

Rajasthan Municipalities Act, 2009

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Notification No. P 2(21) Legal/2/2009.

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Be it enacted by the Rajasthan State Legislature in the Sixtieth Year of the Republic of India, as follows:

CHAPTER I

1. Short title, extent and commencement. - (1) This Act may be called the "**Rajasthan Municipalities Act, 2009**".

(2) It extends to the whole of the State of Rajasthan, excluding cantonment areas therein.

(3) It shall come into force on such [date] as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions. - In this Act, unless the context otherwise requires, -

(i) "**Auditor**" means the auditor defined in the Rajasthan Local Funds Audit Act, 1954 (Act No. 28 of 1954);

(ii) "**Backward Classes**" mean such backward classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified by the State Government from time to time;

(iii) "**balance sheet**" means the balance sheet prepared under Section 92;

(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;

(c) microbiological and biotechnological wastes;

(d) waste sharps;

(e) discarded medicines and cytotoxic drugs;

(f) solid waste;

(g) liquid waste;

(h) incineration ash; and

(i) chemical waste.

(v) "**bridge**" includes a culvert;

(vi) "**budget estimate**" means the budget estimate prepared under Section 87;

(vii) "**budget grant**" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Municipality, and includes any sum by which such budget grant is increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the rules and the bye-laws made thereunder;

(viii) "**builder**" or "**developer**" means an agency or individual who has constructed a complex on his own land or on others land under an agreement;

- (ix) "**building**" means a structure constructed for whatever purpose and of whatever materials, and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections or part of a building 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 but does not include a tent, shamiana or tarpaulin shelter;
- (x) "**building site**" means a portion of the land held for building purpose;
- (xi) "**bye-laws**" mean the bye-laws made under this Act;
- (xii) "**Chairperson**" means,
- (a) Chairman, in case of a Municipal Board;
 - (b) President, in case of a Municipal Council; and
 - (c) Mayor, in case of a Municipal Corporation;
- (xiii) "**Chief Municipal Officer**" means,-
- [(a) the Commissioner, in case of a Municipal Corporation;]
 - (b) the Commissioner, in case of a Municipal Council; and
 - (c) the Executive Officer, in case of a Municipal Board;
- (xiv) "**clear days**" used with reference to the period of notice under any provision of this Act, includes Sundays and other holidays, but does not include the date of receipt of such notice by the person to whom it is addressed or the date specified in the notice;
- (xv) "**complex**" means a building comprising twenty five or more units, in case of commercial use; and ten or more units, in case of residential use;
- (xvi) "**corporator**" means a member of a Municipal Corporation;
- (xvii) "**councillor**" means a member of a Municipal Council;
- (xviii) "**dairy**" includes any farm, cattle shed, cow-house, milk-store, milk-shop or other place
- (a) from which milk is supplied on, or for sale, or
 - (b) in which milk is kept for the purposes of sale or which is used for manufacture or preparation for sale of :-
 - (i) butter, or
 - (ii) ghee, or
 - (iii) cheese, or
 - (iv) curds, or
 - (v) dried, sterilized, condensed or toned milk; but does not include:-
 - (i) a shop or other place in which milk is sold for consumption within its premises only, or
 - (ii) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;
- (xix) "**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;
- (xx) "**deficit in parking space**" means the deficits in the provision for parking spaces required under bye-laws made in this behalf for different types of vehicles in any non-residential buildings, including complexes and institutional buildings, whether constructed unauthorized or by change of land use;
- (xxi) "**Director of Local Bodies**" mean an officer appointed as such by the State Government, or any other officer of the State Government, designated as Commissioner or any other designation, authorized by it to perform the functions of the Director of Local Bodies under this Act;
- (xxii) "**disposal**" means final disposal of municipal solid wastes in terms of the specified measures to prevent contamination of ground water, surface water and ambient air quality;
- (xxiii) "**District Magistrate**" means the person appointed under Section 20 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) to be the District Magistrate;
- (xxiv) "**drain**" includes a sewer, pipe, ditch, channel or any other device for carrying spillage, sewage and polluted water, rainwater or sub-soil water together with pail depots, traps, sinks, cisterns, flush tanks, and other fittings appertaining thereto;
- (xxv) "**Executive Committee**" means the Executive Committee referred to in Section 55;
- (xxvi) "**Finance commission**" means the Finance Commission constituted under Article 243-I of the Constitution of India;
- (xxvii) "**financial statement**" means the financial statement prepared under Section 92;
- (xxviii) "**fire brigade**" means the fire fighting force established and maintained by the Municipality under Section 256;
- (xxix) "**fire fighting property**" includes
- (a) lands and buildings used as fire stations,
 - (b) fire engines, equipments, tools, hydrator, implements and things whatsoever used for fire fighting,
 - (c) motor vehicles and other means of transport used in connection with fire fighting,
 - (d) uniforms and badges of rank;
- (xxx) "**fire station**" means any post or place declared generally or specially, by the State Government to be fire station;
- (xxxi) "**hazardous wastes**" mean the categories of wastes specified as such in the Environment (Protection) Act, 1986 (Central Act No. 29 of 1986);
- (xxxii) "**inhabitant**" used with reference to a local area, means any person ordinarily residing or carrying on business or owning or occupying immovable property therein;
- (xxxiii) "**land**" includes land, which is built upon or covered with water;
- (xxxiv) "**latest census figures**" mean the figures as ascertained at the last preceding census of which the relevant figures have been published;
- (xxxv) "**lodging house**" includes a collection of buildings, or a building, or part of a building used for the accommodation of pilgrims and travelers;

- (xxxvi) "**member**" means any person who is lawfully a member of a Municipality and includes, in case of a Municipal Corporation, a corporator, in case of a Municipal Council, a councillor and in case of a Municipal Board, a member;
- (xxxvii) "**milk**" includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk;
- (xxxviii) "**municipal accounting manual**" means the municipal accounting manual prepared and maintained under Section 91 ;
- (xxxix) "**municipal area**" means the territorial area of a Municipality as notified by the State Government from time to time;
- (xl) "**municipal fund**" means the municipal fund referred to in Section 79;
- (xli) "**municipal solid waste**", includes commercial and residential waste generated in a municipal area in either solid or semi-solid form, excluding industrial hazardous waste, but including treated biomedical waste;
- (xlii) "**Municipality**" means a Municipal Corporation, Municipal Council, and a Municipal Board in existence at the time of commencement, or constituted in accordance with the provisions of this Act;
- (xliii) "**No Objection Certificate**" means the document issued by the authority entitled to do so by this Act or rules made thereunder and shall include a provisional No Objection Certificate;
- (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 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) "**offensive matter**" means kitchen refuse, stable refuse, dung, dirt, putrid or putrefying substance, or filth of any kind, which is not included in sewage;
- (xlvii) "**officer of the Municipality**" means a person holding for the time being an office created or continued by or under this Act but shall not include a member of the Municipality or of a committee as such;
- (xlviii) "**other agency**" means a company, firm, society, or body corporate in the private sector, or any institution, or government agency, or any joint sector agency, or any agency under any other law for the time being in force;
- (xlix) "**owner**" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as an agent or trustee for any person or society or for any religious or charitable purpose or as a receiver who would receive such rent if the land or the building or of any part of the land or the building were let to a tenant;
- (l) "**population**", used with reference to any local area, means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (li) "**prescribed**" means prescribed by this Act or by rules, orders or bye-laws made thereunder;
- (lii) "**public place**" means a space, not being private property, which is open to the use or enjoyment of the public, whether such space is vested in the Municipality or not;

- (liii) **"public securities"** mean
- (a) securities of the Government of Rajasthan or of the Central or any State Government in India; and
 - (b) a security expressly authorized by any order which the State Government makes in this behalf;
- (liv) **"public street"** means any street
- (a) over which the public have a right of way, or
 - (b) which has heretofore been levelled, paved, metal led, channelled, sewerred or repaired out of municipal fund, State Government fund, Central Government fund or other public funds, or
 - (c) which, under any provision of this Act, becomes a public street;
- (lv) **"rubbish"** means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not offensive matter;
- (lvi) **"rule"** means a rule made in exercise of a power conferred by this Act;
- (lvii) **"Scheduled Caste"** means any of the castes specified in the Constitution (Scheduled Castes) Order, 1950;
- (lviii) **"Scheduled Tribe"** means any of the tribes specified in the Constitution (Scheduled Tribes) Order, 1950;
- (lix) **"sewage"** means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;
- (lx) **"State"** means the State of Rajasthan as formed by Section 10 of the State Reorganisation Act, 1956 (Central Act No. 37 of 1956);
- (lxi) **"State Finance Commission"** means the Rajasthan State Finance Commission, as constituted by the Governor of Rajasthan in exercise of the powers conferred on him by Article 243-I, read with Article 243Y, of the Constitution of India;
- (lxii) **"street"** means any road, bridge, foot-way, lane, square, Court, alley or passage accessible, whether permanently or temporarily to the public, whether a thoroughfare or not, and includes on either side -
- (a) the drain or gutters and the land up to the defined boundary, notwithstanding the projection over such land of any verandah or other super-structure;
 - (b) every space, notwithstanding that it may be private property or partly or wholly obstructed by any gate, post, chain or other barrier, if it is used by any person, whether or not occupying any abutting property, as a means of access to or from any public place or thoroughfare;
- (lxiii) **"sub-division"** means division of a parcel or piece of land into two or more parts;
- (lxiv) **"tax"** includes any toll, rate, cess, fee or other impost leviable under this Act;
- (lxv) **"a transitional area", "a smaller urban area" or "a larger urban area"** means an area specified under Article 243Q of the Constitution of India;
- (lxvi) **"urban land"** means any land vested in, or placed at the disposal of, any local authority under any law for the time being in force for the purpose of urban development;
- (lxvii) **"vehicle"** includes a bicycle, a tricycle, an auto-motor car and every wheeled conveyance, which is used or is capable of being used on a public street;
- (lxviii) **"Vice-Chairperson"** means
- (a) Vice-Chairman, in case of a Municipal Board,

- (b) Vice-President, in case of a Municipal Council, and
- (c) Deputy Mayor, in case of a Municipal Corporation;
- (lxix) "**village**" means a village specified under clause (g) of Article 243 of the Constitution of India;
- (lxx) "**ward**" means a ward formed under Section 9;
- (lxxi) "**Ward Committee**" means the Ward Committee referred to in Section 54;
- (lxxii) "**waste management**" includes collection, segregation, storage, transportation, processing and disposal of municipal solid waste; and
- (lxxiii) "**whole number**" or "**total number**" when used with reference to the members of a Municipality, means the total number of members, excluding the members nominated under sub-clause (ii) of clause (a) of sub-Section (1) of Section 6, holding office at the time.

CHAPTER II

Constitution and Government of Municipalities

3. Delimitation of Municipalities. - (1) The State Government may, by notification published in the Official Gazette, declare any local area not included within the limits of a Municipality to be a Municipality, or include any such area in a Municipality, or exclude any local area from a Municipality, or otherwise alter the limits of any Municipality and when

- (a) any local area is declared as, or included in, a Municipality, or
- (b) any local area is excluded from a Municipality, or
- (c) the limits of a Municipality are otherwise altered, by amalgamation of one Municipality into another or by splitting up a Municipality into two or more Municipalities, or
- (d) any local area ceases to be a Municipality, the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette provide,-
 - (i) in a case falling under clause (a), that the election of the members for the area or the additional area shall be held within a period of six months from the appointed day;
 - (ii) in a case falling under clause (b), that the members who in the opinion of the State Government represent the area excluded from the Municipality shall be removed;
 - (iii) in a case falling under clause (c), that until the term of the Municipality in which another Municipality is amalgamated expires under this Act, the Chairperson, Vice-Chairperson and members of such another Municipality shall be deemed to be the members of the Municipality in which such another Municipality is amalgamated and where a Municipality is split into two or more Municipalities, that the members representing the area included in the newly constituted Municipality shall be deemed to be the members of such new Municipality and such new Municipality shall continue, unless dissolved sooner, until original Municipality would have continued;
 - (iv) in a case falling under clause (d), that the Municipality shall be dissolved.

Explanation. - In this sub-Section, "**appointed day**" means the day from which a change referred to in any of the clauses (a) to (d) takes effect.

(2) It shall be the duty of every Municipality already existing and of every Municipality newly established under this Act and of every Municipality whose local limits are altered as aforesaid to cause at its own cost, to be erected or set up, and thereafter to maintain,

substantial boundary marks of such description and in such positions as shall be approved by the Collector or any officer authorized by him in this behalf, defining the limits or altered limits of the Municipality subject to its authority, as set forth in the notification.

- (3) When any local area ceases to be a Municipality, the Municipality established therein shall cease to exist, and the balance of the municipal fund and other property and rights vesting in such Municipality shall, subject to all charges and liabilities affecting the same, vest in the State Government and the proceeds thereof, if any, shall be expended under the orders of the State Government for the benefit of the local area in which such Municipality had jurisdiction.
- (4) Notwithstanding anything contained in sub-Section (3), when any local area ceases to be a Municipality and is included within the local limits of the jurisdiction of some other local authority, the municipal fund and other property and rights vesting in the Municipality shall vest in such other local authority and the liabilities of the Municipality shall be the liabilities of such other local authority.
- (5) When any local area is excluded from a Municipality and included in another Municipality, such portion of the municipal fund and other property vested in the first mentioned Municipality shall vest in, and such portion of the liabilities thereof shall be the liabilities of, the other Municipality as the State Government may, after consulting both Municipalities, declare by notification in the Official Gazette:

Provided that the provisions of this sub-Section shall not apply in any case where the circumstances, in the opinion of the State Government, render undesirable the transfer of any portion of the municipal fund and properties or liabilities.

- (6) When a dwelling house, manufactory, warehouse, or place of industry or business is situated within the limits of two or more adjacent municipal areas, the State Government may, notwithstanding anything contained elsewhere in this Act, by notification in the Official Gazette, declare the municipal area within which such dwelling house, manufactory, warehouse, or place of industry or business shall be deemed to be included for the purposes of this Act.
- (7) When any local area is included in a Municipality, all rules and bye-laws made, orders, direction, notifications and notices issued and powers conferred and in force throughout such Municipality at the time when the said area is so included, shall apply thereto, unless the State Government otherwise directs, from the date of such inclusion.
- (8) When an area comprised in a village is specified as, or when any area is excluded from the village and included in, a municipal area, then with effect from the date on which such area is so specified or is so included, the following consequences shall ensue, namely: -
 - (a) such area shall cease to be a village;
 - (b) the Municipality in which such area is included or the Municipality declared for such area shall exercise jurisdiction over such area and the panchayat established for such area shall cease to function therein;
 - (c) until elections are held under sub-Section (1) or the term of the Municipality expires under this Act, whichever is earlier, the Sarpanch, Up-Sarpanch and the panch or panchas representing the area of the village so included in, or declared as a Municipality shall be deemed to be the additional members of the Municipality in which such area of the village is included or the Chairperson, Vice-Chairperson and the members respectively of the Municipality declared for such area, as the case may be;
 - (d) the whole of the assets vesting in, and of the liabilities subsisting against, the panchayat so declared to be a Municipality or in case where only a part or whole of a village is so included in a Municipality, such portion of the said assets and liabilities as the State Government may direct, shall devolve upon the Municipality declared for such area or upon the Municipality in which such area of the village is so included;

- (e) the Municipality so established by the inclusion of any area of a village therein or by the declaration of a village as a Municipality, shall levy or continue to levy such of the taxes as are lawfully imposed under this Act;
- (f) any such area shall cease to be subject to all rules, notifications, orders and bye-laws made under the Rajasthan Panchayati Raj Act, 1994 (Act No.13 of 1994).
- (9) For the purpose of facilitating the inclusion of any area of a village in a Municipality or of the declaration of any such area as a Municipality, the State Government may, by order in writing, give such directions as may appear to it to be necessary.
- (10) Save as otherwise provided in this Section its provisions shall have effect notwithstanding anything contained in this Act or in the Rajasthan Panchayati Raj Act, 1994 (Act No.13 of 1994) or any other law for the time being in force.
- 4. Power to exempt municipal board from operation of any provisions of the Act unsuited thereto.** - (1) The State Government may, by notification, and for reasons to be recorded in writing, exempt any Municipal Board from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such Municipal Board until such provisions are applied thereto by notification.
- (2) While a notification under sub-Section (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from operation of which the Municipal Board is exempted.
- 5. Establishment and incorporation of Municipality.** - (1) In every transitional area, there shall be established a Municipal Board and every such Municipal Board shall be a body corporate by the name of the Municipal Board of the place by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue or be sued in its corporate name.
- (2) In every smaller urban area, there shall be established a Municipal Council and every such Municipal Council shall be a body corporate by the name of the Municipal Council of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) In every larger urban area, there shall be established a Municipal Corporation and every such Municipal Corporation shall be a body corporate by the name of the Municipal Corporation of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name:

Provided that a Municipality under this Section may not be constituted in 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:

Provided further that 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 and constitute, or without excluding such area from the Municipality constitute in addition to the Municipality, a development authority to exercise such powers and discharge such functions in the said area as may be prescribed and notwithstanding anything elsewhere in this Act, may, in relation to such area, delegate, by notification in the Official Gazette, such municipal powers, functions and duties to the said authority as it may think appropriate for the proper, rapid and planned development of such area.

6. Composition of Municipality. - (1) Subject to the provisions contained in the succeeding sub-Sections, but save as provided in the following provisions of this sub-Section, all seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies known as wards, the number of such seats, not being less than thirteen, being fixed by the State Government from time to time by notification in the Official Gazette:

(a) the following shall represent in the Municipal Board, Municipal Council or, as the case may be, Municipal Corporation, viz:

- (i) the member of the Rajasthan Legislative Assembly representing a constituency which comprises wholly or partly the area of a Municipality; and
- (ii) six persons in case of Municipal Corporation, five persons in case of Municipal Council and four persons in case of Municipal Board, having special knowledge or experience in Municipal administration, to be nominated by the State Government by notification in the Official Gazette:

Provided that-

- (i) the provisions contained in Section 24 and Section 35 shall be applicable to the persons to be nominated or nominated members;
- (ii) the State Government shall have power to withdraw a nominated member at any time;
- (iii) a nominated member shall not have the right to vote in the meetings of a Municipality;

(b) the member of the House of the People representing a constituency which comprises wholly or partly the area of a Municipal Council or, as the case may be, a Municipal Corporation shall represent on such Council or such Corporation:

Provided that the member referred to in sub-clause (i) of clause (a) shall have a right to vote in the meetings of a Municipal Board, a Municipal Council or, as the case may be, a Municipal Corporation, and the member referred to in clause (b) shall have a right to vote in the meetings of a Municipal Council or Municipal Corporation:

Provided further that the members referred to in sub-clause (i) of clause (a), and clause (b) shall not be subject to any disqualification or any other proceedings under the provisions of this Act.

(2) Upon the completion of each census after the establishment of the Municipality, the number of seats shall be re-determined by the State Government by notification in the Official Gazette on the basis of the population of the municipal area as ascertained at the latest census:

Provided that the determination of seats as aforesaid shall not affect the existing composition of the Municipality until the expiry of its term.

(3) In so fixing the total number of seats for a Municipality, the State Government shall specify the number respectively of general seats and of seats reserved for women and for members of the Scheduled Castes or for members of the Scheduled Tribes or for both or persons belonging to the Backward Classes as it may in each case determine.

(4) The number of seats reserved for members of Scheduled Castes or Scheduled Tribes shall, in relation to the total number of seats fixed for a Municipality, bear as nearly as may be, the same proportion as the population of the Scheduled Castes or Scheduled Tribes in the municipal area bears to the total population thereof.

(5) The percentage of seats reserved for the Backward Classes shall be such as the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area falls short of fifty:

Provided that the percentage of seats so reserved for the Backward Classes shall not exceed twenty-one:

Provided further that at least one seat shall be reserved for the Backward Classes in every Municipality where the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area does not exceed seventy.

(6) One half of the seats reserved for the Scheduled Castes or the Scheduled Tribes or the Backward Classes shall be reserved for the women belonging to such Castes, Tribes or, as the case may be, Classes.

- (7) One half including the number of seats reserved under sub-Section (6) of the total number of seats shall be reserved for women.
- (8) The reservation of seats for Scheduled Castes and Scheduled Tribes and the Backward Classes under sub-Sections (3), (5) and (6) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.
- (9) All the seats fixed for a Municipality, general as well as reserved, shall be filled up by direct election from the wards in the municipal area and such election shall be held in the prescribed manner.

Explanation.- If a fraction forms part of the number of seats computed under this Section, the number of seats shall be increased to the next higher number in case the fraction consists of half or more of a seat and the fraction shall be ignored in case it consists of less than half of a seat.

7. Term of office. - (1) Every Municipality unless sooner dissolved under the provisions of this Act, shall continue for five years from the date appointed for its first meeting and no longer.

(2) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-Section (1).

Explanation.- For the purposes of this Section, the expression "**first meeting**" means the meeting of the elected members of the Municipality held immediately after the general elections.

8. Municipal government to vest in Municipality. - Except as in this Act otherwise expressly provided, the municipal government of a Municipality shall vest in the Municipal Board, Municipal Council, or as the case may be, Municipal Corporation through their Chairpersons, which shall stand charged with the duty of carrying out the provisions of this Act subject to the limitations and restrictions specified therein.

9. Division into wards. - (1) For purposes of elections, a Municipality shall be divided into such number of wards as is equal to the total number of seats fixed for the Municipality under sub-Section (1) of Section 6.

(2) The representation of each ward shall be on the basis of the population of that ward and shall, as far as possible, be in the same proportion as the total number of seats for the Municipality bear to its population.

10. Determination of wards. - (1) The State Government shall by order determine,

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

(b) the extent of each ward;

(c) the number of seats, if any, reserved for members of the Scheduled Castes or, as the case may be, Scheduled Tribes and for women members of such castes and tribes and for members of the Backward Classes and women members thereof; and

(d) the number of wards for women candidates.

(2) The seats reserved for Scheduled Castes or, as the case may be, for Scheduled Tribes and for the Backward Classes and for women may be allotted by rotation to different wards in such manner as may be prescribed.

(3) The State Government shall carry out the determination of the boundaries of the wards and allocation of seats reserved in favour of the Scheduled Castes, Scheduled Tribes, the Backward Classes and women among the wards having regard to the provisions of Section 6 and also to the following provisions, namely:

(a) all wards shall, as far as practicable, be geographically compact areas;

(b) wards which are reserved for the Scheduled Castes or Scheduled Tribes shall be distributed to different parts of the municipal areas where the proportion of the population of such castes or tribes, as the case may be, is comparatively large; and

- (c) the numbering of wards shall start from the north-west corner of the local area of a Municipality.
- (4) The draft of the order under sub-Section (1) shall be published for filing objections thereto within a period of not less than seven days and a copy of the same shall be sent to the Municipality concerned for comments.
- (5) The State Government shall consider any objection and the comments received under sub-Section (4) and the draft order shall, if necessary, be amended, altered or modified accordingly, and thereupon it shall become final.
- 11. Election to the Municipality.** - (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipality shall be vested in the State Election Commission.
- (2) An election to constitute a Municipality shall be completed
- (i) before the expiry of its duration specified in Section 7;
- (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.
- (3) For the aforesaid purpose the State Government shall on the recommendation of the State Election Commission call upon all the wards to elect members, in accordance with the provisions of this Act and the rules and orders made thereunder, on such date or dates as may be specified in the notification.
- (4) When a new Municipality is established, it shall, as far as may be, be constituted in accordance with the provisions of this Act relating to general election to a Municipality.
- (5) The State Government shall, when so requested by the State Election Commission, make available to the Commission such staff as may be necessary for discharge of the functions conferred on the State Election Commission by sub-Section (1).
- 12. Delegation of functions of State Election Commission.** - The function of the State Election Commission under this Act or the rules made or orders issued thereunder, may, subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, be performed also by a Deputy Election Commissioner, if any, or by the Secretary to the State Election Commission.
- 13. Electoral Roll for every ward.** - (1) For every ward there shall be an electoral roll prepared, revised, modified, updated and published in the prescribed manner by an Electoral Registration Officer who shall be such officer of the State Government or a local authority as the State Election Commission may, in consultation with the State Government, designate or nominate in this behalf.
- (2) The Electoral Registration Officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for each ward.
- (3) The State Election Commission may appoint one or more persons as Assistant Electoral Registration Officers to assist any Electoral Registration Officer in the performance of his functions.
- (4) Every Assistant Electoral Registration Officer shall, subject to the control of the Electoral Registration Officer, be competent to perform all or any of the functions of the Electoral Registration Officer.
- (5) Subject to the provisions of Section 14, 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.

Explanation.- (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.
- (6) No person shall be entitled to be registered in the electoral roll for more than one ward.
- (7) No person shall be entitled to be registered in an electoral roll more than once.
- 14. Disqualifications for registration in an electoral roll.** - (1) A person shall be disqualified for registration in the electoral roll for the ward if he
- (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.
- (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.
- 15. Making false declaration.** - If any person makes in connection with-
- (a) the preparation, revision or correction of an electoral roll, or
 - (b) the inclusion or exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall on conviction be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees, or with both.
- 16. Chief Electoral Officer.** - (1) There shall be a Chief Electoral Officer who shall be such officer of the State Government as the State Election Commission may, in consultation with the State Government, designate or nominate in this behalf.
- (2) Subject to the superintendence, direction and control of the State Election Commission
- (a) the Chief Electoral Officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act;
 - (b) shall supervise the conduct of all elections in the State under this Act; and
 - (c) shall exercise such other powers and functions as the State Election Commission may direct.

17. District Election Officers. - (1) For each district in the State, the State Election Commission shall, in consultation with the State Government designate or nominate a District Election Officer who shall be an officer of the State Government:

Provided that the State Election Commission may designate or nominate more than one such officer for a district if the State Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one Officer.

(2) Where more than one District Election Officers are designated or nominated for a district under the proviso to sub-Section (1), the State Election Commission shall in the order designating or nominating the District Election Officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the Chief Electoral Officer, the District Election Officer shall coordinate and supervise all work in connection with the conduct of elections in the Municipalities of the district within his jurisdiction.

(4) The District Election Officer shall also perform such other functions as may be entrusted to him by the State Election Commission and the Chief Electoral Officer.

18. Staff of local authorities etc. to be made available. - (1) Every local authority in the State shall, when so required by the Chief Electoral Officer, make available to any Electoral Registration Officer such Staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.

(2) The authorities specified in sub-Section (3) shall, when so required by the Chief Electoral Officer, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(3) The following shall be the authorities for the purposes of sub-Section (2), namely: -

(i) every local authority;

(ii) any other institution, concern or undertaking which is established by or under a State Act or which is controlled or financed wholly or substantially by funds provided directly or indirectly by the State Government.

19. Officers and staff deemed to be on deputation to the State Election Commission. - The Officers and staff deployed in connection with the preparation, revision and correction of the electoral rolls and for the conduct of all elections under this Act shall be deemed to be on deputation to the State Election Commission for the period during which they are so deployed and such officers and staff shall, during that period, be subject to the control and superintendence of the State Election Commission.

20. Breach of official duty in connection with the preparation etc. of electoral rolls. -

(1) If any Electoral Registration Officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall on conviction be punishable with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine 'which shall not be less than one thousand rupees but which may extend to two thousand rupees or with both.

(2) No suit or other legal proceedings shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No Court shall take cognizance of any offence punishable under sub-Section (1) unless there is a complaint made by order of, or under authority from, the State Election Commission or the Chief Electoral Officer or the District Election Officer concerned.

21. Persons qualified for being members. - Subject to the provisions contained in Sections 6 and 24 a person shall not be qualified to be chosen to fill a seat on a Municipality unless

(a) in the case of a seat reserved for the Scheduled Castes or Scheduled Tribes or the Backward Classes, such person is a member of any of these Castes or Tribes or Classes, as the case may be, and is an elector for any ward in the Municipality;

- (b) in the case of a seat reserved for a woman, such person belongs to the female sex and is an elector for any ward in the Municipality;
- (c) in the case of a seat reserved for a woman belonging to the Scheduled Castes or Scheduled Tribes or the Backward Classes, such person is a member of any of these castes or tribes or classes, as the case may be, and is an elector for any ward in the Municipality and belongs to the female sex;
- (d) in the case of any other seat, such person is an elector for any ward in the Municipality; [* * *]
- (e) he has attained the age of 21 years, in either case whether the seat is reserved or not ;
- [(f) he has passed secondary school examination of the Board of Secondary Education, Rajasthan or of an equivalent Board; and
- (g) he has functional sanitary toilet in the premises where he resides and no member of his family defecates in the open.

Explanation. - For the purpose of clause (g) of this section-

- (i) "*sanitary toilet*" means a water sealed toilet system or setup surrounded by three walls, a door and a roof; and
- (ii) "*member of family*" means spouse of such person, children and his parents living with such person.]

21A. Special qualification for election on certain seats. - Notwithstanding anything to the contrary contained in any provision of this Act or of any other law for the time being in force, a person shall not be eligible for election on such seats in a Municipality, as may be determined by the State Government in prescribed manner, unless he or she is within the age group of twenty one years to thirty five years and is otherwise eligible for election on such seats

Provided that-

- (i) not more than two seats each from the seats reserved for the Scheduled Castes, Scheduled Tribes Backward Classes or women in a Municipality shall be determined under this Section;
- (ii) where number of seats reserved in a Municipality for any of the Scheduled Castes, Scheduled Tribes, Backward Classes or women is three or less than three, only one seat from such Castes, Tribes, Classes or, as the case may be, women shall be determined under this Section;
- (iii) where number of unreserved seats in a Municipality is five or less than five, only one from such seats shall be determined under this Section; and
- (iv) where the number of unreserved seats in a Municipality is more than five, one seat out of each block of five such seats shall be determined under this Section and any fraction of less than five seats shall be ignored."

22. Restriction on contesting elections for more than one ward. - Notwithstanding anything contained in Section 21, no person shall be entitled, in cases where election to a seat is contested, to contest such election for more than one ward, and every person who may have filed his nomination paper for seats to a Municipality for more than one ward shall withdraw his 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 before 3 P.M. on the last date fixed for withdrawal:

Provided that if a person fails to withdraw his candidature from all but one seat in the manner specified above, he shall be deemed to have withdrawn his candidature from all seats.

23. Restrictions on use of vehicles, loud-speakers etc. - (1) The State Election Commission may impose reasonable restrictions on the use of vehicles or loudspeakers

or on displaying of cut outs, hoardings, posters and banners by any candidate or his duly authorized election agent during the period of election commencing from the date of publication of notification for election to a Municipality and ending on the date on which the whole process of election is completed.

- (2) If any candidate or his duly authorized election agent contravenes any of the restrictions imposed by the State Election Commission under sub-Section (1), he shall, on conviction, be punishable with a fine which may extend to two thousand rupees.
- (3) Every person punished under sub-Section (2) shall, by an order of the State Election Commission, be liable to be disqualified for being chosen as or for being a member of any Municipality for a period which may extend to six years from the date of such order:
Provided that the State Election Commission may by a subsequent order, for reasons to be recorded, remove any disqualification under this Section or reduce the period of any such disqualification.
- (4) No Court shall take cognizance of an offence referred to in sub-Section (2) except on the complaint made by an officer authorized in this behalf by any general or special order of the State Election Commission.

24. General disqualifications for members. - A person, notwithstanding that he is otherwise qualified, shall be disqualified, for being chosen as or for being a member of a Municipality

- (i) if 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
- (ii) if he has been convicted of an offence under Section 245 of this Act, or
- (iii) if 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
- (iv) if he has been convicted of an offence under the Prevention of Food Adulteration Act, 1954 (Central Act No. 37 of 1954), or
- (v) 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 instituted under Section 110 of the said Code, such order not having been subsequently reversed, or
- (vi) if 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
- (vii) if, he having been a professional practitioner, has been debarred from practicing as such by order of any competent authority, or
- (viii) if he holds any place of profit in the gift or disposal of the Municipality, or
- (ix) if he is disqualified under Section 35 or Section 41, or
- (x) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Rajasthan Legislative Assembly:

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

- (xi) if he holds a salaried or part-time appointment under the Central or a State Government or a local authority or any other authority, or
- (xii) if 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
- (xiii) if he is an undischarged insolvent, or
- (xiv) if he has been adjudged by, a competent Court to be of unsound mind, or

- (xv) if he, save as hereinafter provided, has directly or indirectly, by himself or any member 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
- (xvi) if 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
- (xvii) if he has more than two children, or
- (xviii) if 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
- (xix) if 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 his
 - (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;
- (e) a person having more than two children shall not be disqualified under clause (xvii) for so long as the number of children he had on 27th November, 1995 does not increase.

Explanation.- For the purpose of clause (xvii) any number of children born out of a single delivery shall be deemed to be one entity and any child given in adoption shall not be excluded while computing the number of children.

25. Right to vote. - (1) Except as expressly provided by this Act, every one who is for the time being registered in the electoral roll of any ward, shall be entitled to vote in that ward.

(2) No person shall vote at an election in any ward, if he is subject to any of the disqualifications referred to in Section 14.

(3) No person shall at any election vote in more than one ward and if a person votes in more than one ward his votes in all the wards shall be void.

(4) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been registered in the electoral roll thereof more than once, and, if he does so vote, all his votes shall be void.

(5) No person shall vote at any election under this Act, if he is confined in a prison whether under a sentence or otherwise or is in the lawful custody of the police:

Provided that nothing in this sub-Section shall apply to a person subjected to preventive detention under any law for the time being in force.

26. Manner of voting at election. - (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 gives votes to 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.

27. Casual vacancy how to be filled. - (1) A casual vacancy in the office of a member occurring otherwise than by efflux of time shall be filled, subject to the provisions of sub-Section (4), at a bye-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 member elected at a bye-election shall hold office so long only as the member 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 member, -

(a) against a seat reserved in any ward for a member of the Scheduled Caste or, as the case may be, the Scheduled Tribe or the Backward Classes, such vacancy shall be filled in by a member 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 member and the term of office of that member 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.

28. Electoral offences. - 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 therein to an election were references to an election under this Act,

(b) references therein to a constituency were references to a ward,

(c) in Sections 125 and 127, for the expression "*under this Act*", the expression "*under the Rajasthan Municipalities Act, 2009*" and in Sections 134 and 136, for the expression "by or under this Act", the expression "*by or under the Rajasthan Municipalities Act, 2009*" 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.

29. Corrupt practices. - The following shall be deemed to be corrupt practices for the purposes of an election under this Act, namely: -

(i) 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-

1. 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

2. 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.

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 bonafide incurred at, or for the purpose of, any election;

(ii) 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;

(iii) 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 prospect 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;

- (iv) 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;
- (v) 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);

- (vi) 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;
- (vii) 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 member 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;

- (viii) 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;
- (t) 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.

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 he 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.

30. Jurisdiction of civil courts in electoral matters. - (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.

31. Election petition. - (1) The election of any person as a member of a Municipality may be questioned by an election petition filed within one month from the date of election before the District Judge having territorial jurisdiction over the municipal area on one or more of the following grounds, namely:

- (a) that on the date of election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act, or

- (b) that any corrupt practice specified in Section 29 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) that any nomination has been improperly rejected, or

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

- (i) by the improper acceptance of any nomination, or

- (ii) by any corrupt practice committed in the interest of the returned candidate by a person other than that candidate or his election agent or a person acting with the consent of such candidate or election agent, or

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

- (iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder, or

- (e) that in fact the petitioner or some other candidate received a majority of the valid votes, or

- (f) that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner or some other candidate would have obtained a majority of the valid votes.

- (2) In hearing the election petition, the District Judge shall follow such procedure and exercise such powers as may be prescribed.

32. Appeals from orders of District Judge. - (1) An appeal shall lie to the High Court from every order made by the District Judge on the petition presented under Section 31.

- (2) The High Court shall, subject to the provisions of this Act and the rules made thereunder, have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this Section as if the appeal was an appeal from an original decree passed by a civil Court situated within the local limits of its civil appellate jurisdiction.

- (3) Every appeal under this Section shall be preferred 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.

(4) 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.

(5) 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.

33. Procedure where election of all candidates is set aside. - Whenever the election of all the members or of more than two-thirds of the total number of the members of a Municipality is declared to be void under Section 31 or on appeal under Section 32 the State Government shall dissolve the Municipality whereupon the provisions of Section 322, except the provisions of sub-Section (1) thereof, shall apply.

34. Finality of orders and decision. - The decision of the High Court on an appeal under Section 32, and, only subject to such decision, the order of the District Judge under Section 31 shall be final and conclusive.

35. Disqualifications. - (1) The following shall entail disqualifications for membership of a Municipality, namely: -

(s) electoral offences referred to in Section 28,

(t) corrupt practices specified in Section 29.

(2) The period of such disqualification shall be six years from the date of the finding of the District Judge as to such corrupt practice or from the date of conviction for such offence, as the case may be.

36. Removal or reduction of period of disqualification. - The State Election Commission may, for reasons to be recorded in writing, remove any disqualification under clause (a) of sub-Section (1) of Section 35 or reduce the period of any such disqualification.

37. Oath of office. - (1) Every [Chairperson and] member shall, before entering upon his duties as such, make and subscribe before [an officer authorised by the State Government by a general or special order] for the purpose an oath or affirmation in the prescribed form.

(2) Any member who fails to comply with the provisions of sub-Section (1) within a period of one month from the date of the first meeting of the Municipality or in case of a member elected in a bye-election or a nominated member, from the date of his election or, as the case may be, his nomination, shall be deemed to have vacated his seat:

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

38. Resignation. - A member may resign his membership by giving notice in writing to that effect duly attested by an Executive Magistrate to the Chairperson 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 Chairperson, whichever is earlier.

39. Removal of member. - (1) The State Government may, subject to the provisions of sub-Sections (3) and (4), remove a member 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:

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

(b) that he has failed to comply with the provisions of Section 37,

(c) that after his election he has incurred any of the disqualification mentioned in Section 14 or Section 24 or has ceased to fulfil the requirements of Section 21,

(d) that he has

- (i) deliberately neglected or avoided performance of his duties as a member, 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 member, or
- (v) been disqualified for being chosen as member under the provisions of this Act,
or
- (vi) otherwise abused in any manner his position as such member:

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 member 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 member is removed from office by an order of the State Government under this Section, he shall not vacate his 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 member and shall as such be entitled to all the rights and be subject to all the liabilities, of a member under this Act.

(3) Notwithstanding anything contained in sub-Section (1) where it is proposed to remove a member 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 member concerned, the State Government shall draw up a statement setting out distinctly the charge against the member 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 member concerned, if he 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 member against whom proceedings have been commenced under this Section until the conclusion of the inquiry and the passing of the final order and the member so suspended shall not be entitled to take part in any proceedings of the Municipality or otherwise perform the duties of a member 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.

40. Inquiry into certain allegations after expiry of term of office. - (1) In respect of any allegations of the nature specified in clause (d) of sub-Section (1) of Section 39 against any member or the Chairperson or Vice-Chairperson of a Municipality, the inquiry referred to in the proviso to the said sub-Section, and in sub-Sections (3) and (4) of that Section may be initiated against such member, Chairperson or Vice-Chairperson even after the expiry of the term of office of that Municipality or after he has ceased to be such member or Chairperson or Vice-Chairperson or, if already initiated before such expiry may be continued thereafter and in each such case except in the cases covered under sub-Section (3), the State Government shall, by order in writing, only record its findings in conformity with those of the Judicial Officer recorded under sub-Section (4) of Section 39.

(2) The provisions of sub-Section (6) of Section 39 shall apply to the findings of the State Government so recorded.

(3) In case of a member, Chairperson or Vice-Chairperson, who is reelected for the new term of the Municipality and against whom any inquiry referred to in sub-Section (1) is initiated or, if it has already been initiated, is continued, in respect of his previous term in the Municipality, the provisions of Section 39 shall *mutatis mutandis* apply.

41. Disability of members removed under Section 39. - A member who has been removed under clause (d) of sub-Section (1) of Section 39 or against whom adverse findings have been recorded under Section 40 shall not be eligible for re-election for a period of six years from the date of the order of his removal or of recording adverse findings as the case may be.

42. Restriction on simultaneous holding of the office of a member in Municipality and the membership of Parliament or State Legislative Assembly or a Panchayati Raj Institution. - No person shall remain both the elected or nominated member of a Municipality and a member of Parliament or State Legislative Assembly or a Panchayati Raj Institution and if a person who is already a member of Parliament or State Legislative Assembly or a Panchayati Raj Institution is elected as a member of a Municipality, then, at the expiration of fourteen days from the date of his being elected or nominated as such member, he shall cease to be such member unless he has previously resigned his seat in the Parliament or the State Legislative Assembly or the Panchayati Raj Institution, as the case may be:

Provided that if a person, who is already an elected or nominated member of a Municipality, is elected as a member of Parliament or the State Legislative Assembly or a Panchayati Raj Institution, then, at the expiration of fourteen days from the date of his being elected as a member of a Parliament or the State Legislative Assembly or a Panchayat Raj Institution, as the case may be, he shall cease to be such member unless he has previously resigned his seat in the Parliament or the State Legislative Assembly or the Panchayati Raj Institution, as the case may be.

43. Every Municipality to have a Chairperson and a Vice-Chairperson. - (1) There shall be a Mayor for every Municipal Corporation, a President for every Municipal Council and a Chairman for every Municipal Board, who shall be elected in the prescribed manner.

(2) There shall be a Deputy Mayor for every Municipal Corporation, a Vice-President for a Municipal Council and a Vice-Chairman for every Municipal Board who shall be elected in the prescribed manner.

(3) The offices of Chairpersons of Municipalities shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes as also for women in such manner as may be prescribed.

(4) The State Government shall allocate the offices of Chairpersons reserved under sub-Section (3) to different Municipalities in the State and in allocating such offices regard shall be had to the following provisions, namely:-

(i) Municipalities in which office is reserved for the Scheduled Castes or Scheduled Tribes shall be distributed throughout the State and located as far as practicable in

those areas where the proportion of their population to the total population is comparatively large;

- (ii) the Municipalities in which office is reserved for women shall be distributed throughout the State.
- (5) The reservation of the office of the Chairpersons for the members of Scheduled Castes or Scheduled Tribes or the Backward Classes under this Section shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.
- (6) Every Chairperson or Vice-Chairperson who, for a period exceeding one month, remains absent from the Municipality so as to be unable to perform his duties as such Chairperson or Vice-Chairperson shall cease to be Chairperson or Vice-Chairperson unless leave so to absent has been granted by the Municipality.
- (7) Leave under sub-Section (6) shall not be granted for a period exceeding six months. Whenever leave is granted to a Chairperson and the office of the Vice-Chairperson is vacant the vacancy shall be filled up by election from amongst the members within such period and in such manner as may be prescribed. When leave is granted to a Vice-Chairperson or when the Vice-Chairperson is acting for the Chairperson, the vacancy in the office of the Vice-Chairperson may be filled up by election of some other member thereto.
- (8) If the Vice-Chairperson of a Municipality is elected as Chairperson of the Municipality, he shall be deemed to have vacated his office as Vice-Chairperson.
- (9) Every Chairperson and every Vice-Chairperson of a Municipality shall forthwith be deemed to have vacated his office, if a resolution expressing want of confidence in him is passed in accordance with the procedure prescribed.
- (10) Every Chairperson and every Vice-Chairperson shall be removable from his office as such Chairperson and Vice-Chairperson on any of the grounds specified in clause (d) of sub-Section (1) of Section 39, and the provisions of sub-Sections (2) to (6) of that Section shall apply.
- (11) The term of office of every Chairperson and every Vice-Chairperson shall, save as otherwise provided in this Act, correspond with the term of the Municipality.
- (12) A Vice-Chairperson may resign his office by giving notice in writing to the Chairperson, and a Chairperson may resign by personally giving a like notice to such officer as may be appointed or authorized by the State Government in this behalf. Every such resignation shall take effect on its acceptance or as the case may be, the expiry of thirty days from the delivery of the notice to the Chairperson or such officer as the case may be whichever is earlier.
- (13) (i) A vacancy in the office of a Chairperson occurring otherwise than efflux of time shall be filled within a period of six months from the occurrence of such vacancy and the person elected to fill up the vacancy shall hold office for the residue of the term for which the Chairperson in whose place he is so elected would have held, if the vacancy had not occurred:
- Provided** that in case of unavoidable circumstances the State Government may extend the date of such election up-to maximum period of three months beyond the aforesaid period.
- (ii) A vacancy in the office of a Vice-Chairperson occurring otherwise than by efflux of time shall be filled in accordance with the provisions of the foregoing sub-Sections and the person elected to fill up the vacancy shall hold office for the residue of the term for which the Vice-Chairperson in whose place he is so elected would have held, if the vacancy had not occurred.
- (14) The names of the Chairperson and Vice-Chairperson elected in accordance with the provisions of this Section shall be published, as soon as may be, in the Official Gazette.
- (15) The Chairperson of a Municipality may receive out of the municipal fund such monthly allowances and facilities as may be prescribed.

44. Determination of validity of election of Chairperson or Vice-Chairperson. - (1) The election of a Chairperson or Vice-Chairperson under Section 43 shall not be called in question except by an election petition presented to the District Judge having territorial jurisdiction, over the municipal area:

Provided that where an election petition is presented as aforesaid to a District Judge, he may, for the reasons to be recorded in writing, transfer the same for hearing and disposal to a Judge subordinate to him.

Explanation.- The District Judge or any other Judge to whom an election petition is or transferred and by whom it is heard in accordance with the provisions of this Section is hereinafter referred to as the Judge.

(2) Such petition may be presented by a candidate who has been defeated or whose nomination has been rejected in such manner, on such grounds and within such period as may be prescribed, along with a deposit of one thousand rupees.

(3) In hearing the petition, the Judge shall follow such procedure and exercise such powers as may be prescribed.

(4) Without prejudice to the generality of the provision contained in sub-Section (3), the Judge may, if the petition is found to be frivolous, direct that the deposit mentioned in sub-Section (2) shall be forfeited to the State Government.

45. Core municipal functions. - (1) It shall be the duty of every Municipality to make reasonable provision and proper arrangement for the following matters within the municipal area, namely: -

(a) 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;

(b) removing filth, rubbish, night-soil, 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;

(c) lighting public streets, places and buildings;

(d) extinguishing fires and protecting life and property when fire occurs;

(e) regulating offensive or dangerous trades or practices;

(f) 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;

(g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;

(h) acquiring, maintaining, changing and regulating places for the disposal of the dead and of the carcasses of dead animals;

(i) 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;

(j) constructing public latrines, privies and urinals;

(k) naming streets and numbering houses;

(l) registering births and deaths;

(m) arranging for detention and preservation of such dogs within the Municipality as may be dealt with under Section 249 of this Act;

(n) paying the salary and the contingent expenditure on account of such police officers a 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;
- (o) 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;
 - (p) making arrangements for preparation of compost manure from night soil and rubbish;
 - (q) establishing and maintaining cattle pounds;
 - [(r) promoting population control, family welfare, small family norms, welfare of women and children development;
 - (s) preparing plans for economic development, social justice, poverty alleviation, slum improvement, public distribution system and providing food to the needy persons;]
 - (t) 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;
 - (u) preparing transport system accessories including traffic engineering schemes, street furniture, parking areas and bus stops;
 - (v) arranging for planned development of new areas for human settlement;
 - (w) taking measures for beautification of the municipal area by setting up parks and fountains, providing recreational areas, improving river banks, and landscaping;
 - (x) collecting statistics and data significant to the community;
 - (y) integrating development plans and schemes of the municipal area with the district or regional development plan, if any;
 - (z) promoting educational, sports and cultural activities;
 - (za) 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;
 - (zb) taking steps for securing the prevention of cruelty to animals; and
 - (zc) 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.
- (2) The Municipality may , having regard to its managerial, technical, financial and organizational capacity, and the actual conditions obtaining in the municipal area, decide not to take up, or postpone, the performance of, any of the functions as aforesaid.
- (3) The State Government may direct a Municipality to perform any of the functions as aforesaid, if such function is not taken up, or is postponed, by the Municipality.
- (4) The Municipality may plan, build, operate, maintain or manage the infrastructure required for the discharge of any of the functions, as aforesaid, either by itself or by any agency under any agreement referred to in Section 154.
- 46. Other municipal functions.** - A Municipality may, having regard to the satisfactory performance of its core functions which shall constitute the first charge on the municipal fund, and subject to its managerial, technical and financial capabilities, undertake or perform, or promote the performance of, any of the following functions, namely: -
- (i) in the sphere of protection of environment
 - (a) reclamation of waste lands, promotion of social forestry and maintenance of open spaces;
 - (b) establishment and maintenance of nurseries for plants, vegetables and trees and promotion of greenery through mass participation;

- (c) organization of flower-shows and promotion of flower-growing as a civic culture;
and
- (d) promotion of measures for abatement of all forms of pollution;
- (ii) in the sphere of public health and sanitation
 - (a) mass inoculation campaigns for eradication of infectious diseases;
 - (b) reclamation of unhealthy localities;
 - (c) maintenance of all public tanks and regulating re-excavation, repair and up-keep of all private tanks, wells and other sources of water-supply on such terms and conditions as the Municipality may deem proper ; and
 - (d) advancement of civic consciousness of public health and general welfare by organizing discourses, seminars and conferences;
- (iii) in the sphere of education and culture
 - (a) promotion of civic education, adult education, social education and non-formal education;
 - (b) promotion of cultural activities including music, physical education, sports and theatres and infrastructure there for;
 - (c) advancement of science and technology in urban life;
 - (d) publication of municipal journals, periodicals and souvenirs, purchase of books, and subscription to journals, magazines and newspapers;
 - (e) installation of statues, portraits and pictures in appropriate manner;
 - (f) organization, establishment and maintenance of art galleries and botanical or zoological collections;
 - (g) conservation and maintenance of monuments and places of historical, artistic and other importance; and
 - (h) construction, establishment, maintenance or contribution to the maintenance of public libraries, museums, reading rooms, lunatic asylums, halls, offices;
- (iv) in the sphere of public welfare
 - (a) establishment and maintenance of shelters, in times of drought, flood, earthquake, or other natural or technological disasters, and relief works, for destitute persons within the limits of the municipal area;
 - (b) construction or maintenance of, or provision of aids to, hospitals, dispensaries, asylums, rescue homes, maternity houses, and child welfare centers;
 - (c) provision of shelters for the homeless;
 - (d) implementation of programmes for liberation and rehabilitation of scavengers and their families;
 - (e) organization of voluntary labour and co-ordination of activities of voluntary agencies for community welfare; and
 - (f) campaigns for dissemination of such information as is vital for public welfare;
and
- (v) in the sphere of community relations
 - (a) civic receptions to persons of distinction and paying homage on death to persons of repute;
 - (b) organization and management of fairs and exhibitions; and
 - (c) dissemination of information of public interest

47. Functions assigned by the Government. - The State Government may, by general or special order, require a Municipality to perform such other municipal functions as the State Government may, having regard to the necessity and the resources of the Municipality, think fit to be performed by the Municipality.

48. Functions of Chairperson and Vice-Chairperson. - (1) It shall be the duty of the Chairperson of a Municipality -

- (a) to convene regular meetings of the Municipality as provided in Section 58;
- (b) to preside unless prevented by reasonable cause, at all meetings of the Municipality and subject to the provisions of the rules for the time being in force under clause (xiii) of sub-Section (2) of Section 337, to regulate the conduct of business at such meetings;
- (c) watch over the financial and executive municipal administration of the Municipality;
- (d) to perform all the duties and exercise all the powers specifically imposed or conferred upon him under and in accordance with Act; and
- (e) to perform such other executive functions as may be prescribed.

(1A) Where any resolution of a Municipality or of any of its committees is against the interest of the Municipality or inconsistent with the provisions of this Act and the rules made thereunder, the Chairperson shall record his opinion on such resolution and refer the matter to the State Government for its decision of the State Government on such resolution shall be final and binding on the Municipality.

(2) The Vice-Chairperson of a Municipality shall exercise such of the powers and perform such of the duties of the Chairperson as the Chairperson from time to time delegates to him. It shall also be the duty of the Vice-Chairperson

- (a) in the absence of the Chairperson and unless prevented by reasonable cause, to preside at the meeting of the Municipality and when so presiding to exercise the same authority as is vested in the Chairperson under clauses (a) and (b) of sub-Section (1); and
- (b) during the absence of a Chairperson on leave, to exercise the powers and perform the duties of the Chairperson.

49. Powers and duties of the Chief Municipal Officer including custody of records. -

(1) The Chief Municipal Officer shall be responsible for the custody and maintenance of all the records of the Municipality.

(2) Where any proceedings or resolution of a Municipality or of any of its committees or order of the Chairperson is inconsistent with the provisions of this Act and the rules made thereunder, it shall be the duty of the Chief Municipal Officer to tender advice to the Municipality, or committee or the Chairperson mentioning the relevant provisions of law to bring out the provisions of this Act or the rules made thereunder and record in the proceedings of the meeting of Municipality or committee or on the order of the Chairperson the fact that he had tendered such advice and thereupon put up a note of dissent on such proceedings, resolution, or as the case may be, the order and ensure the communication of the matter to the State Government or any officer authorized by it in this behalf within seven days of passing such resolution or order, or as the case may be, undertaking such proceedings .

(3) If the Chief Municipal Officer knowingly neglect his duty under sub-Section (2), he shall be personally liable to any loss incurred by the Municipality as a result of the proceedings, resolution or the order of the nature specified in that sub-Section and such loss may be recovered from him in the same manner in which municipal dues are recovered.

(4) After examining the note of dissent reported under sub-Section (2), the State Government or the officer authorized by it in this behalf, may make such interim or final order as he thinks fit, which shall be binding on the Municipality:

Provided that if no such interim or final order is passed within a period of thirty days from the date of receipt of the dissent note, the Municipality may proceed with the

proceedings or the resolution or, as the case may be, the order as if the dissent note was not put up.

- (5) The Chief Municipal Officer or any other officer authorised in this behalf by the State Government shall have the power, subject to the provisions of this Act and the rules made thereunder, to authenticate under his signatures all resolutions, all licences, permissions which may be granted or given by the Municipality, Committee or order of Chairperson under this Act and no licence or permission or order shall be legal and valid unless it has been so authenticated by the Chief Municipal Officer or as the case may be, by such other officer.
- (6) The Chief Municipal Officer shall exercise such other powers of the Municipality as the State Government may entrust him in the specified administrative exigency by a general or special order.
- (7) All correspondence addressed to or meant for the Municipality shall ordinarily be sent in the name of the Chief Municipal Officer but may also be sent to the Chairperson and all correspondence issued or made on behalf of the Municipality shall ordinarily be issued under the seal and signature of the Chief Municipal Officer and may also be issued under the seal and signature of the Chairperson.
- (8) The Chief Municipal Officer shall furnish any extract from the minutes of the proceedings of the Municipality or of any committee or other document or thing, which the officer appointed or authorized by the State Government in this behalf, calls for from time to time.
- (9) The Chief Municipal Officer shall, -
 - (i) take-prompt steps to remove any defect or irregularity brought to his notice in the course of the audit of the municipal accounts or pointed out in the audit report;
 - (ii) report to the Municipality all cases of fraud, embezzlement, theft or loss of municipal money or property;
 - (iii) supply any return, statement, account or report or any other document in his charge or a copy thereof requisitioned by the Municipality;
 - (iv) make an explanation in regard to a subject under discussion at a meeting thereof but not vote upon or make any proposition thereat;
 - (v) carry out the policies, decisions and directions of the Municipality if not inconsistent with provisions of this Act and rules made there under, and take necessary measures for the speedy execution of all works and development schemes of the Municipality;
 - (vi) discharge such other duties as may be assigned to him by or under this Act or the rules and bye-laws made there under; and
 - [(vii) subject to the general superintendence and control of the Chairperson and general or special orders of the State Government in this behalf, exercise supervision and control over the officers and servants of the Municipality sub-ordinate to him.]

50. Handing over charge. - (1) Whenever

- (i) a Chairperson resigns or ceases to be such or is removed from Or vacates the office of Chairperson, or is placed under suspension or his election as a member or Chairperson is declared to be void;
- (ii) a Vice-Chairperson resigns or ceases to be such or is removed from, or vacates the office of Vice-Chairperson or is placed under suspension or his election as a member or Vice-Chairperson is declared to be void;
- (iii) a member resigns or is removed or placed under suspension or his election is declared to be void;
- (iv) a Municipality is dissolved or it otherwise becomes defunct, such Chairperson, Vice-Chairperson or member or the Chairperson, Vice-Chairperson and members of such Municipality, as the case may be, shall forthwith hand over charge in the prescribed

manner of his or their office including all papers and properties pertaining to such office, in his or their actual possession or occupation

- (a) in the case of a Chairperson, to the Vice-Chairperson and if there be no Vice-Chairperson, to such member as the State Government may direct:

Provided that charge of office of any Chairperson who was elected to an office reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes, Backward Classes, or for Women, shall be handed over to the Vice Chairman if he belongs to the same category and if there be no such Vice-Chairperson as per directions of the State Government, to a member, if any, of the said Castes, Tribes or Classes or a woman member, as the case may be, in the manner as may be prescribed and where there is no such member belonging to said Castes, Tribes, Classes or a woman member to whom charge can be given as aforesaid, the charge shall be handed over in the manner as may be prescribed, to any other member not belonging to the aforesaid categories;

- (b) in the case of a Vice-Chairperson, to the Chairperson, and if there be no Chairperson, to such member as the State Government may direct;
- (c) in the case of a member, to a Chairperson, and in his absence, to the Vice-Chairperson; and
- (d) in the case of a Municipality dissolved or otherwise becoming defunct, to the newly constituted Municipality or, as the case may be, to the officer appointed under Section 322:

Provided that a member to whom charge has been handed over under clauses (a) and (b) shall hold charge for a period, not exceeding sixty days, or till the taking over of charge by the Chairperson or, the Vice-Chairperson, as the case may be, whichever may be earlier.

- (2) If any person fails or refuses or is not available to hand over the charge of office as required under sub-Section (1), the person who is entitled to take over the charge of office shall assume charge and thereupon he shall be deemed to have taken over the charge of such office in accordance with the provisions of this Act.

CHAPTER III

Conduct of Business and Ward Committee

- 51. Provisions in regard to meetings of a Municipality.** - (1) There shall be an ordinary general meeting of the Municipality once within sixty days and minimum six meetings in a calendar year and the business of the meeting shall be conducted in accordance with such procedure as may be prescribed.
- (2) The Chairperson shall call a special meeting for a date not more than seven days from the date of receiving a request in writing signed by not less than one-third of elected members of the Municipality specifying the resolution, which is proposed to be moved.
- (3) If the Chairperson fails to call a special meeting within the time specified under sub-Section (2), the Chief Municipal Officer shall call such meeting within ten days from the date on which the time specified in sub-Section (2) expires.
- 52. Rights and privileges of individual members.** - (1) Any member 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 he considers desirable.
- (2) Every member shall have the right to put questions to the Chairperson and to move resolutions on matters connected with the administration of the Municipality, subject to the rules prescribed.

(3) Every member 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.

53. Motion of no confidence against Chairperson and Vice-Chairperson. - (1) A motion expressing no confidence in the Chairperson or the Vice-Chairperson shall be made and considered in the prescribed manner.

(2) No notice of motion under section shall be made within two years of the assumption of office by a Chairperson; or in case of Chairperson or Vice-Chairperson elected in a bye-election, unless half of a period of tenure has expired.

(3) If a motion under sub-section (1) is not carried, no notice of a subsequent motion expressing no confidence in the same Chairperson or Vice-Chairperson shall be made until after the expiration of two years after the meeting in which the said motion was considered.]

54. Constitution of Wards Committee. - (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial areas of the Municipalities having population of three lakh or more.

(2) Each Ward Committee shall consist of

(a) the members of the Municipality representing the wards within the territorial areas of the Wards Committee; and

(b) such other members, not exceeding five who are not less than 25 years of age and who have special knowledge or experience in municipal administration to be nominated by the Municipality:

Provided that a person shall be disqualified for being nominated, and for being, a member of the Wards Committee, if under the provision of this Act or any other law for the time being in force, he would be disqualified for being elected as, and for being, a member.

(3) Where a Wards Committee consists of one ward, the member representing that ward in the municipality shall be the Chairperson of that Committee.

(4) (a) The Ward Committee shall at its first meeting after its constitution under sub-Section (1) and at its first meeting in the same month in each succeeding year shall elect where the Wards Committee consists of two or more wards, one of the members representing such wards in the Municipality to be the Chairperson of that Committee.

(b) The Chairperson shall hold office until his successor has been elected and shall be eligible for re-election.

(5) The Chairperson shall vacate office as soon as he ceases to be a member.

(6) In the event of the office of the Chairperson falling vacant before the expiry of his term, the Wards Committee shall, as soon as conveniently may be after the occurrence of the vacancy, elect new Chairperson in accordance with sub-Section (4):

Provided that a Chairperson so elected shall hold office so long only as the person in whose place he is elected would have held it if such vacancy had not occurred.

(7) The duration of the Wards Committee shall be co-extensive with the duration of the municipality.

(8) The Municipality shall by order define the functions and duties of the Wards Committee, the territorial areas of such Committee and the procedure to be adopted by such Committee for transaction of its business.

(9) Three members including the Chairperson of the Wards Committee shall constitute the quorum and the Wards Committee shall observe such rules of procedure in transacting its business as may be made by the Municipality.

55. Committees. - (1) In every Municipality there shall be an Executive Committee constituted and consisting of

(i) the Chairperson of the Municipality;

(ii) the Vice-Chairperson of the Municipality;

(iii) the leader of the opposition;

- (iv) in case of a Municipal Corporation or Municipal Council seven members elected by the Municipal Corporation or, as the case may be, Municipal Council, including two from the women members;
 - (v) in case of a Municipal Board, such number of members not exceeding five, as may be determined by the Municipal Board, elected by the Municipal Board; and
 - (vi) the Chairperson of the committees constituted by the Municipality under sub-Section (3).
- (2) The Chief Municipal Officer of the Municipality shall be *ex-officio* Secretary of the Executive Committee.
- (3) In addition to the Executive Committee, every Municipality shall also constitute the following Committees consisting of not more than ten members, namely:-
- (i) a finance committee;
 - (ii) one or more health and sanitation committee:

Provided that every Municipality may constitute one committee for wards upto fifty, two committees for fifty one wards to seventy five wards and three committees for wards exceeding seventy five.
 - (ii-a) one or more lighting public streets, places and buildings committees:

Provided that every Municipality may constitute one committee for wards upto fifty, two committees for fifty one wards to seventy five wards and three committees for wards exceeding seventy five.
 - (iii) a buildings permission and works committee;
 - (iv) a slum improvement committee;
 - (iv-a) a women and children development, poverty alleviation, public distribution system and providing food to the needy persons committee;
 - (v) a rules and bye-laws committee;
 - (vi) a compounding and compromising of offences committee; and
 - (vii) looking to the functions of a Municipality, it may also constitute such other committees, not exceeding eight in case of Municipal Corporation, not exceeding six in case of Municipal Council ,and not exceeding four in case of Municipal Board, as it may deem necessary:

Provided that the State Government may, looking to the functions of a Municipality, increase the maximum limit of committees specified in this clause.

- (4) The executive committee and the committees mentioned in sub-Section (3) may exercise, perform and discharge such powers, duties and functions as may be prescribed.
- (5) The above referred committees shall be constituted by the Municipality within ninety days of the constitution of the Municipality, failing which the State Government may constitute such committees.

Explanation.- For the removal of doubts it is clarified that a nominated member may also be appointed as a member of a committee constituted under this Section.

56. When persons other than members may serve on committee. - (1) Notwithstanding anything contained in this Act, it shall be lawful for the Municipality, from time to time, by a resolution supported by not less than one-half of the whole number of members, to appoint, as members of any committee under Section 55, except the Executive Committee, any persons who are not members, but who may in the opinion of such Municipality possess special qualifications for serving on such committee:

Provided that the number of persons so appointed on any committee shall not exceed one-third of the total number of the members of such committee.

- (2) All the provisions of this Act relating to the duties, powers, liabilities, disqualification and disabilities of members shall be applicable, so far as may be, to such persons.
- 57. Chairman of committee.** - (1) The Chairperson of the Municipality, if a member of any committee, shall be *ex-officio* Chairman thereof.
- (2) The Vice-Chairperson of the Municipality, if appointed as a member of any committee of which the Chairperson is not a member, shall be *ex-officio* Chairman thereof.
- (3) The Municipality may appoint a member, as Chairman of any committee of which there is no *ex-officio* Chairman.
- (4) Every committee, of which there is an *ex-officio* Chairman or a Chairman appointed by the Municipality, shall, at each meeting which such Chairman does not attend, appoint from amongst its members a Chairman of such meeting.
- (5) Every committee, of which there is no *ex-officio* Chairman or Chairman appointed by the Municipality, shall appoint from time to time its own Chairman from amongst its own members.
- 58. Procedure at meetings.** - (1) The ordinary meetings of a committee of a Municipality shall be conducted within two months in accordance with such procedure as may be prescribed.
- (2) If the Chairman of any committee has been absent from the Municipality for a period exceeding fifteen days, the Chairperson or Vice-Chairperson of the Municipality may, in his absence, call a meeting thereof.
- (3) Committees may meet and adjourn as they think proper but the Chairman of a committee may, whenever he thinks fit, and shall, upon the written request of the Chairperson of the Municipality or of not less than two members of the committee, and for 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 meeting of the committee unless one-half of the members of the committee be present thereat.
- 59. Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality.** - (1) Every committee including Wards Committee shall conform to any instructions that may from time to time be given to it by the Municipality. No committee can approve any scheme or expenditure from the municipal fund unless it has already been approved in the annual budget or supplementary budget passed by the Municipality. The Municipality may, at any time, call for any extract from any proceedings of any committee, and any return, statement of accounts or report concerning or connected with any matter with which any committee has been authorized or directed to deal, and every such requisition shall without unreasonable delay, be complied with by the committee so called upon.
- (2) Every resolution passed by a committee appointed under Sections 54 and 55 shall be subject to revision by, and open to appeal to, the Municipality in accordance with rules that may be framed by the Municipality in this behalf.
- 60. General functions of the Ward Committee.** - The Ward Committee may discharge the following functions, namely:-
- (a) assisting in solid waste management in the ward;
 - (b) assisting in supervision of sanitation work in the ward;
 - (c) assisting in the preparation and encouragement of the development scheme for the ward;
 - (d) encouraging harmony and unity among various groups of people in the ward;
 - (e) mobilizing voluntary labour and donation by way of goods or money for social welfare programmes;
 - (f) assisting in the implementation of development schemes relating to the ward;
 - (g) assisting in identifying beneficiaries for the implementation of development and welfare schemes;

- (h) encouraging art and cultural activities and activities of sports and games;
- (i) ensuring people's participation in the voluntary activities necessary for successful implementation of the developmental activities of the Municipality;
- (j) assisting in timely collection of taxes, fees and other sums due to the Municipality;
- (k) assisting in maintenance of parks in the ward;
- (l) assisting in maintenance of street lighting in the ward; and
- (m) such other functions as may be assigned to it by the Municipality.

61. Powers, duties and functions which may be delegated. - (1) Any powers, duties or executive functions which may be exercised, discharged or performed by or on behalf of the Municipality may, subject to such restrictions, limitations and conditions as may be prescribed, be delegated to the committees under this Act, without prejudice to the powers, duties and functions prescribed under Sections 55, 157 or 158.

- (2) When the office of a Chairperson becomes vacant and there is no Vice-Chairperson to take over, the Municipality shall at a meeting to be called in prescribed manner, delegate the powers, duties and executive functions of the Chairperson to such member of the Municipality as it thinks proper to be exercised by him till a Chairperson is elected in accordance with the rules in force:

Provided that when the office of a Chairperson reserved for Scheduled Castes, Scheduled Tribes, the Backward Classes or for women becomes vacant, the powers, duties and executive functions of the chairperson shall be delegated to a member belonging to said castes, tribes, classes or, as the case may be, a woman member and if there is no member belonging to said castes, tribes, classes or, as the case may be, woman member to such other member as it thinks proper.

62. Acts and proceedings of Municipality and committees not vitiated by disqualifications etc., of members thereof. - (1) No disqualification of or defect in the election, nomination or appointment of any person acting as member, or as the Chairperson or presiding authority of a general meeting or a committee 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 member or a Chairperson or a Vice-Chairperson is declared, as the result of an election petition, not to have been duly elected he shall cease to act as such from such date but acts done by him till then in the execution of his 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.

63. Municipal fund ordinarily liable for all costs and expenses incurred by Municipalities. - (1) Except as herein otherwise provided, no Chairperson or Vice-Chairperson or member shall be personally liable in respect of any contract or agreement made, or for any expense incurred by or on behalf of the Municipality, and 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) Every Chairperson, Vice-Chairperson or member shall be liable for the misapplication of any money or other property owned by or vested in the Municipality to which he has been a party and for any loss or waste of such money or property which has been caused or facilitated by his misconduct. The Chairperson, the Vice-Chairperson, member, the Chief Municipal Officer or other officer or person to whom executive powers are conferred by or under this Act shall be liable for such loss, waste or misapplication, if it is a direct consequence of his neglect or has been caused or facilitated by his misconduct.
- 64. Official of the Municipality not to be interested in any contract.** - Any person who has, directly or indirectly, by himself or his partner, any share or interests 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 shall be liable for disciplinary action under the appropriate rules.
- 65. Penalty for member, officer or employee interested in a contract etc., with Municipality.** - (1) Any member who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, under, by, or on behalf of a Municipality of which he is a member, not being a share or interest such as under Section 24, it is permissible for a person to have without being thereby disqualified for being member, shall be liable, on conviction before a criminal Court, to a fine which may extend to five 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 five thousand rupees and shall also be liable for disciplinary action in accordance with the rules applicable to him.
- 66. Members etc. to be deemed public servant.** - Every member, 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).

CHAPTER IV

Municipal Property

- 67. Power to acquire and hold property.** - The Municipality shall, for the purposes of this Act, 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.
- 68. Vesting of property.** - (1) All property of the nature hereinafter in this Section specified and not being specially reserved by the State Government shall, subject to any other law for the time being in force, vest in and belong to the Municipality, and shall together with all other property of whatsoever nature or kind not being specially reserved by the State Government, which may 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 Act, that is to say
- (a) all vested public lands;
 - (b) all public city or town walls, gates, markets, slaughterhouses, manure, night-soil depots, and public building of every description which have been constructed or are maintained out of municipal fund;
 - (c) all public tanks, streams, reservoirs, 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;
- (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, erections, materials, implements and things provided for such streets;
 - (f) all public parks and gardens, including squares and public open spaces;
 - (g) all public ghats on rivers or streams or tanks;
 - (h) such Government lands, whether situate within or out of the municipal area, as the State Government may by general or special order vest in the Municipality;
 - (i) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto;
 - (j) all Government buildings and all private lands and buildings transferred to it by gift or otherwise;
 - (k) all public places for disposal of the dead, excluding those governed by any specific law in this behalf;
 - (l) all solid wastes collected on a public street or public place, including dead animals and birds; and
 - (m) all stray animals not belonging to any private person.
- (2) The State Government shall be competent to resume from time to time, by notification in the Official Gazette, any Government land vested in a Municipality under clause (h) of sub-Section (1), -
- (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.
- 69. Acquisition of property by Municipality by agreement, exchange, lease, grant, etc.** - (1) The Municipality may, on such terms and conditions as may be approved by it and with the prior approval of the State Government, -
- (i) acquire by agreement
 - (a) any immovable property, and
 - (b) any easement affecting immovable property;
 - (ii) acquire any property by exchange; and
 - (iii) hire or take on lease immovable property.
- (2) 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.
- (3) It shall be lawful for the Municipality to be the beneficiary of any trust created under the Charitable and Religious Trusts Act, 1920 (Central Act No. 14 of 1920), or the Indian Trusts Act, 1882 (Central Act No. 2 of 1882).
- 69A. Acceptance of surrender of rights in certain lands and issue of lease deed.** - (1) Any person who holds non-agricultural land within the municipal area otherwise than under a lease or licence issued by the Municipality may, in the prescribed manner, surrender his rights in such land in favour of the Municipality for the purpose of obtaining lease hold rights from the Municipality and the Municipality may accept such rights.
- (2) On acceptance by Municipality of rights under sub-section (1), all the rights of the holder in the said land shall vest in the Municipality and the Municipality shall, subject to the other provisions

of this Act and the rules made there under and on payment by the holder such fee or charges as may be determined by the State Government, issue the holder lease of the said land.

- (3) The lease issued under sub-section (2) shall be subject to all the covenants and encumbrances which were attached to the land and existed immediately before acceptance by the Municipality of the rights under sub-section (1).]

70. Compulsory acquisition of land. - When any land or right in land whether within or without the limits of the Municipality, is required for the purposes of this Act, the State Government may, at the request and on behalf of the Municipality, proceed to acquire it under the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) and on the payment by the Municipality to the State Government of compensation awarded there under and of other charges incurred by the State Government in connection with such acquisition, the land or right, as the case may be, shall vest in the Municipality.

71. Allotment, regularization etc. of certain lands. - [(1) Any land deemed to have been placed at the disposal of the Municipality under Section 90-A of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956) shall be available for allotment or regularization by the Municipality to the person or persons, as the case may be, specified in that section subject to the terms and conditions prescribed, and on payment to the Municipality of the urban assessment or premium or both leviable and recoverable, under that Section.]

- (2) The charges realized under sub-Section (1) shall be credited to the Consolidated Fund of the State and the fund of the Municipality as may be determined by the State Government.

72. Contracts by officers appointed by Government to execute municipal works and payment for such works. - Notwithstanding anything contained in Section 82, any person appointed by the State Government to carry any work into execution on behalf of a Municipality may, subject to such control as the State Government may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution 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.

73. Provisions relating to transfers of property and contracts. - (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 Act and the rules made there under, 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-

- (i) 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 Act and the rules made there under;
- (ii) no lease, sale, regularization, allotment or transfer of, or any other contract respecting any Government land shall be valid unless it is confirmed by the prescribed authority in the prescribed manner and on the prescribed conditions.

Provided further that where a Municipality leases out, sells, allots or otherwise transfers any municipal land for carrying out prescribed group housing or township projects, such lease, sale, allotment or transfer shall be made subject to the condition that at least twenty percent of plots or housing units in such projects shall be allotted to the persons belonging to such Economically Weaker Section and Low Income Group at such concessional rates through cross sub-sidization of prices as may be notified by the State Government.

Explanation.- For the purposes of this Section, the expression "**Government land**" means any land

- (a) which has become vested in a Municipality under clause (h) of sub-Section (1) of Section 68; or
 - (b) which is a Nazul land as defined in Section 3 of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956); or
 - (c) which may be placed at the disposal of a Municipality by the State Government.
- (2) (a) The State Government or any officer authorized by it in this behalf may, for the purpose of satisfying as to the correctness, legality or propriety of any proposal to lease, sell, regularize; allot or transfer any Municipal land or Government land made by or on behalf of a Municipality or Chairperson, or officer of a Municipality, call for the relevant record, and may while doing so direct that pending the examination of the matter, the proposal to lease, sell, regularize, allot, or transfer of the Municipal land or Government land shall remain in abeyance and no action in furtherance thereof shall be taken till the decision of the State Government or of the authorized officer under sub-Section (2)(b).
- (b) If after examination of the record and after giving to the persons interested in such proposal, a reasonable opportunity of being heard, the State Government or the officer authorized as aforesaid, is satisfied that the proposal to lease, sell, regularize, allot or transfer of the Municipal land or Government land is not in accordance with or is in contravention of the provisions of this Act, it may by order published in the Official Gazette, modify, cancel or rescind wholly or in part the proposal made for lease, sale, regularization, allotment or transfer of the Municipal land or Government land or any action or proceeding taken in pursuance thereof or may give any other direction as may be deemed proper.
- (3) Where in pursuance of any lease, sale, allotment, transfer or any other contract made by a Municipality or by the Chairperson, 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 Rajasthan Public Premises (Eviction of Unauthorized Occupants) Act, 1964 (Act No. 2 of 1965) and shall be liable to eviction from such land and to all the liabilities as to the payment of rent or damages for use and occupation under that Act unless notwithstanding anything contained in that Act, such lease, sale, allotment or, 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 Municipality, Chairperson, or officer of the Municipality for such lease, sale, allotment, transfer or contract shall, be refunded to the person evicted from such land.
- 73A. Transfer to be on free hold or lease hold basis.** - (1) Every transfer of land under Section 71 or Section 73 shall be either on free hold basis or on lease hold basis.
- (2) Any land sold, allotted, regularized or otherwise transferred on lease hold basis may be converted in free hold basis subject to such terms and conditions, and on payment of such conversion charges, as may be prescribed.
- Explanation.* - For the purpose of this section, 'free hold' means tenure in perpetuity with right of inheritance and alienation.
- 74. Inventory and map of immovable municipal property.** - (1) The Municipality shall maintain an inventory and a map of all immovable properties which vest in or belong to or are acquired by it. 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 Act.
- (2) The Chief Municipal Officer shall in 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 before the Municipality and also send a copy thereof to the Director of Local Bodies.

75. Maintenance of records of urban land and properties. - 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.

CHAPTER V

Municipal Finance and Municipal Fund

76. 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 over;
 - (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.

77. 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 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.

78. 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.

79. 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, and all moneys realized or realizable under this Act and all moneys otherwise received by the Municipality shall be credited thereto.

- (2) Subject to such directions as the State Government may issue in this behalf, the receipts and expenditures of the Municipality shall be kept under such heads of accounts, including those for drainage and sewerage, solid waste management, road development and maintenance, slum services, commercial projects and other account heads as may be prescribed 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.- For the purposes of this Section "**commercial projects**" shall include municipal markets, market development projects, property development projects, and such other projects of a commercial nature as may be specified by the Municipality from time to time.

(3) Every head of account specified under sub-Section (2) 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 or capital account, as the case may be.

80. 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 bye-laws made there under and for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.

81. 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 or credited to the Municipal Fund by mistake,
- (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 there under,
- (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
 - (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.

82. Temporary payment from Municipal Fund for works urgently required in public interest. - (1) On a requisition, in writing, by the State Government, the Municipality 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.

83. 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.

84. 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 State Government may, for carrying out the purposes of sub-Section (1), make rules for different classes of Municipalities.

85. 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 State Government.

86. Investment of surplus moneys. - (1) Surplus moneys 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 the rules made by the State Government, be transferred by the Municipality, either in whole or in part, to any other head of account of the Municipal Fund:

Provided that such surplus money 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 moneys 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 Municipality.

(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.

87. Preparation of budget estimate of Municipality. - (1) The Chief Municipal Officer shall prepare in each year, before fifteenth January, a budget estimate along with an establishment schedule of the Municipality for the ensuing financial year, and such budget estimate shall be an estimate of the actual income and expenditure of the Municipality. [***]

(2) Subject to the provisions of Section 4 and sub-Section (2) of Section 79, the budget estimate shall separately state the income and the expenditure of the Municipality to be received and incurred in terms of the various heads of accounts:

Provided that without prior approval of the State Government, no proposal regarding

(i) creation of new posts or filling of vacant posts;

(ii) purchase of new vehicles;

(iii) purchase of immovable property;

(iv) making grant-in-aid to any private institution or person: or

(v) for any other matter as may be directed by the State Government, from time to time, shall be included in the budget.

(3) The budget estimate shall state the rates at which various taxes, surcharges, cesses and fees shall be levied by the Municipality in the year next following.

- (4) The budget estimate shall state the amount of money to be raised as loan during the year next following.
- (5) The Chairperson shall present the budget estimate to the Municipality on such date, not being later than 31st January in each year, as may be fixed by the Executive Committee and it shall be passed by the Municipality prior to 15th February of every year
- (6) The budget estimate shall be prepared, presented and adopted in such form and in such manner, and shall provide for such matters, as may be prescribed.
- (7) The annual inventory prepared under sub-Section (1) of Section 74 and the statement prepared under sub-Section (1) of Section 150 shall be enclosed with the budget estimate.

88. Sanction of budget estimate of Municipality. - (1) The Municipality shall consider the budget estimate and shall, by the fifteenth day of February in each year, adopt the budget estimate for the ensuing year with such changes as it may consider necessary, and submit a copy of the same to the State Government through the Director of Local Bodies and if, after considering the budget estimates, the State Government is of the opinion that it is necessary in the interest of Municipality to make changes in budget estimates, it may direct the Municipality to carry out the changes and such directions shall be binding on the Municipality.

- (2) Where a Municipality fails to pass the budget estimates according to the provisions of sub-section (1), it shall be mandatory for the Chief Municipal Officer to prepare the budget estimates and submit the same on or before twenty eighth day of February of that year to the State Government. The State Government shall approve the budget estimates with or without modifications and the same shall be deemed to have been passed by the Municipality.
- (3) Any work order or sanction regarding any expenditure out of the Municipal funds shall neither be approved nor be issued in the absence of proper provision in the approved budget, except in cases where a specific approval has been obtained from the State Government. In case of any violation the Chairperson, the Chief Municipal Officer or any other officer authorised to issue such work order or sanction shall be jointly and severally responsible for such expenditure and the same shall be recoverable from them.]

89. Power to alter budget grant. - A Municipality may, from time to time, during the financial 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 clause (a) or clause (b) or clause (c) or clause (d) without the recommendation of the Finance Committee.

89A. Constitution of Basic Services to the Urban Poor Fund. - (1) Every Municipality shall constitute a fund called the Basic Services to the Urban Pool Fund, hereinafter in this section referred as 'the fund', for the purpose of providing basic services to the urban poor including the inhabitants of slum areas within the Municipality.

- (2) Such percent, not being less than twenty five percent, of yearly budget grants of a Municipality as may be prescribed by the State Government shall be earmarked and used exclusively for the purpose of providing basic services to the urban poor including the inhabitants of slum areas within the Municipality and any amount which remains unutilized in the current year shall not lapse and be credited to the fund and shall be available to be utilized in next year in addition to the budget grants of that year.
- (3) The allocation to the fund shall be made from the following municipal budget resources, namely:
 - (a) Municipality's own sources of revenue like taxes, fees, user charges, rent, etc.;
 - (b) assigned revenues;

- (c) allocations from Central or State Finance Commissions and other inter governmental transfers;
 - (d) contributions, in cash or kind, or gifts from individuals, organizations or other donors for services to the poor;
 - (e) grants from externally aided projects;
 - (f) sale of municipal assets; and
 - (g) other sources as determined by the Municipality.
- (4) The fund shall be kept in a separate bank account opened with a nationalized bank to be called 'Basic Services to Urban Poor Fund' account.
 - (5) There shall be maintained separate primary books of accounts with detailed accounting heads in line with the National Municipal Accounting Manual for operation of the fund accounts.
 - (6) The allocation of the funds and its utilization for providing basic services to the urban poor shall be detailed and enclosed with the municipal annual budget along with corresponding figures of the previous year.
 - (7) Save as provided in this section, provisions of this Act relating to operation of Municipal Fund and accounts and audit thereof shall apply *mutatis mutandis* to the fund constituted under this section.

Explanation. - For the purpose of this Section

- (i) any grant or contribution by whatever name called, received by the Municipality which is exclusively for the development of slum areas shall not be a part of the above earmarked funds; and
- (ii) '**basic services**' shall include expenditure on capital and revenue account directly incurred on water supply, drainage, sewerage, construction of community toilets, solid waste management, connecting roads, street lighting, public parks and play grounds, community and livelihood centers, community health centers, pre-primary and primary education centers, affordable housing for poor and other services as determined by the Municipality but shall not include establishment expenses, including salary and wages, nor directly and specifically incurred for delivery of basic services to the poor.

CHAPTER VI

Accounts and Audit

- 90. Maintenance of accounts.** - The Chief Municipal Officer shall prepare and maintain accounts of receipts and expenditures of the Municipality in such form, and in such manner, as may be prescribed.
- 91. Preparation of Municipal Accounting Manual.** - The State Government shall prepare and maintain a Manual to be called the Municipal Accounting Manual containing details of all financial matters and procedures relating thereto in respect of the Municipality.
- 92. Financial statement and balance sheet.** - (1) The Chief Municipal Officer shall, within three months 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.
(2) The form of the financial statement and the balance sheet, and the manner in which the financial statement and the balance sheet shall be prepared, shall be such as may be prescribed.
- 93. Submission of financial statement and balance sheet to Auditor.** - The financial statement and the balance sheet shall be placed by the Chief Municipal Officer before the Finance Committee which, after examination of the same, shall adopt and remit them to the Auditor.
- 94. Audit of accounts.** - (1) The municipal accounts as contained in the financial statement and the balance sheet shall be examined and audited by the Auditors of Local Fund

Audit in accordance with the provisions of the Rajasthan Local Fund Audit Act, 1954 (Act No. 28 of 1954).

- (2) The Comptroller and Auditor General of India may [****] provide technical guidance for proper maintenance of accounts of Municipalities.
- (3) The Chief Municipal Officer shall submit such further accounts to the Auditor, as may be required by him.
- (4) The Auditor, or the officer subordinate to him, may report any item of accounts contrary to the provisions of this Act to the Finance Committee.
- (5) The Finance 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 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 or any officer authorized by it in this behalf whose decision on such appeal shall be final.

95. Placing of Audited Accounts before the Municipality. - (1) The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments before the Finance Committee which, after the examination thereof, shall place them before the Municipality with its comments, if any.

- (2) The Chief Municipal Officer shall remedy any defect that has been pointed out by the Auditor in his report and place before the Municipality the reply of the objections and defects as pointed out by the Auditors.

96. Submission of audited accounts. - (1) The Chief Municipal Officer shall, after adoption of the financial statement and the balance sheet and the report of the Auditor, if any, by the Municipality, forward the same to the State Government together with a report of the action taken thereon by the Municipality.

- (2) If there is any difference of opinion between the Auditor and the Municipality or if the Municipality does not remedy the defects or the irregularities mentioned in the report of the Auditor within a reasonable period, the Auditor shall refer the matter to the State Government whose decision thereon shall be final and binding.

97. Power of State Government to enforce order upon audit report. - If any order made by the State Government under this Chapter is not complied with, it shall be lawful for the State Government to take such steps as it thinks fit to secure the compliance of the order and to direct that all expenses thereof shall be defrayed from the Municipal Fund.

98. Special audit. - In addition to the audit of annual accounts, the State 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 requiring thorough examination, and the procedure relating to audit shall apply *mutatis mutandis* to such special audit.

99. Internal audit. - The State Government or the Municipality may provide for internal audit of the day-to-day accounts of the Municipality in the manner prescribed.

99A. Audit by Comptroller and Auditor General of India. - (1) The accounts of the Municipalities shall be audited by the Comptroller and Auditor General of India in accordance with the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971(Central Act No. 56 of 1971).

- (2) Notwithstanding anything contained in this Act, the State Government shall also entrust the Comptroller and Auditor General of India with the technical guidance and supervision over the audit of the municipal accounts.
- (3) The State Government shall cause the audit report under the Rajasthan Local Fund Audit Act, 1954 (Act No. 28 of 1954) along with Annual Technical Inspection report of the Comptroller and Auditor General of India on the technical guidance and supervision as referred to in sub-section (2) to be laid before the State Legislature.

- 100. Annual administration report.** - (1) As soon as may be after the first day of April in every year and not later than thirtieth day of June, the Municipality shall submit to the State Government a report on the administration during the preceding year in such form and with such details as the State Government may direct.
- (2) 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.
- (3) The report may be published in such manner as the Municipality may direct.

CHAPTER VII

Municipal Revenue

101. 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 levied by the Municipality for provision of civic services, and
- (c) fees and fines levied for performance of regulatory and other statutory functions.

102. Obligatory taxes. - (1) Subject to the provisions of Section 4, 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) tax on lands and buildings [called by whatever name] situated in the municipal limits, by unit area base method or by any other method;
- (b) tax on professions, trades, callings and employment;
- (c) toll on roads, bridges and ferries [*****];
- (d) a tax for pollution control from the trade and industries³ which are the source of environment pollution within the municipal limits;
- (e) a tax on permissible display or advertisements on public place or on private land or building;
- (f) any other tax which State Government has power to impose under the Constitution of India:

Provided that upon a representation made to it by and at the request of a Municipality, the State Government, if it is satisfied that circumstances exist which sufficiently provide the justification for a Municipality not to levy, or to stop the levy, or reduce the rate of , any of the taxes mentioned in this Section, may, by special order published in the Official Gazette, along with the reasons for making such order, permit the Municipality not to levy, or to stop the levy, or reduce the rate, of any such tax.

(2) A direction under sub-Section (1) may provide for the levy of taxes at different rates in different Municipalities having regard to their varying local conditions and needs, and on the same considerations and by a like direction, the State Government may, from time to time vary uniformly or differently in relation to different Municipalities, the rates of taxes levied.

103. Other taxes that may be imposed. - (1) Subject to any general or special orders of the State Government in this behalf, a Municipality may impose and levy in the whole or any part of the Municipality for which it is established, all or any of the following taxes, namely:-

- (i) a tax on vehicles plying within the Municipality;
- (ii) a tax on boats moored within the Municipality;
- (iii) a lighting tax;

- (iv) a tax on congregations;
 - (v) tax on pilgrims and tourists;
 - (vi) a tax on land or building used for erecting hoardings or any other structures for advertisement;
 - (vii) fire tax;
 - (viii) a tax on deficit in parking spaces in any non-residential building;
 - (ix) a surcharge on stamp duty at the rate not exceeding [ten per cent] of the stamp duty;
 - (x) any other tax which the State Government has power to impose under the Constitution.
- (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 bye-laws made thereunder.

104. Power to levy user charges. - The Municipality may levy user charges for

- (i) provision of drainage and sewerage,
- (ii) solid waste management,
- (iii) parking of different types of vehicles in different areas and for different periods,
- (iv) stacking of materials or rubbish on public streets for construction, alteration, repair or demolition work of any type, and
- (v) any other civic service, in such manner, and at such rates as may be determined by it from time to time with prior approval of the State Government :

Provided that the State Government may direct the Municipality to levy any of the user charges as aforesaid, which the Municipality has not levied or has postponed.

105. Power to levy fees and fines. - The Municipality shall have the power to levy fees and fines in exercise of the regulatory powers vested in it by or under this Act or the rules or the bye-laws made thereunder for

- (a) sanction of building plans and issue of completion certificates,
- (b) issue of municipal licences for various non-residential uses of lands and buildings,
- (c) licensing of -
 - (i) various categories of professionals such as plumbers and surveyors,
 - (ii) various activities such as sinking of tube-wells, sale of meat, fish or poultry, or hawking of articles,
 - (iii) sites used for advertisements or premises used for private markets, slaughterhouses, hospitals, nursing homes, clinics, factories, warehouses, god-downs, goods transport depots, eating-houses, lodging-houses, hotels, theatres, cinema-houses and places of public amusement and for other nonresidential uses,
 - (iv) animals,
 - (v) carts or carriages, and
 - (vi) such other activities as require- a licence or permission under the provisions of this Act, and
- (d) issue of birth and death certificates, in accordance with the provision of this Act, and the rules or bye-laws made thereunder.

106. Power to levy development charge. - (1) The Municipality may levy such development charge as may be determined by bye-laws, from time to time

- (a) on any residential building with a height of more than fourteen meters, or any non-residential building, having regard to its location along a particular category of street, its use characteristics, and sanctioned built up area, and
 - (b) for development or redevelopment of any existing-area, in accordance with any development plan or while approving any sub-division plan of that area.
- (2) Any such development charge shall be paid in advance by the developer before commencing any activity on the approved plan or sub-division.
 - (3) In case of redevelopment of the area, the charges shall be payable by all the residents and beneficiaries of the development.
 - (4) The Municipality shall keep a separate account of such development charge and shall not divert it for any other use.

107. Exemption from taxation. - (1) None of the taxes specified in Sections 102 and 103 shall be leviable by a Municipality in respect of any property belonging to or vested in it.

- (2) None of the taxes specified in clause (a) of sub-Section (1) of Section 102 and clauses (i) and (ii) of sub-Section (1) of Section 103 shall be leviable in respect of any lands, buildings, vehicles, conveyance and boats belonging to or vested in the Central Government or the State Government:

Provided that, so long as any such tax continues to be levied by the Municipality on like properties of other persons, nothing in this sub-Section shall prevent the Municipality from levying that tax to which, immediately before the 26th day of January, 1950, any lands, buildings, vehicles, conveyances and boats of the Central Government were liable or treated as liable:

Provided further that any land, building, vehicle, conveyance or boat belonging to or vested in the State Government shall be so exempted from payment of any such tax, if the same is used or intended to be used solely for public purposes and not for purposes of profit.

- (3) The tax specified in clause (a) of sub-Section (1) of Section 102 shall not be leviable in respect of lands and buildings used solely as places of public worship and duly recognized as such by the Municipality.
- (4) The State Government may, if in its opinion reasonable ground exists for doing so, grant and define by general or specific order published in the Official Gazette such exemptions from payment of a tax leviable under this Act as it may consider necessary.

108. Procedure preliminary to imposing tax. - A Municipality, before imposing a tax under Section 103 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 in Section 103, 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 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.

109. Imposition of tax etc.. - (1) After the passing of the special resolution referred to in Section 108 the Municipality shall notify in the Official Gazette the imposition of the tax from the appointed date.

(2) A notification of the imposition of a tax under sub-Section (1) shall be conclusive proof that the tax has been imposed in accordance with the provisions of this Act:

Provided that

(a) a tax leviable by the year

(i) shall not come into force except on one of the following dates viz., the first day of April, the first day of July, the first day of October, or the first day of January in the official year in which such notice is published, and

(ii) if it comes into force on any day other than the first April, it shall be leviable by the quarter till the first day of April then next ensuing;

(b) on or before the day on which a notice is issued under this Section, the Municipality shall publish such further detailed rules as may be required, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof shall be payable; and

(c) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

110. Procedure for altering taxes. - The procedure for abolishing or altering a tax imposed under Section 103, shall, so far as may be, be the procedure prescribed by Sections 108 and 109 for its imposition.

111. Power of Government to suspend or prohibit or remedy tax. - If it appears to the State Government on complaint or otherwise that any tax, levied by a Municipality under Section 102 and 103 is unfair in its incidence or that the levy thereof or any part thereof is contrary or obnoxious to the interest of the general public, the State Government may require the said Municipality within such period as it shall fix in this behalf to take measures for removing any defect or objection which appear to it to exist in the said tax or in the method of assessing or collection of the same, and if, within the period so fixed, such requirement is not carried into effect to the satisfaction of the State Government it may, by notification in the Official Gazette, suspend the levy of the tax or of any part thereof, until such time as the defect or objection is removed or may abolish or reduce such tax.

112. Power of Municipality to suspend or abolish tax. - Subject to any general or special orders of the State Government, a Municipality may, if it is satisfied that it is in public interest so to do, suspend or abolish any tax, which has been or is deemed to have been imposed under Section 103.

113. Assessment of tax and appointment of Assessors. - (1) For assessing municipal tax the State Government may appoint Assessors who shall assess tax in such form and in such manner as may be laid down in rules made by the State Government in that behalf.

(2) The Assessors may be assigned any other functions by general or special orders of the State Government.

114. Supply of certain information and consequence of failure to supply. - (1) On the requisition of the Assessor, the owner or occupier of any building or land or both referred to in sub-Section (1) of Section 102 shall, within such reasonable period as shall be specified in the requisition be bound

(i) to furnish a return in such form, as may be prescribed; and

- (ii) to give such information as may be requisite for determining the person from whom the tax is primarily leviable under Section 120.
- (2) If such owner or occupier fails or refuses to comply with the requisition within the period specified therein, then without prejudice to any other action that may be taken against him under any other provision of this Act, the Assessor shall, after making such inquiry as he considers necessary, assess the tax payable on such building or land or both to the best of his judgment.
- 115. Obligation to supply information for purposes of amendment.** - (1) When a building is built or enlarged, the owner shall give notice thereof to the Municipality within one month from the date of completion of such building, re-building or enlargement, or from the date of the occupation of such building, whichever date happens first.
- (2) If any person fails to give the notice required by sub-Section (1), the Municipality may impose upon him such penalty not exceeding five hundred rupees or ten times the amount of the tax payable on the said building or enlargement for period of three months, whichever is greater, as the Municipality may think fit.
- 116. Notice to be given to Municipality of all transfers of title by persons primarily liable to payment of taxes on building or lands.** - (1) Whenever the title of any person primarily liable for the payment of a tax imposed on a building or land or both, is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall give notice of such transfer in writing to the Municipality.
- (2) In the event of the death of any person primarily liable as aforesaid the person to whom the title of the deceased is transferred as heir or otherwise shall give notice of such transfer to the Municipality.
- 117. Form of notice.** - (1) The notice to be given under the last preceding Section shall be in the form either of the Second schedule or the Third schedule, as the case may be, and shall state clearly and correctly all the particulars required by the said form.
- (2) On receipt of any such notice, the Municipality may, if it thinks necessary, require the production of the instrument of transfer, if any or of a copy thereof.
- 118. Name of transferee to be substituted in the municipal registers.** - Whenever such transfer comes to the knowledge of the Municipality either through such notice or otherwise and after such enquiry as may be necessary, the name of the transferee shall be substituted in the municipal register for that of the person primarily responsible.
- 119. Liability for payment of taxes on buildings or lands to continue in absence of a notice of transfer.** - (1) Every person primarily liable for the payment of the tax imposed on a building or land or both, who transfers his title thereto without giving notice of such transfer to the Municipality as aforesaid, shall continue to be liable for the payment of all taxes from time to time payable in respect thereof until he gives such notice, or until the transfer shall have been recorded in the register of the Municipality.
- (2) Nothing in this Section shall be held to diminish the liability of the transferee for the said tax or to affect the prior claim of the Municipality on the premises conferred by Section 140, for the recovery of the tax due thereupon.
- 120. Tax from whom primarily leviable.** - (1) Every tax imposed on the buildings or lands or both shall be leviable primarily from the actual occupier of the property assessed to such tax, if he is the owner of the building or land or both, or holds them on a building or other lease from the State Government or from the Municipality, or on a building lease from any person.
- (2) Subject to the provisions contained in sub-Section (1), the tax shall be primarily leviable as follows namely:
- (a) if the property is let, from the lessor;
 - (b) if the property is sub-let, from the superior lessor;
 - (c) if the property is not let, from the person in whom the right to let the same vests:

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the building or land as is payable proportionately in respect of such part:

Provided further that, for any sum paid by, or recovered from, any occupier who is not primarily liable under this Section he shall be entitled to get credit in account with the person primarily liable.

121. Appeals relating to taxation. - An appeal against an assessment, or an alteration of an assessment and, in all cases in which no appeal has been made as aforesaid, an appeal against a notice of demand under Section 130 may be made, -

(a) to the Commissioner, in case of Municipal Corporation: and

(b) to the concerned Regional Deputy Director of Local Bodies, in case of Municipal Council and Municipal Board.]

122. Limitation and preliminary deposit of tax claimed. - No such appeal shall be heard and determined unless

(a) the appeal is, in the case of tax assessed on buildings or lands or both, brought within thirty days next after the date of communication of the order (exclusive of the time requisite for obtaining a copy thereof) and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or alteration of assessment or, if no notice has been given, within thirty days next after the date of the first demand under the assessment or alteration of assessment; and

[(b) twenty five per cent of the amount so claimed from the applicant has been deposited by him in the municipal office;

[*****]

123. Costs. - (1) In every appeal the costs shall be in the discretion of the officer deciding the appeal.

(2) Costs awarded under this Section to the Municipality shall be recoverable by the Municipality in the manner provided in this Chapter.

(3) If the Municipality fails to pay costs awarded to an appellant within thirty days after the date of the communication to the Municipality of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

124. 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.

125. Savings. - (1) No assessment list or other list, notice, bill or other such document specifying or purporting to specify, with reference to any tax, charge, rent or fee, any person, property, thing or circumstance shall be invalid by reason only of a mistake in the name, residence, place of business or occupation of the person or in the description of the property, thing or circumstance, or by reason of any mere clerical error or defect of form, and it shall be sufficient that the person, property, thing or circumstance is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

(2) The levy of taxes shall not be deemed to be the title of the property.

126. Obligation to disclose liability. - (1) The Municipality, the Chief Municipal Officer, the Assessor or any other officer authorized by the Municipality in this behalf, may by

written communication, call upon a inhabitant of the Municipality to furnish such information as may be necessary in order to ascertain,

- (a) whether such inhabitant is liable to pay tax imposed under this Act;
- (b) at the amount at which he should be assessed;
- (c) the name and address of the owner.

(2) If an inhabitant so called upon to furnish information omits to furnish it or furnishes information which is untrue, he shall be liable upon conviction to a fine, which may extend to one thousand rupees.

127. 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 Sections 102 and 103.

128. Presentation of bill of tax. - When any amount

- (a) which, by or under any provision of this Act, is declared to be recoverable in the manner provided by this Chapter, or
- (b) which is due to the Municipality on account of rent in respect of any building or land vested in it, the Municipality shall with least practicable delay cause to be presented to the persons liable for the payment thereof a bill for the sum claimed as due.

129. Contents of bill. - Every such bill shall specify

- (a) the period for which, and
- (b) the property occupation, circumstance or thing in, respect of which, the sum is claimed, and shall also give notice of
 - (i) the liability to be incurred in default of payment, and
 - (ii) the time within which an appeal may be preferred as provided in this Act.

130. Notice of demand. - If the sum for which any bill has been presented as aforesaid is not paid into the municipal office or to a person authorized by any rule in that behalf to receive such payment, within fifteen days from the presentation thereof, the Municipality may cause to be served upon the person to whom such bill has been presented, a notice of demand in the form of the Fourth Schedule or to the like effect.

131. In what cases warrant may issue. - (1) If the person on whom a notice of demand has been served under Section 130 does not, within fifteen 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 Municipality, or of such officer as the Municipality by rule may appoint in this behalf, or of the Chief Municipal Officer, if any, why he should not pay the same, or
- (c) prefer an appeal in accordance with the provisions of Section 121 against the demand, such sum with all costs of the recovery may be levied by attachment and sale of any property of the defaulter and in case of attachment of movable property, the warrant shall be caused to be issued by the Chief Municipal Office in the form of the Fifth Schedule or to the like effect and in the case of attachment of immovable property, the warrant shall be caused to be issued by the Municipality in such form as may be prescribed.

(2) No warrant for attachment and sale shall be issued under sub-Section (1) for the recovery of any sum due to the Municipality under this Act after the expiration of a period of three years from the date on which such warrant might have been issued under that sub-Section:

Provided that after the expiry of the said period of three years the Municipality shall be entitled to request the concerned authorities for recovery of any sum due to the Municipality as arrears of land revenue.

- (3) Every warrant shall be signed and issued by the Chief Municipal Officer.
- (4) Where such property is within the jurisdiction of the Municipality, the warrant shall be addressed to an officer of the Municipality.
- (5) Where such property is in another Municipality or in a place, which is not a Municipality, the warrant shall be addressed to the Chief Municipal Officer of the Municipality concerned or to the Tehsildar, as the case may be:

Provided that such Chief Municipal Officer or Tehsildar may endorse such warrant to a subordinate officer.

132. Forcible entry for executing warrant. - It shall be lawful for any officer to whom a warrant issued under Section 131 is addressed or endorsed, 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 attachment 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 appropriated for women until he has given three hours notice of his intention and has given such women an opportunity to withdraw.

133. Manner of executing warrant. - (1) It shall be lawful for any such officer to attach wherever it may be found, any movable or immovable property of the person named in the warrant issued under Section 131 as defaulter, subject to the provisions of the following sub-Sections.

- (2) The following property shall not be attached namely: -
 - (i) the necessary wearing apparel and bedding of the defaulter, his wife and children,
 - (ii) his cooking utensils,
 - (iii) the tools of artisans, and
 - (iv) when the defaulter is an agriculturist, his implements of husbandry, seed grain, and such cattle's as may be necessary to enable the defaulter to earn his livelihood.
- (3) The attachment of movable property shall not be excessive, that is to say, the movable property attached shall be as nearly as possible proportionate in value to the amount recoverable under the warrant, and if any articles have been attached which, in the opinion of a person authorized by or under sub-Section (3) of Section 131 to sign a warrant or of the person to whom the warrant is addressed, should not have been so attached, they shall forthwith be returned.
- (4) The officer shall on attaching the movable property forthwith make an inventory thereof and shall before removing the same give to the person in possession thereof at the time of attachment, a written notice in the form of the Sixth Schedule.
- (5) When the property is immovable,-
 - (i) 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, and
 - (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 on a conspicuous part of the office of the Municipality and also, when the property is land paying revenue to the State Government, in the office of the Collector of the district in which the land is situate.
- (6) Any transfer of or charge on the property attached or of any interest therein made subsequent to such attachment, and without the written permission of the Chief Municipal Officer shall be void as against all claims of the Municipality enforceable under the attachment.

134. Sale of property attached in special cases. - (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 recovered is likely to exceed its value, the Chief Municipal Officer, shall at once give notice to the person in whose possession the property was, when attached, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid or a security equal to that amount be furnished.

- (2) If property is not sold at once under sub-Section (1), the attached property or a sufficient portion thereof may, unless the sum due by the defaulter together with all costs incidental to the notice, warrant, attachment and detention of the property is paid, be sold by public auction under the orders of Chief Municipal Officer in the manner prescribed by the State Government and the proceeds or such part thereof as shall be requisite shall be applied in discharge of the sum due and of all such incidental costs as aforesaid.
- (3) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the persons in whose possession the property was at the time of attachment but if the same be claimed by written application to the Municipality within one year from the date of the notice given under this sub-Section, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice, shall be the property of the Municipality.

135. Attachment and sale outside the Municipality. - Where the warrant is to be executed outside the Municipality, the authority issuing the warrant, may by endorsement direct the officer to whom the warrant is addressed to sell the property attached and in such case, it shall be lawful for such officer to sell the property and to do all things incidental to the sale and the foregoing provisions shall apply *mutatis mutandis*. Such officer shall after deducting all costs of recovery incurred by him remit the amount recovered under the warrant to the authority by whom it was issued, who shall dispose of the same in accordance with the provisions of Section 131.

136. 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 Chapter 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.

137. Savings. - No attachment or sale made under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account of an error, defect or want of form in the bill, notice of demand, warrant, inventory or other proceedings relating thereto.

138. Receipt to be given for all payments. - For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving the same.

139. Alternative power of bringing suit. - Instead of proceeding by attachment and sale or in case of failure to realize thereby the whole or any part of the demand, Chief Municipal Officer may sue the person liable to pay the same in any Court of competent jurisdiction.

140. Liability of land, building, etc., for taxes. - All sums due on account of any tax imposed on the lands or buildings or both shall, subject to the prior payment of land revenue, if any, clue to the State Government thereupon, be a first charge upon the building or land in respect of which such tax is leviable and upon the movable property, if any, found within or upon such building or land and belonging to the person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

CHAPTER VIII

Borrowings

141. Comprehensive debt limitation policy. - The State Government shall frame a comprehensive debt limitation policy 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.

142. Power of Municipality to raise loan. - (1) The Municipality may, from time to time, raise, by a resolution in this behalf passed at a meeting of the Municipality, a loan within the limits set by the comprehensive debt limitation policy framed under Section 141, any sum of money which may be required for the purpose of

- (a) construction of works under this Act, or
- (b) acquisition of lands and buildings for the purposes of this Act, or
- (c) paying off any debt due to the State Government, or
- (d) repayment of a loan raised under this Act, or
- (e) acquisition of a public utility concern which renders such services as the Municipality is authorized to render under this Act, or
- (f) purchase of vehicles, and other machinery necessary for carrying out the purposes of this Act, or
- (g) 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 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 that regard to its purposes, the quantum, the rate of interest and the period for repayment, and the other terms and conditions, if any:

Provided further that in addition to the loans as aforesaid, the Municipality may also take loan from the State Government or any statutory body or public sector corporation:

Provided also that the State Government shall grant any loan to, or guarantee any loan raised by, the Municipality subject to its repaying capacity ascertained in the prescribed manner.

(2) When any loan has been raised under sub-Section (1),-

- (a) no portion thereof shall, without the previous sanction of the State Government, be applied to any purpose other than that for which it has been raised, and
- (b) no portion of any loan raised for any of the purposes referred to in that sub-Section shall be applied to the payment of salaries or allowances to any officer or other employee of the Municipality, other than those who are exclusively employed for the purpose for which the loan has been raised.

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.

143. Power of Municipality to open credit account with bank. - Notwithstanding anything contained in Section 142, 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.

- 144. 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 141 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 142, on such terms, and on furnishing such security for the repayment of such loan, as may be approved by the State Government.
- 145. Establishment of Sinking Fund.** - The Municipality shall establish a Sinking Fund in respect of each loan raised under Section 142 for the repayment of moneys borrowed and shall, every year, pay into such Sinking Fund such sum as shall be sufficient for the repayment, within the period fixed for the loan, of the moneys borrowed.
- 146. Application of Sinking Fund.** - A Sinking Fund or any part thereof shall be applied to the discharge of the loan or a part of the loan for which such fund was created and, until such loan or part thereof is wholly discharged, such Fund shall not be applied to any other purpose.
- 147. Power to discontinue payment towards Sinking Fund.** - If, at any time, the sum standing at the credit of a Sinking Fund established under Section 145 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 142, it will be sufficient to pay off the loan within the period approved by the State Government under the said proviso, further payment towards such fund may be discontinued.
- 148. 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 Municipality in
- (a) Government securities, or
 - (b) securities guaranteed by the Central Government or any State Government, or
 - (c) 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.
- (2) All 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 Municipality, be invested together as a common fund, and it shall not be necessary for the Municipality 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.
- 149. Manner of repayment of loans.** - Every loan raised by the Municipality under Section 142 shall be repaid within the time approved under that Section and such repayment shall be made either from a Sinking Fund established under Section 145 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 loan raised for the purpose under Section 142, as may be approved by the State Government.
- 150. Annual statement.** - (1) The Chief Municipal Officer shall, at the end of every year, prepare and submit to the Municipality, an annual statement showing

- (a) the amount which has been paid into the Sinking Fund or Sinking Funds during the year under Section 145,
 - (b) the date of the last investment made during the year,
 - (c) the aggregate amount of the securities in the hand of the Municipality at the end of the year, and
 - (d) the aggregate amount which has been applied for the purpose of repayment of the loan under Section 149.
- (2) A copy of every such annual statement shall be submitted to the State Government by the Chief Municipal Officer.
- 151. Annual examination of Sinking Funds.** - (1) All Sinking Funds established under this Act shall be subject to annual examination by the Auditor who shall ascertain whether the cash and the value of securities belonging to such Sinking Funds are equal to the amount which should be at the credit of such Sinking Funds, had the investment under Section 148 been regularly made and had the interest accruing from such investments been regularly obtained.
- (2) The amount which should be at the credit of a Sinking Fund shall be calculated on the basis of the sums paid into such Sinking Fund under Section 145.
 - (3) The value of securities belonging to a Sinking Fund shall be the current value of such securities, unless such securities become due for redemption at par with, or above, their face value before maturity in which case their current value shall be taken as their redemption value.
 - (4) The Municipality shall forthwith pay into a Sinking Fund such amount as the Auditor may certify to be deficit in respect of such Sinking Fund, unless the State Government specially sanctions a gradual readjustment of such deficit.
 - (5) If the cash and the value of the securities at the credit of a Sinking Fund are in excess of the amount which should be at the credit of such Sinking Fund, the Auditor shall certify the amount of such excess sum, and the Municipality shall, thereupon, transfer the excess sum to the Municipal Fund in the General Account.
 - (6) If any dispute arises as to the accuracy of any deficit or excess referred to in the certificate under sub-Section (4) or sub-Section (5), the Municipality may, after payment of such deficit or after transfer of such excess, as the case may be, refer the matter to the State Government whose decision thereon shall be final.

CHAPTER IX

Commercial Projects, Private Sector Participation Agreements and Assignment to other Agencies

- 152. 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.
- 153. 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 any body 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.

154. 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.

155. 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.

CHAPTER X

Economic and Development Planning

156. City Development Plan. - (1) Every Municipality shall prepare a City Development Plan for such periodicity, and containing such Chapters, material and schemes, as may be prescribed by the rules framed by the Government in this behalf. The City Development Plan shall be prepared in consultation with the District Collector and other district level officials of the following departments of the Government, namely:

- (i) Public Works Department;
- (ii) Public Health Engineering Department;
- (iii) Irrigation Department;
- (iv) Medical and Health Department;
- (v) Education Department;
- (vi) Local Self Government Department;
- (vii) Planning Department;
- (viii) Urban Improvement Trust/City Development Authority, if any; and
- (ix) any other department or Agency which the Municipality may consider necessary to consult.

- (2) The Municipality may also take the assistance of experts and knowledgeable persons for the preparation of the City Development Plan with the help of the aforesaid departments in the co-ordination of the District Collector.
- (3) The City Development Plan, as prepared under sub-Section (1), shall be sent to the Metropolitan Planning Committee for inclusion in the Metro Region Development Plan, in case the Municipality is a part of any Metro Region; and in all other cases, it shall be sent to the District Planning Committee for inclusion in the District Master Development Plan.
- (4) The Metropolitan Planning Committee or 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 Metro Region Development Plan or 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 State Government for inclusion in the State Plan, and also for allocation of resources from the Government for execution of the Plan.

157. Committee for Metropolitan Planning. - (1) There shall be constituted in every Metropolitan Area having population of 10 Lakh or more a Metropolitan Planning Committee, hereinafter in this Section referred to as "the Committee", to prepare a draft development plan for the Metropolitan Area as a whole. This plan shall be known as the "Metropolitan Region Development Plan".

- (2) The Committee shall consist of such number of members as may be fixed by the State Government from time to time by notification in the Official Gazette.
- (3) In so fixing the total number of members of the Committee, the State Government shall specify the number respectively of the nominated members and elected members:

Provided that not less than two thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan Area in the ratio that the population of the municipal areas in such Metropolitan region bears to the population of Panchayats in that region.

- (4) The elected members shall be chosen in such manner as may be prescribed in the rules framed in this behalf by the Government.
- (5) The nominated members may consist of
 - (a) persons representing the Government of India ;
 - (b) persons representing the State Government; and
 - (c) persons representing such organisations and institutions as may be identified by the State Government.

(6) The nomination of the persons referred to in sub-Section (5) shall be made by the State Government, subject, however; to the condition that in the case of persons representing the Government of India or any Central Government organisation or institution, the prior concurrence of the Government of India shall be obtained.

(7) The nomination may be made either by name or by virtue of office.

(8) The Committee shall have -

- (i) the functions relating to planning and coordination for the Metropolitan Area, which may be assigned to it by the State Government; and
- (ii) the powers and functions as may be conferred on or delegated or entrusted to it by the State Government for carrying out the purposes of this Chapter.

(9) The Chairperson of the Committee shall be nominated by the State Government .

(10) Every Metropolitan Planning Committee shall, in preparing the draft Metro Region Development Plan, have regard to -

- (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
- (ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

- (iii) the overall objectives and priorities set by the Government of India and the State Government; and
- (iv) the extent and nature of investments likely to be made in the Metropolitan Area by agencies of the Government of India and of the State Government and other available resources whether financial or otherwise.

(11) The Chairperson of every Metropolitan Planning Committee shall forward the Metro Region Development Plan, as drafted by such Committee, to the State Government.

Explanation.- For the purposes of this Chapter generally, the term "Metropolitan Area" and "Panchayat" shall have the meanings respectively assigned to them in Article 243P of the Constitution of India.

158. Committee for District Planning. - The District Planning Committee constituted under the provisions of Section 121 of the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994) shall be deemed to be the Committee constituted under Article 243ZD of the Constitution of India.

CHAPTER XI

Urban Development and Town Planning

- 159. Civil Survey and preparation of Master Development Plan and other Plans.** - (1) Subject to the provisions of any other law for the time being in force, the Municipality, with a view to securing planned and integrated development of the city and balanced use of the land, shall carry out a detailed survey of the city and prepare a Master Development Plan and other statutory plans. The Municipality shall, for this purpose, coordinate with the Metropolitan Planning Committee or the District Planning Committee, as the case may be, and also Chief Town Planner of the State. The plans mentioned herein shall be prepared with the following time perspective, namely:-
- (i) Master Development Plan - for a 20 year period;
 - (ii) Execution Plan - for a 5 year period; and
 - (iii) Annual Municipal Action Plan - for a 1 year period.
- (2) In addition to the Master Development Plan, Execution Plan and Annual Municipal Action Plan, the Municipality, may prepare such other plans for each ward as it may consider appropriate or as may be directed by the State Government from time to time.
- (3) The Master Development Plan shall precisely define the time targeted development to sub-serve the needs of the growing area of Municipality, the net work of public utilities, civic amenities, community facilities, housing, communications and transport, the projects or schemes for conservation and development of natural resources and may provide for following matters, wherever required
- (i) transport and communications such as roads, high-ways, railways, canals, international air ports, air cargo complexes and bus-service, including their development;
 - (ii) water supply, drainage, sewerage, sewage disposal and other public utilities, amenities and services, including electricity and gas;
 - (iii) preservation, conservation and development of areas of natural scenery, city forests, wild life, natural resources and landscaping;
 - (iv) preservation of objects, features, structures or places of historical, natural, architectural or scientific interest and educational value;
 - (v) prevention of erosion, provision for forestation or re-forestation, improvement of water front areas, rivers, drains, lakes and tanks;
 - (vi) irrigation, water supply and hydro-electric works, flood control and prevention of water and air pollution;

- (vii) educational and medical facilities;
 - (viii) district business centers, other shopping complexes, export oriented industrial areas and clearing houses, permanent exhibition centers, cattle fairs and markets;
 - (ix) games and sports complexes worthy of holding national and international events;
 - (x) amusement parks, including artificial lakes and water reservoirs;
 - (xi) cultural complexes including theatres, cinemas, studios, recreation centers, conference hall complexes, concert halls, town halls and auditoria;
 - (xii) tourist complexes including hotels and motels, car hiring services, organized tours and treks;
 - (xiii) allocation of land for different uses, general distribution and general location of land and the extent to which the land may be used as residential, commercial, industrial, agricultural, or as forests or for mineral exploitation or for other purposes;
 - (xiv) reservation of areas for open spaces, gardens, recreation centers, zoological gardens, nature-reserves, animal sanctuaries, dairies and health resorts and other purposes;
 - (xv) the relocation of the population or industry from over populated and industrially congested areas and indicating the density of population or the congested areas and indicating the density of population or the concentration of industry to be allowed in the area;
 - (xvi) housing;
 - (xvii) filling up or reclamation of low lying, swampy or unhealthy areas or levelling up of lands; and
 - (xviii) re-development and improvement of existing built-up areas.
- (4) The Master Development Plan may also define the various zones, wherever required, into which the Municipality may be divided for the purposes of development and indicate the manner in which developmental works are to be carried out, and indicate the manner in which the land in each zone is proposed to be used (whether by the carrying out therein developmental works or otherwise), and the stages by which any such developmental works shall be carried out and shall serve as a basic pattern of framework within which the Zonal Development Plans of the various zones may be prepared:

Provided that the Municipality may, if it considers necessary in the public interest, alter the area of any zone.

- (5) The Municipality may decide about the items of development to be included and extent of surveys required, in the case of other statutory plans mentioned above.
- (6) Notwithstanding anything contained in this Section the Municipality may undertake any of the schemes included in the Master Development Plan having regard to the availability of its financial resources.

160. Procedure to be followed in the preparation and sanction of Plan. - (1) Before preparing any Plan finally the Municipality shall prepare a Plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be determined by bye-laws inviting objections and suggestions from any person with respect to the draft Plan before such date as may be specified in the notice.

- (2) The Municipality may, if it considers appropriate, constitute an Advisory Committee consisting of the following to consider the draft plan before it is given a final shape: -
 - (i) All members of the Municipality;
 - (ii) Representatives of associations of industry, commerce and trade and professions;
 - (iii) Six representatives from academic institutions located in the city;
 - (iv) Six representatives from prominent Non-Government-Organizations located in the city; and

- (v) Six any other prominent citizens of the city.
- (3) After considering all objections, suggestions, representations and recommendations of the advisory committee, if any, the Municipality shall send the Plan to the State Government for approval and after receipt of the approval of the State Government finally sanction the Plan.
- (4) Provisions may be made by bye-laws with respect to the form and content of a Plan and with respect to the procedure to be followed and any other matter, in connection with the preparation and sanction of such Plan.
- 161. Date of operation of Plan.** - Immediately after a Plan has been sanctioned by the [State Government], it shall be published through a public notice stating that a Plan has been approved and naming a place where a copy of the Plan may be inspected at all reasonable hours and upon the date of the first publication of the aforesaid notice, the Plan shall come into operation.
- 162. Subsequent modification of Plans.** - (1) At any time after a Plan has come into operation according to provisions of Section 161, the Municipality may, with the prior approval of the State Government, make any modification to the Plan as it thinks fit, the modifications, which in its opinion, do not affect material alterations in the character of the Plan and which do not relate to the extent of land uses or the standards of population density.
- (2) Before making any modification to the Plan, the Municipality shall publish a notice, inviting objections before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Municipality.
- (3) Every modification made under the provisions of this Section shall be published and the modification shall come into operation either on the date of publication or on such date as the Municipality may fix by notice published in the Official Gazette whereupon the modified Plan shall come into operation to all intents and for all purposes of this Act.
- (4) Upon coming into operation of any modified Plan, any reference in any other Section, except in the foregoing Sections of this Chapter, to the Master Development Plan or any other plan, shall be construed as a reference to the Master Development Plan or, as the case may be other plan, as modified under the provisions of this Section,
- (5) No modification of the Plan shall be made under this Section until and unless it is finally approved by the State Government.
- 163. Implementation of Plan.** - After the coming into operation of any plan, the Municipality may initiate such action for implementation of the Plan as may be deemed necessary, subject to the provisions of this Act.
- 164. Plans prepared prior to this Act deemed to have been prepared under this Act.** - Any Master Development Plan prepared under the provisions of any other law for the time being in force prior to the commencement of this Act, shall be deemed to have been prepared under the provision of this Act, to which the provisions of the foregoing Sections relating to the sanction, modification and operation of Master Plan/ Master Development Plan shall *mutatis mutandis* apply:
- Provided** that any Master Development Plan sanctioned for the Municipality under any other provisions of law shall cease to operate as soon as a Plan is sanctioned under the provisions of this Act.
- 165. Review of Plan.** - Notwithstanding anything contained in this Act, if the State Government or the Municipality at any time within ten years from the date on which a Plan comes into operation under this Act is of the opinion that the revision of such Plan is necessary, the State Government may direct the Municipality to revise or the Municipality may of its own motion undertake revision of such Plan after carrying out, if necessary, fresh civic survey and preparing an existing land use map and thereupon the foregoing provisions of this Chapter shall, so far as they can be made applicable, apply to the revision of such Plan as those provisions apply in relation to the preparation, publication and sanction of a Plan.

166. Declaration of Development Areas. - (1) As soon as may be after a plan comes into operation as provided in Section 161, the Municipality may, with the approval of the State Government and by notification in the Official Gazette, declare any area in the city to be a development area for the purposes of this Act.

(2) On or after the date on which notification under sub-Section (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 the State Government or any local authority of any works
- (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
- (b) for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cable, telephone or other apparatus;
- (v) for the excavation (including wells) made in the ordinary course of agricultural operation;
- (vi) for the construction of a road intended to give access to land solely for agricultural purposes;
- (vii) for normal use of land which has been used temporarily for other purposes; and
- (viii) 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.

167. Penalty for unauthorized development or for use otherwise than in conformity with the Plan. - (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 Act; 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 Act, or, where the continuance of such use has been allowed under this Act, 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.

168. Power to require removal of unauthorized development. - (1) Where any development of land has been carried out as indicated in sub-Section (1) of Section 167, 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 167 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 167 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 sub-Section (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 Act 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.

(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.

169. Power to stop un-authorized development. - (1) Where any development of land as indicated in sub-Section (1) of Section 167 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 168 shall, so far as may be applicable, apply in relation to such notice, as they apply in relation to notice under Section 168.

(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 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 Act, 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.

170. Removal or discontinuance of un-authorized temporary development summarily. - (1) Notwithstanding anything hereinbefore contained in this Chapter, where any person has carried out any development of a temporary nature un-authorizedly as indicated in sub-Section (1) of Section 167, 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 un-authorized 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 un-authorized development made again shall similarly be summarily removed or discontinued without making any order as aforesaid:

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.

171. Sanction [for sub-division or reconstitution of] plot or lay out of Private Street. -

(1) Every person who intends to sub-divide [or reconstitute] 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 161 shall submit the intended layout plan for such purpose together with such particulars and such fees, [as may be determined by by rules made by the State Government in this behalf], to the Municipality for sanction.

(2) Subject to any rules made by the State Government in this behalf, the Municipality may, within the prescribed period 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 or the overall development of the area.]

- (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 sub-Section (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.

Explanation. - For the purpose of the section "*reconstitution*" means any change in the area or dimension of two or more plots.

172. Recovery of expenses incurred. - Any expenses incurred by the Municipality under Sections 168, 169, 170 and 171 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.

173. Making and contents of Projects and Schemes. - (1) Subject to the provisions of this Act or any other law for the time being in force, the Municipality for the purpose of implementing the proposals in any plan or otherwise, may make such projects and schemes for the integrated development of the city or any part thereof, as may be considered necessary.

- (2) A project or scheme may make provisions for all or any of the following matters, namely:-
 - (a) acquisition, development, reservation and sale or leasing of land 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;
 - (c) re-distribution of sites belonging to owners of property comprised in the scheme;
 - (d) closure or demolition of buildings or portion of building unfit for human habitation;
 - (e) demolition of obstructive building or portions thereof;
 - (f) construction and reconstruction of buildings;
 - (g) construction and alteration of streets, including private streets;
 - (h) street lighting, water supply, drainage and other conveniences;
 - (i) provision of open spaces;
 - (j) sanitary arrangements required for the area comprised in the scheme;
 - (k) provision of accommodation for any class of the inhabitants; (1) provisions of facilities for communications;
 - (m) sale, letting or exchange of any property comprised in the scheme;

- (n) re-construction of plots for the purpose of buildings, roads, drainage inclusive of sewerage, surface or sub-soil drainage, sewerage disposal and other similar amenities;
 - (o) construction, alteration and removal of buildings, bridges and other structures,;
 - (p) preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;
 - (q) 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;
 - (r) imposition of conditions and restriction in regard to the open space to be maintained around buildings, the percentage of building area for a plot, the number, size, height and character of building allowed in specified areas, the purposes to which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of lands in any area in specified periods, parking space and loading and unloading space for any building and the sizes or locations of projections, advertisement signs, and hoardings;
 - (s) any other work of a nature such as would bring about environmental improvements which may be taken up by the Municipality and all such other matters not inconsistent with the objects of this Act.
- (3) The draft project or scheme shall contain the following particulars. namely: -
- (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;
 - (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 lying, swampy or unhealthy areas or levelling up of land; and
 - (h) any other particular as may be determined by the bye-laws.

174. Preparation of Projects and Schemes. - (1) The Municipality may, by resolution, declare its intention to prepare a project or scheme as provided in Section 173 in any development area.

- (2) Not later than thirty days from the date of such declaration of intention to make such project or scheme, the Municipality shall publish the declaration in the Official Gazette and in such other manner as may be determined by bye-laws.
- (3) Not later than one year from the date of publication of the declaration under sub-Section (2) the Municipality shall prepare a project or scheme in draft form and publish it 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.
- (4) The Municipality shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-Section

- (3) 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.
- (5) Immediately after a project or scheme is approved under sub-Section
- (4) with or without modifications, the Municipality shall publish in the Official 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.
- (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.

175. Redevelopment Scheme. - 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 re-construction 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 173 and 174.

176. Submission of project and scheme to the Municipality for approval. - 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.

177. Restrictions on use and development of land after declaration of a Scheme. - (1) On or after the date on which a draft scheme is published under Section 174, no person shall, within the area included in the project or scheme, institute or change the use of any land or building or carry out any development, unless such person has applied for and obtained the necessary permission for doing so from the Municipality in accordance with the bye-laws made in this behalf:

Provided that 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.

(2) The provisions of Section 166 to 172 shall be applicable *mutatis mutandis* for the project or scheme approved under sub-Section (4) of Section 174.

178. Lapse of Scheme. - If the Municipality fails to implement the project or scheme approved under sub-Section (4) of Section 174 within a period of two years from the date of publication thereof under sub-Section (5) of Section 174, it shall, on the expiration of the said period of two years, lapse.

179. Modification or withdrawal of project or Scheme. - (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 (4) of Section 174, 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 (4) of Section 174, 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.

180. Power of the State Government to require Municipality to make scheme. - 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.

181. Saving to any project or Scheme. - Notwithstanding anything contained in any provision of this Act 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.

182. Restriction on change of use of land and power of the State Government to allow change of use of land. - (1) No person shall use or permit the use of any land situated in any municipal area, for the purpose other than that for which such land was originally allotted or sold to any person by the State Government, any Municipality, any other local authority or any other body or authority in accordance with any law for the time being in force or, otherwise than as specified under a Master Plan, wherever it is in operation.

(2) In the case of any land not allotted or sold as aforesaid and not covered under sub-Section (1), no person shall use or permit the use of any such land situated in a municipal area for the purpose other than that for which such land was being used on or before the commencement of this Act.

(3) Notwithstanding anything contained in sub-Section (1) or sub-Section (2), the State Government or any authority authorized by it by notification in the Official Gazette, may allow the owner or holder of any such land to have change of use thereof, if it is satisfied so to do in public interest, on payment of conversion charges at such rates and after inviting and hearing objections from the neighbourhood in such manner as may be prescribed with respect to the following changes in use, namely: -

(i) from residential to commercial or any other purpose; or

(ii) from commercial to any other purpose; or

(iii) from industrial to commercial or any other purpose; or

(iv) from cinema to, commercial or any other purpose; or

(v) from hotel to commercial or any other purpose; or

(vi) from tourism to commercial or any other purpose; or

(vii) from institutional to commercial or any other purpose [; or]

[(viii) from any existing permissible use of land to any other purposes, as the State Government may prescribe:]

Provided that rates of conversion charges may be different for different areas and for different purposes.

(4) Where the State Government or any authority authorized by it under sub-Section (3), is satisfied that a person who ought to have applied for permission or regularization under this Section, has not applied and that such permission can be granted or the use of land can be regularized, it may proceed to determine the conversion charges after due notice and hearing the party or parties and the charges as may be prescribed, shall become due to the Municipality and be recoverable under sub-Section (6). The Municipality may hold camps for expediting this work and take the assistance of any agency as well:

Provided that regularization of land use change shall not be permitted in cases where the original land use was for a public purpose such as education, medical or any charitable purpose and the allotment was made at any concessional rate unless the difference in the original rate of allotment and the prevailing is paid and specific consent of the authority which made the original allotment has been obtained.

(5) The conversion charges so realized shall be credited to the fund of the Municipality.

(6) Charges under this Section shall be the first charge on the interest of the person liable to pay such charges with respect to the land, the use of which has been changed, and shall be recoverable as arrears of land revenue.

183. The regular line of Public Street. - (1) Every Municipality shall prescribe a line on either side or both sides of a public street within the Municipality and may from time to time prescribe a fresh line in substitution of any line so prescribed or of any part thereof if the Municipality thinks the prescribing of such fresh line to be necessary for the purpose of widening such public street or any part thereof:

Provided that-

- (a) at-least one month previous to prescribing such line or fresh line, as the case may be, the Municipality shall put up special notice of the same in the street or part of the street for which such line or fresh line is proposed to be prescribed and shall also give notice thereof to the owners for occupiers of the land affected by such alignment;
 - (b) the Municipality shall consider any written objection or suggestion in regard to such proposal delivered at the office of the Municipality within such time as may be specified in such special notice; and
 - (c) the Municipality shall cause to be prepared, 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.
- (2) The line for the time being so prescribed shall be called the regular line of the public street.
- (3) No person shall construct or re-construct any portion of any building within the regular line of the public street.
- (4) If any person contravenes the provisions of sub-Section (3), he shall be punishable on conviction with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and the Municipality shall
- (a) direct that such construction or re-construction be stopped; and
 - (b) by a written notice, require the building or any portion thereof so constructed or re-constructed to be demolished.
- (5) Any person aggrieved by an order of the Municipality under sub-Section (4) may within thirty days from the date of such order, exclusive of the time requisite for obtaining a copy thereof, appeal to the Collector and the order of the appellate authority shall be final and shall not be liable to be called in question in any Court.

184. Rights of way for underground utilities. - Subject to the provisions of the Indian Telegraph Act, 1885 (Central Act No. 13 of 1885), the Electricity Act, 2003 (Central Act No. 36 of 2003) and such other laws as may be notified by the State Government for the purposes of this Section, the State Government may, by rules, provide for the following, namely:

- (a) the sanction by the Municipality of specific rights of way in the subsoil of public and private streets in any municipal area for different public utilities including electric supply, telephone or other telecommunication facilities, gas pipes, water-supply, drainage and sewerage, and underground rail system, pedestrian sub-ways, shopping plazas, warehousing facilities and apparatus and appurtenances related thereto, provided by the State Government, or any statutory body or any licensee under any of the above mentioned Acts or other laws;
- (b) the levy of any fee or charges under any of the Acts or other laws as aforesaid;
- (c) the furnishing to the Municipality of maps, drawings and statements which shall enable it to compile and maintain precise records of the placement of the underground utilities in the municipal area;
- (d) the fixing of time limit for execution of work and imposing of such conditions in this respect as the Municipality may consider appropriate;

- (e) the imposing of penalty in case of delay in the completion of work;
- (f) the repairing and rendering in original condition, at the cost of concerned department or body, any municipal street or any other municipal property damaged while exercising aforesaid rights.

185. Maps of underground utilities. - The Chief Municipal Officer shall cause to be maintained complete survey maps, drawings and descriptions of all underground utilities in the municipal areas, and maps of fire hydrants and sewerage man-holes in such form and in such manner, as may be provided by bye-laws, and shall ensure the secrecy of the same in conformity with the provisions of any law relating to right to information.

186. Special provision regarding streets belonging to Central or State Government. -

(1) If any national highway, state highway, or a street is vested in the Central Government or the State Government, as the case may be,-

(a) the Municipality shall not, in respect of such national highway, state highway, or street, grant permission to do any act, the doing of which without its permission, in writing, would contravene the provisions of this Act, except with the sanction of the Central Government or the State Government, as the case may be; and

(b) if so required by Central Government or the State Government, the Municipality shall exercise the powers conferred upon it by this Act or any bye-laws relating to such street.

(2) In the case of roads vested in the State Government, and passing through the municipal area, the Municipality shall have control over such roads in so far as permission for temporary occupation thereof and removal of encroachments therefrom are concerned, but the maintenance of such roads shall remain with the State Government.

187. Temporary erection on streets during festivals. - (1) The Chief Municipal Officer may grant a permission, in writing, for temporary erection of a booth, panda!, or any other structure on any public place on occasions of ceremonies and festivals, on payment of such fee, and on such conditions, as may be determined by the Municipality by bye-laws, and for such period as may be mentioned in the letter of permission:

Provided that no permission shall be given under this Section without consultation with the Police officer In-charge of traffic in the municipal area.

(2) The person to whom such permission is granted shall fill in the ground and reinstate the same to the satisfaction of the Chief Municipal Officer within such period as may be mentioned in the letter of permission.

188. Precautions during construction or repair of street, drain or premises. - Subject to the terms and conditions as may be specified by bye-laws, the Chief Municipal Officer, during construction or repair of any public street or any municipal drain or any premises vested in the Municipality, shall -

(a) cause the same to be fenced and guarded;

(b) take proper precaution against accident affecting public street or adjoining buildings;

(c) prohibit, without his written permission, the deposit of any building material or the setting up of any scaffolding or any temporary erection on any public street;

(d) close any street wholly or partly to traffic;

(e) provide for necessary diversion of traffic, wherever necessary;

(f) ensure the reinstatement of the public street or restoration of any drain or premises to its original condition; and

(g) take steps for repairing or enclosing of any place which, in his opinion, is dangerous or causing inconvenience to traffic along a street or to persons who have legal access thereto or to the neighbourhood thereof, and recover the costs of such repair works from the owner or the occupier of any such place or premises.

189. Material not to be deposited nor hole to be made in a street without permission. -

(1) No person shall without the written permission of the Municipality or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street or erect or deposit thereon any timber, stone, brick, earth or other material that has been or is intended to be used for buildings and such permission shall be terminable at the discretion of the Municipality and, when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the material is removed or the hole is filled up or otherwise made secure to the satisfaction of the Municipality and shall cause the same to be sufficiently lit during the night.

(2) Whoever contravenes any of the provisions of sub-Section (1) shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees and with a further fine which shall not be less than fifty rupees but which may extend to one hundred rupees for every day or, night, as the case may be, on which such contravention continues after the date of the first conviction.

190. Compulsory provision of footpaths. - (1) The Municipality shall ensure, within a reasonable time, and subject to the availability of resources, that all public streets of such width as may be prescribed have raised footpaths adjoining such public streets.

(2) Notwithstanding the existing situation, the Buildings Permission and Works Committee shall specify different minimum widths for footpaths so as to be not less than one and a half meters on each side in any case:

Provided that more than one minimum width may be specified for the footpath abutting each category of Public Street so as to provide for different requirements owing to different abutting land uses:

Provided further that while prescribing or revising any regular line of a public street, it shall be stipulated that the specification of minimum width for footpaths shall be complied with.

(3) The minimum widths referred to in sub-Section (2) may be revised by the Buildings Permission and Works Committee.

191. Building 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 played 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.

(3) In determining such compensation, allowance shall be made for any benefit accruing to the said building from the improvement of the streets.

192. Setting back projecting buildings. - (1) If any part of a building projects beyond the regular line of a public street as prescribed under Section 183, the Municipality may,

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time; or

(b) 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 burned 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, shall be removed or that such building, when being re-built, shall be set back to or towards the said regular line and the portion of 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 clear days written notice of its intention, or if the land is vested in the State Government, then with the permission in writing of such officer, as may be appointed or authorized by the State Government in this behalf, 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 be vested in the Municipality.

- (3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in Section 295, shall be paid by the Municipality to the owner of any land added to a street under sub-Section (1) or acquired under sub-Section (2) for the value of the said land 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 either of the said sub-Section; provided that no such compensation shall be payable in cases to which Section 243 applies.
- (4) When the amount of compensation has been so ascertained and determined or when a ruinous or dangerous building falling under sub-Section (1) has been taken down under the provisions of Section 243, the Municipality may, after tendering the amount of compensation, if any, that may be payable, take possession of the land so to the street, and shall clear the same.

193. Level of buildings. - 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 Municipality or into some stream or some cess pool or other suitable place which may be approved of by the Municipality.

194. Provisions relating to erection of all kinds of buildings. - (1) Within the limits of a Municipality, any person intending,

- (a) to erect a new building; or
- (b) to re-erect or to make a material addition in a building; or
- (c) to erect or re-erect any projecting portion of a building; or
- (d) to make or enlarge any kind of well or boring [; or]
- [(e) to erect or re-erect any tower or similar structure on a land or building.]

Shall submit an application in the prescribed form to the Municipality along with the documents required under sub-Section (2) before starting the construction.

Explanation.- The term "**material addition**" means any changes in existing set backs, coverage, height, land use and parking areas wherever such parking areas are mandatory under the law.

(2) (a) The application as mentioned in sub-Section (1) shall be accompanied by the following, namely:-

- (i) all documents in support of the title over the land or the building, as the case may be, along with a personal affidavit on oath regarding the genuineness of the documents and undisputed title over the land or the building;
- (ii) a photocopy of the receipt of the prescribed fee deposited with the Municipality;
- (iii) six copies of the map (showing the details of the proposed work in different colour) and the site plan. The map would particularly show the specification of construction, height of the building, permissible covered area, open spaces, set backs, parking spaces, ventilation etc.; and
- (iv) any other information or documents required by the Municipality for its satisfaction, from time to time;

(b) The maps required under clause (a) shall be signed and authenticated by the qualified architect or engineer registered and approved by the Municipality, Urban Improvement Trust, Jaipur Development Authority, Chief Town Planner of the State or by any other authority empowered by the State Government for such purpose from time to time.

(3)(a) The scrutiny of title papers by the. Municipality should be restricted to ensure that the land or the building as the case may be, does not belong to, the government or any public agency;

(b) The applicant should have legal possession of the land or building on the date of application on the basis of documents submitted by the applicant:

Provided that the sanction of building plans by the Municipality shall not in any manner amount to creating a title in the favour of the applicant.

(4) (a) Municipality may, by bye-laws, provide that the documents required to be submitted under sub-Section (2) may be submitted in electronic form;

(b) The Municipality shall decide the application and convey its written orders within a period of two months from the date of receipt of application. The Municipality or any authority or any committee empowered to grant the permission, shall also be competent to grant or to reject or modify the map or to impose other conditions or restrictions, as may be deemed necessary. In cases where the Municipality fails to convey its decision within two months, the applicant may undertake the construction, after giving one month's clear notice to that effect to the Municipality, considering it as a case of deemed permission. However, it shall be the responsibility of the applicant and the architect or engineer to ensure that in all cases of deemed permission, the provisions of the Act, rules and bye- laws are not violated.

(5) Where the application submitted under sub-Section (1), pertains to a multi-storied building i.e. a building above height of fifteen meters, or any institutional complex or a commercial complex in an area of more than five hundred square meters, the Municipality shall obtain advice of the Regional Town Planner of the State Government, before granting the permission sought for and shall ensure that proposed plan and construction is not inconsistent with the rules, bye-laws and public convenience.

(6),(a) The Municipality shall frame rules and bye-laws under Sections 339 and 340 for uniform applicability regarding the conditions, restrictions, norms, specifications and the manner of processing the application submitted under this Section;

(b) Where the application submitted under sub-Section (1) pertains to non-residential building, multi-storied building, complex or construction of basement, the Municipality shall obtain the advice of the town planner of the area before granting permission sought for and shall ensure that proposed plan and construction is not inconsistent with the rules, bye-laws and public convenience.

(7) (a) No person shall commence any type of construction without written permission of the Municipality, and the Municipality shall decide his application within the period of two months from the date of receipt of application complete in all respect;

(b) If the decision is not conveyed to the applicant within the period of two months, he shall, before commencing the construction, give clear one month's notice to the Municipality asking to take decision on his application within that period;

(c) If the Municipality still fails to dispose of the application or to inform the person, of the action which is being taken in the matter, the applicant may commence the construction taking it to be deemed permission of the Municipality, but he shall not violate any provisions of this Act, rules or bye-laws made thereunder;

(d) A written permission shall not be required where a person has submitted a n application under sub-Section (1) on an area less than 250 square meters the proposal is for construction of an individual single residential unit up to first floor, and the total height of the building is not more than ten meters from the road level, including the thickness of the roof and any other structure. However, this provision shall not be applicable in any walled city area where separate bye-laws are in existence or in any area which has been declared as an heritage area under any law for the time being in force;

(e) The Chief Municipal Officer or any other person authorized by him or Chairman of the Committee authorized to exercise the powers to accord permission shall have power of inspection of site or building and to take measurement at any time for the purpose of deciding the application or to ensure that the work is being carried on according to

the sanctioned plan. The Chief Municipal Officer shall issue notice to the person violating the sanctioned plan and the conditions imposed therein while erecting or re-erecting the building and it shall be lawful for him to ask such person to remove or dismantle such construction or any construction which may be in violation of the sanctioned plan. It shall also be lawful for the Chief Municipal Officer to direct the person concerned to stop construction where the construction is going on without permission;

- (f) It shall be lawful for the Chief Municipal Officer or any other officer authorized by him in this behalf to seize and take in his possession the whole premises of part thereof and to prohibit the use of such premises for a period specified by him in the notice, for enforcing the provisions of this Section.
- (8) The Municipality shall not decide any such application in which change of present land use is involved and permission for such change is needed under Section 182. The applications mentioned in this clause shall be referred to the State Government or the concerned authority under intimation to the applicant and with the directions to him not to commence the work.
- (9) (a) After completion of any building having height of more than 15 meters but before its occupancy, the owner of the building, shall submit an application (along with the certificate of safety and verification of other facts by architect/ engineer) for issuance of occupancy certificate. The Chief Municipal Officer, after arranging necessary inspection, shall issue such certificate or ask the owner to remove the defects, if any, as may appear to him to be necessary, within the specific period from the date of receipt of such application. He shall also ensure that the applicant has not contravened the sanctioned map. It shall be the responsibility of the owner not to occupy or to allow such building to be occupied without obtaining occupancy certificate;
(b) Whoever contravenes the provisions of clause (a) shall, on conviction by a competent Court, be punished with fine which shall not be less than thirty thousand rupees but which may extend to fifty thousand rupees and in case of a continuing contravention, with fine of five hundred rupees for each day of contravention, till such contravention continues.
- (10) (a) if a person commences, continues or completes any kind of erection or re-erection or makes any material alteration in a building or part thereof, or erects or re-erects any projecting portion of a building in respect of which the Municipality is empowered under Section 192 to enforce a removal of the projecting part or restoration to regular line of set back, or engages himself in the construction or enlargement of a well or boring, without submitting an application under sub-Section (1), he shall, on conviction by a competent Court, be punished with simple imprisonment which shall not be less than one month but which may extend to three months or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees or with both;
(b) If a person commences or continues or completes erection or re-erection or makes any material alteration in a building or part thereof in contravention of the sanctioned plan or violating norms, conditions, restrictions imposed upon him, he shall, on conviction by a competent Court, be punished with simple imprisonment which shall not be less than fifteen days but which may extend to forty five days or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both;
(c) If any person who has submitted an application under sub-Section (1) and has availed the facility provided under clause (d) of sub-Section (7), contravenes the conditions, restrictions and norms prescribed for such construction shall, on conviction by a competent Court, be punished with simple imprisonment which shall not be less than fifteen days but which may extend to forty five days or with fine which shall not

be less than ten thousand rupees but which may extend to twenty thousand rupees or with both;

- (d) If it is found that the map signed and authenticated by the architect or engineer is inconsistent with the provisions of this Section or the rules, bye-laws or orders made under this Act, such architect or engineer shall be blacklisted and his registration shall be cancelled by the Municipality and he shall, on conviction by a competent Court, be punished with simple imprisonment which shall not be less than one month but which may extend to two months or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or, with both in each case;
 - (e) If it is found that any person has submitted fabricated or fake or false documents or has made wrong and false statement or has concealed the material facts in affidavit for obtaining Municipality's permission, he shall be liable to be prosecuted for fabrication, fraud and concealment under the relevant laws. It shall be the responsibility of the Chief Municipal Officer to initiate criminal proceedings against such person or persons including official, if any, of the Municipality involved in the said act, without delay;
 - (f) The officer or authority empowered for the operation of this Section or official keeping record for this purpose shall be personally responsible if the period fixed for disposal of application received under sub-Section (1) and in case of any notice received under clause (b) of sub-Section (4) is wilfully ignored. The person or persons responsible for such ignorance shall, on conviction by a competent Court, be punished with simple imprisonment for one month or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both;
 - (g) An employee of the Municipality, who has been assigned duties for a particular area and made responsible for reporting the matter of violation of the provisions of this Section, shall ensure that such violations are reported properly without delay and the same are entered in the register kept for the purpose and take necessary action to stop unauthorized construction and if it is proved that he wilfully or knowingly ignored to stop such unauthorized construction and to make report, he shall be punished according to the provisions of sub-Section (18) of Section 245;
 - (h) The Municipality shall have power to stop any work commenced without permission, or violating the norms of sanctioned map or without submitting an application;
 - (i) In addition to the prosecution of defaulter, the Municipality shall have power to demolish whole or part of the construction which has come up without permission or violating the permission, or where permission was sought by fraud etc. as mentioned in this Section.
- (11) No' Municipality shall permit construction of dry latrines and if any person constructs or maintains dry latrine within the municipal area the Municipality shall take steps to demolish such latrines.
- (12) Any person aggrieved by an order of the Municipality or the committee empowered by it or an order of the prescribed authority, may file an appeal against such order within thirty days from the date of such order to the State Government or to any other officer authorized by it.
- 195. Maintenance of apartment complexes by association of residents.** - (1) It shall be responsibility of the builder or the developer together with the owners of the units of the complex, to set up a resident's association, as soon as the complex is ready for occupancy, for the maintenance of the complex. The other responsibilities of the builder shall be
- (i) to disclose the details of common facilities, including parking spaces for owner:, and residents, at the time of applying for permission for construction;

- (ii) to constitute a corpus fund for maintenance of the complex and handover the same to the association, as soon as it becomes operational ;
- (iii) to hand over security, common facilities provided in the building and their maintenance to the association, as soon as it becomes operational; and
- (iv) to hand over the following documents to the association:
 - (a) copy of approved building plan and the letter granting permission for the construction of the complex;
 - (b) copies of warranty documents for lift, water supply equipment, generator or any other important equipment installed in the building;
 - (c) copy of agreement, if any, with the owner of the land; and
 - (d) designs of sewerage and water supply installed in the building.

(2) The Municipality shall not issue completion certificate until the formalities mentioned in sub-Section (1) have not been completed by the builder or developer.

Explanation.- For the purpose of this Section

- (i) "**owned**" means the owner of the land on which the complex has been constructed and includes a person who has purchased a unit in the complex, through a registered deed;
- (ii) "**resident**" means a person who is, for the time being, in occupation of the unit under any arrangement with the owner or the builder;
- (iii) "**residents' association**", means an association of the owners and residents of any complex set up to maintain the complex, registered under the relevant law.

196. Particulars of permission and construction to be displayed prominently. - (1)

Each person or agency raising a construction, within the municipal area shall, before starting any construction, display the following particulars relating to the proposed construction in a prominent place on the building site, unless specified otherwise, on a display board made by any sturdy material, excluding card board or plain paper, of the size of 4x4 feet, unless otherwise specified by the Municipality:-

- (i) name of the person or agency, including address and telephone number, if any, raising construction;
- (ii) particulars of the building site, including the name, address and telephone number, if any, of the owner;
- (iii) number and date of permission, if required, obtained from the Municipality or any other Authority or Urban Improvement Trust;
- (iv) broad particulars of the proposed construction i.e. proposed use, total number of floors, number of units, proposed area of construction in square feet, number of public parking units;
- (v) date of starting and finishing of the construction; and
- (vi) reasons in case the building permission is not required.

(2) Whoever contravenes the provisions of sub-Section (1) shall be punishable with fine which may extend to fifty thousand rupees.

197. Hoardings to be set up during repairs, etc. - (1) Every person, intending to build or

take down any building or to alter or repair the outward part of any building in such a position or in such circumstances that the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall, before beginning such work

- (a) first obtain a license in writing from the Municipality to do so, and
- (b) cause sufficient hoarding or fences to be put up in order to separate the building where such works are being carried on from the street and shall maintain such

hoarding or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires and shall cause the same to be sufficiently lighted during the night and shall remove the same when directed by the Municipality.

- (2) Whoever contravenes any of the provisions of this Section shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees and with further fine which shall not be less than fifty rupees but which may extend to one hundred rupees for every day or night, as the case may be, on which such contravention continues after the date of the first conviction.

198. Taking over of responsibilities to maintain amenities. - Notwithstanding anything contained in any other law for the time being in force, the Municipality shall not take over any responsibility to maintain any amenities provided in any scheme or colony developed by any authority, agency or person unless

- (i) all relevant records including plans, specifications and designs of such amenities are submitted to the Municipality; and
- (ii) the Municipality is satisfied that such amenities are developed or constructed in accordance with the provisions of any law for the time being in force in this behalf:

Provided that if the Municipality, on examination of the records submitted to it, or on inspection of the amenities, finds that such deficiencies are there in the construction or operation of the amenities, which can be improved, it may require the authority, agency or person who developed such scheme or colony, to improve the deficiency to the satisfaction of the Municipality or to pay to the Municipality such deficiency charges, which the Municipality may deem proper to improve such deficiency, and upon the improvement of the deficiency, or as the case may be, payment of deficiency charges, the Municipality may resume the responsibility to maintain such amenities.

Explanation.- For the purposes of this Section "amenities" includes roads, bridges, any other means of communication, transport, streets, open spaces, parks, recreational grounds, play grounds, water, gas and electric supply, and source of energy, street lighting, sewerage, drainage, conservancy, public works and such other utilities, services and convenience as the State Government in consultation with the Municipality may, by notification in the Official Gazette, specify to be an amenity for the purpose of this Act

199. Handing over or taking over of colonies developed by other agencies. - No Municipality shall take over any scheme or colony developed by any other authority; agency or person, unless its plans had been approved in advance by the Municipality and in other cases the scheme or the colony is in accordance with the existing laws and rules. The Municipality shall also satisfy itself that the prescribed amenities have already been provided as indicated in Section 198 or the necessary deficiency charges have been paid and all relevant records, including proof of title, plans, specifications and designs of such schemes or colony are submitted to the Municipality. The Municipality, after such taking over, shall have full rights of disposal of all properties included in the colony in accordance with the provisions of the scheme. All such schemes, colonies and amenities shall, after such taking over, vest in the Municipality.

CHAPTER XII

Municipal Powers and Offences

200. Municipal control over drains etc. - (1) All sewers, drains, privies, water closets, house-gullies and cess-pools within the Municipality shall be under the survey and control of the Municipality.

- (2) All covered sewers and drains and all cess-pools, whether public or private, shall be provided by the Municipality or other person to whom they severally belong with proper traps or other coverings or means of ventilation, and the Municipality may by written

notice call upon the owner of any such covered sewers, drains or cess-pools to make provision accordingly.

201. Powers for making drains etc. - (1) In order to carry out any drainage scheme, it shall be lawful for a Municipality 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 Municipality.

(2) The Municipality 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 unnecessary damage shall be done, and compensation, which shall, in case of dispute be ascertained and determined in the manner provided in Section 295, shall be paid by the 'Municipality to any person who sustains damage by the exercise of such power.

202. Effectual drainage of building. - (1) It shall not be lawful to construct any building, or to reconstruct any building, or to occupy any building newly constructed, or to be reconstructed unless and until

(a) a drain be constructed of such size, materials and description, at such level and with such fall as shall appear to the Municipality to be necessary for the effectual drainage of such buildings;

(b) there have been provided for and set up in such building and in the land appurtenant thereto all such appliances and fittings as may appear to the Municipality to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(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 cess-pool as the Municipality directs.

(3) Notwithstanding anything contained in previous sub-Sections, 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.

(4) Where any person disobeys the directions of the Municipalities given under sub-Section (1), he 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.

203. Right of owners and occupiers of buildings or lands to drain into municipal drains. - The owner or occupier of any building or land within the Municipality shall be entitled to cause his drain to empty into sewers of the Municipality only provided that he first obtains the written permission of the Municipality and that he complies with such conditions as the Municipality prescribes as to the mode in which and the superintendence under which communications are to be made between drains not vested in the Municipality and drains which are so vested.

204. 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 Municipality may require that there shall be one drain for offensive matter and sewage and another drain for rain-water and unpolluted sub-soil water, each emptying into separate, municipal drains or other places set apart by the Municipality for the discharge of drainage or into other suitable places.

205. 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 Municipality that he

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 Municipality, 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 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 to the payment of rent or compensation and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drain, as may appear to it to be adequate and equitable.

- (2) 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 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; or
- (b) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

206. Work, how to be carried out. - In executing any work under Section 205 as little damage as possible shall be done, and the owner or occupier of the building or land 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 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.

207. Right of owner of land through which drains are carried in regard to subsequent building thereon. - If the owner of any land into, through or under which a drain has been carried under Section 205, whilst such land was not built upon, shall at any subsequent time desire to construct a building thereon, the Municipality may, if it sanctions the construction of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, re-instate and make good the land in such manner as it may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building and may also, by written notice, require the person desiring to construct the building to make such alterations in the location of the building with reference to the drain, or in the details of the construction of the building and on such terms as Municipality may deem to be necessary for the maintenance of the drainage connection.

208. Provision of privies, etc. - (1) In case the Municipality shall be of opinion, that any privy or cess-pool or additional privies or cess-pools, should be provided in or on any building or land, or, in any Municipality 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 land, or that additional water-closets should be provided therein or thereon the Municipality may by written notice call upon the owner of such building or land to provide such privies, cess-pools, or water-closets as the Municipality may deem proper.

- (2) The Municipality may by written notice require any person or persons employing workmen or labourers 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 Municipality may direct and to cause the same to be kept in proper order and to be daily cleaned.
- (3) The Municipality may by written notice require the owner or occupier of any land upon which there is a privy to have such privy shut out by a sufficient roof and a wall or fence from the view of persons passing by or resident in the neighbourhood, 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) No person shall be allowed to drain night soil out of his privy, into the outlet drain of the Municipality or into his private drain.
- (5) Any person, disobeying the direction of the Municipality 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.

209. 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 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 odourless. 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 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.

210. Cost of altering, repairing and keeping in proper order privies, etc. . - (1) All sewers, drains, privies, water-closets, house-gullies and cess-pools within the Municipality shall, unless constructed at the cost of the Municipality, be altered, repaired and kept in proper order at the cost and charges of the owner of the land or building to which the same belong, or for the use of which they are constructed or continued and the Municipality 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 Municipality may by written notice require the owner to demolish or close any privy or cess-pool, whether constructed before or after the coming into operation of this Act, which, in the opinion of the Municipality, is a nuisance or is so constructed as to be incapable of being properly cleaned or kept in good order.

211. Power to close existing private drains- When any building or land within the Municipality has a drain connecting with any cess-pool or sewer, the Municipality, if it considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the Municipality, may close such drain and such cess-pool or sewer, whether it is or is not on land vested in the Municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Municipality shall do any work necessary for the purpose.

212. Power in respect of sewers etc. constructed in an un-authorized manner, rebuilt or unstopped. - The Municipality may by written notice require that any sewer, drain, privy, water-closet, house-gully or cess-pool on any land within municipal limits constructed or rebuilt or unstopped

(a) either without the consent or contrary to the orders, directions, general bye-laws or bye-laws of the Municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped, and

(b) after such land became a part of a Municipality,

shall be demolished, amended 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 cess-pool whether he 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.

213. Encroachment on municipal drains etc. - (1) Whoever, without the written consent of the Municipality first obtained, makes or Causes to be made any drain into or out from any of the sewers or drains vested in the Municipality shall be punished with fine which may extend to one thousand rupees, and the Municipality may by written notice require such person to demolish, alter, remake or otherwise deal with such drain as it may think fit.

(2) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in the Municipality without the written consent of the Municipality, and the Municipality may by written notice require the person who may have constructed or reconstructed such building to pull down or otherwise deal with the same as it may think fit.

214. Inspection of drains etc. - (1) The Chief Municipal Officer or any other officer authorized by him for such purpose may, subject to the provisions of this Act, inspect any sewer, drain, privy, water-closet, house-gully or cess-pool and for that purpose, at any time between sunrise and sunset, enter upon any 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 Municipality unless the sewer, drain, privy, water-closet, house-gully, or cess-pool is found to be in bad order or condition or was constructed in contravention of the provisions of any enactment or of any bye-laws of the Municipality in force at the time, in which case such expenses along with administrative and supervision charges at the rate of ten percent of the total expenses shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cess-pool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under this Act.

215. Power of Municipality to execute certain works without allowing owner to do so. -

(1) The Municipality may, if it thinks fit, cause any work of the nature to which this Chapter applies to be executed by a 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 along with the administrative and supervision charges at the rate of ten percent of the total expenses, shall be paid by the person aforesaid, unless the Municipality shall, by a general or special order or resolution, sanction, as it is hereby empowered to 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 lands shall, if supplied, constructed or erected at the expense of

the Municipality, be deemed to be municipal property unless the Municipality shall have transferred its interest therein to the owner of such buildings or lands.

216. Power of carrying water mains etc. - The water supply department of the State Government or the Municipality, as the case may be, in whom the duty of construction and maintenance of water works for supply of water to the Municipality vests, shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water mains, pipes and ducts within or without the Municipality as the Municipality has and is subject to under the provisions contained in this Act for carrying, renewing and repairing drains within the Municipality.

217. Special provisions relating to trade effluent. - Subject to the provisions of this Act and the bye-laws made thereunder and or any other law for the time being in force, the occupier of any trade premises may, with the approval of the Municipality or, so far as may be permitted by this Act or the bye-laws 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.

218. 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 -

- (i) any trade premises are without sufficient means of effectual drainage and treatment of trade effluent; or
- (ii) the drains thereof, though otherwise not objectionable, are not adapted to the general drainage system of the municipal area; or
- (iii) 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.

219. Buildings, railways and private streets not to be erected or constructed over water-mains or on municipal drains without permission. - (1) Without- the permission of the Chief Municipal Officer, no building, wall, fence or other structure shall be erected, and no railway or private street shall be constructed, on any municipal drain constructed or maintained by, or vested in, the Municipality.

(2) If any building, wall, fence or other structure is erected, or any railway or private street is constructed, on any drain or waterworks without the permission, as aforesaid, the Chief Municipal Officer may remove, or otherwise deal with, such erection or construction in such manner as he may think fit.

(3) The expenses incurred by the Chief Municipal Officer for carrying out the purposes of sub-Section (2) 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 railway administration or the person responsible, and shall be recoverable as an arrear of tax under this Act.

220. Railway administration to be informed in certain cases. - If the Chief Municipal Officer desires to place or carry any pipe or drain or to do any other work connected with

water-supply or drainage across any railway line, he shall inform the railway administration, who may execute the same at the cost of the Municipality.

221. Power of owner of premises to place pipes and drains through land belonging to other persons. - (1) If it appears to the Chief Municipal Officer that the only or the most convenient means of drainage of, any premises is by placing or carrying any pipe or drain over, under, along or across the immovable property of another person, the Chief Municipal Officer may, by order in writing, authorize the owner of such premises to place or carry such pipe or drain over, under, along or across such immovable property:

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 such time as may be specified by him by order in writing, as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right, other than the right of a user, in such immovable property over, under, along or across which any such pipe or drain is placed or carried.

(2) Upon the order under sub-Section (1), the owner of the premises may, after giving a reasonable notice of his intention so to do, enter upon such immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing such pipe or drain.

(3) In placing or carrying a pipe or drain under this Section, as little damage as possible shall be done to such immovable property, and the owner of the premises shall

(a) cause the pipe or drain to be placed or carried with the least possible delay;

(b) fill in, reinstate, and make good, at his own cost and with the least possible delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain; and

(c) pay compensation to the owner of such immovable property and to any other person, who sustains damage by reason of the placing or carrying, of such pipe or drain.

(4) If the owner of such immovable property over, under, along or across which a pipe or drain has been placed or carried under this Section, while such immovable property was not built upon, desires to erect any building on such immovable property, the Chief Municipal Officer shall, by notice, in writing, require the owner of the premises to close, remove or divert the pipe or drain in such manner as shall be approved by him and to fill in, reinstate and make good such immovable property as if the pipe or drain had not been placed or carried over, under, along or across such immovable property:

Provided that no action under this sub-Section shall be taken unless, in the opinion of the Chief Municipal Officer, it is necessary or expedient for the construction of the proposed building, or the safe enjoyment thereof, that the pipe or drain should be closed, removed or diverted.

222. Power of Chief Municipal Officer to execute work after giving notice to person liable. - (1) When, under the provisions of this Act, any person is required, or is liable, to execute any work in relation to drainage and sewerage within the municipal area, the Chief Municipal Officer may, in accordance with the provisions of this Act and the bye-laws made thereunder, cause such work to be executed after giving such person an opportunity of executing such work within such time as may be specified by him 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 such person, and the expenses incurred by the Chief Municipal Officer in connection with the maintenance of such work or enjoyment of amenities and conveniences rendered possible by such work shall be payable by the person or persons enjoying such amenities and conveniences.

(3) The expenses referred to in sub-Section (2) shall be recoverable from the person or persons liable therefore as an arrear of tax under this Act.

223. Work to be done by licenced plumber. - (1) The Municipality may grant licence to any person possessing such technical qualifications or experience as may be determined by bye-laws to act as a licenced plumber.

(2) No person, other than a licenced plumber, shall execute any work described in this Chapter, and no person shall permit any such work to be executed except by a licenced 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 licenced plumber.

(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

(e) in case of contravention of any such bye-laws by any such plumber, the suspension or cancellation of such licence, whether he is prosecuted under this Act or not.

224. Prohibition of certain acts. - (1) No person shall

(a) wilfully obstruct any person acting under the authority of the Chief Municipal Officer in setting out the lines of any works, or pull up or remove any pillar, post or shaft fixed in the ground for the purpose of setting out lines of such works, or deface or destroy any works made for such purpose, or

(b) wilfully or negligently break, damage, 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 waterworks belonging to the Municipality or any watercourse by which any such waterworks is supplied, or

(d) unlawfully obstruct the flow of, or flush, draw off, or divert, or take, sewage work belonging to the Municipality or break or damage any electrical transmission line maintained by the Municipality, or

(e) throw any material including plastic bags and containers or waste of dairies, piggeries and farms into any municipal drain or sewer, or

(f) 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 or sewage work, or

(g) bathe in, at, or upon, any waterworks, or wash or 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, or do any other act, whereby the water in any waterworks is fouled or is 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.

225. Entrustment of operation and maintenance of sewerage works and billing and collection of sewerage charges. - The Municipality 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.

226. Duty of Municipality in respect of solid wastes management and handling. - (1)

Subject to the provisions of Section 4, the Municipality shall, within the Municipal area, be responsible for implementation 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) to regulate the management and handling of municipal solid wastes and for development of an infrastructure for collection, storage, transportation, processing and disposal of such solid wastes.

(2) Subject to the provisions of Section 4, the Municipality shall, either on its own or through any other agency authorized by it in this behalf,

- (a) organize collection of municipal solid wastes through any of the methods, like community bin collection (central bin), house-to house collection, and collection on regular pre-informed times and schedules,
- (b) devise collection of wastes from slums and squatter areas and other localities including hotels, restaurants, office complexes and commercial areas,
- (c) remove at regular intervals all solid wastes so collected under clause (a) and clause (b) for disposal on daily basis, and
- (d) arrange for making use of biodegradable wastes from slaughter houses, meat and fish markets, and fruits and vegetable markets in an environmentally acceptable manner.

227. Entrustment of management and handling of solid wastes and billing and collection of charge. - Notwithstanding anything contained elsewhere in this Act, for

the purposes of management and handling of municipal solid wastes and for development of infrastructure, if any, for collection, storage, segregation, transportation, processing and disposal of such solid wastes, a charge shall be levied, and payment thereof shall be made, at such rate as the Municipality 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 solid 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 Municipality, entrust development of infrastructure for collection, storage, segregation, transportation, processing and disposal of solid wastes and the work of management and handling of municipal solid 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.

228. Solid wastes to be property of Municipality. - All solid wastes deposited in public receptacles, depots and places provided or appointed under Sections 226 and all solid 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 Municipality may dispose it as it may deem proper.

229. Appointment of places for disposal and final disposal of solid wastes. - The Municipality may, either on its own or through any other agency, cause the solid wastes to be disposed of at such place or places within or outside the municipal area, and in such manner, as it considers suitable:

Provided that no place which has not been used before the commencement of this Act for the purpose specified in this Section, shall be so used, except

- (i) in conformity with the provisions of any State law relating to development planning and land use control or any other law relating thereto for the time being in force, or
- (ii) in the absence of any such law, with the approval of the State Government:

Provided further that the solid wastes shall not be finally disposed of in any manner which the State Government may think fit to disallow.

230. Duty of owners and occupiers of premises to store solid wastes at source of generation. - It shall be the duty of the owners and the occupiers of all lands and buildings in the municipal area-

- (a) to have the premises swept and cleaned on a regular basis,
- (b) to provide for separate receptacles or disposal bags for the storage of-
 - (i) Organic and biodegradable wastes,
 - (ii) Recyclable or non-bio-degradable wastes, and
 - (iii) Domestic hazardous wastes, so as to ensure that these different types of wastes do not get mixed,
- (c) to keep such receptacles in good condition and order, and
- (d) to cause all such wastes, including rubbish, offensive matter, filth, trade refuse, carcasses of dead animals, bio-medical wastes and other polluted and obnoxious matters to-be collected from their respective premises and to be deposited in community bins or receptacles at such times and in such places as the Chief Municipal Officer may, by notice, specify.

231. Duty of Co-operative Housing Society, Apartment Owners' Association, etc.. - It shall be the duty of the managements of co-operative housing societies, apartment owners' associations, residential and nonresidential building complexes, educational buildings, mercantile buildings, industrial buildings, storage buildings and hazardous buildings to provide at their premises community bins or disposal bags of appropriate size as may be specified by the Municipality for temporary storage of wastes (other than recyclable wastes), hazardous wastes, and bio-medical wastes and for their subsequent collection and removal by the Municipality .

232. Prohibitions. - No person and no owner or occupier of any land or building shall

- (a) litter or deposit at any public place any solid waste,
- (b) deposit building rubbish in or along any public street, public place or open land,
- (c) allow any filthy matter to flow on public places, or
- (d) deposit or otherwise dispose of the carcass or any part of any dead animal at a place not provided or appointed for such purpose.

233. Punishment for littering on streets and depositing or throwing any solid waste. - Whoever litters any street or public place or deposits or throws or causes or permits to be deposited or thrown any solid waste or building rubbish at any place in contravention of the provisions of this Act, or permits the flow of any filthy matter from his premises, shall be liable to pay a penalty not exceeding five hundred rupees on the spot to be imposed by an officer authorized by the Municipality in this behalf .

234. Bio-medical wastes. - It shall be the duty of the Municipality, 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) to regulate the management and handling of bio-medical wastes to the extent such rules apply to the Municipality.

235. Hazardous wastes. - It shall be the duty of the Municipality, 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) to regulate the management and handling of Hazardous wastes to the extent such rules apply to the Municipality.

236. Permission necessary for certain projections. - (1) The Municipality may, having regard to the volume of traffic and public convenience, give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms to project from any upper storey thereof in accordance with the provisions of the bye-laws made in this behalf.

(2) Any such owner or occupier putting up any such projection as aforesaid without such permission or in contravention of such orders shall be punished with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees and, if any such owner or occupier fails to remove any such projection as aforesaid in respect of which he has been convicted under this Section, he shall be punished with further fine which shall not be less than fifty rupees but which may extend to one hundred rupees for each day on which such failure or neglect continues.

(3) The Municipality may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether erected before or after the area of such building became part of a Municipality, shall have been erected or placed against or in front of such building, and which

(a) over hangs or juts into or in any way projects or encroaches upon any public street so as to be an obstruction to safe and convenient passage along such street, or

(b) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof or to effect alleviation of building line in any way :

Provided always that the Municipality shall, if such projection, encroachment or obstruction shall have been made in any place before the date on which such place became part of a Municipality or after such date with the written permission of the Municipality, make reasonable compensation to every person who suffers damage by such removal or alteration and, if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in Section 295.

237. Troughs and pipes for rain water. - (1) The Municipality 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 from the roof and other parts of such building, and for discharging the same in 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 sub-Section (1) and thereby contravenes the provisions thereof, he shall, on conviction, be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

238. Provision of rain water harvesting. - (1) In every building constructed on a plot of land exceeding three hundred square metres in municipal area after the commencement of the Rajasthan Municipalities (Amendment) Act, 2010 (Act No. 19 of 2010), it shall be compulsory to install a rain water harvesting system of such type and specifications as may be prescribed by the State Government having regard to the area and use of the land and keep such system always in working condition:

Provided that if the State Government, having regard to the ground water level in a particular area, is of the opinion that installation of rain water harvesting system in such area is not appropriate, it may, by notification in the Official Gazette, exempt such area from the operation of the provisions of this section.

(2) The Municipality shall not grant any permission under section 194 unless the person seeking permission makes provision for rain water harvesting system of the type and specifications prescribed under sub-section (1) in the maps required under that section and undertakes to install such system and furnishes security for the same to the satisfaction of the Municipality.

(3) Notwithstanding anything contained in Section 194 or any other provision of this Act, every owner of the building, for which rain water harvesting system is compulsory under the provisions of this section, shall, after completion of such building, obtain a completion certificate in the

prescribed manner and no such building shall be occupied unless and until such certificate has been obtained.

- (4) The officer or authority authorized to issue completion certificate under sub-section (3) shall not issue such certificate unless he is satisfied that a rain water harvesting system of the type and specifications prescribed under sub-section (1) has been installed in the building and is operational.
- (5) Any development of land in a municipal area made or continued in contravention of the provisions of this section shall be deemed to be an unauthorized development for the purposes of this Act.
- (6) No permanent water connection from any public water supply system shall be permitted in a building, for which rain water harvesting system is compulsory under the provisions of this section, unless the owner or occupier thereof produces a completion certificate issued under sub-section (3).
- (7) Any person who contravenes any provision of this section shall, on conviction and without prejudice to any other action that may be taken against him under any other provision of this Act or any other law for the time being in force, be punishable with imprisonment which may extend to seven days or with fine which shall not be less than rupees twenty five thousand but which may extend to rupees one lakh or with both.

Explanation. - For the purposes of this section, 'rain water harvesting system' means any structure or apparatus or both, including roof top structure and under ground tank, constructed or installed to collect rain water either for domestic use or for percolation into earth for the purpose of recharging ground water.]

238A. Provision of parking space. - (1) In every building constructed in a municipal area after the commencement of the Rajasthan Municipalities (Amendment) Act, 2010 (Act No. 19 of 2010), it shall be compulsory to provide such parking space as may be prescribed by the State Government:

Provided that the State Government may, having regard to the area of land and situation and use of building, exempt, by notification in the Official Gazette, any building or class of buildings from the provisions of this Section.

- (2) The Municipality shall not grant any permission under section 194 unless the person seeking permission makes provision for parking space as prescribed under sub-section (1) in the maps required under that section and undertakes to provide such parking space and furnishes security for the same to the satisfaction of the Municipality.
- (3) Notwithstanding anything contained in section 194 or any other provision of this Act, every owner of the building, for which provision of parking space is compulsory under the provisions of this section, shall, after completion of such building, obtain a completion certificate in the prescribed manner and no such building shall be occupied unless and until such certificate has been obtained.
- (4) The officer or authority authorized to issue completion certificate under sub-section (3) shall not issue such certificate unless he is satisfied that parking space as prescribed under sub-section (1) has been provided in the building.
- (5) Any development of land in a municipal area made or continued in contravention of the provisions of this section shall be deemed to be an unauthorized development for the purposes of this Act.
- (6) No permanent water connection from any public water supply system shall be permitted in a building, for which provision of parking space is compulsory under the provisions of this section, unless the owner or occupier thereof produces a completion certificate issued under sub-section (3).
- (7) Any person who contravenes any provision of this section shall, on conviction and without prejudice to any other action that may be taken against him under any other provision of this Act or any other law for the time being in force, be punishable with imprisonment which may extend to seven days or with fine which shall not be less than rupees twenty five thousand but which may extend to rupees one lakh or with both.]

239. Fixing of brackets etc. to houses. - The Municipality may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas or, subject to the provisions of any law in force relating to electricity, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the law in force relating to telegraphs, for

telegraph wires or telephonic wires, or for the conduct of electricity for locomotives or other purposes or such pipes as it may deem necessary for the proper ventilation of sewers and water works and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any other in the neighbourhood.

240. Naming of streets and numbering of houses. - (1) The Municipality may from time to time put up or paint on a conspicuous part of any building at or near each end, corner or entrance to every street and public place the name by which such street or public place is to be known:

Provided that it shall be lawful for the State Government to issue directions to the Municipality for naming of any street, colony, Mohala, Market, Bazar, bridge, flyover, garden or any other public place or way by specific name and such directions shall be binding on the Municipality.

(2) The Municipality may from time to time -fix number plate in a conspicuous place on the main entrance of outer side of the building and the cost of the plate shall be borne by the house owner.

(3) Any person who destroys, pulls down or defaces any such name or number plate or puts any name or number different from that put up by the Municipality shall, on conviction, be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

241. Installation of statues. - (1) No statue in any street or public, place shall be allowed or permitted to be installed without the prior approval of the State Government or any authority authorized by it

(2) Any person who destroys, pulls down or defaces any statue installed or erected within the limits of Municipality in accordance with sub-Section (1) or any person or authority who installs a statue without the prior approval of the State Government or in contravention of the conditions prescribed by it, shall, on conviction, be punished with simple imprisonment for a term which shall not be less than two months but which may extend to six months and with fine which shall not be less than twenty five thousand rupees but which may extend to fifty thousand rupees.

242. Removal and trimming of hedges, trees, 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, lop or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which it deems likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhang 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 recover the cost of trimming and pruning in the same manner in which municipal dues are recovered.

243. Dangerous buildings. - (1) If any building or anything affixed thereon be deemed by the Municipality to be in a ruinous state or to be likely to fall or to be in any other way dangerous to any inhabitant of such building or of any neighbouring building, or to any occupier thereof or to passengers, 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 sub-Section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any 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 sub-Section.

- (2) The Municipality shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure or repair such building or thing affixed thereon, as the case shall require, and if such owner or occupier does not begin to repair, take down or secure such building or thing within three days, and in case of emergency, immediately after the service of such notice and complete such work with due diligence, the Municipality shall cause all or so much of such building or thing, as it shall think necessary, to be taken down, repaired or otherwise secured.
- (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.

244. Displacing pavements etc. - (1) Whoever displaces, damages, takes up or makes any alteration in or otherwise interferes with the pavement, gutter, storm water drain, flags or other materials of any public street, or the fences, walls or posts thereof, or any municipal lamp, lamp post bracket, water-post, direction post, hydrant, water pipe or any other municipal property therein, thereon or thereunder, without the written consent of the Municipality or other lawful authority shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and shall also be liable to pay the Municipality the amount of actual damage and ten percent thereof as administrative charges.

- (2) Any person who, having displaced, damaged, taken up or made alteration in or otherwise interfered with any such pavement, gutter, storm water drain, flags or other materials or the fences, walls, post, municipal lamps, lamp-posts, brackets, water-posts, direction posts, hydrants; water-pipes or other municipal property of any public street, fails to replace or restore the same to satisfaction of the Municipality after notice to do so shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees and shall pay any expense which may be incurred in restoring the street, and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under this Act.

245. Encroachment or obstruction upon public land. - (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) Whoever makes even temporary obstruction without prior permission of the Municipality 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 may extend to one month or with fine which may extend to five thousand rupees or with both.
- (3) The Municipality 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.
- (4) Whoever not being duly authorized in that behalf removes earth, sand or other material from any land or space as aforesaid, 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.

- (5) Notwithstanding anything contained in the foregoing provisions, the Municipality 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.
- (6) Where any property is seized or attached by an officer authorized by the Municipality, he shall immediately make a report of such seizure or attachment to the Municipality.
- (7) The Municipality may make such orders as it thinks fit for the proper custody of the property seized or attached, pending the conclusion of confiscation proceedings, and, if the property is subject to speedy and natural decay, or it is otherwise expedient so to do, the Municipality may order it to be sold or otherwise disposed of.
- (8) Where any property is sold as aforesaid, the sale proceeds thereof after deduction of the expenses of any such sale or other incidental expenses relating thereto, shall
 - (a) where no order of confiscation is ultimately passed by the Municipality; or
 - (b) where an order passed in appeal so requires, be paid to the owner thereof or the person from whom it is seized or attached.
- (9) Where any property is seized or attached under sub-Section (5), the Municipality may order confiscation of such property.
- (10) No order for confiscating a property shall be made under sub-Section (9) unless the owner of such property or the person from whom it is seized or attached is given -
 - (a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;
 - (b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and
 - (c) a reasonable opportunity of being heard in the matter.
- (11) The order of any confiscation and removal of encroachment under this Section shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.
- (12) Any person aggrieved by an order made under sub-Section (7) or sub-Section (9) may, within one month from the date of the communication to him of such order, appeal against it to the District Judge of the District in which such property is seized or attached.
- (13) On such appeal the District Judge may, after giving an opportunity to the appellant and the respondent to be heard, direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.
- (14) Whenever any property is seized or attached pending confiscation under this Section, the Municipality or the District Judge shall have, and notwithstanding anything to the contrary contained in any other law for the time being in force, any other Court, tribunal or other authority shall not have jurisdiction to make orders with regard to the - possession, delivery, disposal, release or distribution of such property.
- (15) Where any person is prosecuted of an offence under sub-Section (1), sub-Section (2) or sub-Section (4), the burden of proving that he has not committed the offence shall be on him.
- (16) Nothing contained in this Section shall prevent the Municipality from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in any streets and spaces for not more than seven days and in such manner as not to inconvenience the public or any individual.
- (17) Nothing contained in this Section shall apply to any projection duly authorized under sub-Section (1) of Section 236 or in any case where permission has been given under sub-Section (16) of this Section.

(18) Whoever, being an employee of the Municipality, or being on deputation with the Municipality from any department of the Government, specifically entrusted with the duty to remove or to stop or to prevent the encroachment or obstruction, himself encroaches or helps others to encroach, or wilfully 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 Municipality.

(19) No investigation of an offence under this Section shall be made by an officer below the rank of the Deputy Superintendent of Police. However, such investigation shall be completed and report shall be filed in the Court within the period of three months from the date of filing First Information Report on behalf of the Municipality by the Chief Municipal Officer or the official authorized by him.

(20) Without prejudice to the provisions of Section 298 and other provisions of this Act, it shall be lawful for the Chief Municipal Officer to lodge proceedings against the person who is likely to make encroachment upon any Government or municipal land before the Magistrate concerned, for preventing him from making any such encroachment and it shall be competent for the Magistrate, on being satisfied about the reasonableness of the apprehension of the Chief Municipal Officer, to require such person to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit. The procedure contained in Chapter VIII of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) shall apply *mutatis mutandis* to the proceedings before the Magistrate under this sub-Section as if such proceedings were the proceedings under Section 107 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

246. Dangerous quarrying. - If in the opinion of the Municipality the working of any quarry or the removal of stone, earth or other material from the soil in any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create nuisance, the Municipality may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal, not to continue or permit the working of such quarry or the removing of such material or to take such order with such quarry or place as the Municipality shall direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom:

Provided that, if such quarry or place is vested in the State Government or if such working thereof or removal therefrom as' aforesaid is being carried on by or on behalf of the State Government or any person acting with the permission or under the authority of the State Government or of any officer of the State Government as such, the Municipality shall not take such action unless and until the State Government has consented to its so doing:

Provided further that the Municipality shall immediately cause a proper hoarding or fence to be put up for the protection of passengers near such quarry or place, if in any case referred to in this Section, it appears to it 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 other persons as aforesaid and shall be recoverable as an arrear of tax under this Act.

247. Premises not to be used for keeping animals, or poultry without licence. - No person shall use, or permit to be used, any land or premises for keeping cattle, horse, pig, dog, or other quadruped animal or any kind of poultry for any purpose whatsoever without, or otherwise than in conformity with, the terms of a licence granted by the Municipality on payment of such fees as may be determined by the Municipality by bye-laws:

Provided that the Municipality may, by a written order, exempt any class of animal or bird from such licence or from any purpose for which such class of animal or bird may be kept.

248. Seizure of certain animals or birds. - (1) If any cattle, horse, pig, dog, or other four-footed animal or bird is kept on any land or premises in contravention of the provisions of this Chapter or is found roaming or straying or tethered on any street or public place or is found causing nuisance or danger to the public, the Chief Municipal Officer may direct any officer or employee of the Municipality to seize such cattle, horse, pig, dog or other four-footed animal or bird and may cause it to be impounded or removed to and maintained in such place as may be appointed by the Municipality for this purpose; and the cost of such seizure and impounding or removing and maintenance shall be recoverable by sale of such animal or bird, as the case may be, by auction:

Provided that any person claiming such animal or bird may, within seven days of such seizure, get it released on his paying all the expenses incurred by the Municipality in seizing, impounding or removing, or maintaining such animal or bird and on his producing such evidence in support of his claim as the Chief Municipal Officer may think sufficient.

(2) The proceeds of sale of any animal or bird by auction under sub-Section (1) shall be applied in meeting the expenses incurred on account of seizure, impounding or removal and maintenance of such animal or bird and of holding such sale and the surplus, if any, shall be held in deposit by the Chief Municipal Officer and shall, if not claimed by the owner of such animal or bird within a period of ninety days from the date of sale, be credited to the Municipal Fund.

249. Power to deal with infected dogs or animals. - The Chief Municipal Officer may

(a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

(b) by public notice direct that after such date as may be specified in the notice, dogs which are without a licence distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be confined and cause them to be otherwise dealt with or destroyed, if necessary.

250. Power to stop nuisances from animals within premises. - (1) Whenever the Chief Municipal Officer is of opinion that the user of any premises for keeping any animal or bird, even if licenced, is causing a nuisance and that such nuisance should immediately be stopped, the Chief Municipal Officer may, by order, require the owner or the occupier of such premises to stop such nuisance within such period as may be specified in the order.

(2) If, at the end of such period, the nuisance is not stopped, the Chief Municipal Officer or any other officer authorized by him in this behalf, may cause such use of such premises to be stopped forthwith by such means as he thinks fit and direct such owner or occupier to show cause why the licence for keeping the animal or the bird, as the case may be, shall not be cancelled.

(3) If such owner or occupier does not show cause to the satisfaction of the Chief Municipal Officer or if the nuisance is not abated, the nuisance shall be stopped by the seizure and auction of the animal or the bird found in the premises after cancellation of the licence therefore.

251. Licensing of dairies. - (1) No person shall for the purposes of trade, use or permit to be used any place for stabling milk cattle or for storing or selling milk or for making, or selling butter except under and in accordance with the terms of a licence from the Municipality.

(2) The Municipality may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the licence, it may be withdrawn without any such notice.

(3) Whoever so uses or permits to be used any place for any of the aforesaid purposes without or in contravention of any of the conditions of, or after the withdrawal of, or

during the suspension of, such licence, shall be punished with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees and in the case of a continuing offence with additional fine which may extend to fifty rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

- (4) Upon a conviction being obtained in respect of any place under sub-Section (3), the Magistrate shall on the application of the Chief Municipal Officer or any other officer authorized by him but not otherwise, order such place to be closed and thereupon, appoint persons or take other steps to prevent such place being so used.

252. Power to prohibit use of public streets for certain kind of traffic. - (1) The Municipality may, by notice, in writing,

- (a) prohibit or regulate, either temporarily or permanently, vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality,
- (b) prohibit, in respect of a public street or a portion thereof, the transit of any vehicle of such type, form, construction, weight, emission, or size, or of any vehicle laden with such heavy or unwieldy object as is likely to cause injury to the roadways or any construction thereon, or of any vehicle on the ground of public convenience, except under such conditions as to time, mode of traction or locomotion, use of appliances for the protection of roadways, number of lights and assistants, and other general precautions, and on payment of such charges, as may be specified by the Municipality generally or specifically in each case,
- (c) prohibit, at all times or during any particular hours, entry of any vehicular traffic from, or exit of such vehicular traffic into, any premises from any particular public street carrying such traffic,
- (d) temporarily close any street to traffic for repair or order to carry out any work connected with the drainage, water supply or lighting or for any of the purposes of this Act:

Provided that such work shall be completed and such street re-opened to traffic with all reasonable speed.

- (2) Any notice under sub-Section (1) shall, if such notice applies to any particular public street, be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which such notice applies or, if such notice applies generally to all public streets, be advertised.
- (3) Notwithstanding anything contained in sub-Section (1), the Municipality may declare, by notice in writing, that any pedestrian pathway, or a portion thereof, shall be used as bicycle and pedestrian track.
- (4) The notice referred to in sub-Section (3) shall be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which the provisions of sub-Section (3) apply.

253. Regulation of parking of private vehicles on public places. - The Municipality shall regulate parking of vehicles on public places including footpaths and along roadside to ensure smooth flow of traffic and prevent inconvenience to the general public. In any case parking shall not be permitted on public place unless adequate space is available:

Provided that Municipality may, having regard to availability of adequate space, permit parking on public places by general or special order subject to payment of a parking fee at such rate as may be prescribed-by the Municipality.

254. Halting vehicles or animals on public ground. - Where any land vested in the Municipality or any public place is, without the permission in writing of the Municipality, used as a halting place for any vehicle or animal or a place of encampment, the owner or keeper of the vehicle or animal or the person encamping, as the case may be, shall be liable on conviction to fine which shall not be less than one thousand rupees but

which may extend to two thousand rupees and in the case of a continuing breach to a further fine which shall not be less than fifty rupees but which may extend to one hundred rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the commission of the offence.

255. Arrangement for fire prevention. - The Municipality may require, by bye-laws, the owner or the occupier of all or any of the premises in the municipal area to make such arrangements as may be necessary for fire prevention and fire safety in the municipal area and may also require the owner or the occupier to obtain a no objection certificate in this behalf in such form and in such manner and from such authority as may be specified in such bye-laws.

256. Establishment and maintenance of fire brigade. - The Municipality may establish and maintain a fire-brigade and may provide any implements, machinery or means of communicating intelligence which it thinks necessary for the prevention and extinction of fire.

257. Powers of fire brigade and other persons for suppression of fire. - (1) On the occasion of a fire in a municipal area any Magistrate, any member of the Municipality, the Chief Municipal Officer, any other officer, of the Municipality, any member of the fire brigade directing its operations or any police officer above the rank of a constable may

- (a) remove or order the removal of any person who by his presence interferes with or impedes operations for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which the fire is burning;
- (c) for the purpose of extinguishing the fire-break into or through or pull down or cause to be broken into or through or pulled down or used for the passage of house or other appliances any building or land;
- (d) cause mains and pipes to shut off so as to give greater pressure of water in or near the place where the fire has occurred;
- (e) call on the person in-charge of a fire-engine to render such assistance as may be possible; and
- (f) generally take such measures as may appear necessary for the preservation of life and property.

(2) No person shall be liable to pay damages for an act done by him under sub-Section (1) in good faith.

258. Power to restrict or ban manufacture etc. of plastic bags. - (1) Subject to any other law for the time being in force and any general or special orders of the State Government, the Municipality shall have power to restrict or ban, by notification in the Official Gazette, manufacture, sale or use of any kind of plastic bags in any part or whole of the municipal area.

(2) Whoever contravenes the restriction or ban imposed under sub-Section (1), shall, on conviction, be punishable with simple imprisonment which may extend to three months, or with fine which shall not be less than one hundred rupees but which may extend to one thousand rupees, or with both, and with further fine which may extend to fifty rupees for every day or night, as the case may be, on which such offence is continued after the date of first conviction.

259. Non-taking of connection or discharging sewage etc. - Whoever does not take connection from sewerage system as provided in Section 202 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 Municipality, 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.

260. Filthy building etc.. - (1) Whoever, being the owner or occupier of any building or land, allows the same to be in a filthy and unwholesome state, or to be, in the opinion of the Municipality, a nuisance to persons residing in the neighbourhood, or to be overgrown with prickly-pear or rank and noisome vegetation and does not, within a reasonable time after notice in writing by the Municipality to cleanse, clear or otherwise put the same in a proper state, comply with the requisition contained in such notice, shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees and with further fine which shall not be less than fifty rupees but which may extend to one hundred rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction.

(2) Should the state of the building be such as in the judgment of the Municipality to render it unfit for human habitation, it may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

(3) If any building, by reason of dilapidation, neglect, abandonment or disuse or of its remaining untenanted and thereby -

(a) becoming a resort of idle and disorderly persons or of persons who have no ostensible means of subsistence or who cannot give a satisfactory account of themselves; or

(b) coming into use for any unsanitary or immoral purposes; or

(c) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Municipality, if it considers that such objection cannot, under any other provision- of this Act, be otherwise removed, may, if there is any person known or resident within the Municipality who claims to be the owner of such building by written notice directed to such person or in any other cases, by written notice-fixed on the outer door or any other conspicuous part of the building, require all persons interested therein to take within a period mentioned in the notice such steps with respect to the building as may be specified in the notice.

(4) In the event of non-compliance with the requirements of the notice within the period mentioned therein, the Municipality may cause such order as it may be specified in the notice to be taken with the building in question at-the cost of the owner or persons interested therein and shall, if the building is taken down, cause all the material thereof to be removed and sold forthwith.

(5) In case the materials of a building are sold, the sale proceeds shall be applied in the first instance towards defraying any expenses incurred by the Municipality in taking down the building and in the removal and sale of the materials thereof and all such expenses not thereby defrayed shall be recoverable in same manner as an amount claimed on account of any tax recoverable under this Act:

Provided that if there shall remain any surplus amount after defraying such expenses, the same shall be payable on application made within six months from the date of sale, to the owner or persons interested.

261. Bathing Places. - (1) The Municipality may set apart sufficient public places for the purpose of being used as bathing places and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitant to bathe in; 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, and may prohibit the use for any purpose mentioned in this Section of any or all other public places within the Municipality.

(2) 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.

262. Fouling Water. - (a) Whoever, in disobedience of any order of the Municipality under Section 261 or of any bye-laws bathes in any pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the Municipality or washes or causes to be washed therein any animal or anything whatsoever or throws, puts or casts or causes to enter therein any animal or anything or causes or suffers to run, drain or be brought therein to anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and

(b) whoever, without permission of the Municipality introduces into any tank or ditch within, or on the boundary, of the Municipality any animal, vegetable or mineral matter likely to render the water of such tank or ditch offensive or to be a nuisance, shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

263. Abatement of nuisance from wells, etc. - (1) If in the opinion of the Municipality

(a) any pool, ditch, quarry, hole, excavation, tank, well, pound, drain water-course or any collection of water, or

(b) any cistern or other receptacle for water whether within or outside a building, or

(c) any land on which water accumulates and which is situated within a distance of one hundred meters from any building used as a dwelling house, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Municipality may, by notice in writing, require the owner thereof to fill up, cover or drain of the same in such manner and with such materials, or to take such order with the same for removing or abating the nuisance, as the Municipality may direct.

(2) (a) No new tank or pond shall be dug or constructed without the previous permission in writing of the Municipality, and

(b) If any such work is begun or completed without such permission, the Municipality may either

(i) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Municipality may direct; or

(ii) grant written permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (a) of this sub-Section.

264. Regulation or prohibition of certain kinds of cultivation. - The Municipality, on the report of the Director of Medical and Health Service, the Chief Medical and Health Officer or the Local Medical Officer that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land, in any place within the limits of the Municipality is injurious to the public health, may, with the previous sanction of the State Government, by public notice regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious:

Provided that, when such cultivation, use or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by absolute prohibition.

265. Using offensive manure etc. - Whoever, except with the written permission of the Municipality and in the way, if any, enjoined in such permission, stores or uses night-soil or other manure of substance emitting an offensive smell shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

266. Playing any game causing annoyance. - Whoever negligently flies kites, or discharges or lets fireworks or fire balloons or engages in any game, in such a manner as to cause or be likely to cause danger or annoyance to persons passing by or dwelling or working in the neighbourhood or risk of injury to property, shall be punishable with

fine which shall not be less than one hundred rupees but which may extend to five hundred rupees.

267. Prohibition of other nuisances. - (1) In a Municipality, no person shall

(a) in any public street or public place

(i) ease himself, or cause any child in his charge to ease himself; or

(ii) carry meat exposed to public view; or

(iii) picket animals or collect carts; or

(iv) remove, destroy, deface or otherwise obliterate any advertisement notice or other document put up or exhibited in accordance with this Act, or the rules or bye-laws made thereunder; or

(v) Carry any waste material in open vehicle; or

(b) make any grave, tomb or monument or burn or bury any corpse at any place not set apart for the purpose; or

(c) let loose any animal so as to cause, or negligently allow animal to cause injury, danger, alarm or annoyance to any person; or

(d) use or permit to be used as a latrine any place not intended for that purpose.

(2) Whoever commits a contravention of any of the provisions of sub-Section (1) shall be punishable with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

268. Consumption of smoke. - (1) It shall be lawful for the Municipality to direct by public notice that every furnace employed, or to be employed in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the Municipality, whether a steam engine, be or be not used or employed therein shall, in all cases, be constructed, supplemented or altered so as to consume or burn or reduce as far as may be practicable, the smoke arising from furnace.

(2) If any person shall, after such direction, use or permit to be used any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings or being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees, and upon any subsequent conviction, which shall not be less than two thousand rupees but which may extend to five thousand rupees:

Provided that nothing in this Section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

269. Licensing markets, slaughter-houses and certain business. - (1) It shall be lawful for the Municipality to direct that no place not belonging to or vested in it, shall be used for the purposes specified in clause (j) of sub-Section (1) of Section 340 except under and in accordance with the conditions of a licence from the Municipality which may from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases.

(2) Whoever uses or permits the use of any place contrary to such direction, without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

(3) Upon a conviction being obtained in respect of any place under sub-Section (2) of this Section, the Magistrate shall on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used and every person who so uses or permits the use of

place after it has been so ordered to be closed shall be punished with fine which shall not be less than fifty rupees but which may extend to one hundred rupees for each day during which he continues so to use, or permits such use of the place after it has been so ordered to be closed.

- (4) Any person aggrieved by an order of the Municipality under sub-Section (1) granting, suspending, withholding or withdrawing any licence may, within thirty days of the such order exclusive of the time requisite for obtaining a copy thereof appeal to the Collector and the order of the Appellate Authority shall be final and shall not be liable to be questioned in any Court.

270. Opening, closing and letting of markets and slaughter-houses. - (1) The Municipality may from time to time open or close any public market or slaughterhouse. It may also either take charges for stalls or other rents or fees for the use by any person of any such market or slaughter-house or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter house.

- (2) Any person who, without the permission or licence of the Municipality shall sell or expose for sale any article in the said market or use the said slaughter house shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

- (3) It shall be lawful for the Municipality to lease for a period not exceeding one year at a time by public auction or private contract the collecting of any rent or fees, which may be imposed under sub-Section (1).

271. Slaughter-houses etc. beyond municipal limits. - It shall be lawful for the Municipality, with the sanction of such officer as may be appointed or authorized by the State Government in this behalf, to establish slaughter-houses or places for the disposal of carcasses of animals beyond the limits of the Municipality, and all provisions of this Act and of bye-laws in force thereunder relating to such places within municipal limits shall have full force therein, as if such places were within the municipal limits.

272. Opening of new slaughter-houses. - Notwithstanding anything contained in this Act, the Municipality shall, while establishing or permitting establishment of a new slaughterhouse, have regard to the public convenience and general public opinion and shall consider reasonable objection received from the public. -

273. Powers which may be exercised for preventing dangerous diseases. - (1) Every Municipality may, subject to such limitations, restrictions and conditions as may be prescribed in this behalf, exercise all or any of the powers specified in sub-Section (2) for prevention of dangerous diseases.

- (2) The powers which may be exercised under the preceding sub-Section are

(a) power by order which may be either of special or general application to direct that every medical practitioner who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital or that every manager of any factory or educational institution or every head of household who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household is suffering from dangerous disease shall give information of the same with the least practicable delay to such person as may be designated by the Municipality in that behalf;

(b) power to direct or authorize the inspection, without notice or with such notice as to the person directed or authorized to inspect, appears reasonable, of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place;

(c) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the Municipality, on the advice of the authorities of the medical and health department, health officer, likely to cause the spread of any dangerous disease;

- (d) power to direct or cause the removal, on a certificate signed by the Health Officer of the Municipality or any duly qualified Medical Practitioner authorized by the Municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from an infectious disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment and to prohibit the person so removed from leaving such hospital or place without permission of the Municipality;
 - (e) power to require by written notice, the owner or occupier of any building or part of a building or a person owning or in-charge of any article therein to cleanse and disinfect such building or part thereof or article either at his own expense or in case of poverty or for any other cause which the Municipality in the circumstance of the case considers reasonable, of the expense of the Municipality;
 - (f) power to prohibit the letting of or the providing of accommodation in any hotel, dharamshala or musafirkhana in which a person has been, or in which there is reason to believe that a person has seen, suffering from a dangerous disease unless and until the person desiring to so let or provide accommodation shall have the building or part thereof and any article therein likely to retain infection disinfected to the satisfaction of the Municipality or any such officer as the Municipality appoints in this behalf;
 - (g) power with the previous permission in each case of a Magistrate to destroy any unsanitary huts or sheds in which there is reason to believe that persons have been suffering from any dangerous disease;
 - (h) power to provide the means, and to prescribe places, for disinfecting or washing clothes, or other articles which have been exposed to infection from any dangerous disease or to direct the destruction thereof;
 - (i) power
 - (i) to provide and maintain suitable conveyances for the free carriage of persons suffering from dangerous diseases;
 - (ii) where such provision has been made, to prohibit the conveyance of such persons in all or any public conveyance; and
 - (iii) to direct that conveyances that may at any time be used for conveying such persons shall be immediately disinfected;
 - (j) power to prohibit
 - (i) any person suffering from a dangerous disease from wilfully exposing himself, without proper precautions against the spread of the said disease in any street or in any school or factory or in any hotel, dharamshala, musafirkhana or other place of public resort; and
 - (ii) any person in-charge of the person so suffering from so exposing the sufferer; and
 - (k) power to prohibit any person from removing to another place, or transferring to another person except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from a dangerous disease.
- (3) The Municipality may give compensation to any person who sustains substantial loss by the destruction of any property under this Section, but except as allowed by the Municipality, no claim for compensations shall lie for any loss or damage caused by any exercise of the powers specified therein.

- (4) Any person who in a Municipality disobeys any order which is for the time being in force and which has been passed by the Municipality in exercise of any powers conferred on it by this Section, or obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.
- (5) The State Government may at any time
 - (a) withdraw any power conferred on a Municipality by or under this Section, or
 - (b) cancel or modify any limitation, restriction or condition prescribed in respect of any such power, or
 - (c) cancel any order passed by a Municipality in exercise of any such power.

274. Special powers which may be conferred by State Government in respect of over-crowded areas notified by State Government. - (1) If the State Government is of opinion that risk of disease has arisen or is likely to arise, either to any occupier or to any inhabitants in the neighbourhood of any area, by reason of any of the following defects, namely

- (a) the manner in which either buildings, or blocks of buildings, already existing or projected therein, are, or are likely to become crowded together, or
 - (b) the impracticability of cleansing any such buildings or blocks of buildings already existing or projected, or
 - (c) the want of drainage or scavenging or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks as aforesaid, or
 - (d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of building, the State Government may by notification in the Official Gazette confer on the Municipality all or any of the powers specified in sub-Section (2) and the Municipality may, subject to the limitations, restrictions, modifications, conditions or bye-laws, if any, prescribed in this behalf, exercise within that area all powers conferred.
- (2) The powers, all or any of which may be conferred on the Municipality under sub-Section (1), are as follows: -
- (a) power, when any building or block already existing or in course of erection, by reason of any defect specified in sub-Section (1), has given or is in the opinion of the Municipality, likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed as the Municipality deems fit either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall, within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block or execute such works or take such action in connection therewith as the Municipality deems necessary to prevent all such risk of disease;
 - (b) power by municipal or other agency to pull down or remove the said building or block or to execute such works or take such action, if the person addressed in the said notice neglects to do so within the time specified therein;
 - (c) power, subject to right of appeal to an officer who may be empowered by the State Government in this behalf and whose decision shall be conclusive, to prohibit, by written notice addressed to the owner and occupier of any such site or space and by general notice, the erection of any building or of any building exceeding such dimensions as may be specified
 - (i) on the site of any building which has in whole or in part in exercise of the power specified in clause (a) been pulled down, or

- (ii) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not,

If the Municipality considers that in order to prevent such risk as aforesaid such site or space should not be built upon and either

- (a) to acquire such site or space, or
- (b) to prescribe such condition as may be deemed necessary as to the use that the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in Section 295, shall be paid to any person whose rights are affected by such prohibition.

- (3) When in pursuance of any notice under sub-Section (2) any building has been pulled down, the Municipality shall, unless it has been erected contrary to any provisions of this Act or of any bye-laws in force thereunder, pay to such owner or occupier as may have sustained damage thereby reasonable compensation the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in Section 295.
- (4) The State Government may at any time, by like notification, withdraw any power conferred by it under this Section, or cancel or modify any limitation, restriction, modification, condition or regulation in respect of any such power.

275. Burials and burial grounds. - The Municipality shall be responsible

- (a) constructing and maintaining burial grounds and cremation grounds; and
- (b) acquiring, maintaining, changing and regulating places for the disposal of the dead.

276. Power in respect of burial and burning places. - (1) The Municipality may, by public notice, order any burial or burning ground situated within municipal limits or within one kilometre thereof, which is certified by the Director of Public Health or District Medical and Health Officer 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 two thousand rupees.
- (4) Any person aggrieved by any orders made by the Municipality 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 Collector and no such order shall be liable to be called in question otherwise than by such appeal.
- (5) The appellate authority may, if it shall think fit, extend the period allowed under sub-Section (4) for appeal.
- (6) 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.

- (7) When an appeal has been instituted under sub-Section (4), all proceedings to enforce such order and all prosecutions for any breach thereof shall be suspended pending the decision of the appeal, and if such order is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

277. Regulation of the removal of corpses. - (1) The Municipality may by public notice prescribe routes by which routes alone corpses may be moved to the 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 two thousand rupees.

278. Power to licence fuel shops at burning grounds. - (1) The Municipality may grant and renew licences in accordance with bye-laws to be framed by it in the manner laid down in or under Section 340, 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 licence granted or renewed under sub-Section (1).

(3) Where in respect of a burning ground any licence 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 licence in respect of a burning ground granted or renewed under sub-Section (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 licence 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 licence 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 two thousand rupees and, in a case covered by clause (a), shall be further liable to have the licence cancelled.

279. 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 of, 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.

280. 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 kilometres of the municipal limit or the abadi area whichever is away, or

- (b) give notice of the death to the Municipality which shall thereupon cause the carcass to be removed and disposed of.
- (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 sub-Section (2) or under sub-Section (3), 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 sub-Section (2) or sub-Section (3) 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.

281. Penalty for acts done by persons suffering from certain disorders- Whoever while suffering from an infectious or contagious disorder

- (a) makes or offers for sale an article of food or drink for human consumption or medicine or drug, or
- (b) wilfully touches any such article, medicine or drug when exposed for sale by others, or
- (c) takes any part in the business of washing or carrying soiled clothes, shall be liable upon conviction to a fine which shall not be less than one thousand rupees but which may extend to two thousand rupees.

282. Regulation of certain trades. - (1) If the Municipality is satisfied that any building or place used or intended by any person to be used,

- (a) for boiling or storing offal, blood, bones, guts or rags,
- (b) for sorting, curing or storing fish,
- (c) for storing hides, horns or skins,
- (d) for tanning,
- (e) for the manufacture of leather goods,
- (f) for dyeing,
- (g) for soap-making,
- (h) for washing or drying Wool or hair,
- (i) for boiling oil,
- (j) for melting tallow or sulphur,
- (k) for burning or baking bricks, pottery, lime or surkhi,
- (l) for storing hay, straw, fodder, wood, coal or other combustible material,
- (m) for storing grain for trade purposes,
- (n) as a quarry,
- (o) as a cart stand,
- (p) as an oil mill,
- (q) as a flour mill worked otherwise than by electric power,
- (r) as a distillery, [***]
- (s) as a manufactory or place of business of any other kind from which offensive or unwholesome smell, fume, soot or dust arises or which may involve risk of fire, [or]

(t) any other activity prescribed by the State Government from time to time,

is, or is likely by reason of such use and of its situation, to become a nuisance to the neighbourhood or is so used or so situated as to be likely to be dangerous to life, health or property, the Municipality may, by written notice, require the owner or occupier

(i) at once to discontinue the use, or at once to desist from carrying out or allowing to be carried out the intention so to use, of such place, or

(ii) to use it in such manner or after such structural alterations as the Municipality in such notice prescribes so that it may not become, or may be no longer, a nuisance or dangerous to life, health or property, or

(iii) to remove it to such place as may be demarcated:

Provided that no requisition of the nature specified in clause (i) shall be made in respect of any of the occupations specified in clauses (a) to (j) carried on by the owner or occupier himself or by a member of his family as a cottage industry unless the Municipality provides some other place for carrying on such occupation.

(2) Whoever, after notice has been given under sub-Section (1), uses any place or permits it to be used in manner as to be a nuisance to the neighbourhood or dangerous to life, health or property, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and with further fine which may extend to one hundred rupees for every day on which such use or permission to use is continued after the date of the first conviction.

(3) Upon a conviction being obtained under this Section, the magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-Section (1).

(4) Whoever uses, without a licence or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-Section (1) in any Municipality in which bye-laws are for the time being in force prescribing the conditions on and subject to which the circumstances in which and the areas and localities in respect of which licences for such use may be granted, refused, suspended and withdrawn, shall be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees and with further fine which shall not be less than one hundred rupees but which may extend to five hundred rupees for every day on which such use is continued after the date of the first conviction.

(5) Any person aggrieved by any order of the Municipality made under sub-Section (1) may within thirty days of the date of such order, exclusive of the time requisite for obtaining a copy thereof, appeal to the Collector and the order of the appellate authority shall be final and shall not be liable to be questioned in any Court.

283. Use of siren for summoning or dismissing workmen. - (1) No siren may be used for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a licence from the Municipality.

(2) The Municipality may grant such licence subject to such conditions as it may deem fit and at any time withdraw such licence on giving one month's notice to the licensee after hearing him, if he so desires, against the proposed withdrawal.

(3) Whoever uses or employs any such siren as aforesaid without or in contravention of any of the conditions of, or after the withdrawal of, such licence shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

284. Service of notices, etc. addressed to individual. - (1) The service of every notice or order and the presentation of every bill under this Act or under a rule or bye-laws made thereunder on any person or to any person to whom it is by name addressed shall in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorized by the Municipality in this behalf

- (a) by giving or tendering such notice, order or bill to the person to whom it is addressed;
or
 - (b) if such person is not found, by leaving the notice, order or bill at his last known place of abode with, or by giving or tendering the notice, order or bill to, some adult member or servant of his family; or
 - (c) if such person does not reside within the municipal limits and his address elsewhere is known to the chairman or official of the Municipality directing the issue of the notice, order or bill, then by forwarding the notice, order or bill, to such person by registered post under cover bearing the said address; or
 - (d) if none of the means aforesaid be available, or person refuses to accept, then by causing the bill, order or notice to be affixed in the presence of two persons of the locality on some conspicuous part of the building or land, if any, to which the bill, order or notice relates.
- (2) When any notice, order or bill is required or permitted by or under this Act or by a rule or bye-laws made thereunder, to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein and the service thereof, in case not otherwise specially provided for, but shall be made either
- (a) by giving or tendering the notice, order or bill to the owner or occupier or, if there be more owners or occupiers than one, to anyone of them; or
 - (b) if no such owner or occupier be found, then by giving or tendering the notice, order or bill to some adult member or servant of the family or any such owner or occupier as aforesaid; or
 - (c) if none of the means aforesaid be available then by causing the notice, order or bill to be affixed in the presence of two persons on some conspicuous part of the building or land to which the same relates.
- (3) Every notice which this Act or a rule or bye-laws made there- under requires or empowers a Municipality to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other manner as the Municipality may, direct or prescribe by bye-laws.
- (4) No notice, order or bill shall be invalid for defect of form.
- (5) When any notice or order requires any act to be done for which no time is fixed by this Act or any rule or bye-laws made thereunder, the notice or order shall fix a reasonable time for doing the same.
- (6) In the event of non-compliance with the terms of the notice or order, it shall be lawful for the Municipality to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the Municipality shall be paid by the person or persons upon whom the notice or order was served and shall be recoverable in the manner provided in Section 296.
- 285. Disobedience to individual notice.** - If a notice or order has been given under the provisions of this Act or under a rule or bye-laws made thereunder to a person requiring him to execute some work in respect of any property, movable or immovable and public or private, or to provide or do or refrain from doing anything within a time specified in the notice or order and if such person fails to comply with such notice or order then
- (a) the Municipality may cause such work to be executed or such thing to be provided or done and may recover all expenses incurred by it on such account from the said person in the manner provided under this Act, and
 - (b) the said person shall be liable on conviction by a magistrate to a fine which may extend to two thousand rupees and in case of a continuing breach to further fine

which may extend to fifty rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the breach.

286. Disobedience to public notice. - Where by this Act or a notice or order issued thereunder, the public is required to do or to refrain from doing anything, a person who fails to comply with such requisition shall, if such failure is not an offence punishable under any other Section, be liable,

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses, charged by this Act on the owner thereof than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him or which, at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglects or refuses, upon application made to him for that purpose by the Municipality, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand or which has since accrued shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

288. Occupier, in default of owner, may execute works and deduct expenses from rents. - Whenever default is made by the owner of any building or land in the execution of any work which a Municipality may require him to execute, the occupier of such building or land may, with the approval of the Municipality, cause such work to be executed and the expenses thereof shall be paid to him by the owner or the amount thereof may be deducted out of the rent becoming due from him to such owner.

289. Proceedings if any occupier opposes the execution of the Act. - If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land any of the provisions of this Act after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for bringing into effect the provisions of this Act and may also, if he thinks fit, order the occupier to pay the owner the cost relating to such application or order; and if after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be punished with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees, and such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such work.

290. Penalty for obstructing persons employed by Municipality. - (1) Whoever obstructs or molests a person employed by or under a contract with the Municipality under this Act in the performance of his duty or in the fulfilment of his contract or removes any mark set up for the purpose of indicating any levels or direction necessary to the execution of work authorized by this Act shall be liable on conviction to fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.

(2) The police officer in whose view an offence under sub-Section (1) is committed shall have power to arrest such offender.

291. Penalty for breaches of Act, rules and bye-laws not otherwise provided. - Whoever contravenes any provisions of this Act or of any rule, bye-laws or order thereunder or fails to comply with any notice, order or direction issued or made thereunder for which contravention or failure no penalty has been elsewhere provided in this Act or in the rules or bye-laws made thereunder, shall be liable on conviction to fine

which shall not be less than two thousand rupees but which may extend to five thousand rupees.

292. Entry for purposes of Act. - It shall be lawful for the Chief Municipal Officer or any officer authorized by the Municipality in this behalf to enter, for any purpose of this Act or any rule or bye-laws made thereunder between sunrise and sunset with such assistants as he may deem necessary, into and upon any building or land:

Provided that except when hereinafter otherwise provided, no building or land which may be occupied at the time shall be entered, except with the consent of the occupier thereof, twenty-four hours written notice having been given to the occupier:

Provided further that, in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

293. 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.

294. Power for effecting entry. - It shall be lawful for a person authorized under the provisions of Section 292 or any other provisions of this Act to make an entry for the purpose of inspection or of search to open or cause to be opened a door, gate or other barrier

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

(b) if the owner or occupier is absent or being present, refuses to open such door, gate or barrier.

295. Determination of compensation in certain cases. - (1) If an agreement is not arrived with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary, the apportionment of the same shall be ascertained and determined by such officer as may be appointed or authorized in this behalf by the Director of Local Bodies:

Provided that nothing in this sub-Section shall prevent the aggrieved party from seeking redress in a civil Court of competent jurisdiction.

(2) In any case where compensation is claimed in respect of any land, the procedure prescribed by the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) for proceedings in matters referred for the determination of the Court shall, as far as possible, be followed.

296. Costs or expenses how determined and recovered. - If a dispute arises with respect to any costs or expenses which are directed to be paid by any person under this Act the amount and, if necessary the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained by the Municipality and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under this Act.

297. Formation of State Municipalities Union and its functions. - (1) All or any of the Municipalities in the State may combine to form an Union to be called the Rajasthan 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.

[CHAPTER XII-A]

Prevention of Defacement of Property

- 297A. Penalty for defacement of Property.** - (1) Whoever defaces any property in public view by defacing or spitting or urinating or pasting pamphlets, posters etc. or writing or marking with ink, chalk, paint or any other material or method except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable, in case of first offence, with imprisonment for a term which may extend to one year or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both, and in case of each subsequent offence, with imprisonment for a term which may extend to two years or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.
- (2) Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons (whether incorporated or not) then, such other person and every President, Chairman, Director, Partner, Manager, Secretary, Agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.
- 297B. Punishment for attempt to commit offence.** - Whoever attempts to commit any offence punishable under this Chapter or causes such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.
- 297C. Punishment for abettor.** - Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Chapter shall be punished with the punishment provided for the offence.
- 297D. Power to erase writing etc.** - Without prejudice to the provisions of Section 297-A, it shall be competent for the municipality or any officer authorised by it in this behalf, to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property.
- 297E. Power to compound offence.** - It shall be competent for the municipality or any officer authorised by it in this behalf to withdraw any prosecution, or to compound any offence committed, under this Chapter on such terms and conditions as may be prescribed.

297F. Indemnity. - No suit, prosecution or other legal proceedings shall lie against the Government, any local authority or person for anything which is in good faith or in public interest done or intended to be done under this Chapter.

297G. Chapter to override other laws. - The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

297H. Definitions. - In this Chapter, unless the context otherwise requires, -

- (a) "*defacement*" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word "deface" shall be construed accordingly;
- (b) "*property*" includes any building, hut, monument, statue, water pipe line, public road, structure, wall including compound wall, tree, fence, post, pole or any other erection as may be notified by the State Government from time to time;
- (c) "*public place*" means any place (including a road, street or way whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort or over which they have a right to pass;
- (d) "*public view*" means anything which is visible to public while they are in or passing along any public place; and
- (e) "*writing*" includes decoration, lettering, ornamentation etc., produced by stencil.

CHAPTER XIII

Prosecution, Suits etc.

298. Municipality may 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 thereunder 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 bye-laws 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.

299. 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.

300. 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 nonpayment of such damage on demand, the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

301. 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 [245, 297-A, 297-B and 297-C] of this Act shall be cognizable and bailable.

302. Distress lawful though defective in form. - No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect of form in any summons, conviction or warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

303. 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.

304. Suits against Municipality or its officers. - (1) No suit shall be instituted against a Municipality or against the Chairperson, Vice-Chair, member, officer or servant of 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 its or his 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 Chairperson, Vice-Chairperson, 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.

305. 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.

306. 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.

307. Mode of proof of municipal records. - A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a Municipality shall, if duly certified by the legal keeper thereof or other person authorized by it in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transaction therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have admissible to prove such matters.

308. Restrictions on the summoning of municipal servants to produce documents. - No municipal officer or servant shall, in any legal proceeding to which a Municipality is not a party, be required to produce any register or document, the contents of which can be proved under the preceding Section by a certified copy, or to appear as a witness to prove the matter and transactions recorded therein unless by order of the Court made for special cause.

CHAPTER XIV

Control

309. Appointment and powers of Director, Deputy Director and Assistant Director. - (1) The State Government may appoint an officer to be the Director of Local Bodies with whatever designation, who shall perform such functions and exercise such powers as may be delegated to, or conferred on him by or under this Act or the rules made thereunder.

(2) The State Government may also appoint such number of other officers as it deems fit for assisting the Director and they shall be subject to the direction and control of the Director.

(3) The other officers so appointed shall exercise such powers and perform such functions and shall have such local jurisdiction as may be assigned to them by the Director.

310. Powers of inspection and supervision. - (1) Any officer appointed or authorized by the State Government in this behalf 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 or control;

(b) to call for any extract from the proceedings of any Municipality or of any Committee, or from 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 a Municipality to take into 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 Municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Municipality and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing or for not doing such thing; and

(d) 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.

(2) All or any of the powers given to such officer as may be appointed or authorized under sub-Section (1) may be delegated by him to an officer subordinate to him not below the rank of a Sub-Divisional Officer.

311. Power to inspect the office of the Municipality. - Any officer appointed or authorized by the State Government in this behalf shall have power to inspect the office of any Municipality and call for the records of any such Municipality.

312. Powers of suspending execution of order etc. of Municipality. - (1) If, in the opinion of 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.

313. Extraordinary powers in case of emergency. - (1) In cases of emergency, the District Magistrate may provide for the execution of any work or the doing of any act, which a Municipality is empowered to execute or do and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expenses of executing the work or doing the act along with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the Municipality.

(2) If the expense and remuneration are not paid, the District Magistrate 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 expenses 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.

(3) The provisions of sub-Section (2) of Section 312 shall apply, as far as may be, to any order made under this Section.

314. Compliance by Municipality of requisition by Government for servants in times of emergency. - On the occurrence of war, famine, scarcity, dangerous disease, floods or any similar emergency, and to provide for fairs or other occasions involving a large gathering of people, the Municipality shall immediately comply with any requisition made by State Government or by an officer of the State Government authorized by general or special orders to make the requisition, for the services, of any of the Municipality's officers or officials holding posts in its medical, public health, sanitary, vaccination, veterinary, electrical, water works or public works departments or for the services of any Vaid or Hakim employed by the Municipality, and shall meet such proportion of the charge connected with the requisitioning as the State Government may decide to be a proper charge on the Municipality.

315. Agency for execution of public works. - (1) Such public works, which, in the opinion of the State Government require a degree of professional skill which may not be at the disposal of the Municipality shall be carried out by the State Government or by such agency as the State Government may direct.

(2) All other works of the Municipality shall be executed by such agency and subject to such supervision as the Municipality thinks fit subject to rules made in this behalf.

(3) When any work is executed for a Municipality by the State Government or by any other agency under the orders of the State Government the expense incurred on the work together with the charges for supervision and for tools and plant at such rates as may be

fixed by the State Government from time to time, unless waived by the State Government, shall be payable to the State Government or such other agency.

- (4) If the amount due to the State Government or other agency under sub-Section (3) is not paid within a reasonable time, the State Government may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund and such person shall, so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

316. Special provisions in regard to works executed by the State Government. - (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 under clause (c) of the preceding sub-Section.

317. Government enquiry into municipal matters. - (1) The State Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Municipality or any matters with respect to which its sanction, approval or consent 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 (Central Act No. 5 of 1908) in respect of the following matters:

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses and requiring the deposits 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 commission for the examination 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 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

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.

- (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 State Government which 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 fifteen percent per annum, and such costs and interest shall be recoverable as an arrear of land revenue.

318. Power of Government to prevent extravagance in the employment of establishment. - (1) If, in the opinion of the State Government the number of persons

who are employed by a Municipality as officers or servants or whom a Municipality proposes to employ, or the remuneration assigned by the Municipality to those persons or to any particular person, is excessive, the Municipality shall on the requirement of the State Government reduce the number of the said persons or the remuneration of the said person.

- (2) It shall be lawful for the State Government
 - (i) to require that any person appointed to be a Chief Municipal Officer shall be invested by any Municipality with all or any of the powers which can under this Act or under any rules in force at the time being lawfully delegated to him, in addition to such powers as are conferred on him by this Act;
 - (ii) to require that all or any of the powers referred to in Section 273 shall be delegated by any such Municipality, whether there be a Chief Municipal Officer or not, to the Chairperson, Vice-Chairperson or any such member as the State Government may deem fit.
- (3) Any requisition issued to the Municipality under clause (i) or clause (ii) of sub-Section (2) shall be complied with within such time as the State Government may, in each case, prescribe in that regard.
- (4) The State Government shall have the power to assess the requirement of the employees in a Municipality and where it is satisfied that certain employees are in excess, notwithstanding anything contained in the rules for the time being governing the conditions of service of any class of employees of the Municipalities, it may declare them as surplus and may prescribe the manner in which such surplus employees shall be absorbed into other Municipalities.

319. Power of Government to provide for performance of duties in default of Municipality. - (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 enactment 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 fixed, the State Government may appoint some person to perform it and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it shall forthwith be paid by the Municipality.
- (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 money as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

320. Exercise of Municipality's power pending its establishment. - 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.

321. Power of government to direct person in custody of municipal fund to pay government dues. - If a Municipality makes default in the payment of any amount due to the State Government, it may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund and such person

shall so far as the funds to the credit of the Municipality admit, be bound to comply with such order.

322. Power of Government to dissolve Municipality in case of incompetency or having less than two third elected members. - (1) If at any time the State Government is satisfied that the Municipality is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or has exceeded, or abused its powers, the State Government may, by an order published along with the reasons thereof, 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 such Municipality as from a date to be specified in the order of dissolution:

Provided that no action shall be taken under this sub-Section unless the Municipality through its Chairperson has been afforded a reasonable opportunity of submitting an explanation and of being heard, if the Municipality so desires:

Provided further that no order under this sub-Section shall be passed

- (i) unless the State Government has drawn up a statement setting out distinctly the charges against the Municipality and sent the same for inquiry in the prescribed manner and findings to a Tribunal consisting of a Chairman and not less than two members, constituted in the prescribed manner, or
- (ii) otherwise than in conformity with such findings.

Explanation.- If for any reason the number of vacancies in a Municipality exceeds two-thirds of the total number of seats, the Municipality shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

(2) The State Government shall dissolve the Municipality if at any time the number of its elected members falls short of two third of its total members.

(3) When a Municipality is dissolved under sub-Section (1) or any other provision of this Act, the following consequences shall ensue:

- (a) all members of the Municipality including the Chairperson and the Vice-Chairperson shall, on the date specified in the order of dissolution, vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment; and
- (b) all powers and duties of the Municipality shall, during the period of dissolution, be exercised and performed by such officer as an Administrator as the State Government appoints in this behalf.

(4) An election to constitute a Municipality shall be completed 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 sub-Section for constituting the Municipality for such period.

(5) A Municipality constituted upon the dissolution of Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under Section 7 had it not been so dissolved.

(6) An order of dissolution made under this Section together with statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made.

323. Dispute between a Municipality and one or more local authorities. - (1) If any dispute for the decision of which this Act does not otherwise provide exists, between a Municipality and one or more other local authorities in regard to any matter arising under the provisions of this Act or any other law and the dispute is not amicably settled

- (a) the Collector may take cognizance of the dispute and decide it himself if the dispute is with another Municipality or panchayat in the same district and his decision shall be final; and

- (b) in all other cases the matter shall be referred to the Divisional Commissioner, who may take cognizance of the dispute and decide it and the decision of the Divisional Commissioner shall be final.
- (2) No suit shall be entertained by a civil Court in respect of any dispute referred to in sub-Section (1).
- 324. Dispute between a Municipality and Urban Improvement Trust, City Development Authority or any other Statutory Board.** - All disputes between a Municipality and any Urban Improvement Trust, City Development Authority, Housing Board or any other Statutory Board, relating to territorial and functional jurisdiction, if not amicably settled shall be referred to the State Government and the decision of the State Government on such matter shall be final.
- 325. Powers of Government to cancel or modify bye-laws and rules of Municipalities.** -
- (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 sub-Section, 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.
- 326. Delegation of powers by Government.** - (1) The State Government may delegate all or any of its powers under this Act, other than the powers exercisable by it under Sections 3, 6, 7, 67, 94, 102, 103, 107, 111, 142, 297, 318, 322, 325, 337, 339 and 340 or under this Section or the power to appoint an Appellate Authority under any provision of this Act, to any officer subordinate to it.
- (2) The State Government may also order that all or any of the powers conferred on the Collector or any other officer of the State Government by or under or in pursuance of any provision of this Act shall be exercised for any specified period by some other officer or authority that may be named in the order.
- 327. Power to call for records.** - (1) The State Government or any officer authorized in this behalf by the State Government, may, for the purpose of being satisfied as to the correctness, legality or propriety of any order or resolution passed or purporting to have been passed, under this Act by or on behalf of a Municipality, its Chairperson, Vice-Chairperson, any member or officer, call for the relevant record, and may, in doing so, direct that pending the examination of such record, such order or resolution shall be kept in abeyance and no action in furtherance thereof shall be taken until such examination by the State Government or by the officer authorized in this behalf by the State Government and the passing of order under sub-Section (2).
- (2) On examining the record the State Government or the officer authorized as aforesaid may rescind, reverse or modify such order or resolution and the order of the State Government or the officer authorized as aforesaid shall be final and binding on the Municipality.

CHAPTER XV

Staff

- 328. Creation of Rajasthan Municipal Service.** - (1) As soon as may be after the commencement of this Act, there shall be created and constituted by the State Government for the whole of the State a service designated as the Rajasthan Municipal Service and hereinafter referred to as the Service.
- (2) The Service shall be divided into different categories, each category being sub-divided into different grades, and shall consist of officers, Administrative as well as Technical.

329. Classification of Municipalities. - (1) For the purpose of creating and constituting the service, the State Government may, by notification, from time to time, in the Official Gazette, -

- (a) divide Municipalities in the State into classes according to their income or other factors like population or importance of the local area and other circumstances, and
- (b) transfer a Municipality from one class to another class.

(2) For the purpose aforesaid, the State Government may also, by a like notification, prescribe uniform scales of pay for different posts in the service with different designations for all Municipalities included in each class under clause (a) of sub-Section (1).

330. Recruitment to posts in the Service. - (1) Upon the creation and constitution of the service, appointments to all posts therein shall, subject to any rules under Section 337 and notwithstanding anything contained in the rules made under Section 339, be made in accordance with the provisions of Sections 332, 333 or, as the case may be, 335.

- (a) by direct recruitment,
- (b) by promotion,
- (c) by transfer, or
- (d) by deputation in exceptional case when eligible person is not available in municipal service.

(2) The State Government shall lay down the terms and conditions on which appointments shall be made by transfer or deputation from a State Service.

(3) With the approval of the State Government and in conformity with such general or special directions as it may from time to time issue, any officer or servant of a Municipality who is a member of the Service may be transferred to the service of another Municipality.

(4) It shall not be lawful for the Municipality, -

- (a) to take any officer or employee on deputation from any department of the State Government without obtaining prior approval of the State Government,
- (b) to relieve any officer or employee without seeking orders of the State Government,
- (c) to refuse or not to allow any officer or employee to join the duty when such employee is transferred or deputed by the State Government.

331. Deleted

332. Rajasthan Municipal Administrative Service. - [(1) Subject to the forgoing provisions of this Chapter and the rules made under Section 337 or any other provision of this Chapter, the State Government shall appoint-

- (i) one Commissioner for every Municipal Corporation;
- (ii) such number of Additional Commissioners or Deputy Commissioners for every Municipal Corporation as may be determined;
- (iii) one Commissioner for every Municipal Council;
- (iv) an Executive Officer for every Municipal Board;
- (v) a Secretary for every Municipal Corporation or Municipal Council which resolves to appoint a Secretary in addition to the Commissioner; and
- (vi) any other administrative officer by any name and designation as deemed necessary; and

(1-A) The State Government may, by notification in the Official Gazette, delegate such of the powers, functions or duties of the Commissioner of the Municipal Corporation to an Additional Commissioner or a Deputy Commissioner appointed under clause (ii) of sub-section (1), as it may think fit.

- (2) All officers and servants appointed under Section 333 or 335 or under any other provisions of this Act shall be subordinate to the Chief Municipal Officer, Commissioner and Executive Officer respectively in Municipal Corporation, Council and Municipal Board.
- (3) In addition to any duties imposed upon or delegated to him by or under this Act, a Chief Municipal Officer [****] shall, subject to the [overall control of the Chairperson and general or special orders of the State Government in this behalf-
- (a) watch over the financial and executive municipal administration of the Municipality,
 - (b) take prompt steps to remove any defect or irregularity brought to his notice in the course of the audit of the municipal accounts or pointed out in the audit report,
 - (c) report all cases of fraud, embezzlement, theft or loss of municipal money or property,
 - (d) supply any return, statement, account or report or any other document in his charge or a copy thereof requisitioned by the Corporation or Council or Board, and
 - (e) make an explanation in regard to subject under discussion at a meeting thereof but not vote 'upon' or make any proposition thereat.
- 333. Rajasthan Municipal Technical Service.** - (1) Subject as aforesaid the State Government may, if it thinks necessary, appoint health officer, municipal engineer, not below the rank of assistant engineer, revenue officer, assessor, senior accounts officer, accounts officer, assistant accounts officer, chief fire officer, fire officer, law officer or any other officer for the performance of such special or technical duties under this Act as may be prescribed.
- (2) Work distribution amongst the officers appointed under this Section shall be done by the [Chief Municipal Officer] with the approval of the Chairperson.
- 334. Determination of strength of the staff.** - Subject to any general or special directions issued by the State Government, a Municipality may, by resolution determine the number of sanitary inspectors, other inspectors, and accountants and ministerial establishment and other servants required for the Municipality.
- 335. Subordinate and Ministerial Establishment and other Employees.** - (1) Subject to the provisions of Sections 330 and 331 or any rules under Section 337 or any other direction issued or restrictions imposed by the State Government or any other provision of this Act a sanitary inspector or other inspector or subordinate servant or accountant or a member of the ministerial establishment shall be appointed by the Municipality.
- (2) Subject to any rules under Section 337 or any other provision of this Act appointments to other posts, whether permanent or temporary, shall be made by Chief Municipal Officer with the approval of the Chairperson.
- (3) It shall be lawful for the Chief Municipal Officer to punish such staff appointed under this Section except with the punishment of dismissal or removal from the service.
- (4) A person appointed under sub-Section (1) or sub-Section (2) may be dismissed, removed or otherwise punished in accordance with rules then obtaining by the appointing authority, subject to a right of appeal of such dismissal, removal or punishment within the prescribed time limit
- (i) to the State Government, if the order appealed from is passed by Municipality, and
 - (ii) to the Municipality if such order is passed by the Chief Municipality Officer.
- 336. Transfer from one Municipality to another.** - (1) Any officer or servant of a Municipality who is a member of subordinate service, ministerial service or class IV service may be transferred by the State Government from the service of one Municipality to the services of another Municipality.
- (2) Any officer or servant of the Municipality may be transferred by the State Government to the Jaipur Development Authority or Jodhpur

Development Authority or Rajasthan Housing Board or any Urban Improvement Trust or any other local body on post carrying pay scale not lower than the pay scale of the officer or servant to be transferred

Provided that the lien of the Officer or servant so transferred shall remain in the parent Municipality and he shall be considered for further promotion whenever a consideration for promotion to the higher post in his cadre is made in the Municipality.

CHAPTER XVI

Rules, Regulations and Bye-Laws

337. Power of State Government to make rules and orders. - (1) The State Government may make rules or orders generally for the purpose of carrying into effect the provisions of this Act 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 State Government shall make rules -

- (i) with reference to all matters expressly allowed by this Act to be prescribed;
- (ii) for prescribing the manner of allotment of seats reserved for members of Scheduled Castes, Scheduled Tribes, the Backward Classes or for women;
- (iii) with regard to all matters relating to the preparation, revision, modification, updating and publication of electoral rolls;
- (iv) for prescribing particulars which shall contain in the notice given for withdrawal of candidature from election on more than one seat;
- (v) 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;
- (vi) 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;
- (vii) for prescribing the form in which oath or affirmation shall be made by a member before entering upon his duties;
- (viii) 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;
- (ix) for prescribing the manner of election of Chairperson and Vice-Chairperson and the manner of reserving the offices of the Chairpersons and for prescribing the monthly allowances and facilities which may be allowed to the Chairperson out of the municipal fund;
- (x) for prescribing the executive functions other than those specified in clauses (a) to (d) of sub-Section (1) of Section 48;
- (xi) for prescribing the powers of the Chief Municipal Officer;
- (xii) for prescribing the manner in which charge of the office a Chairperson or a Vice-Chairperson shall be handed over;
- (xiii) for prescribing the procedure for conducting the business of the meeting of the Municipality;
- (xiv) for prescribing the manner, of putting question by a member to the Chairperson, and of moving resolutions on the matters connected with the administration of the Municipality;

- (xv) for prescribing the manner of making and considering the motion expressing no confidence in the Chairperson or the Vice-Chairperson;
- (xvi) for prescribing the powers, duties and functions, and the procedure for conducting the meetings, of the committees constituted under Section 55;
- (xvii) for prescribing the restrictions, limitations and conditions subject to which any powers, duties or executive functions, which may be exercised, discharged or performed by or on behalf of the Municipality, may be delegated to the committees and for prescribing the manner of calling the meeting of the Municipality for delegating the powers, duties and functions of the Chairperson to a member;

(xviii) Deleted

- (xix) for regulating the sale or disposal of immovable property and land;
- (xx) for prescribing the manner of preparing and maintaining records of urban land situated in the municipal limits;
- (xxi) for prescribing heads of accounts other than those specified in sub-Section (2) of Section 79 and for prescribing manner and form in which accounts shall be kept;
- (xxii) for prescribing the manner in which payments from Municipal funds shall be made;
- (xxiii) for transfer of surplus money from one head to another head with regard to all matter relating to preparation, presentation, adoption of budget estimates, preparation and maintenance of accounts and balance sheet etc;
- (xxiv) for prescribing the rate, date, and manner for imposing and levying the taxes under Section 102;
- (xxv) for prescribing the manner in which internal audit of the day-to-day accounts of the Municipality may be carried out;
- (xxvi) for prescribing the form in which return shall be furnished by the owner or occupier on the requisition of the assessor;
- (xxvii) for prescribing the form of warrant for attachment and sale of property of the defaulter and for prescribing the manner in which the attached property may be sold;
- (xxviii) for prescribing the manner in which repaying capacity of a Municipality shall be ascertained for the purposes of granting loan or giving grantee for a loan raised by the Municipality;
- (xxix) for prescribing the types of private sector participation agreements for the purpose of this Act;
- (xxx) for prescribing the Chapters, material and schemes to be incorporated in the City Development Plan;
- (xxxi) for prescribing the manner in which the elected members of Committee for Metropolitan Planning shall be chosen;
- (xxxii) for prescribing the extent to which land in any scheme may be reserved for the purpose of providing housing accommodation to the members, of Schedule Caste, Schedule Tribe, the Backward Classes and weaker Sections of the society ,including disabled, handicapped and mentally retarded persons and unassisted elderly persons;
- (xxxiii) for regulating the sanction of specific rights of way ,in the sub-soil of public and private streets for different public utilities;
- (xxxiv) for prescribing rates of the conversion charges for change of use of land and for prescribing the manner in which objections shall be invited and heard with respects to change of use of land;

(xxxv) for prescribing the manner and the time in which water harvesting structure shall be provided in the buildings owned or occupied by the Government or statutory body or a company or a institution own or controlled by the Government;

(xxxvi) for prescribing limitations, restrictions and conditions subject to which the Municipality may exercise powers in respect of prevention of dangerous diseases;

(xxxvii) for prescribing limitations, restrictions and conditions subject to which the Municipality may exercise powers conferred on it under Section 274;

(xxxviii) for prescribing the functions of the State Municipalities Union;

[(xxxviii-a) for prescribing terms and conditions for withdrawal of any prosecution, or compounding the offence committed, under Chapter XII-A;]

(xxxix) for prescribing the manner of sending the statement of charges against a Municipality to the tribunal for enquiry and findings; and for prescribing the manner of constitution of the tribunal;

(xl) for prescribing the special or technical duties which shall be performed by the officers appointed in the Rajasthan Municipal Technical Service; and

(xli) for prescribing term and conditions of service in respect of the Rajasthan Municipal Services.

(3) A rule may be general for all Municipalities or for all Municipalities not expressly exempted from its operation or may be special for the whole or any part of anyone or more Municipalities as the State Government may direct.

(4) Notwithstanding anything contained in Sections 339 and 340, in case the Municipality fails to make any rules or bye-laws as prescribed and the State Government considers it necessary for the purposes of carrying into effect the provisions of this Act, it may also make the rules and bye-laws for the matters enumerated in Sections 339 and 340.

(5) All rules and orders made by the State Government under this Section shall come into effect on or from the date of their publication in the Official Gazette.

(6) All rules made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rules shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder. -

338. Power of State Government to make regulations. - (1) Notwithstanding anything contained in Section 337 or any other provision of this Act or any other law for the time being in force, the State Government may, for the purpose of preservation of human health or the safety or convenience of the public in public places and streets or the amelioration of rickshaw pullers, by regulation provide for regulating (with a view to gradually abolishing) or prohibiting, the plying, use of drawing of rickshaw in streets and public places and to regulate the hours of work of rickshaw pullers

(2) In particular and without prejudice to the generality of the foregoing power, such regulation may

(a) prescribe the date on and after which rickshaw shall not be plied, driven or used in streets and public places;

(b) provide that no new licences shall be granted to rickshaw and rickshaw pullers;

(c) provide for the grant and renewal of licences of rickshaw and rickshaw pullers subject to condition that a licence of a rickshaw shall be granted or renewed only in the name of the puller;

- (d) provide for authorising any officer or authority to limit, from time to time, the number of rickshaws for which licences may be granted or renewed in any area having regard to the adequacy of public conveyance of the same or any other class operating or likely to operate in the area in near future, or to the safety or convenience of the puller in the light of traffic conditions in the area;
 - (e) prescribe the maximum life period of a rickshaw after expiry whereof it shall not be permitted to be plied;
 - (f) prescribe the manner in which the number of rickshaws or rickshaw pullers may be gradually reduced and the principles to be followed in effecting such reduction;
 - (g) prescribe the terms of the grant and renewal of licence of rickshaw and rickshaw pullers;
 - (h) prescribe the fee, payable for licences to be granted or renewed under this Section;
 - (i) prescribe the size and design of the rickshaw and the condition for grant or renewal of licences;
 - (j) prescribe the standard or physical fitness, with special reference to permissible age limits for rickshaw pullers;
 - (k) prescribe the fees to be paid by rickshaw pullers for medical examination;
 - (l) prescribe the office or authority to which and the matter in respect of which appeals shall lie;
 - (m) provide for dis infections of rickshaws;
 - (n) prescribe the penalties for the violation of any of the rules by the owner of the rickshaw or the puller or driver of the rickshaw;
 - (o) prescribe the maximum number of passengers or load or both which can be carried at any one time in a rickshaw;
 - (p) specify the offence for contravening any regulations and the class of Magistrate by whom the offences against the regulations shall be taken cognizance of; and
 - (q) prescribe supplementary and incidental provisions including seizure of a rickshaw in respect of which an offence under this Act has been or is being committed.
- (3) The power to make regulations under this Section is subject to the condition of the regulation being made after previous publication.

Explanation-I.- For the purpose of this Section, a rickshaw means a cycle- rickshaw commonly so-called, or a wheeled vehicle which is fixed or attached to a cycle drawn or pulled by human force and used as a conveyance for passengers and goods and includes a cycle-rickshaw cart but does not include

- (a) a perambulator,
- (b) a wheeled vehicle used for the carriage of an invalid person, and
- (c) such classes of wheeled vehicles used for the carriage of goods as may be prescribed.

Explanation-II.- For the purpose of clause (c) of sub-Section (2), the expression "puller" shall mean a person who earns his livelihood mainly by personally driving rickshaw.

- (4) All regulations made under this Act shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of, the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such regulations or resolves that any such regulations should not be made, such regulations shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or

annulment shall be without prejudice to the validity of anything previously done thereunder.

339. Power of Municipality to make rules. - Every Municipality shall make rules, not inconsistent with this Act or with the rules made by the State Government under Section 337. -

- (a) with regard to all matter relating to imposition, levy, assessment and collection of the taxes under Section 103;
- (b) with regard to all matters relating to imposition, levy and collection of fees and fines under Section 105;
- (c) for regulating the construction of all kinds of buildings;
- (d) for prescribing all matters relating to the management of solid and bio-medical waste;
- (e) with regard to determining the staff of officers and servants to be employed by the Municipality and the respective designations, duties, salaries, fees or other allowances of such officers and servants;
- (f) generally for the guidance of its officers and servants in all matters relating to the municipal administration;
- (g) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;
- (h) determining the mode and conditions of appointing, transferring, punishing or dismissing any officer or servant and delegating to officers designated in the rules the powers to appoint, transfer, fine, reduce, suspend or dismiss any officer or servant;
- (i) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the person, if any, appointed to act for them whilst on leave; and
- (j) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rule, to any pension or provident fund which may be established by the Municipality, or, with the approval of the Municipality, by the said officers and servants:

Provided that no Municipality shall, unless with the assent of the State Government, and otherwise than in accordance with the provisions of this Act or the rules made thereunder, dispense with the service of any officer transferred from the service of the Central or a State Government to the service of the Municipality or employed partly by the State Government and partly by the Municipality or finally dispense from the service of the Municipality any officer transferred from the service of the Municipality to the service of the State Government.

340. Power of Municipality to make bye-laws. - (1) Every Municipality may, from time to time, make bye-laws not inconsistent with this Act and the rules made thereunder

- (a) for regulating the payments from the municipal fund;
- (b) for prescribing all matters relating to the imposition, levy, assessment and collection of user charges under Section 104;
- (c) for prescribing the form of and the manner of keeping of maps, drawings and description of underground utilities and maps of fire hydrants and sewerage man-holes;
- (d) for regulating the permission for temporary erection of a booth or any other structure on any public place;
- (e) for prescribing the terms and conditions subject to which the precautions to be taken during construction or repair of street, drain or premise;
- (f) for regulating the erection of all kind of buildings;

- (g) for determining the technical qualifications and experience for the person seeking licence to act as a plumber;
- (h) for regulating the projections of the building under Section 192;
- (i) for the regulation and inspection of markets, public places used for the sale of articles and slaughter houses, all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and clean conduct of business therein; for regulating the sale of fruits and vegetables in the municipal markets or other charges to be levied for the use of any of them which belong to the Municipality;
- (j) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of any place not belonging to the Municipality
 - (i) as a slaughter house;
 - (ii) as a market or shop for the sale of animals intended for human food, or of meat, or of fish, or as a market for the sale of fruits or vegetables;
 - (iii) for any of the purposes mentioned in Section 282;
 - (iv) as a dairy, hotel, restaurant, eating-house, coffee-house, sweet, meat-shop, bakery, camping-ground, sarai, dhobi-ghat, flour mill, sawmill, ice-candy factory, food grain-godown, Municipality house, lodging-house (other than a students' hostel under public or recognized control) or for manufacturing ice or aerated water;
 - (v) as a place for the preparation or manufacture of oil;
 - (vi) for parching grain or Bengal grain on a large scale; or
 - (vii) for any other purpose for which the issuing of a licence may be prescribed, and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimize any injurious, offensive or dangerous effect arising or likely to arise therefrom;
- (k) prohibiting the stabling or herding of horses, camels, donkeys, sheep or goats, otherwise than in accordance with such rules prescribed in such bye-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health;
- (l) (i) for the inspection of milk cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milk sellers;
 - (ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or butter-men for milk or butter;
- (m) for the registration of births, deaths and marriages, and the taking of a census within the Municipality and for enforcing the supply of such information as may be necessary to make such registration or census effective;
- (n) regulating the disposal of the dead and of the carcasses of dead animals and the maintenance of all places for the purpose in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or Section of the community entitled to the use of such places for the disposal of the dead;
- (o) enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of Section 273;
- (p) enforcing the supply of such information by inhabitants of the Municipality as may be necessary to ascertain their respective liabilities to any tax imposed therein;
- (q) regulating the use of public bathing and washing places within municipal limits;

- (r) regulating sanitation and conservancy;
- (s) regulating the conditions for the construction, use and disposal of houses intended for the homeless under sub-clause (c) of clause (iv) of Section 46;
- (t) 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;
- (u) regulating the structure and dimensions of plinths, walls, foundations, floors, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires and for purposes of health;
- (v) 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;
- (w) preventing the erection of building without adequate provision being made for the laying out and location of streets;
- (x) ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air;
- (y) regulating, in any other particular manner not specially provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cess-pools, water-closets, privies, latrines, urinals and drainage or sewage works of every description, whether the property of the Municipality or not;
- (z) determining the conditions, restrictions, norms and specifications for all kinds of constructions looking to the local need for the purpose of operation of Section 194 and Section 236 in conformity with the directions issued and restrictions prescribed if any, from time to time, by the State Government;
- (za) prohibiting the transit of any vehicles of such form, construction, weight or size, or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway or any construction thereon, or risk or obstruction to other vehicles or to pedestrians, along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants and other general precautions as may be prescribed, either generally in such bye-laws or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefore as may be prescribed in such bye-laws;
- (zb) securing the protection of public parks, gardens and open spaces, vested in or under the control of the Municipality from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;
- (zc) regulating or prohibiting any description of traffic in the streets and providing for the reduction of noise caused thereby;
- (zd) rendering licences necessary for the proprietors or drivers of vehicles or animals kept or plying for hire within the limits of the Municipality, and fixing the fees payable for such licences and the conditions on which they are to be granted and may be revoked;
- (ze) limiting the rates which may be demanded for the hire of any carriage, cart or other conveyance or of any animals hired to carry loads or persons, or for the service of persons hired to carry loads or to impel or carry such conveyance, and limiting the

loads which may be carried by any animal, or carriage, cart, or other conveyance, plying for hire, within the limits of the Municipality;

(zf) for the licensing, inspection and proper regulation of places of public resort, recreation or amusement;

(zg) regulating the posting of bills and advertisements, and the position, size, shape and style of sign-posts;

(zh) rendering licences necessary for hand-carts employed for transport, or hawking articles for sale, and for, the persons using such hand-carts, and prescribing the Conditions for the grant and revocation of such licences;

(zi) generally for the regulation of all matters relating to municipal administration; -

and every Municipality may prescribe fine for the infringement of any such bye-laws.

(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 information of persons likely to be affected thereby, a draft of the proposed bye-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.

341. Rules and bye-laws to be printed and sold. - The rules and bye-laws for the time being in force shall be kept open for public inspection at the municipal office during office hours, and printed copies thereof shall be kept for sale at cost price or may be provided in electronic form on the web site, if any, of the Municipality.

CHAPTER XVII

Miscellaneous

342. Offences by companies. - (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-Section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-Section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this Section,

(a) "**company**" means a body corporate, and includes a firm or other association of individuals, and

(b) "**director**", in relation to a firm, means a partner in the firm.

343. Power to remove difficulties. - If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as the occasion requires, but not later than two years from the date of commencement of this Act, by order, do anything, not inconsistent with the objects and purposes of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty.

344. Repeal and Savings. - (1) On and from the commencement of this Act, the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959) shall stand repealed.

The Third Schedule

[See Section 117]

Form of notice of transfer to be given when the transfer has taken place otherwise than by instrument

To,
The Chairperson/ Chief Municipal Officer of the.....Municipality I, A, B hereby give notice, as required by section 116 of the Rajasthan Municipalities Act, 2008, of the following transfer of property :-

Date of notice	In whose name the property is at present entered in the municipal registers	In whose name it is to be transferred	Description of property				Boundaries	Remarks
			Of what it consist	Situation	Number/Name of property	Dimension of land		
1	2	3	4	5	6	7	8	9

The Fourth Schedule

[See Section 130]

Form of notice of demand

To,
A. B., residing at.....
Take notice that the Municipality of.....demand from.....the sum of.....due from on account of (here describe the property or other subject in respect of which the tax is leviable) leviable under rule number.....for the period of commencing on the day of.....and ending on the day of..... and that if, within fifteen days from the service of this notice, the said sum is not paid into the Municipal Office at.....or sufficient cause for non-payment is not shown to the satisfaction of the Municipality, a warrant of attachment of property will be issued for the recovery of the same with costs.

Dated this day..... 200...

Signed

By Order of the Municipality of.....

The Fifth Schedule

[See sub-section (1) of section 131]

Form of Warrant

(Here insert the name of the officer charged with the execution of the warrant)

Whereas, A. B., of.....has not paid, and has not shown satisfactory cause for the non-payment of the sum of due for the tax.....mentioned in the margin for the period commencing on the day of.....and ending with the day of 200. and leviable under rule number.....and whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to attach, subject to the provisions of sections 131, 132 and 133 of the Rajasthan Municipalities Act, 2009 the property of the said-A.B., to the amount of.....being the amount due from him, as follows: --

	Rs.	P
On account of the said tax
For service of notice

and forthwith to certify to me together with the warrant all particulars of the property attached by you thereunder.

Dated this day of 200...

Signed

Chief Municipal Officer

The Sixth Schedule

[See sub-section (4) of Section 133]

Form of Inventory and Notice

To,

A. B., residing at.....take notice that I have this day attached the property.....specified in the inventory beneath this for the value of.....due for the tax mentioned in the margin for the period commencing with the day of.....200...and ending with the day of 200 together with Rs due as for service of notice of demand and that unless within five days from the day of the date of this notice you pay into the municipal office at.....the said amount together with the costs of recovery, the said property will be sold.

Signature of officer executing the warrant

Dated this.....day of.....200.....

Inventory

(Here state particulars of the property attached)