or its executive is contrary to law or orders for the time being in force.

451.Government inquiry into municipal matters[290] **(**1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into,—

(i) any matters concerning the municipal administration of any municipal area, or

(ii) any act or conduct of any municipal authority, officer or servant, or

(iii) any matter with respect to which the sanction, approval or consent of the Government is required under this Act.

(2) The officer holding such inquiry shall, for the purpose thereof, have the powers which are vested in a court under the Code of Civil Procedure, 1908, in respect of the following matters:—

(a) discovery and inspection;

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit; and

(g) issuing commissions for the examinations of witnesses; and may summon and examine suo motu any person whose evidence appears to him to be material; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of such officer's jurisdiction shall be the limits of the State of Karnataka

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding six per cent per annum; and such costs and interest shall be leviable as an arrear of land revenue.

(5) The Government after considering the report of the inquiry made by the officer appointed under sub-section (1), may give such directions or pass such orders as it considers necessary and where any such direction is given to the municipal council, the municipal council shall comply with such direction.

[290] Based on Section 310, Karnataka Municipalities Act, 1964 and Section 317, Rajasthan Municipalities Act, 2009

(6) It shall be lawful for the Government to give any direction or pass any order under sub-section (5), which any officer subordinate to it could pass under any provision of this Act.

452. Powers of suspending execution of order etc. of Municipality[291].- (1) If, in the opinion of the Director of Municipal Administration, the Deputy Commissioner or any such officer as may be appointed or authorized by the State Government in this behalf, the execution of any order or resolution of a Municipality or the doing of anything which is about to be done or is being done by or on behalf of a Municipality, is causing or is likely to cause injury or annoyance to the public or a breach of the peace or is unlawful or detrimental to the interest of the Municipality, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

(2) When any such officer makes any order under this section, he shall forthwith forward to the State Government and to the Municipality affected thereby a copy of the order, with a statement of the reasons for making it, and it shall be in the discretion of the State Government to rescind the order or to direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit:

Provided that no order of such officer passed under this section shall be confirmed, revised or modified by the State Government without giving the Municipality reasonable opportunity of showing cause against the said order.

453. Execution of work in certain cases[292]**: —**(1) The Director of Municipal Administration or Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a town municipal council is empowered to execute or do, and the immediate execution or doing of which is, in his opinion necessary in the interests of the general public and may direct that the expenses of executing the work or doing the act with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the town municipal council.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing any person, who, for the time being, has custody of any moneys on behalf of the municipal council, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

[291] Based on Section 306, Karnataka Municipalities Act, 1964 and Section 312, Rajasthan Municipalities Act, 2009

[292] Based on Section 307, Karnataka Municipalities Act, 1964 and Section 313, Rajasthan Municipalities Act, 2009

(3) The provisions of sub-section (2) of section 306 shall apply, so far as may be, to any order under this section.

454. Power of Government to provide for performance of duties in default of Municipality[293].—(1) When the State Government is informed, on complaint made or otherwise, that a Municipality has made default in performing any duty imposed on it by or under this Act, or by or under any law for the time being in force, the State Government, if satisfied after due inquiry that the Municipality has been guilty of the alleged default, may fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the State Government may appoint some person to perform it, and may direct that the expenses of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipal council.

(3) If the expense and remuneration are not so paid, the State Government may make an order directing any person, who for the time being has custody of any moneys on behalf of the Municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

455. Special provisions in regard to works executed by the State Government[294]- (1) Notwithstanding anything contained in this Act it shall be lawful for the State Government at any time after consulting the Municipality-

(a) to construct any work or works of a permanent nature which in the opinion of the State Government is or are necessary or desirable for the health or safety of the inhabitants, whether within any Municipality or without it, wholly or in part;

(b) to retain the management and maintenance of any such work or to entrust the same, in whole or in part, to the Municipality or resume the same from the Municipality;

(c) to recover the capital cost of any such work and of its management and maintenance together with interest thereon at such rate as the State Government may fix, from the municipal fund or from the proceeds of any tax or taxes imposed under this Act.

(2) It shall be the duty of any person who for the time being has custody of any moneys on behalf of the Municipality to pay from such moneys as he may have in his hands or may from time to time receive, all amounts directed by the State Government to be paid by the Municipality.

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[293] Based on Section 307, Karnataka Municipalities Act, 1964 and Section 319, Rajasthan Municipalities Act, 2009

[294] Based on Section 316, Rajasthan Municipalities Act, 2009

456. Power of Government to dissolve Municipality[295]: —(1) If, in the opinion of Government any Municipality is not competent to perform, or persistently makes default in the performance of the duties imposed on it or undertaken by it by or under this Act, or any other law, or exceeds or abuses its power or refuses to carry out the directions given to it under the provisions of this Act or any other law or is functioning in a manner prejudicial to the Municipality, the Government may, by an order published, together with a statement of the reasons therefor, in the official Gazette, declare the Municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve it: Provided that before making an order of dissolution as aforesaid reasonable opportunity shall be given to the Municipality to show cause why such order should not be made.

(2) When the Municipality is dissolved by an order under subsection (1) the following consequences shall ensue:—

(i) all the councillors of the Municipality shall, on such date as may be specified in the order vacate their office as such councillors without prejudice to their eligibility for election under sub-section (3)

(ii) during the period of dissolution of the Municipality, all powers and duties conferred and imposed on the Municipality by or under this Act or any other law shall be exercised and performed by such officer as the Government may from time to time appoint in that behalf; (iii) all property vested in the Municipality shall, until it is reconstituted, vest in the Government.

(3) When a Municipality is dissolved it shall be reconstituted in the manner provided under this Act, before the end of six months from the date of such dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution before expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued had it not been dissolved.

(5) An order of dissolution of a Municipality under sub-section (1) together with a statement of the reasons therefor shall be laid before both Houses of the State Legislature as soon as may be after it is made.

[295] Based on Section 316, Karnataka Municipalities Act, 1964 and Section 322, Rajasthan Municipalities Act, 2009

457. Exercise of Municipality's power pending its establishment.[296]**-** When a new Municipality is created, such officer, committee or authority as may be appointed by the State Government in this behalf may, until a Municipality is established in accordance with the provisions of this Act, exercise the powers and discharge the duties and perform functions of the Municipality and such officer, committee or authority shall for the purposes of this Act be deemed to be the Municipality: Provided always that such officer, committee or authority shall within six months of the creation of the Municipality make arrangements for the holding of the first elections and generally of hastening the assumption by the Municipality of its duties when constituted: Provided further that no such officer, committees or authority shall be entitled to propose or to impose any new tax and to make bye-laws.

458. Powers of Government to cancel or modify byelaws and rules of Municipalities[297]**.-** (1) The State Government may at any time by notification in the Official Gazette repeal wholly or in part or modify any rule or bye-laws made by any Municipality:

Provided that, before taking any action under this subsection, the State Government shall communicate to the Municipality the grounds on which it proposes to do so, fix a reasonable period for the Municipality to show cause against the proposal and consider the explanation and objections, if any, of the Municipality.

(2) The repeal or modification of any rule or bye-laws shall take effect from the date of publication of the notification in the Official Gazette if no date is therein specified and shall not affect anything done or omitted or suffered before such date

459. Delegation of Powers by the Government[298] **-** The Government may by notification delegate to the Director of Municipal Administration, Deputy Commissioner, or such other officer such of its powers under this Act except the power to make rules and every delegation under may be subject to such restrictions and conditions as may be specified in the notification.

[296] Based on Section 320, Rajasthan Municipalities Act, 2009

[297] Based on Section 319, Karnataka Municipalities Act, 1964 and Section 325, Rajasthan Municipalities Act, 2009

[298] Based on Section 321, Karnataka Municipalities Act, 1964 and Section 326, Rajasthan Municipalities Act, 2009

CHAPTER – XIII – POWERS, PROCEDURES AND LEGAL PROCEEDINGS

PART – A – POWERS AND PROCEDURES

460. Power to entry and inspect – (1) The Chief Municipal Officer or any other officer or employee of the Municipality authorized by the Chief Municipal Officer in this behalf, or empowered by or under any provision of this Act, may enter into or upon any land or building with or without assistants or workmen, for the purpose of –

(a) ascertaining whether in connection with the land or the building there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder, or

(b) ascertaining whether or not circumstances exist which render it necessary for the Chief Municipal Officer or any other officer or employee of the Municipality authorized by him in this behalf, or empowered by or under any provision of this Act, to take any action or execute any work under this Act or the rules or the regulations made thereunder, or

(c) taking any action or executing any work authorized or required by or under this Act or the rules or the regulations made thereunder, or

(d) making such inquiry, inspection, examination, measurement, valuation or survey as may be authorized or required by or under this Act or as may be necessary for the proper administration of this Act, or

(e) generally ensuring efficient discharge of the functions by any of the municipal authorities under this Act or the rules or the regulations made thereunder.

(2) The Chief Municipal Officer or the Officer designated to carry out such acts, may enter upon any premise including the land and buildings or any adjoining land and buildings with or without other supporting personnel to carry out activities without affecting or causing any damage to the property concerned.

461. Power to break into buildings - (1) It shall be lawful for the Chief Municipal Officer or any person authorized by him in this behalf, or empowered by or under this Act, to make any entry into any place and to open or cause to be opened any door, gate or other barrier, -

(a) if he considers the opening thereof necessary for the purpose of such entry, and

(b) if the owner or the occupier is absent or, being present, refuses to open such door, gate or other barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier, the Chief Municipal Officer or the person authorized or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is

situate, to witness the entry or the opening and may issue an order, in writing, to them or any of them so to do.

(3) A report shall be made to the Empowered Standing Committee, as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

(4) Notwithstanding anything contained in the provisions of this Act or under the Rules or regulations made thereunder, no entry shall be made before the sunrise and after the sunset.

Provided the Chief Municipal Officer is satisfied as to the commencement of any work that may have been in contravention to the provisions of this Act, rules or regulations made thereunder.

462. Prohibition of certain Acts – No person shall –

i. Wilfully obstruct any person acting under the authority of the Municipality including Chief Municipal Officer or such other officers while performing any duty so assigned under this Bill, in order to deface, destroy, obstruct, or interfere in performance of any duty as prescribed under this Bill.
ii. Damage either negligently or wilfully by breaking, removing or causing such physical changes to any property belonging to the Municipality or any agency created thereunder;

463. Power of Municipality to issue public notice and put out advertisements etc.– (1) The Chief Municipal Officer shall be empowered to issue notices on such issues, as he may deem fit, made in writing under his signature and affixing the copies in the conspicuous place in such locality or by advertising the said notice in the newspaper or by such other means as the Chief Municipal Officer may deem fit.

PART – B – LEGAL PROCEEDINGS, ETC.

464. Power of Municipality to prosecute - (1) The Chief Municipal Officer may direct any prosecution for any public nuisance whatsoever or violation of any order or directions issued under this Act and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons violating the provisions of this Act or of any rule or bye-laws thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund:

Provided that no prosecution for an offence under this Act or rule or bye-laws framed there under shall be instituted except within six months after the commission of such offence.

(2) Any prosecution under this Act or under any rules or bye-laws made thereunder may, save as therein otherwise provided, be instituted before any Magistrate, and every fine or penalty imposed under or by virtue of this Act or any rule or byelaws thereunder and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act may be recovered on application to such Magistrate by the distress and sale of any movable or immovable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

465.Powers with respect to prosecuting for offences - A Municipality may –

(a) compromise with any person who in the opinion of the Municipality has committed an offence punishable under this Act or any bye-law thereunder and on such compromise no proceedings shall be taken against such person in respect of such offence;

(b) withdraw prosecutions under this Act or under any bye-law made thereunder;

(c) compound any offence against this Act or against any bye-law made thereunder which may, by rules made by the State Government, be declared compoundable.

Provided that the State Government may make rules to regulate the proceedings of persons empowered to compromise offences under this section.

466.Damages to municipal property how made good - If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act and any damage to the property of the Municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and in case of non-payment of such damage on demand, the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

467.Certain offences to be cognizable and bailable - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No.2 of 1974), an offence punishable under sections 167, 236 and 245 of this Act shall be cognizable and bailable.

468.Alternative procedure by suit - In lieu of any process of recovery allowed by or under this Act or in case of failure to realize by such process the whole or any part of any amount recoverable under this Act or of any compensation,

expenses, charges or damages payable under this Act, it shall be lawful for a Municipality to sue in any court of competent jurisdiction the person liable to pay the same.

469.Suits against Municipality or its officers.- (1) No suit shall be instituted against a Municipality or against the Authorities under the Municipality or against any person acting under the direction of any of them in respect of an act done or purporting to have been done in the official capacity, until the expiration of two months next after notice thereof in writing has been, in the case of a Municipality, left at its office and, in the case of the Mayor or Deputy Mayor , member, officer, servant or person delivered to him or left at his office or place or abode explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall, unless it is an action for the recovery of immovable property or for a declaration of title thereto, be commenced otherwise than within six months next after the accrual of the causes of action.

(3) Nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by giving of the notice or the postponement of the commencement of the suit or proceeding.

470. Civil court not to grant temporary injunctions in certain cases - No civil court shall in the course of any suit grant any temporary injunction or make any interim order-

(a) restraining any person from exercising the powers or performing the functions and duties of a member, Chairperson, Vice-Chairperson, officer or servant of a Municipality or a committee or sub-committee of a Municipality on the ground that such person has not been duly elected or appointed as such member, chairperson, vice-chairperson, officer or servant, or

(b) restraining any person or persons or any Municipality or committee or sub-committee of a Municipality from holding any election or from holding any election in any particular manner.

471.Power of compromises - (1) The Municipality may compound or compromise, in respect of any suit instituted by or against it or in respect, of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient: Provided that, if any sanction in the making of any contract is required by this

Act, the like sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(2) The Municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its officers and servants under this Act.

(3) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on behalf of the Municipality.

CHAPTER – XIV – MISCALLENEOUS

472. Effect of other laws – (1) The provisions of this Chapter, and the Rules and Regulations framed thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. (2) Notwithstanding anything to the contrary contained in any other law, development plan or master plan of the area, any development in accordance with the provision of this Chapter or Rules and Regulations framed thereunder shall not be illegal or unauthorized in absence of any permission, approval or sanction required under such other law for such development has not been obtained.

473. Restriction of power of a local authority to make rules, regulations or by-laws in respect of certain matters: Notwithstanding anything contained in any law for the time being in force, no rules, regulations or by-laws which is inconsistent with any of the provisions of the Act or any Rule or Regulation framed under this Chapter, shall be applicable within the Municipal area notified under subsection (a) of Section ……. of this Chapter.

474. Removal of difficulties: If any difficulty arises in giving effect to the provisions of this Chapter, the State Government may, by Notification, not inconsistent with the provisions of this Chapter, remove the difficulty within a period of five years from the date of Notification under this Chapter.

475. Amendment to certain enactment: With effect from such date as the State Government may, by Notification, appoint, any matter related to Urban Infrastructure Development, as specified under this Chapter, shall not be covered under the enactments specified in the Schedule I in a manner specified therein and instead shall be exclusively covered under this Chapter.