

The Sikkim Municipalities Act, 2007

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**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 5/LD/P/07

Date: 17.05.2007

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 16th day of April; 2007 is hereby published for general information:-

The Sikkim Municipalities Act, 2007

(Act No. 5 of 2007)

AN

ACT

to provide for the municipal governance in the State of Sikkim in conformity with the provisions of the Constitution of India as amended by the Constitution (Seventy-fourth Amendment) Act, 1992, based on the principles of participation in, and decentralization, autonomy, and accountability of, urban self-government at various levels, to improve the quality of life of the urban dwellers of Sikkim, to introduce reforms in financial management and accounting systems, to enhance internal resource generation capacity, to improve the organizational design of Municipalities, to ensure professionalization of the municipal personnel, and to provide for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India as follows:-

PART I

PRELIMINARY

Chapter I

- | | | |
|---------------------------------------|---|--|
| Short title, extend and commencement. | 1 | <p>(1) This Act may be called the Sikkim Municipalities Act, 2007.</p> <p>(2) It extends to the whole of Sikkim except the cantonments.</p> <p>(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different dates may be appointed for different areas and for different provisions of this Act.</p> |
| Definitions. | 2 | <p>In this Act, unless the context otherwise requires, -</p> <p>(1) "agency" means a company, firm, society, or body corporate in the private sector, or any agency in the joint sector, or any agency under any other law for the time being in force, as may be appointed by the Municipality to act as its agency on such terms and conditions as the Municipality may determine for any of the purposes of this Act;</p> <p>(2) "Area Sabha" means an Area Sabha referred to in Section 26;</p> <p>(3) "Auditor" means an Auditor appointed under Section 58, and includes any</p> |

officer authorized by him to perform all or any of the functions of an Auditor under this Act;

- (4) "backward class of citizens" means the class of citizens, not belonging to the Scheduled Castes or the Scheduled Tribes, who are backward either socially or educationally, and declared as such by the State Government by notification;
- (5) "balance sheet" means the balance sheet prepared under Section 57;
- (6) "*bazar*" means a *bazar* area as may be notified by the State Government;
- (7) "bio-medical waste" means any waste generated during diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals;
- (8) "bridge" includes a culvert;
- (9) "budget estimate" means the budget estimate prepared under Section 49;
- (10) "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 regulations made there under;
- (11) "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 metres in height) enclosing, or intended to enclose, any land, sign or outdoor display-structure but does not include a tent, *shamiana* or tarpaulin shelter;
- (12) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a jin-rickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children or elderly, infirm or handicapped persons;
- (13) "cart" means any cart, hackney or wheeled vehicle with or without springs, which is not a carriage, and includes a hand- cart, a cycle van and a push van, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;
- (14) "category' post" means a category' A' post classified as such under Section 29;
- (15) "category 'B' post" means a category 'B' post classified as such under Section 29;
- (16) "Chief Councillor" means, -
 - (i) in relation to a Municipal Corporation, the Mayor,
 - (ii) in relation to a Municipal Council, the Municipal Chairperson,
 - and
 - (iii) in relation to a Nagar Panchayat, the Municipal President;
- (17) "Chief Municipal Officer" means, -

(i) in relation to a Municipal Corporation, the Municipal Commissioner, and

(ii) in relation to a Municipal Councillor Nagar Panchayat, the Municipal Executive Officer;

(18) "city" means a larger urban area declared to be a city under Section 3;

(19) "Councillor", in relation to a Municipality, means a person chosen by direct election from a ward of that Municipality;

(20) "cubical extent," with reference to the measurement of a building, means the space contained within the external surface of its walls and roof and the upper surface of the floor of its lowest or only storey;

(21) "Dangerous disease" means -

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

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

(22) "Deputy Chief Councillor" means, -

(i) in relation to a Municipal Corporation, the Deputy Mayor,

(ii) in relation to a Municipal Council, the Municipal Vice-Chairperson, and

(iii) in relation to a Nagar Panchayat, the Municipal Vice-President;

(23) "domestic purposes", in relation to the supply of water, means the purposes other than those referred to in Section 165.,

(24) "drain" includes a *jhora* or water-course of natural drainage line, a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water;

(25) "drug" means any substance used as medicine or in the composition or preparation of medicine, whether for internal or external use, but does not include a drug within the meaning of clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940;

(23 of 1940).

(26) "dwelling-house" means a masonry building constructed, used, or adapted to be used, wholly or principally for human habitation;

- (27) "Establishment Schedule" means the Establishment Schedule prepared under sub-section (8) of Section 29;
- (28) "Executive Authority" means the Executive Authority referred to in Section 20;
- (29) "financial statement" means the financial statement prepared under Section 56;
- (30) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into, or is used in the composition or preparation of, human food, and also includes confectionery, flavoring and coloring matters, spices and condiments;
- (31) "footpath" means a pavement for use by pedestrians which abuts a category I or category II or category III road;
- (32) "habitable room" means a room constructed or adapted for human habitation;
- (33) "hazardous wastes" means the hazardous substance as defined in clause (e) of Section 2 of the Environment (Protection) Act, 1986;
(29 of 1986).
- (34) "house-drain" means any drain of one or more premises used for the drainage of such premises;
- (35) "house-gully" means a passage or a strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter for municipal employees or for persons employed in the cleaning thereof or removal of such matter there from, and includes the air space above such passage or land;
- (36) "hut" means any building, no substantial part of which, excluding the walls up to a height of fifty centimeters above the floor or floor level, is constructed of masonry, reinforced concrete, steel, iron or other metal;
- (37) "infectious disease" or "communicable disease" means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;
- (38) "larger urban area" means a municipal area classified as a larger urban area under Section 7;
- (39) "land or building" includes a slum;
- (40) "market" includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, live stock, or any other article of food of a perishable nature, or any other article for which there is a

collection of shops or warehouses or stalls, declared and licensed by the Municipality as a market;

- (41) "masonry building" means any building, other than a hut, and includes any structure, a substantial part of which is made of masonry, reinforced concrete, steel, iron or other metal and also includes a framed building;
- (42) "milk" includes cream, skimmed milk, separated milk, and condensed, sterilized, desiccated or toned milk;
- (43) "Municipal Accounting Manual" means the Municipal Accounting Manual prepared and maintained under Section 56;
- (44) "Municipal Accounts Committee" means a Municipal Accounts Committee constituted under Section 67;
- (45) "municipal area" means an area constituted as a municipal area under Section 6;
- (46) "Municipal Court" means the Municipal Court created under Section 343;
- (47) "municipal drain" means a drain vested in the Municipality;
- (48) "Municipal Fund" means the Municipal Fund referred to in Section 39;
- (49) "Municipality" means an institution of self-government constituted under section 12, read with article 243Q of the Constitution of India, and includes a Municipal Corporation, a Municipal Council, and a Nagar Panchayat, referred to in Section 13;
- (50) "municipal market" means a market belonging to, or maintained by, the Municipality;
- (51) "municipal slaughterhouse" means a slaughterhouse belonging to, or maintained by, the Municipality;
- (52) "notification" means a notification published in the *Official Gazette*;
- (53) "nuisance" includes any act, omission, place or thing which causes, or is likely to cause, injury, danger, annoyance or offence to the sense of sight, smell or hearing, or disturbance to rest or sleep, or which is, or may be, dangerous to life or injurious to health or property;
- (54) "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;

- (55) "Offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrefying substance, or filth of any kind which is not included in sewage;
- (56) "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;
- (57) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (58) "premises" means any land or building or part of a building or any hut or part of a hut, and includes -
- (i) the garden, ground and outhouses, if any, appertaining thereto, and
 - (ii) any fittings or fixtures affixed to a building or part of a building or hut or part of a hut for the more beneficial enjoyment thereof;
- (59) "prescribed" means prescribed by rules made under this Act;
- (60) "presiding officer" means,-
- (i) in the case of a Municipal Corporation, the Mayor,
 - (ii) in the case of a Municipal Council, the Municipal Chairperson,
- and
- (iii) in the case of a Nagar Panchayat, the Municipal President;
- (61) "private drain" means any drain which is not a municipal drain;
- (62) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is less than two meters and fifty centimeters wide;

- (63) "public building" means a masonry building constructed, used, or adapted to be used, -
- (i) as a place of public worship or as a school, college or other place of instruction (not being a dwelling- house so used) or as a hospital, workhouse, public theatre, public cinema, public hall, public concert-room, public ballroom, public lecture-room, public library or public exhibition room or as a public place of assembly, or
 - (ii) for any other public purpose, or
 - (iii) as a hotel, lodging-house, refuge or shelter, where the building, in cubical extent, exceeds seven thousand cubic metres or has sleeping accommodation for more than one hundred persons;
- (64) "public street" means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way, and includes-
- (i) the access or approach to a public ferry,
 - (ii) the roadway over any public bridge or causeway,
 - (iii) the footpath attached to any such street, public bridge or causeway,
 - (iv) the passage connecting two public streets, and
 - (v) the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, up to such alignment;
- (65) "regulations" means the regulations made by a Municipality under this Act;
- (66) "rules" means the rules made by the State Government under this Act;
- (67) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;
- (68) "smaller urban area" means a municipal area classified as a smaller urban area under section 7;
- (69) "street" means a public street or a private street;
- (70) "street alignment" means the line dividing the land comprised in, and forming

part of, a street from the adjoining land;

(71) "ward" means an administrative division of a Municipality;

(72) "water-course" includes a river, stream or channel, whether natural or artificial

(73) "year" means a financial year beginning on the first day of April.

PART II

CONSTITUTION AND GOVERNMENT

Chapter II

Constitution of Municipal Areas and Classification of Municipalities

Declaration of intention to
constitute a municipal area.

3

(1) The Governor may, after making such enquiry as he may deem fit, and having regard to the population of any urban area, the density of population therein, the revenue generated for the local administration of such area, the percentage of employment in non-agricultural activities in such area, the economic importance of such area, and such other factors as may be prescribed, by notification, declare his intention to specify such area to be a larger urban area, or a smaller urban area, or an area in transition from a rural area to an urban area referred to in this Act as a transitional area:

Provided that no such declaration shall be made unless the population, -

(a) in the case of a larger urban area, is seventy thousand or more,

(b) in the case of a smaller urban area, is five thousand or more but is less than seventy thousand, and

(c) in the case of a transitional area, is below five thousand:

Provided further that the non-agricultural population in each such area shall be fifty *per cent* or more.

Explanation. - "revenue generated for the local administration" shall not include -

(a) taxes, if any, distributed to the Municipality by the State Government in accordance with the principle of distribution of such taxes, referred to in article 243Y of the Constitution,

(b) loans and grants from the State Government, and

(c) loans and grants from the Central Government or any financial institution or other source.

(2) The Governor shall, by notification, declare an area specified as -

(i) a larger urban area to be a city,

(ii) a smaller urban area to be a town, and

(iii) a transitional area to be a Nagar Panchayat (by whatever name called).

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by notification, determine separate conditions to constitute any eco-sensitive area, tourist centre, pilgrim center, or *bazar* of any class as a municipal area.

Publication of declaration.

- 4
- (1) The notification about the constitution of a municipal area shall be published in the *Official Gazette* and in at least two leading newspapers, at least one of which shall be in vernacular intelligible to the inhabitants of the municipal area concerned.
- (2) A copy of the notification shall also be pasted in a conspicuous place in the office of the District Collector of the district and, where there is a Municipality, also in the office of the Municipality, and in such other public places as the State Government may direct.
- (3) A public proclamation about the constitution of a municipal area may, if the State Government considers it necessary so to do, be made either by beating of drum throughout the municipal area concerned or through any other publicity media.

Consideration of objection.

5. Any inhabitant of the city, town, or Nagar Panchayat, or any area referred to in sub-section (3) of section 3, in respect of which a notification has been published under section 4, may, if he objects to anything contained in the notification, submit his objection in writing to the State Government within one month from the date of its publication, and the State Government shall take such objection into consideration.

Constitution of municipal area.

- 6 On the expiry of one month from the date of publication of the notification and after consideration of all or any of the objections which may be submitted, the Governor may, by notification, constitute such city, town, or transitional area, or any area referred to in sub-section (3) of section 3, or such part thereof as may be specified in the notification, as a municipal area under this Act.

Classification of municipal areas.

- 7 The Governor may, for the purpose of application of the provisions of this Act, classify, on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published, any municipal area as -
- (a) a larger urban area having population of seventy thousand or more,
- (b) a smaller urban area having population of five thousand or more but less than seventy thousand, and

(c) a transitional area having population below five thousand:

Provided that for the purpose of classification of municipal areas in any eco-sensitive area, tourist centre, pilgrim centre, or *bazar* of any class, the Governor may, by notification, determine a separate size of population for each class of such municipal area.

Power of State Government to determine the number of wards in municipal areas.

8 Subject to the provisions of sub-section (I) of section 10, until any law providing for the election of Councillors is enacted, the State Government may, having regard to population, dwelling pattern, geographical condition, and economic consideration of a municipal area, by notification, determine for such municipal area the number of wards, which shall be, -

(a) in the case of a larger urban area having population of seventy thousand or more, not more than eleven but not less than seven,

(b) in the case of a smaller urban area having population of five thousand or more but less than seventy thousand, not more than seven but not less than five, and

(c) in the case of a transitional area having population below five thousand, five.

Power to abolish or alter limits of municipal area.

9. The Governor may, by notification, -

(a) withdraw any municipal area or part thereof from the operation of this Act, or

(b) exclude from a municipal area any area comprised therein and defined in the notification, or

(c) include within a municipal area any area contiguous to such municipal area and defined in the notification, or

(d) divide any municipal area into two or more municipal areas, or

(e) unite two or more contiguous municipal areas so as to constitute one municipal area, or

(f) revise the boundary of two or more contiguous municipal areas:

Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed *mutatis mutandis* in each such case:

Provided further that the views of the Municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the Municipality as aforesaid before a final declaration is made:

Provided also that no such notification shall be issued where any part of the municipal area or any area contiguous to the municipal area is a cantonment or part of a cantonment, as defined in the Cantonments Act, 1924.

(2 of 1924).

Power to exempt municipal area from operation of any provision of the Act unsuited thereto.

10. (1) The State Government may, by notification, and for reasons to be recorded in writing, exempt any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such smaller urban area or area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3, as the case may be, until such provisions are applied thereto by notification.
- (2) While a notification exempting any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the provisions of this Act 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 the operation of which the smaller urban area or the area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 as aforesaid is exempted.
- (3) Notwithstanding any provisions in this act, the provisions of the land laws of the state shall prevail.

Chapter III

Municipality and Municipal Councillors

The Municipality.

11. (1) The Municipality shall consist of such number of elected Councillors as may be determined in accordance with the provisions of any law relating to municipal election in Sikkim.
- (2) The Municipality shall be a body corporate with perpetual succession and a common seal, and may, by the name of the Municipality of the city or the town or the Nagar Panchayat, as the case may be, by reference to which the Municipality is known, sue and be sued.
- (3) Subject to the provisions of this Act, the Municipality shall have the power to acquire, hold and dispose of property.

Constitution of Municipality

12. (1) The Councillors elected in a general election or by-election of a Municipality in accordance with the provisions of any law relating to municipal election in Sikkim, shall constitute the Municipality .
- (2) The Municipality shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.
- (3) An election to constitute a Municipality shall be completed-

(a) before the expiry of the period specified in sub- section (2) or

(b) before the expiry of a period of six months from the date of its dissolution,

as the case may be :

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 a bye election for constituting the Municipality for such period.

(4) The Municipality constituted upon its dissolution before the expiration of the period specified in sub-section (2) shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (2) had it not been so dissolved.

(5) In a municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6, as may be necessary for holding elections.

(6) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub-section (2), the Municipality shall stand dissolved on the expiration of the said period, and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such authority to be designated as Administrator as the State Government may, by notification, appoint.

Composition of Municipality.

13. Each Municipality shall consist of such number of Councillors as are specified in the Table below:

THE TABLE
Number of Councillors

Population Range	Minimum Number	One Additional Councillor for Incremental Number	Maximum Number
70,000 or more	<i>Municipal Corporation</i>		11
	7	Every sixty five thousand above seventy thousand	
5,000 or more but less than 70,000	<i>Municipal Council</i>		7
	5	Every thirty two thousand five hundred above five thousand	
3,000 or more but below 5,000	<i>Nagar Panchayat</i>		5
	5	-	

Election of Councillors.

14. Notwithstanding anything contained in this Act, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections of Councillors shall be vested in the State Election Commission constituted under the

provisions of any law relating to municipal election in Sikkim.

Reservation of seats of Councillors and Chief Councillor

15. (1) The State Government shall, by notification, reserve seats for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in every Municipality, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in the municipal area of that Municipality bears to the total population of that area, and such seats may be allotted by rotation to different wards of that Municipality, at such interval, and in such manner, as may be specified in the notification.
- (2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes, or the Scheduled Tribes, or the backward class of citizens, or the most backward class of citizens, as the case may be.
- (3) Not less than one-third of the total number of seats (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens) to be filled by direct election in every Municipality shall be reserved for women, and such seats may be allotted by rotation to different wards in such Municipality in such manner as may be specified in the notification under sub-section (1).
- (4) Notwithstanding anything contained in the foregoing provisions of this section, the office of the Chief Councillor in the Municipality shall be reserved by rotation for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, the most backward class of citizens, and women to such extent, and in such manner, as may be prescribed.

Oath of allegiance to the Constitution of India and oath of secrecy.

16. (1) Every person who is elected as a Councillor shall, before taking his seat, make and subscribe an oath or affirmation of his allegiance to the Constitution of India in such Form, and in such manner, as may be prescribed.
- (2) The Chief Councillor shall assume office after taking an oath of secrecy in such Form, and in such manner, as may be prescribed.
- (3) If any person, having been elected a Councillor, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), such person shall cease to hold his office, and his seat shall be deemed to have become vacant.

Term of office of Councillors.

17. Subject to the provisions of sub-section (3) or sub-section (4), as the case may be, of Section 12, a Councillor shall hold office for a period of five years from the date of the first meeting of the Municipality under Section 28, or, in the case of a Councillor chosen to fill a casual vacancy, for the remainder of the term of office

of his predecessor, unless -

- (a) the Municipality is dissolved earlier, or
- (b) he resigns his office by notice, in writing, under his hand addressed to the Chief Councillor, and, thereupon, his office shall become vacant from the date of the notice, or
- (c) his election is void, or is declared to be void, under the provisions of any law relating to municipal election in Sikkim for the time being in force, or
- (d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under clause (a) of Section 9.

Disqualification for being a Councillor, if employed in a Municipality. Remuneration and allowances of Councillors.

- 18. No employee of a Municipality shall be eligible to contest an election to become a Councillor of that Municipality or any other Municipality.
- 19. The Chief Councillor and the other Councillors may receive such remuneration and allowances as may be prescribed:

Provided that different rates may be prescribed for different classes of Municipalities.

Chapter IV

Municipal Authorities and Executive Authority

Municipal authorities and Executive Authority.

- 20 (1) The municipal authorities for the purpose of giving effect to the provisions of this Act shall be,
 - (a) in the case of a larger urban area, -
 - (i) the Municipal Corporation,
 - (ii) the Executive Authority, and
 - (iii) the Mayor;
 - (b) in the case of a smaller urban area, -
 - (i) the Municipal Council,
 - (ii) the Executive Authority, and
 - (iii) the Municipal Chairperson;
 - (c) in the case of a transitional area, -
 - (i) the Nagar Panchayat,
 - (ii) the Executive Authority, and
 - (iii) the Municipal President.
- (2) The presiding officer of the Municipality shall be, in the case of-
 - (a) the Municipal Corporation, the Mayor,
 - (b) the Municipal Council, the Municipal Chairperson, and

(c) the Nagar Panchayat, the Municipal President.

(3) The Executive Authority of every Municipality shall consist of –

(a) the Chief Councillor,

(b) the Deputy Chief Councillor, and

(c) such other Councillor as may be elected by the Councillors.

(4) The Chief Councillor and the Deputy Chief Councillor shall be entitled to such remuneration and perquisites as may be determined by the State Government.

Executive and financial powers of Municipality to be exercised by Executive Authority.

21.

(1) Subject to the provisions of this Act and the rules, and the regulations, made thereunder, the executive and financial powers of a Municipality shall be exercised by the Executive Authority.

(2) All executive actions of the Executive Authority shall be expressed to be taken in the name of the Municipality.

Execution of works, sanction of estimates, and contracts.

22.

(1) The Executive Authority may determine, either generally or for any class of cases or specially for any particular case, whether the Chief Municipal Officer shall execute any work by a contract or otherwise.

(2) (a) When a project is framed for the execution of any work or series of works, the Chief Municipal Officer shall cause a detailed report to be prepared stating the scope of the project, its techno-economic viability, and its social benefits, and shall prepare an estimate.

(b) In the case of a Municipal Corporation, the sanctioning authority in respect of such estimate shall be -

(i) the Chief Municipal Officer, if the amount does not exceed five lakhs of rupees,

(ii) the Executive Authority, if the amount exceeds five lakhs of rupees but does not exceed one crore of rupees, and

(iii) the Municipal Corporation, if the amount exceeds one crore of rupees.

(c) In the case of a Municipal Councillor a Nagar Panchayat, the State Government may specify different limits in respect of such estimate.

(d) In respect of an estimate for any other item of expenditure, the Chief Municipal officer, the Executive Authority, and the Municipality shall respectively be the sanctioning authority in respect of the amount mentioned in sub-clause (i), sub-clause (ii), and sub-clause (iii), of clause (b).

(3) (a) Subject to the other provisions of this Act, the Municipality may enter into and execute all such contracts as it may consider necessary or

expedient under, or for any of the purposes of, this Act.

(b) Every contract under clause (a) shall be subject to the following provisions:-

(i) every contract shall be executed on behalf of the Municipality by the Chief Municipal Officer or such other officer of the Municipality as the Executive Authority may direct or authorize from time to time,

(ii) no such contract as cannot, under any provision of this Act, be entered into without the approval or sanction of any authority or officer under this Act shall be entered into by any officer referred to in sub-clause (i) until and unless such approval or sanction has been duly obtained,

(iii) no contract involving an expenditure exceeding ten thousand rupees or such higher amount as the Executive Authority may fix shall be entered into by any officer referred to in sub-clause (i) unless the same has been previously approved by the Executive Authority, and

(iv) every contract involving an expenditure exceeding two thousand rupees but not exceeding ten thousand rupees or such higher amount as may be fixed under sub-clause (iii), entered into by an officer referred to in sub-clause (i), shall be reported by such officer to the Executive Authority within one month of such contract.

(4) (a) The manner of execution of contracts under this Act shall be determined by regulations.

(b) No contract which is not entered into in accordance with the provisions of this Act or any regulation made thereunder shall be binding on the Municipality.

Election of Chief Councillor and term of his office.

23. (1) The Councillors shall, in the first meeting under section 28, elect in accordance with such procedure as may be prescribed one of the Councillors to be the Chief Councillor, who shall assume office forthwith after taking the oath of secrecy under section 16.
- (2) If the Councillors fail to elect a Chief Councillor under sub-section (1), the State Government shall, within seven days from the date of the first meeting as aforesaid, appoint by name one of the Councillors to be the Chief Councillor.
- (3) In the case of any casual vacancy in the office of the Chief Councillor caused by death, resignation, removal, or otherwise, the Councillors shall, in accordance with such procedure as may be prescribed, elect one of the

Councillors to fill up the vacancy.

(4) The term of office of the Chief Councillor shall be coterminous with the duration of the Municipality.

Chief Councillor.

24. (1) The Chief Councillor shall cease to hold office as such if he ceases to be a Councillor.
- (2) The Chief Councillor may, at any time, by giving a notice, in writing, to the Municipality, resign his office, and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified, from the date of its receipt by the Municipality.
- (3) The Chief Councillor may be removed from office by a resolution carried by a majority of the total number of Councillors holding office for the time being at a special meeting to be called for this purpose upon a requisition made in writing by not less than one-third of the total number of Councillors:

Provided that no such resolution shall be moved before the expiry of six months from the date of entering office by the Chief Councillor, and if such resolution is not carried by a majority of the total number of Councillors, no further resolution for such purpose shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

Deputy Chief Councillor.

25. (1) The Deputy Chief Councillor shall be elected by the Councillors from amongst themselves:

Provided that the Deputy Chief Councillor may resign by a letter, in writing, addressed to the Chief Councillor.

(2) The Deputy Chief Councillor shall, in the absence of the Chief Councillor, preside over the meetings of the Municipality.

(3) When-

(a) the office of the Chief Councillor falls vacant by reason of death, resignation, removal or otherwise, or

(b) the Chief Councillor is, by reason of leave, illness or other cause, temporarily unable to exercise the powers, or perform the functions, or discharge the duties, of his office, under this Act, the Deputy Chief Councillor shall exercise the powers, perform the functions, and discharge the duties, of the Chief Councillor until a Chief Councillor is elected under sub-section (3) of section 23 and enters upon his office or until the Chief Councillor resumes his duties.

(4) The Deputy Chief Councillor shall, at any time, exercise such other powers, perform such other functions, and discharge such other duties, as may be delegated to him under the provisions of this Act.

(5) The Deputy Chief Councillor may be removed from Office in the same manner as is provided in sub-section(3) of section 24 for the removal of the

Chief Councillor.

- Area Sabha. 26. (1) Each ward of a Municipality shall have an Area Sabha.
 (2) The Councillor elected from a ward shall be the chairperson of the Area Sabha for that ward.
 (3) The composition of the Area Sabha, the representation of various interest groups therein, and the functions thereof, shall be such as may be prescribed.
- Constitution of Subject Committee, *Ad hoc* Committee, or Joint Committee. 27. (1) Subject to such directions as the State Government may give from time to time, a Municipal Corporation may constitute a Subject Committee consisting of Councillors to deal with the following matters, namely :-
 (a) water-supply, drainage and sewerage, and solid waste management,
 (b) urban environment management and land use control, and
 (c) slum services.
 (2) A Municipal Corporation, or a Municipal Council, or a Nagar Panchayat, singly or jointly, may constitute an Ad hoc Committee or a Joint Committee to perform such functions as the State Government may direct.
- First meeting of Municipality. 28. (1) the first meeting of a Municipality after the general election of Councillors to the Municipality shall be convened within thirty days from the date of publication of the names of the elected Councillors in the *Official Gazette* under the provisions of any law relating to municipal election in Sikkim.
 (2) Seven days' notice shall be given for the meeting.
 (3) In the case of a Municipal Corporation, the meeting shall be convened by the Secretary to the State Government in charge of Urban Development and Housing Department or any other officer not below the rank of a Deputy Secretary to the State Government, duly authorized by him.
 (4) In the case of a Municipal Councillor a Nagar Panchayat, the meeting shall be convened by such officer of the Urban Development and Housing Department of the State Government as may be authorized by the Secretary of that Department.

Chapter V Organizational Structure of Municipality

- Statutory officers of Municipality, Establishment of Municipality and schedule of posts. 29. (1) Having regard to the need for ensuring maximum possible economy in municipal administration and subject to the prior approval of the State Government, the Municipal Corporation may have a Chief Municipal Officer and other officers to deal with all or any of the functions relating to finance and accounts, health, sanitation, architecture and town planning, engineering, administration, law, fire services, urban forestry, parks, gardens, playgrounds, promotion of cultural, educational and aesthetic aspects, cattle pounds, prevention of cruelty to animals, and internal audit.

- (2) Appointment of Chief Municipal Officer referred to in sub- section (1) may be made either on a regular basis or on deputation from the State Government or any agency of the State Government or on a contract basis for such term, not being less than three years, as the State Government may consider necessary.
- (3) The method of, and the qualifications required for, recruitment, and the terms and conditions of service including conduct, discipline and control, of other officers appointed under sub- section (1) shall be such as may be prescribed.
- (4) The State Government may appoint an officer of that Government, or any other person, possessing such qualifications as may be determined by that Government for a Municipal Councillor class of Municipal Councils or Nagar Panchayats as Chief Municipal Officer, Municipal Finance- cum-Accounts Officer, Municipal Engineer, or Municipal Health Officer, or any other officer with such designation as the State Government may consider necessary, and in such manner, and on such terms and conditions of service, as the State Government may determine in this behalf, to deal with all or any of the functions referred to in sub-section (1).
- (5) At the requests of the Chief Councillors of more than one Municipality, the State Government may, by order, provide for sharing of services of officers referred to in sub-section (4) by such Municipalities, and on such terms and conditions, as may be specified in the order.
- (6) The posts of officers and other employees of the Municipality, other than those referred to in sub-section (1) and sub-section (4), shall constitute the Establishment of the Municipality.
- (7) The State Government shall, by rules, classify the posts of officers and other employees constituting the Establishment of the Municipality into two categories, namely, category 'A' post and category 'B' post, on the basis of the scales of pay of such posts.
- (8) The Municipality shall prepare, and maintain, a schedule of posts of officers and other employees constituting the Establishment of the Municipality, to be called Establishment Schedule, and such Establishment Schedule shall include the designation, and the number of posts under each designation.
- (9) Every year the Chief Municipal Officer shall place before the Chief Councillor for his consideration the Establishment Schedule along with the proposals for such changes therein as he may consider necessary:
Provided that no upward revision of the size of the Establishment of the Municipality shall be made without the prior approval of the State Government.
- (10) The Chief Councillor shall, after consideration of the Establishment Schedule along with the proposals, if any, for changes therein, place the same along with his recommendations, if any, before the Municipality prior to the presentation of the budget estimates to the Municipality by the Chief Councillor, and shall cause a copy of the Establishment Schedule to be sent to the State Government for approval.
- (11) The Chief Municipal Officer shall revise the Establishment Schedule as

approved by the State Government.

(12) No person above the age of sixty years shall be appointed to any post under a Municipality.

Payment of salaries and allowances to officers and other employees.

30. Payment of salaries and allowances to the officers including the statutory officers and other employees of the Municipality shall be made from such Fund as the State Government may, by notification, specify from time to time.

Chapter VI

Functional Domain of Municipalities

Core municipal services and other functions.

31. (1) Every Municipality shall-

(a) provide on its own or arrange to provide through the State Government or any agency of the State Government or any other agency the following core municipal services :-

(i) water-supply for domestic, industrial, and commercial purposes,

(ii) sewerage and drainage,

(iii) solid waste management,

(iv) communication systems including construction and maintenance of roads, footpaths, pedestrian pathways, transportation terminals (both for passengers and goods), bridges, over- bridges, and subways,

(v) transport system accessories including traffic engineering schemes, street furniture, street lighting, parking areas, and bus stops,

(vi) community health and protection of environment including planting and caring of trees on road sides and elsewhere,

(vii) *bazars*, and

(viii) slaughterhouses, and

(b) perform 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 provide any of the core municipal services as aforesaid.

(3) The State Government may direct a Municipality to provide any of the core municipal services as aforesaid, if such services are not being provided by the Municipality.

(4) The Municipality may plan, build, operate, maintain, or manage the

infrastructure required for providing any of the *core* municipal services as aforesaid and for harvesting of rain water, either by itself or by the State Government or by any agency of the State Government.

- Functions assigned by Government. 32. A Municipality may, subject to the underwriting of the costs by, and the approval of, the Central Government or the State Government, as the case may be, undertake any function belonging to the functional domain of the Central Government or the State Government, as the case may be, and such functions may include primary education, curative health, public transport, supply of energy, and urban poverty alleviation.
- Other functions. 33. A Municipality may, having regard to the satisfactory provision of the core municipal services 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, such functions in the sphere of -
- (1) town planning, urban development, and development of commercial and tourism infrastructure,
 - (2) protection of environment,
 - (3) public health and sanitation,
 - (4) education and culture,
 - (5) public welfare, and
 - (6) community relations as may be prescribed.

Chapter VII

Conduct of Business

- Transaction of business etc. by Municipality. 34. The State Government may, by rules, provide for the following matters relating to the conduct of business of the Municipality or any committee of the Municipality :-

A. Transaction of Business by Municipality

- (1) meetings of the Municipality,
 - (2) notice of meeting and list of business,
 - (3) quorum for transaction of business at a meeting of the Municipality and method of deciding question,
 - (4) presiding officer of a meeting of the Municipality,
 - (5) maintenance of order at a meeting of the Municipality,
- and
withdrawal and suspension of Councillors,

(6) whether a meeting of the Municipality should be open to the public,

(7) right of Chief Municipal Officer and other officers to attend meeting of the Municipality and a committee of the Municipality,

(8) right of Councillor to ask questions,

(9) discussion on urgent matters of public interest, (10) asking for statement from Chief Councillor,

B. Minutes and Proceedings

(11) keeping of minutes and proceedings,

(12) circulation and inspection of minutes,

(13) forwarding of minutes to the State Government, and

C. Validation

(14) validation of acts and proceedings of a meeting of the Municipality

Councillor having pecuniary interest in any contract etc. with Municipality and disclosure of such interest.

35. Subject to such rules as the State Government may make in this behalf, if a Councillor has any pecuniary interest, direct or indirect, in any contract or proposed contract with or without employment under, or in any other matter concerning, the Municipality, he shall, before he is present at a meeting of the Municipality or of a committee thereof at which such contract or employment or other matter is a subject for consideration, disclose, in the manner prescribed, the fact regarding such contract or employment or other matter, and shall abide by the directions of the Presiding Officer of the meeting as to his taking part in the consideration or discussion of, or vote on, any question with respect to such contract or employment or other matter.

Chapter VIII

Power of State Government to give Direction to, and to Control and Dissolve, Municipality

Power of State Government to give direction and to control.

36. The State Government may -
- (1) call for records or documents from a Municipality,
 - (2) depute an officer to inspect or to examine any department, office, service, work, or property of a Municipality and to report after such inspection or examination,
 - (3) require a Municipality to take action in any matter concerning the Municipality, and
 - (4) enforce any order in relation to any of the matters as aforesaid, in such manner as may be prescribed.

Power of State Government to dissolve Municipality.

37. (1) If, in the opinion of the State Government, the Municipality has shown its incompetence, or has persistently made default, in the performance of the duties, or in the exercise of the functions, imposed on it by or under this Act or any other law for the time being in force, or has exceeded or abused its powers, or is unable to function under the provisions of this Act, the State Government may, subject to the provisions of sub-section (2), by an order published in the *Official Gazette*, and stating therein the reasons therefor, declare the Municipality to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and dissolve it with effect from such date, as may be specified in the order.

(2) The State Government shall, before making any order under sub-section (1), give a notice to the Municipality calling upon the Municipality to submit representation, if any, against the proposed order within such period as may be specified in the notice.

(3) On receipt of such representation, if any, the State Government shall move a resolution in the State Legislature for consideration and decision thereon.

Effect of dissolution.

38. (1) not withstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of the order of dissolution under sub-section (1) of section 37, -

(a) all the Councillors including the members of any committee of the Municipality constituted under this Act, and the Chief Councillor and the Deputy Chief Councillor shall vacate their respective offices, and

(b) all the powers and duties which, under the provisions of this Act or the rules or the regulations made thereunder or any other law for the time being in force, may be exercised or performed by the members of any committee of the Municipality or the Chief Councillor or the Deputy Chief Councillor, shall be exercised or performed, subject to such directions as the State Government may give from time to time, by an Administrator to be appointed by that Government in this behalf:

Provided that the State Government shall fix the remuneration of such Administrator, and may direct that such remuneration shall be paid out of the Municipal Fund.

(2) For the avoidance of doubt, it is hereby declared that an order of dissolution under sub-section (1) of section 37 shall not effect or imply in any way the dissolution of the Municipality as a body corporate.

PART III

FINANCIAL MANAGEMENT OF MUNICIPALITIES

Chapter IX

Municipal Fund

Municipal Fund.

39. (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 give in this behalf, and keeping in view the classification of municipal areas under section 7, the receipts and expenditure of the Municipality shall be kept under the following heads of accounts :-

- (a) the Water Supply, Sewerage and Drainage Account,
- (b) the Solid Waste Management Account,
- (c) the Road Development and Maintenance Account,
- (d) the Slum Services Account,
- (e) the Commercial Projects Account, and
- (f) the General Administration Account.

Explanation. -For the purposes of this section, "commercial projects" shall include *bazars*, *bazar* development projects, property development projects, and such other projects of a commercial nature as may be specified by the Municipality from time to time.

Grants and other financial assistance from State Government

40. (1) The State Government may, from time to time, give grants or other financial assistance to a Municipality with directions, if any, as to the manner in which such grants or other financial assistance shall be applied.
- (2) The Municipality shall maintain separate accounts for each such grant or other financial assistance.

Revenue Account and Capital Account to be maintained separately

41. Every head of account specified in sub-section (2) of section 39 shall be split up into revenue account and capital account and all items of receipts and expenditure shall be kept appropriately under such revenue account or capital account, as the case may be.

Application of Municipal Fund.

42. The moneys credited to the Municipal Fund from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations made thereunder and for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.

Payments not to be made out of Municipal Fund unless covered by budget grant.

43. 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 any provision of this Act:

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

- (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, or for dealing effectively with natural or technological hazards, or in any other emergent case,

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

(f) sums payable -

(i) under the 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 referred to in section 20 to avert a sudden threat or danger to the property of the Municipality or to human life,
and

(g) such other cases as may be determined by regulations.

Procedure when money, not covered by budget grant, is paid.

43. Whenever any sum is paid in any of the cases referred to in the proviso to section 42, the Chief Municipal Officer shall forthwith communicate to the Executive Authority, the circumstances of such payment, and, thereupon, the Executive Authority may take, or recommend to the Municipality to take, such action under the provisions of this Act as may appear to the Executive Authority to be feasible and expedient for covering the amount of such payment.

Temporary payment from Municipal Fund for works urgently required in the public interest.

44. (1) On a requisition, in writing, by the State Government, the Chief Councillor 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 any work so executed, and the proportionate establishment charges for executing such work, shall be paid by the State Government

and credited to the Municipal Fund.

(3) The Chief Councillor shall, on receipt of a requisition under sub-section (1), forthwith forward a copy thereof to the Municipality together with a report of the steps taken in pursuance of the said requisition.

Power to incur expenditure beyond the limits of Municipality.

46. 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 and for maintenance thereof for providing the core municipal services.

Exclusive use of Municipal Fund for particular purpose.

47. (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 in the order, 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.

Operation of accounts.

48. Subject to the other provisions of this Act, payment from the Municipal Fund shall be made in such manner as may be determined by regulations, and the heads of accounts referred to in section 39 shall be operated by such officers of the Municipality as may be authorized by the Executive Authority.

Investment of surplus moneys.

49. (1) Surplus moneys standing at the credit of any of the heads of accounts referred to in section 39, which are not required, either immediately or at any date in the near future, to be applied for the purposes of this Act by the Municipality, may, in accordance with such rules as may be made by the State Government in this behalf, be transferred by the Municipality, either in whole or in part, to any other head of account:

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

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

(2) Surplus moneys, which are not transferred under sub-section (1), may be invested in public securities or small savings schemes, approved by the Municipality, or deposited at interest with such nationalized bank as may be determined by the Executive Authority.

(3) Profit or loss, if any, arising from the investment under sub-section (2) shall be credited or debited, as the case may be, to the account to which such profit or loss relates.

Chapter X

Budget Estimates

Budget estimate to be prepared separately for Revenue Account and Capital Account.

50. The Municipality shall prepare in each year a budget estimate for the ensuing year separately for Revenue Account and Capital Account, and such budget estimate shall be an estimate of the income and the expenditure under each such account.

Preparation of budget estimate for Revenue Account of Municipality.

50. (1) The Chief Municipal Officer shall prepare in each year a budget estimate for Revenue Account along with an establishment schedule of the Municipality for the ensuing year, and such budget estimate shall be an estimate of the income and the expenditure of the Municipality under such account.

(2) Subject to the provisions of sub-section (2) of section 39, the budget estimate shall separately state the income and the expenditure of the Municipality to be received and incurred under various heads of accounts.

(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 Chief Councillor shall present the budget estimate to the Municipality on the thirty-first day of August in each 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 statement of any changes in the inventory of immovable property prepared under sub-section (2) of section 86 and the annual statement prepared under sub-section (I) of section 73 together with the reports prepared under sub-section (I) of section 51 on services provided at subsidized rate and sub-section (2) of section 230 on environmental status of the Municipalities shall be supplied with the budget estimate, and a copy of such annual statement shall also be sent to the State Government.

Report on services provided at subsidized rate.

51. (1) The Chief Municipal Officer shall, while preparing the budget estimate, add at the end thereof a report indicating whether the following services are provided at a subsidized rate and, if so, the extent of the subsidy, the reasons thereof, the source from which the subsidy is met, and the sections or the categories of the local population who are the

beneficiaries of such subsidy, namely:-

- (a) water-supply and disposal of sewage, and
- (b) scavenging, transporting, and disposal of solid wastes.

Explanation. -A service shall be construed to be provided at a subsidized rate if the total cost of providing such service, comprising the expenditure on operation, maintenance, and adequate provision for depreciation of assets and debt servicing, exceeds the income for the rendering of such service.

(2) The Executive Authority shall examine the report referred to in sub-section (1) and shall place it before the Municipality with its recommendations, if any.

Sanction of budget estimate of Municipality.

53.

(1) The Municipality shall consider the budget estimate and the recommendations thereon, if any, of the Executive Authority, and shall, by the thirtieth day of September in each year, adopt the budget estimate for the ensuing year with such changes therein as it may consider necessary, and shall submit the budget estimate so adopted to the State Government.

(2) The budget estimate received by the State Government shall be returned to the Municipality before the thirty-first day of March of the year immediately preceding the year to which the budget estimate relates with or without modifications of the provisions thereof.

(3) A copy of the budget estimate as received from the State Government shall be sent to the District Planning Committee for information.

Power to alter budget grant.

54.

Subject to the recommendation of the Executive Authority, the Municipality may, from time to time, during a year-

- (a) increase the amount of any budget grant under any head of account,
- (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 of account to the amount of budget grant under any other head of account, or
- (d) reduce the amount of the budget grant under any head of account.

Chapter XI

Accounts and Audit

Maintenance of accounts.

55.

The Chief Municipal Officer shall prepare and maintain, in such manner as may be prescribed, accounts of receipts and expenditure of the Municipality separately under revenue account and capital account on the basis of accrual.

Preparation of Municipal Accounting Manual.

56.

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.

- Financial statement. 57. (1) The Chief Municipal Officer shall, within four months of the close of a year, cause to be prepared under revenue account and capital account a financial statement containing an account of income and expenditure and an account of receipts and payments for the preceding year in respect of the Municipality.
- (2) The Form of the financial statement, and the manner in which the financial statement shall be prepared, shall be such as may be prescribed.
- Balance sheet. 58. (1) The Chief Municipal Officer shall, within three months of the close of a year, cause to be prepared a balance sheet of assets and liabilities of the Municipality for the preceding year.
- (2) The Form of the balance sheet, and the manner in which the balance sheet shall be prepared, shall be such as may be prescribed.
- Submission of financial statement and balance sheet to Auditor. 59. The financial statement prepared under section 56 and the balance sheet of assets and liabilities prepared under section 57 shall be placed by the Chief Municipal Officer before the Chief Councillor, who shall, after examination of the said financial statement and the balance sheet, adopt them, and shall remit them to the Auditor as may be appointed by the State Government in this behalf.
- Power of Auditor. 60. (1) The municipal accounts as contained in the financial statement, including the accounts of special funds, if any, and the balance sheet shall be examined and audited by the Director, by whatever name called, or any other person of equivalent rank, as may be appointed by the State Government or an Auditor appointed by the Municipality from the panel of professional Chartered Accountants prepared in that behalf by that Government.
- (2) (a) The Comptroller and Auditor-General of India shall provide technical guidance to, and supervision over, the proper maintenance of accounts of the Municipalities and audit thereof.
- Explanation.* -The technical guidance to, and supervision over, the proper maintenance of accounts of the Municipalities by the Comptroller and Auditor-General of India shall include providing guidance regarding maintenance of accounts, standard of audit, guidelines of certification, training for capacity building, comments on accounts, and test audit of Municipalities selected as a representative sample.
- (b) The Comptroller and Auditor-General of India shall prepare an Annual Technical Inspection Report based on technical guidance to, and supervision and test check of accounts of, Municipalities, to be placed before the Executive Authority.
- (c) The Comptroller and Auditor-General of India may, at his discretion, exercise the right to report to the State Legislature the results of such test

check of accounts.

- (3) The Chief Municipal Officer shall submit such further accounts to the Auditor and the Comptroller and Auditor-General of India, as may be required.
- (4) The Auditor appointed under sub-section (1) may-
- (a) require, by a notice, in writing, the production before him, or before any officer subordinate to him, of any document which he considers necessary for the proper conduct of the audit,
 - (b) require, by a notice, in writing, any person accountable for, or having the custody or control of, any document, cash or article, to appear in person before him or before any officer subordinate to him,
 - (c) require any person so appearing before him, or before any officer subordinate to him, to make or sign a declaration with respect to such document, cash or article, or to answer any question, or to prepare, and to submit, any statement, and
 - (d) cause physical verification of any stock of articles in course of examination of accounts.
- (5) The Auditor, or the officer subordinate to him, may report to the Executive Authority any item of accounts contrary to the provisions of this Act.
- (6) The Executive Authority shall consider the report of the Auditor along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India, 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 such payment, and shall charge against any person the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not, brought into account by such person, and shall, in every such case, certify the amount due from such person.
- (7) Any person who willfully neglects, or refuses to comply with, the requisition made by an Auditor, or an officer subordinate to him, shall, on conviction by a court of competent jurisdiction, be punishable with such fine as may be prescribed.

Audit report.

61. (1) As soon as practicable after the completion of audit of the accounts of the Municipality, but not later than the thirtieth day of September each year, the Auditor shall prepare a report of the accounts audited and examined and shall send such report along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India to the Chief Municipal Officer.

(2) The Auditor shall include in the report as aforesaid a statement showing

- (a) every payment which appears to the Auditor to be contrary to law,
- (b) the account of any deficiency or loss, which appears to have been caused by gross negligence or misconduct of any person,
- (c) the account of any sum received which ought to have been, but has not been, brought into account by any person, and
- (d) any other material impropriety or irregularity in the accounts.

Placing of audited accounts before Municipality.

62. (1) The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India before the Executive Authority who, 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.

Submission of audited accounts.

63. (1) After adoption of the financial statement and the balance sheet and the report of the Auditor along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India by the Municipality, the Chief Municipal Officer shall, forward the same to the State Government together with a report of the action taken thereon by the Municipality and shall also send copies thereof to the Auditor and the Comptroller and Auditor-General of India.

(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 such period as may be prescribed, the Auditor shall refer the matter to the State Government whose decision thereon shall be final and binding.

Power of State Government to enforce order upon audit report.

64. If any order made by the State Government under this chapter is not complied with, it shall be lawful for that Government to take such steps as it thinks fit to secure the compliance of the order and to direct that all expenses therefor shall be defrayed from the Municipal Fund.

Special audit.

65. 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.

Internal audit.

66. The State Government or the Municipality may provide for internal audit of the

day to day accounts of the Municipality in the manner prescribed.

Municipal Accounts
Committee.

67. (1) A Municipal Corporation shall, at its first meeting in each year or as soon as may be at any meeting subsequent thereto, constitute a Municipal Accounts Committee.
- (2) The Municipal Accounts Committee shall consist of-
- (a) three members, not being the members of the Executive Authority, to be elected by the Councillors, from amongst themselves, and
 - (b) such number of persons, not exceeding two and not being Councillors, or officers or other employees of the Municipal Corporation, having knowledge and experience in financial matters, as may be nominated by the Municipal Corporation.
- (3) The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its Chairperson.
- (4) Subject to the other provisions of this Act, the members of the Municipal Accounts Committee shall hold office until a new Municipal Accounts Committee is constituted.
- (5) The manner of submission of resignation by the Chairperson, or any other member, and the manner of filling up of a casual vacancy in the office of a member, of the Municipal Accounts Committee shall be such as may be prescribed.
- (6) Subject to the provisions of this Act and the rules and the regulations made thereunder, it shall be the duty of the Municipal Accounts Committee
-
- (a) to examine the accounts of the Municipal Corporation showing the appropriation of sums granted by the Municipal Corporation for its expenditure and the annual financial accounts of the Municipal Corporation,
 - (b) to examine and scrutinize the report on the accounts of the Municipal Corporation by the Auditor appointed under section 58 and to satisfy itself that the moneys shown in the accounts as having been disbursed were available for, and applicable to, the services or purposes to which they were applied or charged and the expenditure was incurred in accordance with the authority governing such expenditure,
 - (c) to submit report to the Municipal Corporation every year and from time to time on such examination and scrutiny,
 - (d) to consider the report of the Auditor appointed under section 64 in cases where the State Government or the Municipal Corporation

requires him to conduct a special audit of any receipt or expenditure of the Municipal Corporation or to examine the accounts of stores and stocks of the Municipal Corporation or to check the inventory of the properties of the Municipal Corporation including land holdings and buildings of the Municipal Corporation, and

(e) to discharge such other functions as may be prescribed.

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

(8) The manner of transaction of business of the Municipal Accounts Committee shall be such as may be prescribed:

Provided that the persons nominated under clause (b) of sub-section (2) shall not have the right to vote at the meeting of the Municipal Accounts Committee.

(9) In the case of a Municipal Councillor a Nagar Panchayat, the duty of the Municipal Accounts Committee under sub-section (6) shall be performed by the Executive Authority.

Chapter XII

Borrowings

Power of Municipality to raise loan.

68. (1) Subject to the approval of the State Government, the Municipality may, from time to time, by a resolution in this behalf passed at a meeting of the Municipality, raise a loan by the issue of debentures or otherwise, on the security of the property tax or all or any of the other taxes, surcharges, cesses, fees, and dues under this Act or both the property tax and all or any of the other taxes, surcharges, cesses, fees, and dues under this Act, or on the guarantee provided by the State Government for 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 required under 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 concern of public utility which renders such services as the Municipality is authorized to render under this Act, or (f) purchase of vehicles, locomotive engines, boilers and machinery necessary for implementing the provisions of this Act, or for 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 in addition to the loan as aforesaid, the Municipality may also take loan from the State Government or any statutory body or public sector corporation.

(2) When any loan has been raised under sub-section (I), -

(a) no portion thereof shall, without the previous sanction of the State Government, be applied to any purpose other than the purpose 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 purpose of clause (e) of that sub-section, be deemed to include the income derivable from the concern of public utility referred to in that clause.

Power of Municipality to open credit account with bank.

69. Notwithstanding anything contained in section 67, the Municipality may, instead of raising a loan under that section, take, on such terms as may be approved by the State Government, credit from any nationalized bank, to be kept in a cash account bearing the name of the Municipality to the extent of such credit 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.

Power of Municipality to raise short-term loan.

70. Notwithstanding anything contained in this chapter, the Municipality may, from time to time, take a short-term loan repayable within such period, not exceeding twelve months, from any other nationalized bank for such purpose, not being a purpose referred to in sub-section (1) of section 67, on such terms, and on furnishing such security for the repayment of such loan, as may be approved by the State Government.

- Power of Municipality to reserve for investment a portion of debentures issued for raising loan.
71. (1) For the purpose of investment of any portion of the Municipal Fund in the debentures issued by the Municipality for raising a loan, the Municipality may reserve and set apart any portion of such debentures for issue on a par therewith in the name of the Municipality, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of raising the loan.
- (2) The issue of any debentures by the Municipality under sub-section (1) shall not operate to extinguish or cancel such debentures, but every such debenture shall be valid in all respects as if it were issued to, and in the name of, any other person.
- (3) The purchase by, or the transfer, assignment, or endorsement to, the Municipality of any debenture issued by it shall not operate to extinguish or cancel such debenture, and every such debenture shall be valid and negotiable in the same manner and to the same extent as if it were held by, or transferred, assigned, or endorsed to, any other person.
- Manner of repayment of loans.
72. Every loan raised by the Municipality under section 67 shall be repaid within such period as may be sanctioned by the State Government.
- Form and effect of debentures
73. All debentures issued under this chapter shall be in such Form, and shall be transferable in such manner, as the Municipality may, by regulations, determine, and the right to sue in respect of the moneys secured by any of such debentures shall vest in the holders thereof for the time being without any preference being given to one debenture over another by reason of one being prior to the other in so far as the dates of the debentures are concerned.
- Annual statement.
74. (1) The Chief Municipal Officer shall, at the end of every year, prepare, and submit to the Municipality, an annual statement showing -
- (a) the last date of investment, if any, made during the year, and
- (b) the aggregate amount of the securities at the credit of the Municipality at the end of the year.
- (2) A copy of every such annual statement shall be submitted to the State Government by the Chief Municipal Officer.
- Issue of Municipal Bonds for development of urban infrastructure.
75. Subject to such guidelines and procedure as the Central Government may lay down from time to time and with the previous approval of the State Government, the Municipality may issue tax-free Municipal Bonds for financing of projects for development of urban infrastructure.
- Credit rating of Municipal Bonds.
76. (1) A Municipality shall, if and when required for the purpose of raising funds through a Municipal Bond, arrange to have a credit rating of the Municipal Bonds

by a Credit Rating Agency, duly approved by the Central Government or the State Government, as the case may be.

(2) The Municipality shall provide to the Credit Rating Agency such information as it may require.

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| Pledging of municipal assets as security for Municipal Bonds. | 77. | The Municipality may pledge its movable and immovable assets including lands, buildings, and revenues from tax in special escrow accounts as security for the Municipal Bonds issued for development of urban infrastructure. |
| Debt Service Reserve Fund | 78. | The Municipality may set up a Debt Service Reserve Fund by providing special grants from its surplus revenue or through capitalization of proceeds from Municipal Bonds to service bond- holders in case of default in payment of principal and interest for a period not exceeding two years. |
| Limit to encumbrances through future debt. | 79. | If and when required, the Municipality may, for the purpose of issuing Municipal Bonds, limit its future debt encumbrances by adoption of suitable debt service coverage ratio as a minimum ratio in relation to its future cash flow projections |
| Use of proceeds from Municipal Bonds. | 80. | The fund to be raised from the Municipal Bonds shall be used for the purpose of - <ul style="list-style-type: none"> (a) capital investment for development of urban infrastructure in the spheres of water-supply, sewerage, drainage, solid waste management, <i>bazars</i>, roads, bridges, traffic engineering schemes, and urban transport, (b) reforming and improving the efficiency of existing systems of municipal administration, and (c) repayment of loans raised through earlier issues of municipal bonds or otherwise for any of the purposes as aforesaid. |

Chapter XIII

Municipal Property

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| Power to acquire and hold property. | 81. | Subject to the provisions of any law relating to land for the time being in force, 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. |
| Vesting of property. | 82. | Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties of the following categories within the limits of a municipal area, not belonging to any Government department or statutory body or corporation, shall vest in the Municipality, unless the State Government directs otherwise by notification, namely :- <ul style="list-style-type: none"> (a) all vested public lands, (b) all public tanks, streams, reservoirs, and wells, (c) all <i>bazars</i> and slaughterhouses, (d) all public sewers and drains, channels, tunnels, culverts, and |

watercourses in, alongside, or under, any street,

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

(f) all public parks and gardens, including squares and public open spaces,

(g) all public *ghats* on rivers or streams or tanks,

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

(i) all public places for disposal of the dead, excluding those governed by any law for the time being in force,

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

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

Acquisition of property by Municipality by agreement, exchange, lease, grant, etc.

83. (1) Subject to the provisions of any law relating to land for the time being in force, the Municipality may, on such terms and conditions as may be approved by it, acquire by agreement -

(a) any immovable property, and

(b) any easement affecting any immovable property.

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

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

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

(5) It shall be lawful for the Municipality to be the beneficiary of any trust created under the Charitable and Religious Trusts Act, 1920, or the Indian Trusts Act, 1882.

(14 of 1920).

(2 of 1882).

Compulsory acquisition of land.

84. (1) When any land, whether within or outside the limits of the municipal area, or any easement affecting any immovable property vested in the Municipality, is required for any public purpose under this Act, the State Government may, at the request of the Municipality, proceed to acquire such land or easement under the Land Acquisition Act, 1894.

(1 of 1894).

(2) The Municipality shall be bound to pay to the State Government the cost including all charges in connection with the acquisition of the land under the Land Acquisition Act, 1894.

(3) The Municipality may resort to other methods of land assembly including the

use of transferable development rights, if any, under any law for the time being in force.

Special provision for acquisition of lands adjoining streets.

85. Whenever the Municipality makes a request to the State Government for acquisition of land for the purpose of widening or improving an existing street, it shall be lawful for the Municipality to apply to the State Government for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act:

Provided that every such acquisition shall be subject to the provisions of any law relating to land for the time being in force.

Disposal of property.

86. The Municipality may dispose of any movable property, and, subject to the provisions of any law relating to sale, transfer, or lease of land for the time being in force, any immovable property, belonging to the Municipality in the manner hereinafter provided, namely :-

(a) the Executive Authority may sell, or grant lease of, or otherwise dispose of, by public auction, any movable property, and may grant lease of, or let out on hire, any immovable property, belonging to the Municipality,

(b) the Municipality may, with the prior approval of the State Government and subject to the provisions of any law relating to land for the time being in force, for valuable consideration, sell or otherwise transfer, any immovable property belonging to the Municipality which is not required for carrying out the purposes of this Act, and

(c) the Municipality shall not transfer any immovable property vested in it by virtue of this Act, but shall cause such property to be maintained, controlled, and regulated in accordance with the provisions of this Act and the rules and the regulations made thereunder:

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

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

Inventory of properties of Municipality.

87. (1) The Executive Authority shall cause to be maintained a register, and a map, of all immovable properties of which the Municipality is the owner or which vest in it, or which the Municipality holds in trust on behalf of the State Government, and a register of all movable properties belonging to the Municipality.
- (2) The Executive Authority shall, in the case of the inventory of an immovable property, cause to be prepared an annual statement indicating the changes, if any, in the said inventory and shall place the said inventory before the Municipality

along with the budget estimate.

**PART IV
MUNICIPAL REVENUE
Chapter XIV**

Sources of Internal Revenues

Implementation of report of Finance Commission.

88. Subject to the provisions of article 243 Y, read with item (c) of clause (3) of article 280, of the Constitution of India, and the action taken report of the State Government on the recommendations of the Finance Commission as constituted under article 243-1 of the said Constitution, the Municipality shall take such measures as may be specified by the State Government.

Internal revenues of Municipality.

89. (1) The internal revenues of the Municipality shall consist of the receipts of the Municipality from the following sources :-
- (a) taxes levied by the Municipality,
 - (b) user charges levied for provision of civic services, and
 - (c) fees and fines levied for performance of regulatory and other statutory functions.
- (2) Subject to the provisions of this chapter, and such directions as the State Government may give from time to time, the Municipality may levy any tax, user charge or fee as may be specified by that Government:

Provided that in no case the rate of tax, user charge or fee shall exceed the rate at which such tax, user charge or fee was being levied on the date immediately before the date of coming into force of this Act and such rate of tax, user charge or fee shall be increased at a graduated rate at such interval as the State Government may direct:

Provided further that the State Government may, if it thinks fit, exempt any class or classes of assesses, including those in any peripheral municipal area, till such time the municipal services, the service delivery mechanism, and the requisite amenities under this Act are provided to such class or classes of assesses including those in any peripheral municipal area.

Power to levy taxes.

90. (1) The Municipality shall have, for the purposes of this Act, the power to levy the following taxes:-
- (a) property tax on lands and buildings,
 - (b) surcharge on transfer of lands and buildings,
 - (c) tax on deficits in parking spaces in any non-residential building or *bazar*,
 - (d) water tax,

- (e) fire tax,
- (f) tax on advertisements, other than advertisements published in newspapers,
- (g) surcharge on entertainment tax,
- (h) tax on congregations,
- (i) tax on pilgrims and tourists, and
- (j) toll on –
 - (i) roads and bridges, and
 - (ii) heavy trucks which shall be heavy goods vehicles, and buses, which shall be heavy passenger motor vehicles, within the meaning of the Motor Vehicles Act, 1988, plying on a public street.

(59 of 1988).

(2) The State Government may authorize a Municipality to levy, collect and appropriate such other taxes, which the State Legislature has the power to levy under the Constitution of India, for such purposes, and subject to such conditions, as may be prescribed.

(3) The levy, assessment and collection of taxes under this Act shall be in accordance with the provisions of this Act and the rules and the regulations made thereunder.

Power to levy user charges.

91. The Municipality shall levy user charges for -

- (i) provision of water-supply, 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) other specific services rendered in pursuance of the provisions of this Act, at such rates as may be determined from time to time by regulations:

Provided that a Municipality may, having regard to the conditions obtaining in the municipal area, and with the prior approval of the State Government, decide not to levy, or postpone the levying of, any of the user charges as aforesaid.

Power to levy fees and fines.

92. 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 regulations 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, godowns, goods transport depots, eating-houses, lodging- houses, hotels, theatres, cinema-houses, and places of public amusement and for other non-residential 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.

Levy of surcharge on tax or user charge or fee.

93. (1) The Municipality may levy a surcharge on a tax, or user charge, or fee on a premises used for non-residential purposes at such rate, being not less than ten per cent and not more than thirty per cent, of such tax, user charge, or fee, as the case may be, as may be prescribed.

(2) Subject to the provisions of sub-section (1), the Municipality may levy, at a different rate, a surcharge on a tax, or user charge, or fee on -

(a) a premises in an area which is categorized as a-

(i) commercial area, or

(ii) non-commercial area, and

(b) a premises, depending upon its use for –

(i) residential purpose, or

(ii) non-residential purpose.

Explanation I -"commercial area" shall mean an area for the activity of buying and selling, especially on a large scale, and declared as such by the Municipality by notification, and "non- commercial area" shall, accordingly, mean an area which is not a commercial area.

Explanation II -"residential purpose" shall mean a purpose designed for people to live in, and "non-residential purpose" shall, accordingly, mean a purpose which is not a residential purpose.

Power to levy development charge.

94. The Municipality may levy a development charge on such residential buildings,

taking into account such considerations, and at such rates, as may be prescribed.

- Realisation of tax, cess, fee, etc. under any other law. 95. The Municipality may, if so authorized by any other law for the time being in force, realise any tax, development charge, cess, or fee, imposed under that law, or any dues payable under that law, in accordance with the provisions thereof.

Chapter XV

Tax on Lands and Buildings and Related Taxes

A. Property tax on lands and buildings, surcharges and rebates

- Property tax on lands and buildings. 96. (1) For the purposes of this Act, a property tax determined under this chapter on the annual value of any land or building in the municipal area, including any land or building belonging to the State Government, or the Municipality, or any undertaking or public sector corporation under the control of the State Government or the Municipality, but excluding any land or building specifically exempted under this Act, shall be levied by the Municipality.
- (2) The rate of such property tax shall such as may be prescribed:

Provided that such tax shall not exceed one-fourth *per cent* of the annual value of the property.

Explanation.—“annual value”, not being capital value, shall mean the annual value determined after taking into consideration the prevailing rent in the neighbourhood of the land or the buildings as aforesaid.

- (3) The amount of property tax determined under this chapter shall be linked to the consumer price index of urban non-manual workers for a year in which a general valuation of all lands and buildings within the municipal area has been made, and it shall be lawful to realize the amount of such tax so determined on a yearly basis according to the changes in the aforesaid index till the next general valuation of such lands and buildings.
- (4) In calculating the amount of property tax and the amount payable per quarter or half year or year after allowing the rebate as may be admissible for payment within the date fixed therefor, the fraction of a rupee shall be rounded off to the nearest rupee, fifty paise being treated as one rupee.

- Property tax on Central Government properties. 97. Notwithstanding anything contained in this Act, any land or building, which is the property of the Central Government, shall, save in so far as Parliament by law otherwise provides, be exempt from the property tax:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent the Municipality from levying any tax on any property of the Central Government to which such property was immediately before the commencement of the Constitution of India liable or treated as liable, so long as the property tax continues to be levied by the Municipality.

Explanation. -A property of the Central Government shall not include any property vested in, or belonging to, any statutory body or public sector corporation under the control of the Central Government.

- Rate of property tax on any land, hut, or building in a slum. 98. The rate of property tax shall not exceed, in respect of any land, hut, or building in a slum, two-thirds of the rate of tax on land, hut or building not located in a slum as provided in this chapter.

- Surcharge. 99. (1) The Municipality may, where any land or building or hut or portion thereof is used for any non-residential purpose, levy a surcharge on the property tax on such land or building or hut or portion thereof at such rate, not exceeding ten *per cent* of the rate of property tax, as the Municipality may, from time to time, determine:

Provided that where any portion of any land or building or hut is used for any non-residential purpose, the amount of the property tax payable in respect of such portion of land or building or hut shall, while fixing the property tax for the entire land or building or hut, be separately calculated:

Provided further that the Municipality may, subject to such rules as may be made in this behalf for the grant of exemption from surcharge in respect of any class or classes of lands or buildings or huts used for educational, public health, medical, cultural, or sports purposes, exempt any such land or building or hut from payment of the surcharge:

Provided also that such exemption shall in no case exceed fifty *per cent* of the surcharge.

(2) For the avoidance of doubt, it is hereby declared that for the purposes of sub-section (1), "educational, public health, medical, cultural, or sports purposes" shall mean -

(a) the purposes of education intended to be imparted by a Government school or Government-aided school or municipal school or any other educational institution affiliated to any university or the All-India Council for Technical Education, and

(b) the purposes of public health, medical treatment, cultural functions, or sports, ensured or organized by a Government institution or Government-aided institution or the Municipality or an institution aided by the Municipality or any other public institution, not being a Government institution.

Additional surcharge. 100.

The Municipality may levy an additional surcharge at a rate, not exceeding twenty-five *per cent* of the rate of property tax, on such land or building or hut or portion thereof as is rented out:
Provided that in the case of any building which is partly occupied and partly rented out, the additional surcharge shall be levied only on the annual value of the rented portion.

Exemption of lands and buildings from property tax. 101.

(1) Notwithstanding anything contained in the foregoing provisions of this chapter, -

(i) any land or building or portion thereof exclusively used for the purpose of public worship, or

(ii) any land or building exclusively used for the purpose of public burial or as cremation ground, or any other place used for the disposal of the dead duly registered under this Act, or

(iii) any open space including a parade ground which is the property of the Central Government or the State Government, may be exempted by the Municipality from the property tax.

Explanation. -For the purposes of clause (i), any land or building used for public worship shall not be deemed to be exclusively used for such worship, if, on such land or in such building, any trade or business is carried on, or any rent or income

is derived in respect of such land or building.

(2) The Chief Municipal Officer shall cause to be maintained a register showing separately the lands and buildings exempted from the property tax under sub-section (1) in such Form as may be determined by regulations, and such register shall be open to the public for inspection.

Exemption of diplomatic or consular mission of a foreign State from payment of any rate, tax, or fee.

102. The State Government may, subject to any reciprocal agreements between various countries, by order, exempt from the payment of any rate, tax, or fee payable under the provisions of this Act, any diplomatic or consular mission of a foreign State and the diplomatic or consular officers of such mission.

B. Classification of lands and buildings and determination of annual values

Classification of lands and buildings and fixation of annual values.

103. (1) The Municipality shall, on the recommendation of the Municipal Valuation Committee constituted under section 113, and having regard to -

(a) the location of lands and buildings in the municipal area, and

(b) the structural characteristics of buildings,

declare its intention to classify lands and buildings in each ward of the Municipality into such groups as the Municipality may specify by a public notice, and shall also specify in such public notice the annual value it proposes to fix per unit area of vacant land and per unit area of covered space of buildings within each such group.

(2) If any owner or occupier of any land or building in any ward in respect of which a public notice has been issued under sub-section (1), has any objection to the manner of classification of any group or groups or the value per unit area of vacant land or the value per unit area of covered space of building in any such group, he may submit to an officer of the Municipality, duly authorized by the Municipality in this behalf, his objection in such Form, and containing such particulars, as may be prescribed, within sixty days from the date of publication of such public notice, and such objection shall be considered by the Municipal Valuation Committee.

(3) On the expiry of sixty days from the date of publication of the public notice under sub-section (1), and after considering the objections, if any, in accordance with the provisions of section 104, the Municipality shall, by a public notice, specify group wise the value per unit area of vacant land and the value per unit area of covered space of building.

Procedure for hearing objection to classification of lands and buildings.

104. Any objection under sub-section (2) of section 103 shall be –

(a) entered in such register,

(b) determined by the Municipal Valuation Committee in such manner, and

(c) disposed of in accordance with such procedure, as may be prescribed.

Validity of unit area

105. The unit area value of vacant land and the unit area value of covered space of

values and periodic revision thereof.

building, as may be specified under section 103, in respect of a group in any ward shall remain in force for a period of five years and shall be revised at the expiration of each such period of five years:

Provided that till the revision of such unit area values is completed, the existing unit area values shall continue to be in force.

Locational characteristics.

106. (1) The location of any land or building in the municipal area, referred to in clause (a) of sub-section (1) of section 103, shall be determined with reference to –

(a) the ward or a *Bazar* in which the land or the building is situated, and

(b) the type of public street as classified in section 258 on which such land or building is situated.

(2) In the case of any private street or pedestrian pathway, the Chief Municipal Officer shall, having regard to the nature and width of the private street or pedestrian pathway on which any land or building is situated, and with the previous sanction of the Executive Authority, determine the category of such private street or pedestrian pathway under sub-section (1) of section 258.

Structural characteristics.

107. (1) For the purposes of this Act, any building in any ward of the Municipality shall, according to the type of structure of such building, be classified as –

(a) *pucca* building, or

(b) *semi-pucca* building, or

(c) *kutchha* building.

(2) The Municipality shall, having regard to the materials of construction used and the construction practices employed, specify, by regulations, the types of buildings which may be classified as *pucca* building, or *semi-pucca* building, or *kutchha* building.

Annual value of land and building.

108. (1) The annual value of any vacant land and building in any ward of the Municipality shall be the sum of the amount arrived at by multiplying the value per unit area of such vacant land by the total area of such vacant land and the amount arrived at by multiplying the value per unit area of the covered space of such building by the total area of such covered space, if any, and shall be determined accordingly by an order by the Chief Municipal Officer, and a copy of the order shall be supplied within ten days thereof to the owner or the occupier of the land or the building, as the case may be, in such Form, and in such manner, as may be prescribed.

(2) The value of any machinery contained in, or situated upon, any land or building shall not be taken into consideration while determining the annual value.

Explanation I. -In the case of a building with appurtenant land, the area of the land under the plinth area of the building shall be excluded from the total area of the land, the balance being treated as vacant land which shall be assessed as such.

Explanation II -The covered space of any building shall mean the total floor area of the building in all the storey.

Explanation III -For the purposes of this section, "machinery" shall include lift, air-conditioning equipment, and equipment for providing earthquake proofing.

- Deduction from annual value for repair etc. of building.
109. (1) In the case of a building, there shall be deducted from the annual value determined under section 108 a sum equal to ten *per cent* of such annual value, and such deduction shall be on account of cost of repair or insurance or on any other account.
- (2) The annual value of any land or building, as determined under this section, shall be a multiple of ten rupees, any fraction below five being ignored and any fraction of five or above being rounded off to the next ten rupees.
- Determination of annual value of building where land is exempted from property tax.
110. Where any land is exempted from property tax under any law for the " time being in force, the annual value of any building erected on such land, which is in existence for more than one year and is not entitled to any exemption from such tax under this Act or any other law for the time being in force, shall be determined separately from the tax on land in accordance with the provisions of this chapter.
- Self-assessment.
111. Any owner of any land or building or any other person liable to pay the property tax or any occupier in the absence of such owner or person shall compute the tax due on the basis of the annual value of such land or building as determined under section 108 and section 109, and the rate of tax as determined under section 96.
- Unit of assessment.
112. (1) Every building together with the site and the land appurtenant thereto shall be assessed as a single unit:
- Provided that where portions of any building together with the site and the land appurtenant thereto are separately owned so as to be entirely independent and capable of separate enjoyment, notwithstanding the fact that access to such separate portions is made through a common passage or a common stair case, such separately owned portions shall be assessed separately.
- (2) All lands or buildings, to the extent they are contiguous or are within the same cartilage or are on the same foundation and are owned by the same owner or co-owners as an undivided property, shall be treated as one unit for the purpose of assessment under this chapter:
- Provided that if such land or building is sub-divided into separate shares which are not entirely independent and capable of separate enjoyment, the Chief Municipal Officer may, on application from the owners or co-owners, apportion the valuation and assessment of such land or building among the co-owners according to the value of their respective shares, treating the entire land or building as a single unit.
- (3) Each residential unit with its percentage of the undivided interest in the common areas and facilities, constructed or purchased and owned by or under the control of any housing co-operative society registered under any law regulating co-operative housing for the time being in force, shall be assessed separately.
- (4) Each apartment and its percentage of the undivided interest in the common areas and facilities in a building within the meaning of any law regulating

apartment ownership for the time being in force shall be assessed separately.

- (5) Notwithstanding any assessment made before the commencement of this Act, the Chief Municipal Officer may, on his own or otherwise, amalgamate or separate, as the case may be, lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.
- (6) If the ownership of any land or building or a portion thereof is sub-divided into separate shares, or if more than one land or building or portion thereof comes under one ownership by amalgamation, the Chief Municipal Officer may, on an application from the owner or the co-owners, as the case may be, separate, or amalgamate, such lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.
- (7) The Chief Municipal Officer shall, upon an application made in this behalf by an owner, lessee, sub-lessee, or occupier of any land or building and upon payment of such fee as may be determined by the Municipality by regulations, furnish to such owner, lessee, sub-lessee, or occupier, as the case may be, information regarding the apportionment of the property tax on such land or building among the several occupiers of such land or building for the current assessment period or for any preceding assessment period:

Provided that nothing in this sub-section shall prevent the Municipality from recovering any arrear dues on account of property tax from any such person.

B. Municipal Valuation Committee and Municipal Assessment Tribunal

Constitution of
Municipal Valuation
Committee.

113. (1) The State Government may, by notification, constitute a Municipal Valuation Committee.
- (2) The Municipal Valuation Committee shall consist of-
- (a) a Chairperson, and
- (b) other members, being not less than three and not more than five.
- (3) The Chairperson and the other members shall be appointed by the State Government.
- (4) The Chairperson shall be a person who is or has been a member of the State Higher Judicial Service for a period of not less than three years.
- (5) Of the other members, -
- (a) at least one shall be a person who is or has been a qualified chartered accountant or a qualified valuer, and
- (b) at least one shall be a person who is or has been a qualified engineer, not below the rank of a Chief Engineer in a Municipality.
- “(c) at least one shall be a person who is or has been holding the post of Joint Secretary or equivalent and above in the State Civil Service preferably working/worked in the Urban Development & Housing Department, Government of Sikkim”.

“(d) at least one shall be a person who is or has been holding the post of Joint Director or equivalent and above in the State Finance and Accounts Service of Sikkim”

(6) Subject to the directions by the State Government in this regard, the Municipal Valuation Committee shall perform its functions in respect of all the Municipalities of the State.

Terms and conditions of service of Chairperson and other members.

114. (1) The Chairperson of the Municipal Valuation Committee shall hold office till he attain the age of sixty-five years whichever is earlier.
- (2) The other terms and conditions of service of the Chairperson and the other members of the Municipal Valuation Committee, including salaries and allowances, shall be such as may be determined by the State Government:

Provided that if a serving judicial officer of Higher Judicial Service is designated as the Chairperson the provision as aforesaid shall not apply.

- (3) The salaries and allowances of the Chairperson and the other members of the Municipal Valuation Committee shall be apportioned by the State Government and shall be paid from the Municipal Funds of various Municipalities as may be directed by the State Government.

Functions of Municipal Valuation Committee

115. The functions of the Municipal Valuation Committee shall be-
- (a) to make recommendations to the Municipality on matters relating to classification of lands and buildings into different groups and fixation of values per unit area of such lands and buildings under section 103,
- (b) to determine objections under sub-section (2) of section 103,
- (c) to advise the Executive Authority on all matters relating to determination of annual values of lands and buildings, and
- (d) to perform such other functions as the State Government may, by rules, determine.

Constitution of Municipal Assessment Tribunal.

116. (1) The State Government may constitute a Municipal Assessment Tribunal consisting of a Chairperson and such other members, not exceeding five, as the State Government may determine.
- (2) The Chairperson and the other members shall be appointed by the State Government for a period of five years or till they attain the age of sixty-five years, whichever is earlier.
- (3) The other terms and conditions of service of the Chairperson and the other members of the Municipal Assessment Tribunal, including salaries and allowances, shall be such as may be determined by the State Government.
- (4) The salaries and allowances of the Chairperson and the other members of the Municipal Assessment Tribunal shall be apportioned by the State Government and shall be paid from the Municipal Funds of various Municipalities as may be directed by the State Government.

(5) The Chairperson and not less than one half of the other members shall be persons who are or have been members of the State Higher Judicial Service for a period of not less than five years, and the remaining members shall have such qualifications and experience as the State Government may determine.

“(6) Not less than one half of other members shall be persons who are or have been members of State Civil Service holding the post of Jt. Secretary or equivalent and above and the State Finance & Accounts Service holding the post of Jt. Director and equivalent or above”

D. Assessment

- Submission of returns. 117. (1) The Chief Municipal Officer shall, with a view to determine the annual value of lands and buildings in any ward and the persons primarily liable for the payment of the property tax, by notice, require the owners and the occupiers of such lands or buildings or any portion thereof, including such owner or person computing the tax due under the provisions of section 111, to furnish returns in such Form, containing such particulars, and within such time, as may be prescribed.
- (2) Every owner or occupier shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.
- (3) The Chief Municipal Officer, or any person subordinate to him and duly authorized by him, in writing, in this behalf, may, with or without giving any previous notice to the owner or the occupier of any land or building, enter upon, and make any inspection or surveyor take measurement of, such land or building with a view to verifying the statement made in the return for such land or building or for collecting the particulars referred to in sub-section (1) in respect of such land or building:

Provided that no such entry shall be made except between the hours of sunrise and sunset.

- Periodic assessment. 118. The Chief Municipal Officer shall, having regard to the recommendations under section 115 of the Municipal Valuation Committee relating to classification of lands and buildings into different groups and fixation of values per unit area of such lands and buildings, cause a general valuation of all lands and buildings in the municipal area in accordance with the provisions of this chapter as soon as possible after the constitution of a new municipal area and at periodic intervals in the case of all other municipal areas so as to ensure that there is a revision of such valuation of all lands and buildings at the expiration of successive period of five years:

Provided that the annual value of any land or building situated in

the municipal area, which has been determined earlier and is in force on the date of commencement of this Act, shall remain in force, and shall be deemed to be the annual value for the purpose of assessment of property tax on such land or building under this chapter, until a fresh annual value is determined under the provisions of this Act:

Provided further that where, on the date of commencement of this Act, the determination of the annual value of any such land or building is under process under any law for the time being in force, such determination shall be completed under that law and shall be deemed to be the annual value in force under this Act, until a fresh annual value is determined under the provisions of this Act.

Period of validity of assessment.

119. (1) The annual value of any land or building determined under this chapter -
- (a) shall have effect from the date of commencement of the quarter of a year ending on 30th June or 30th September or 31st December or 31st March, as the case may be, following that in which a public notice under clause (b) of section 121 has been given, and
 - (b) shall, subject to the other provisions of this chapter, remain in force in respect of each ward of the Municipality for a period of five years.
- (2) Where the annual value of any land or building in any ward has not, for reasons which are on record in writing, been revised on the expiration of five years, the annual value of such land or building in force immediately before such expiration shall continue to remain in force until it is revised.

Revision of assessment.

120. (1) The Chief Municipal Officer may cause any revision to be made in the annual value of any land or building or any portion thereof in the following cases, namely :-
- (i) where any tenancy or any rent changes, or .
 - (ii) where the nature of use changes, or
 - (iii) where a new building is erected or an existing building is redeveloped or substantially altered or improved during the period the annual value remains in force, or
 - (iv) where, on an application made in writing by the owner or the person liable to pay the property tax, it is established that during the period the annual value remains in force, its value has been reduced by reason of any substantial demolition or has suffered depreciation on account of any accident or any calamity proved to the satisfaction of the Chief Municipal Officer to have been beyond the control of such owner or such person, or
 - (v) where any land or building or portion thereof is .acquired by purchase or otherwise by the Central Government or the State Government or

the Municipality, or

(vi) where any land or building, or portion thereof, is sold or otherwise transferred to the Central Government or the State Government or the Municipality, or

(vii) where, upon the acquisition or transfer of any land or building in part, a residual portion remains, or

(viii) where it becomes necessary so to do for any other reason to be recorded in writing.

(2) Any revision in the annual value of any land or building or portion thereof under this section shall come into force from the date of commencement of the quarter of a year ending on 30th June or 30th September or 31st December or 31st March, as the case may be, following that in which such revision comes into force and shall remain in force for the unexpired portion of the period during which but for such revision, such annual valuation would have remained in force.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where the annual value of any land or building -

(i) has not, for any reason, been determined under this Act, the annual value of such land or building may be determined by the Chief Municipal Officer at any time during the currency of the period of assessment in respect of such land or building under section 118 or section 119, or

(ii) has been cancelled on the ground of irregularity, the annual value of such land or building may be determined by the Chief Municipal Officer at any time after such cancellation,

and such annual value shall remain in force until a fresh valuation or revision is made and shall take effect from the beginning of the quarter from which the previous valuation which has been cancelled would have taken effect:

Provided that the valuation made under clause (i) or clause (ii) shall remain in force for the unexpired portion of the period specified in this chapter.

(4) Any revision of annual value of any land or building or any portion thereof under this section shall be made with reference to the group into which such land or building or portion thereof is classified under section 103, and the annual value fixed per unit area of such land or building for that group shall be applicable.

(5) Notwithstanding anything contained in the foregoing provisions of this section, no revision of the annual value of any land or building or portion thereof under this section shall be made without giving the owner or the occupier of such land or building or portion thereof a reasonable opportunity of being heard.

(6) Where any revision of annual value of any land or building or portion thereof is made under this section, the order of such revision shall be communicated to the owner or the occupier of such land or building or portion thereof within ten days from the date of the order.

(7) An appeal shall lie against an order under sub-section (6) to the Municipal Assessment Tribunal, if preferred by the owner or the occupier of such land or building or portion thereof within forty- five days from the date of receipt of the order.

Public notice and inspection of assessment list.

121. Where the determination of the annual value of any land or building in any ward or part thereof has been completed, the Chief Municipal Officer shall –

(a) cause such annual value to be entered in an assessment list in such Form,

(b) give public notice of the assessment list and the place of inspection thereof in such manner,

(c) fix such date, time and place for consideration of the annual value of any land or building entered in the assessment list, and

(d) give, in the case of a revision of the annual value of any land or building or portion thereof, such notice fixing the date, time and place for consideration of the revision of the said annual value, and in such manner, as may be prescribed.

Objection.

122. Any objection to the annual value of any land or building as entered in the assessment list may be made by the owner or the occupier of such land or building in writing to the Chief Municipal Officer before the date fixed in the public notice under section 121, stating the reason for such objection.

Appointment of officer to hear objection.

123. (1) The State Government shall appoint such number of officers, and on such terms and conditions, as it may determine to hear and determine objections to the annual value of any land or building entered in the assessment list.

(2) The officers appointed under sub-section (1) –

(a) shall be paid from the Municipal Fund such salary and allowances, and

(b) may be provided with such assistance in course of their making any query or observation in relation to any entry in the assessment list and calling for any record, return or explanation, as may be prescribed.

(3) Every query or observation as aforesaid shall be taken into consideration within such time, and in such manner, as may be prescribed.

- Hearing of objections. 124. (1) Any objection made under section 122 shall be entered in a register maintained for the purpose in such Form, and in such manner, and containing such particulars, as may be prescribed.
- (2) On the date, time and place fixed under clause (c), or clause (d), of section 121, and, after giving the person making the objection a reasonable opportunity of being heard, either in person or through an authorized agent, the officer appointed under section 123 shall determine the objection.
- (3) The manner of recording an order of determination of an objection under subsection (2), the period within which, and the Form in which, a copy of the order as aforesaid shall be supplied to the owner or the occupier of the land or the building, as the case may be, the procedure for hearing and disposal of objections, and the date of effect of the annual value after determination of any objection under this section, shall be such as may be prescribed.

- Appeal. 125. (1) Any owner or occupier of any land or building aggrieved by an order of the Chief Municipal Officer under section 108 or by the determination of annual value under section 124 may prefer an appeal before the Municipal Assessment Tribunal in such Form as may be prescribed:

Provided that such appeal shall be preferred to the Municipal Assessment Tribunal within forty-five days from the date of supply of the order under section 108 or section 124, as the case may be, and shall be accompanied by a copy of the said order.

- (2) No appeal under this section shall be entertained unless the property tax in respect of any land or building due on the date of presentation of the appeal has been deposited, and the appeal shall abate, unless such property tax is continued to be deposited till the appeal is finally disposed of.
- (3) The annual value of any land or building determined after the disposal of the appeal shall take effect from the quarter from which such annual value would have taken effect and shall continue to remain in force during the period such annual value would have remained in force, had no appeal been preferred.
- (4) The provisions of Part II and Part III of the Limitation Act, 1963, relating to appeals shall apply to every appeal preferred under this section. (36 of 1963).
- (5) The procedure for hearing and disposal of appeals by the Municipal Assessment Tribunal shall be such as may be prescribed.
- (6) The decision of the Municipal Assessment Tribunal shall be final and no suit or other proceeding shall lie in any Civil Court in respect of any matter which has been, or may be, referred to, or has been decided by, the said

Tribunal.

- Final valuation. 126. Every valuation in the assessment list under section 108 or section 120 shall, subject to the provisions of section 124 or section 125, as the case may be, be final.
- Municipal Assessment Book. 127. The Municipality shall maintain a Municipal Assessment Book for making entries of the annual value of any land or building referred to in section 108, or revised under section 120, or determined under section 124, or decided under section 125, as shall be final under section 126, in such Form, and in such manner including the manner of amendment of the said Municipal Assessment Book, as maybe prescribed

E. Incidence of Property Tax

- Property tax and surcharge thereon to be first charge on lands and buildings and movables. 128. The property tax on any land or building and the surcharge thereon, due from any person, shall, subject to the prior payment of land revenue, if any, due to the State Government on account of such land or building, be a first charge upon such land or building belonging to such person and upon the movable property, if any, on or within such land or building and belonging to the person liable to such property tax and surcharge thereon.

- Incidence of property tax. 129. (1) The property tax on any land or building shall be primarily leviable upon the owner thereof.
- (2) The liability of the several owners of any land or building constituting a single unit of assessment, which is, or purports to be, severally owned in parts or flats or rooms, for payment of property tax or any installment thereof, payable during the period of such ownership, shall be joint and several:

Provided that the Chief Municipal Officer may apportion the amount of property tax on such land or building among several co- owners:

Provided further that in any case where the Chief Municipal Officer is, for reasons to be recorded in writing, satisfied that the owner is not traceable, the occupier of such land or building for the time being shall be liable for payment of the property tax and the surcharge thereon and sh-11 also be entitled to the rebate, if admissible.

- (3) The property tax on any land or building, which is the property of the Municipality and the possession of which has been delivered under any agreement or licensing arrangement, shall be leviable upon the transferee or the licensee, as the case may be.

- Incidence of surcharge. 130. Where a surcharge has been imposed under section 99, such surcharge shall be payable by the owner or the occupier, as the case may be, who uses such land or building for any purpose other than residential purpose.

- Apportionment of surcharge. 131. The person primarily liable to pay the property tax in respect of any , land or

building may recover the entire amount of the surcharge on the property tax on such land or building from the occupier who uses it for any purpose other than residential purpose:

Provided that if there is more than one occupier, the amount of surcharge may be apportioned and recovered from each of such occupiers in such proportion as the annual value of the portion occupied by each such occupier bears to the total annual value of such land or building.

Recovery of property tax on lands and buildings from occupiers.

132. (1) On the failure to recover any sum due on account of property tax on any land or building from the person primarily liable therefor under section 129, the Chief Municipal Officer shall, notwithstanding anything contained in any law regulating premises tenancy for the time being in force, recover from every occupier or such land or building, by attachment of *the* rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to such sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.
- (2) An occupier, from whom any sum is recovered under sub-section (1), shall be entitled to be reimbursed by the person primarily liable for the payment of such sum, and may, in addition to having recourse to other remedies that may be open to him, deduct the amount so recovered from the amount of any rent becoming due from time to time from him to such person.

Payment of property tax on land and building.

133. (1) Save as otherwise provided in this Act, the property tax on any land or building under this chapter shall be paid by the person liable for the payment thereof in a year in quarterly or half-yearly installments or annually.
- (2) The Chief Municipal Officer shall cause to be presented to the person liable for payment of property tax a comprehensive bill in respect of the said tax to be paid in accordance with the provisions of sub-section (1) by such date, and the said bill shall be dispatched in such manner, as may be prescribed.

Self-assessment and submission of return

134. (1) Any owner of any land or building or any other person liable to pay the property tax or any occupier in the absence of such owner or person, who computes such property tax under section III, shall, on such computation, pay the property tax on lands and buildings, together with interest, if any, payable under the provisions of this Act on-
- (a) any new building or existing building which has not been assessed, or
- (b) any existing building which has been redeveloped or substantially altered or improved after the last assessment, but has not been subjected to revision of assessment consequent upon such

redevelopment or alteration or improvement, as the case may be, or

- (c) any new building referred to in clause (a) or any existing building referred to in clause (a) and clause (b), the bills in respect of which have not been issued.

Explanation. -For the purposes of this sub-section, "last assessment" shall mean the assessment where the annual value has been determined by the officer appointed under section 123 and communicated to the assessee.

- (2) Such owner or person, as the case may be, shall furnish to the Chief Municipal Officer a return of self-assessment in such Form, and in such manner, as may be prescribed. Every such return shall be accompanied by proof of payment of property tax and interest, if any.
- (3) The payment of property tax and interest, if any, shall be made, and the return shall be furnished, within sixty days of the coming into force of this Act.
- (4) In the case of any new building for which an occupancy certificate has been granted or which has been taken possession of after the coming into force of this Act, such payment shall be made, and such return shall be furnished, within thirty days of the expiry of the quarter in which such occupancy certificate is granted or such possession is taken, whichever is earlier.

Explanation. -For the removal of doubt, it is hereby declared that occupancy certificate may be provisional or final and may be for the whole or any part of the building and possession may be of the whole or any part of the building.

- (5) Such payment shall continue to be made for each subsequent quarter and the last date of such payment shall be thirty days after the expiry of each such quarter.
- (6) After the determination of annual value of land or building under section 108, or revision thereof under section 120, has been made, any amount paid on self-assessment under this section shall be deemed to have been paid on account of such determination under section 108 or such revision under section 120, as the case may be.
- (7) If any owner or other person, liable to pay the property tax under this Act, fails to pay such property tax together with interest, if any, in accordance with the provisions of this section, he shall, without prejudice to any other action to which he may be subject, be deemed to be a defaulter in respect of the property tax or interest or both, remaining unpaid, and all the provisions of this Act applicable to such defaulter shall apply to him accordingly.

(8) If, after the assessment of annual value of any land or building is finally made under this Act, the payment on self-assessment under this section is found to be less than that of the amount payable by the assessee, the assessee shall pay the difference within two months from the date of final assessment, failing which recovery shall be made in accordance with the provisions of this Act, but, after the final assessment, if it is found that the assessee has paid excess amount, such excess amount shall be adjusted against the tax payable by the assessee.

Levy of surcharge on transfer of lands and buildings.

135. (1) The Municipality may levy a surcharge on the transfer of lands and buildings situated within the municipal area as a percentage of stamp duty levied on such transfer under the Indian Stamp Act, 1899.

(2 of 1899).

(2) The rate of surcharge, and the manner of -

(a) collection of surcharge,

(b) payment of surcharge to the Municipality, and

(c) deduction of the expenses, if any, incurred by the State Government in course of collection of surcharge, shall be such as may be prescribed.

Tax on deficits of parking spaces in non-residential buildings.

136. (1) The Municipality may, by regulations, levy a tax on the deficits in the provision for parking spaces required for different types of vehicles in any non-residential building.

(2) The amount of tax shall be determined by multiplying the quantum of such deficit in the area of parking spaces by the unit area value of land in the case of open parking spaces or by the unit area value of covered space of a building in the case of covered parking spaces, as the case may be, as specified in section 103.

Water tax.

137. The Municipality may levy a water tax on any land or non-residential building as a percentage of property tax as may be specified by regulations.

Fire tax.

138. The Municipality may levy a fire tax on any building as a percentage of property tax as may be specified by regulations:

Provided that a surcharge may be levied on such fire tax at such rate as may be specified by regulations for any non-residential building.

Chapter XVI

Tax on Advertisements Other Than Advertisements in Newspapers, and Licence Fees for Advertisement Spaces

Prohibition of advertisements without permission, in writing, of Chief Municipal Officer.

139. (1) No person shall erect, exhibit, fix, or retain upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign any advertisement, or display any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph),

visible from a public street or public place, in any place within the municipal area without the permission, in writing, of the Chief Municipal Officer.

(2) The Chief Municipal Officer shall not grant such permission, if -

- (a) a licence for the use of the particular site for the purpose of advertisement has not been taken, or
- (b) the advertisement contravenes any provisions of this Act or the rules or the regulations made thereunder, or
- (c) the tax, if any, due in respect of the advertisement has not been paid.

(3) No person shall broadcast any advertisement, except on radio or television, without the permission, in writing, of the Chief Municipal Officer.

Licence for use of site for purpose of advertisement.

140. (1) Except under, and in conformity with, such terms and conditions of a licence as the Municipality may, by regulations, provide, no person, being the owner, lessee, sub-lessee, occupier, or advertising agent, shall use, or allow to be used, any site in any land, building, or wall, or erect, or allow to be erected, on any site any hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign for the purpose of display of any advertisement.

(2) For the purpose of advertisement, every person -

- (a) using any site before the commencement of this Act, within ninety days from the date of such commencement, or
- (b) intending to use any site, or
- (c) whose licence for use of any site is about to expire, shall apply for a licence or renewal of licence, as the case may be, to the Chief Municipal Officer in such Form as may be specified by the Municipality.

(3) The Chief Municipal Officer shall, after making such inspection as may be necessary grant or, as the case may be, renew a licence -

- (a) within such period of receipt of an application under sub-section (2),
- (b) on payment of such fee, and (c) for such period, or may refuse to grant a licence, or to renew any existing licence, in such circumstances, and within such time, as may be prescribed.

(4) The Chief Municipal Officer shall cause to be maintained a register wherein the licences issued under this section shall be separately recorded in respect of advertisement sites -

- (a) on telephone, telegraph, electric or other posts or poles erected on or along public or private streets or public places,
- (b) in lands or buildings, and

(c) in cinema-halls, theatres or other places of public resort.

Tax on
advertisement

141. (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign any advertisement, or displays any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place in any location in a municipal area including a helipad, shall pay for every advertisement, which is so erected, exhibited, fixed or retained or displayed to public view, a tax calculated at such rate as may be determined by regulations:

Provided that a surcharge, not exceeding fifty *per cent* of the rate of tax as aforesaid, may be imposed on any advertisement on display in any temporary congregation of whatever nature including fairs, festivals, circus, *yatra*, exhibitions, sports events, or cultural or social programmes.

- (2) Notwithstanding anything contained in sub-section (1), no tax shall be levied under this section on any advertisement which -

(a) relates to a public meeting, or an election to Parliament or the State Legislature or the Municipality or any other local authority, or a candidature in respect of such election, or

(b) is exhibited within the window of any building, if the advertisement relates to any trade, profession, or business carried on in such building, or

(c) relates to any trade, profession, or business carried on within the land or the building upon or over which such advertisement is exhibited, or any sale or letting of such land or building or any effects therein, or any sale, entertainment, or meeting to be held on, upon, or in, such land or building, or

(d) relates to the name of the land or the building upon or over which the advertisement is exhibited or the name of the owner or the occupier of such land or building,

or

(e) relates to the business of any airport, or helipad, and is exhibited within such airport, or helipad, or upon any wall or other property of any airport or helipad, or

(f) relates to any activity of the Central Government or the State Government or any local authority.

- (3) The tax on any advertisement leviable under this section shall be payable in advance in such installments, and in such manner, as may be determined by regulations:

Provided that the Municipality may, under such terms and conditions of a licence as may be determined by regulations under section 140, require the licensee to collect, and to pay to the Municipality, subject to a deduction of five *per cent* of the tax to be kept by him as collection charges, the amount of tax in respect of such advertisements as are displayed on any site for which the licence has been granted.

Permission of Chief Municipal Officer to be void in certain cases.

142. Any permission under section 139 shall be void, if-

- (a) the advertisement contravenes the provisions of any regulations made under this Act, or
- (b) any material change is made in the advertisement or any part thereof without the previous permission of the Chief Municipal Officer, or
- (c) the advertisement or any part thereof falls otherwise than by accident, or
- (d) due to any work by the Central Government, the State Government, or the Municipality, or by any statutory authority, the advertisement is required to be displaced.

Licence for use of site for purpose of advertisement to be void in certain cases.

143. Any licence granted under section 140 shall be void, if-

- (a) the licensee contravenes any of the terms and conditions of licence, or
- (b) any addition or alteration is made to, or in, the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon- sign, or sky-sign, upon or over which the advertisement is erected, exhibited, fixed, or retained, or
- (c) the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign over which the advertisement is erected, exhibited, fixed, or retained is demolished or destroyed.

Presumption in case of contravention.

144. Where any advertisement has been erected, exhibited, fixed, or -retained upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign or displayed to public view from a public street or public place in contravention of the provisions of this Act or the regulations made thereunder, it shall be presumed, unless the contrary is proved, that the contravention has been made by the person or persons on whose behalf the advertisement purports to be or the agents of such person or persons.

Power of Chief Municipal Officer in case of contravention.

145. If any advertisement is erected, exhibited, fixed, or retained in contravention of the provisions of this Act or the regulations made thereunder, the Chief Municipal

Officer may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, upon or over which such advertisement is erected, exhibited, fixed, or retained to take down or remove such advertisement or may enter any land, building, or other property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced, or screened.

Removal of poster, hoarding, etc.

146. Notwithstanding any other action that may be taken against the owner or the occupier of any land or building, upon or over which there is any hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign for erecting any advertisement in contravention of the provisions of this Act or the regulations made thereunder, or the person who owns such hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, the Chief Municipal Officer may, for removal and storage of such hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, realize from such owner, occupier, or person such charges as may be fixed by the Executive Authority from time to time.

Explanation. -In this chapter, -

(a) the word "structure" shall include any movable board on wheels used as an advertisement or advertisement medium, and

(b) the word "advertisement", in relation to a tax on advertisement, shall mean any word, letter, model, sign, neon-sign, sky-sign, placard, notice, device, or representation, whether illuminated or not, in the nature of, and employed wholly or in part for the purposes of, advertisement, announcement, or direction.

Chapter XVII

Other Taxes and Tolls

Surcharge on tax on entertainment.

147. (1) Subject to the approval of the State Government, the Municipality may levy a surcharge on any tax levied by the State Government on any entertainment or amusement within the municipal area.

(2) The rate of the surcharge and the manner of-

(a) collection of the surcharge,

(b) payment of the surcharge to the Municipality, and

(c) deduction of the expenses, if any, incurred by the State

Government in course of collection of the surcharge, shall be such as may be prescribed.

Tax on tourists and congregations.

148. (1) The Municipality may levy a tax per vehicle for providing municipal services

to such vehicle visiting the municipal area -

- (a) for the purpose of tourism, or
- (b) in connection with any congregation of whatever nature, including pilgrimage, fair, festival, circus, or yatra, within such municipal area and assembling within such municipal area for the purpose of such tourism or in connection with such congregation:

Provided that such tax shall not be levied on any vehicle passing through such municipal area.

- (2) The tax for the purposes of sub-section (1) shall be such as may be determined by the Municipality from time to time and shall not exceed rupees twenty per vehicle.
- (3) The Municipality may make regulations specifying the occasions on which such tax may be imposed and the rate of such tax, the mode of collection thereof, and the other matters incidental thereto.

Toll on roads.

149. The Municipality may, with the sanction of the State Government, establish a toll-bar on any public street in the municipal area and levy a toll on vehicles plying on such public street at such rate as may be determined by the State Government from time to time.

Toll on bridges.

150. (1) The Municipality may, with the sanction of the State Government, establish a toll-bar on any bridge in the municipal area and levy a toll on vehicles, carriages, and carts using such bridge:

Provided that no such toll-bar shall be established, or tolls levied, for any purpose other than the purpose of recovering the expenses incurred in the construction of such bridge together with interest on such expenses and in maintaining such bridge in good repair.

- (2) The State Government may, with the consent of a Municipality, make over to such Municipality any existing toll-bar on a bridge within the municipal area to be administered by the Municipality and, thereupon, such Municipality shall administer such toll-bar until the State Government directs otherwise. Every such toll-bar, while so administered, shall be deemed to be a municipal toll-bar, and the tolls derivable therefrom, or such parts thereof as shall be agreed upon between the State Government and the Municipality, shall be credited to the Municipal Fund.

Toll on heavy trucks and buses.

151. (1) The Municipality may levy toll on heavy trucks and buses referred to in sub-clause (ii) of clause (j) of sub-section (1) of section 90, plying on a public street.
- (2) The rate of toll for the purposes of sub-section (1) shall be such as may be determined by the Municipality by regulations from time to time.

- (3) The Municipality may make regulations providing for the mode of collection of toll under this section and other matters incidental thereto.

Chapter XVIII

Payment and Recovery of Taxes

A. Recovery of Taxes by Municipality

Manner of recovery of taxes under the Act.

152. Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be determined by regulations :-

- (a) by presenting a bill, or
- (b) by serving a notice of demand, or
- (c) by distraint and sale of movable property of a defaulter, or
- (d) by attachment and sale of immovable property of a defaulter, or
- (e) in the case of property tax on any land or building, by attachment of rent due in respect of such land or building, or
- (t) by a certificate under any law for the time being in force regulating the recovery of any dues as a public demand.

Time and manner of payment of taxes.

153. (1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such date, in such number of installments, and in such manner, as may be determined by regulations.
- (2) If any amount due is paid on or before the date referred to in sub-section (1), a rebate of five *per cent* of such amount shall be allowed.

Presentation of bill.

154. (1) When any tax has become due, the Chief Municipal Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due:

Provided that no such bill shall be necessary in the case of –

- (a) a tax on advertisements,
- (b) a tax on tourists and congregations, and
- (c) a toll:

Provided further that for the purpose of recovery of any tax by preparation and presentation of a bill or notice of demand and collection of tax in pursuance thereof, the Executive Authority may, with the approval of the Municipality, entrust the work to any agency under any law for the time being in force, or to any other agency, on such terms and conditions as may be specified by regulations.

Explanation I. -A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting or by courier agency or by electronic mail to the person liable for payment of the amount included in the bill, and, in such case, the date of certificate of posting of the bill or the date on which the bill is delivered by the courier agency or by electronic mail, as the case may be, shall be deemed to be the date of presentation of the bill to such person.

Explanation II. -"courier agency" shall mean any agency engaged in door to door delivery of time-sensitive documents, utilizing the services of a person, either directly or indirectly, to carry such documents.

Explanation III. -"electronic mail" shall include e-mail or facsimile transmission.

(2) Every such bill shall specify the particulars of the tax and the period to which the bill relates.

Regulations regarding payment and recovery of tax.

155 The Municipality shall, with a view to ensuring payment and recovery of any tax levied by the Municipality, by regulations, provide for the -

(a) issue of a notice of demand, charging of fee for such notice, levy of interest for delayed payment, rate of such interest, and the amount of penalty therefore,

(b) issue of warrant for attachment, distress, and sale of movable property for recovery of tax due to the Municipality,

(c) attachment and sale of immovable property for recovery of tax due to the Municipality, and

(d) recovery of dues from a person about to leave the municipal area.

Requirement of payment of rent by occupier towards property tax on land or building due to Municipality.

156. (1) For the purpose of recovery of property tax on any land or building from any occupier, the Chief Municipal Officer shall, notwithstanding anything contained in the State Act relating to premises tenancy or any other law for the time being in force, cause to be served on such occupier a notice requiring him to pay to the Municipality any rent due, or falling due, from him in respect of the land or the building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said Act.

(2) Such notice shall operate as an attachment of such rent unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due, any sum paid by him to the Municipality in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the tax on land or building, he shall be entitled to recover from the person primarily liable for payment of such tax any amount for which credit is claimed.

- (3) If any occupier fails to pay to the Municipality any rent due or falling due, which he has been required to pay in pursuance of the notice as aforesaid, the amount of such rent may be recovered from him by the Municipality as an arrear of tax under this Act.

Recovery of property tax on lands and buildings or any other tax or charge when owner of land or building is unknown or ownership is disputed.

157. (1) If any money is due under this Act from the owner of any land or building on account of tax on such land or building or any other tax, expense or charge recoverable under this Act, and if the owner of such land or building is unknown or the ownership thereof is v disputed, the Chief Municipal Officer may publish twice, at an interval of not less than two months, a notification of such dues and of sale of such land or building for realization thereof, and may, after the expiry of not less than one month from the date of last publication of such notification and, unless the amount recoverable is paid, sell such land or building by public auction to the highest bidder, who shall deposit, at the time of sale, twenty- five *per cent* of the purchase money, and the balance thereof within thirty days of the date of sale. Such notification shall be published in the *Official Gazette* and in local newspapers and by displaying on such land or building, as the case may be.
- (2) After deducting the amount due to the Municipality as aforesaid, the surplus sale proceeds, if any, shall be credited to the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Chief Municipal Officer or a court of competent jurisdiction.
- (3) Any person may pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned. Such person may recover such amount by a suit in a court having jurisdiction from any person beneficially interested in such land or building.

Power of Chief Municipal Officer to prosecute or to serve notice of demand.

158. (1) When any sum is due from any person on account of -
- (a) tax on advertisements other than the advertisements published in newspapers, or
- (b) any other tax, fee or charge leviable under this Act, the Chief Municipal Officer may either prosecute such person, if prosecution lies under the provisions of this Act, or cause to be served on such person a notice of demand in such Form as may be specified by regulations or as the Chief Municipal Officer may deem fit.
- (2) The provisions of section 155 shall apply, *mutatis mutandis*, to every such recovery of sum due.

Cancellation of irrecoverable dues.

159. The Municipality may, by order, strike off the books of the Municipality any sum due on account of the property tax or any other tax or on any other account, which

may appear to it to be irrecoverable.

B. Recovery of Tax on Lands or Buildings by Person

Primarily Liable to Pay to the Municipality

Apportionment of property tax on lands and buildings by person primarily liable to pay

160. (1) Save as otherwise provided in this Act, the person primarily liable to pay the property tax in respect of any land or building may recover, -

(a) if there is but one occupier of the land or the building, from such occupier half of the tax so paid:

Provided that if there are more than one occupier, such half of the amount of tax as may be apportioned and recovered from each such occupier in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building, and

(b) the entire amount of the surcharge on the property tax on any land or building from the occupier of such land or building who uses it for commercial or non- residential purposes:

Provided that if there are more than one occupier, the amount of surcharge on the property tax may be apportioned and recovered from each such occupier in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building.

- (2) Notwithstanding anything contained in sub-section (1), if, as a result of the determination of the annual value of any land or building and the imposition of the property tax thereon under this Act for the first time, there is an increase in the amount of tax payable in respect of such land or building from the amount of tax previously payable under this chapter, the person primarily liable to pay the property tax may recover the difference in the amount due to such increase from the occupier or occupiers

Mode of recovery.

161. If any person primarily liable to pay any property tax on any land or building or surcharge thereon is entitled to recover part of such property tax or surcharge thereon from an occupier of such land or building, he shall, for recovery thereof, have the same rights and remedies as if such part of the property tax or the surcharge thereon were rent payable to him by such occupier.

Chapter XIX

Commercial Projects

Commercial projects and receipts therefrom

162. 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 centres, community and neighborhood shopping centres, industrial estates, bus or truck terminals, and tourist lodges with commercial complexes, and any other type of commercial projects on commercial basis.

PART V
URBAN ENVIRONMENTAL INFRASTRUCTURE AND SERVICES
Chapter XX

Water-supply

A. General

163. In this chapter, unless the context otherwise requires, -

- (a) "Government main" means any water-pipe owned and maintained by the State Government;
- (b) "*jhora*" means any natural watercourse, whether on a public land or on a private land;
- (c) "municipal main" means any water-pipe transferred to, or laid by, the Municipality for the purpose of providing a general supply of water as distinct from supply of water to an individual consumer, and includes any apparatus in connection with such water-pipe;
- (d) "service-pipe" means so much of any pipe for supplying water as connects a municipal main to any premises;
- (e) "supply-pipe" means such pipe as connects a Government main or a municipal main to the consumer's premises, and includes service pipe and internal plumbing lines of the consumer's premises;
- (t) "water-fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, and other similar apparatus used in connection with the supply and use of water.

B. Functions in Relation to Water-supply

164. (1) It shall be the duty of the Municipality to take steps, from time to time, either on its own, or through a Department of the State Government or any institution or organization of the State Government or agency, -

- (a) to ascertain the sufficiency and wholesomeness of water supplied within the municipal area,

Definitions.

ty of Municipality to
 ply water.

- (b) to provide, or to arrange to provide, a supply of wholesome water in pipes to every part of the municipal area in which there are houses, for domestic purposes of the occupants thereof, and for taking the pipes affording such supply to such point or points as shall enable the houses to be connected thereto at a reasonable cost, so, however, that the Municipality shall not be required to do anything which is not practicable at a reasonable cost or to provide such supply to any part of the municipal area where such supply is already available at the point or points as aforesaid, and
- (c) to provide, as far as possible, a supply of wholesome water, otherwise than in pipes, to every part of the municipal area in which there are houses, for domestic purposes of the occupants thereof, and to which it is not practicable to provide supply in pipes at a reasonable cost, and in which danger to health may arise from the insufficiency or unwholesomeness of the existing supply and a public supply is required and may be provided at a reasonable cost, and to secure that such supply is available within a reasonable distance of every house in that part.

(2) If any question arises under clause (b) of sub-section (I) as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which pipes must be taken in order to enable houses to be connected to such point or points at a reasonable cost, or if any question arises under clause (c) of that sub-section as to whether a public supply may be provided at a reasonable cost, such question shall be decided by the Executive Authority.

Supply of water for domestic purposes. 165.

A supply of water for domestic purposes shall be deemed not to include a supply -

- (a) to any institutional building, assembly building, business building, mercantile building, industrial building, storage building, hazardous building, or educational building, or any part of such building, other than that used as a

residential building,

- (b) for building purposes including construction of streets,
- (c) for watering roads and paths,
- (d) for purposes of irrigation,
- (e) for gardens, fountains, swimming pools, public baths, public tanks, or for any ornamental or mechanical purposes, or
- (f) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire.

Supply of water to connected premises.

166. The Chief Municipal Officer may, on an application by the owner, lessee or occupier of any building, either on his own or through any agency, arrange for supply of water from the nearest main to such building for domestic purposes in such quantity as may be deemed to be reasonable and may, at any time, limit the quantity of water to be supplied whenever considered necessary:

Provided that the Chief Municipal Officer may, by order in writing, delegate the responsibility of receiving such application to such agency.

Supply of water for non-domestic purposes.

167. (1) The Chief Municipal Officer or the agency, as the case may be, may, on receiving an application, in writing, specifying the purpose for which the supply of water is required and the quantity which is likely to be consumed, supply water for any purpose other than domestic purpose, on such terms and conditions, including the condition of 'withdrawal of water, as may be determined by regulations.
- (2) The Chief Municipal Officer may withdraw such supply at any time, if he thinks it necessary so to do, in order to maintain a sufficient supply of water for domestic purpose.

Payment for water supplied.

168. For water supplied under section 166 or section 167, payment shall be made at such rate as may be fixed by the Municipality from time to time:

Provided that such rate shall, as far as practicable, cover the costs on account of management, operation, maintenance, depreciation, debt servicing, and other charges related to waterworks and costs of distribution of water, including losses, if any, on account of such distribution.

notice of stoppage of water-supply.

169. If, at any time, supply of water is proposed to be stopped for more than twenty-four hours in any municipal area or part thereof or to any connected premises, the Chief Municipal Officer shall notify such stoppage through television and newspaper, and by beat of drum where necessary.

water-supply through hydrants, stand-posts and other conveniences.

170. (1) The Municipality may, in exceptional circumstances, either on its own or through any agency, provide, free of cost, supply of wholesome water to the public within the municipal area and may, for the said purpose, erect public hydrants or stand-posts or other conveniences.

(2) The Municipality may, for reasons to be recorded in writing, order the closure of any public hydrant, stand-post or other conveniences.

(3) The Municipality may, either on its own or through any agency, provide for safety, maintenance, and use of such public hydrants, stand-posts, or other conveniences, subject to such conditions as may be specified by regulations.

provision for fire hydrants.

171. (1) The Chief Municipal Officer shall, either on his own or through any agency, fix hydrants on water-mains, other than trunk mains, at such places as may be most convenient for affording supply of water for extinguishing any fire, and shall keep in good order such hydrants, and may, from time to time, renew every such hydrant.

(2) The situation of every hydrant shall be denoted in such manner, and the key of a hydrant shall be deposited at such place, as may be prescribed.

(3) The Chief Municipal Officer may, at the request and expense of the owner or the occupier of any building referred to in clause (a) of section 165, which is situated in or near a street in which a pipe, not being a Government main or municipal main, is laid, and being of sufficient dimensions to carry a hydrant, fix on the pipe, and keep in good order, and, from time to time, renew, one or more fire hydrants as near to such building as may be convenient, to be used only for extinguishing fire.

(4) The Chief Municipal Officer shall allow, without any payment, any person to take water for extinguishing fire from any pipe on

which a hydrant is fixed.

10. Notified Water Sources, Natural Watercourses, Works/or Supply of Water and Distribution Networks

sting of water sources and
ural watercourses in
unicipality and protection of
ras.

172. (1) Any notified watershed or water source or notified watermain route under the Sikkim Water Supply and Water Tax Act, 1986, if assigned to the Municipality or a *jhora* on a public land, other than forest land, and falling within the municipal area shall vest in the Municipality.

(Act No.8 of 1986).

- (2) Notwithstanding anything contained in sub-section (1), the Municipality shall protect any *jhora*, whether on a public land or on a private land, within the municipal area.

imits of *horas*.

173. The State Government may, by notification, specify the limits of any *jhora*, watercourse or channel within a municipal area in the State.

orks to be undertaken for
ply of water.

174. (1) Subject to such directions as it may receive from the State Government, the Municipality may, for the purpose of providing the municipal area with proper and sufficient supply of water for public and private uses, either on its own or through any agency, take measures for -

- (a) tapping of water sources,
- (b) treatment of water,
- (c) storage of water,
- (d) laying of distribution network for supply of water,
- (e) maintenance of existing infrastructure,
- (t) ensuring clean and adequate water-supply to premises, or
- (g) billing and revenue collection.

- (2) Having regard to the provisions of sub-section (1), the Municipality may –

- (a) cause to be constructed or maintained such tanks, reservoirs, engines, pipes, taps, and other waterworks as may be necessary within or outside the municipal area,
- (b) purchase, or take on lease, any waterworks, or right

to store, or to take and convey, water, within or outside the municipal area, and

(c) enter into any agreement with any person or authority for the supply of water:

Provided that the Municipality may, with the approval of the State Government, make over to, or take over from, the State Government or a statutory body any waterworks so as to do anything which may be necessary or expedient for the purpose of carrying out its functions under this Act or any other law for the time being in force.

management of waterworks.

175. The Chief Municipal Officer shall, either on his own or through any agency, manage all waterworks and allied facilities belonging to the Municipality and shall maintain the same in good repair and efficient condition and shall cause to be done, from time to time, all such things as shall be necessary or expedient for improving such waterworks and facilities.

supply of water for domestic purpose.

176 (1) The Chief Municipal Officer shall, either on his own or through any agency, at all times, ensure that the water in any waterworks belonging to the Municipality, from which water is supplied for domestic purposes, is wholesome.

(2) The Municipality or the agency, as the case may be, shall, when so required by any competent authority under any law for the time being in force, arrange for the examination of water supplied for human consumption for the purpose of determining whether the water is wholesome.

water not to be wasted.

177. (1) No person, being the occupier of any premises to which water is supplied by the Municipality or any agency, as the case may be, under this chapter, shall, on account of negligence or other circumstances under the control of such occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of repair causing thereby waste of water.

(2) No person shall unlawfully flood, or draw off, or divert, or take water from, any waterworks belonging to, or under the control of, the Municipality, or from any watercourse or stream by which such waterworks is supplied.

(3) Any person who contravenes the provisions of this section shall be liable to such fine, not exceeding ten thousand rupees, as may be determined by regulations.

D. Water-supply Mains and Pipes

power to lay mains, service pipes, etc.

178. (1) The Chief Municipal Officer may, either on his own or through any agency, lay within or outside the municipal area a main, or such service pipes with such stopcocks and other water fittings as he may deem necessary, for supply of water to premises-

- (a) on any street, and
- (b) in, over, or on, any land, not forming part of a street, with the consent of the owner or the occupier of such land, in such manner as may be prescribed;

Provided that where a permanent structure is constructed for the purpose of this section on such land, compensation for such construction shall be paid in cash.

(2) Where a service main or a service pipe has been lawfully laid in, over, or on, any land, not forming part of a street, under subsection (1), the Chief Municipal Officer or the agency appointed by him may, from time to time, enter upon that land and inspect, repair, alter, renew, or remove the pipe or lay a new pipe in substitution thereof, and shall pay compensation for any damage done in the course of such inspection, repair, alteration, renewal, or removal, or laying, as the case may be.

(3) Subject to the foregoing provisions of this section, for the purpose of new connection required to be given to residential, non-residential or institutional buildings across any existing road which is needed to be dug, -

- (a) the specification mainly of breadth and depth of digging, including encasing by pipe having the minimum diameter of one hundred and ten millimeters, shall be mandatory, and
- (b) the Municipality or the concerned Department of the State Government or the agency, as the case may be, giving such connection, shall repair the road as

aforesaid in accordance with such specifications at the expense of the consumer.

Explanation I. -"residential building" and "institutional building" shall have the meanings respectively assigned to them in clause (t) of section 266.

Explanation II. -"non-residential building" shall mean a building which is not a residential building or institutional building.

prohibition for laying water-pipes and construction of latrines and cesspools.

179. The Chief Municipal Officer shall have the power to prohibit- (a) laying of water-pipes in such place or places,
- (b) construction of latrine or cesspool within such distance from any well, tank, water-pipe, or cistern, and
- (c) the use of water from such source of supply, in such manner as may be prescribed.

power in relation to water-supply.

180. The Chief Municipal Officer shall have such powers in relation to water-supply, and subject to such terms and conditions, as may be prescribed.

application for supply of water

181. An application for supply of water shall be made in such Form, shall be addressed to such officer, and shall be disposed of in such manner, as may be prescribed.

power to turn off supply of water to premises.

182. Notwithstanding anything contained elsewhere in this Act, the Chief Municipal Officer may cut off the connection between any waterworks of the Municipality and any premises to which water is supplied from such waterworks, or may turn off such supply, in such circumstances, and in such manner, as may be prescribed.

E. Water Meters and Recovery of Charges

power to provide water meters and to recover charges.

183. The Municipality may, -
- (a) by regulations, specify the terms and conditions of-
- (i) providing water-meters, either by itself or by an agent or by the owner or the occupier of any land or building, and
- (ii) recovery of charges for supply of such water

as recorded by water meters, and

(b) take necessary steps for detection and elimination of any fraud in respect of such water meters.

Entrustment of operation and maintenance of waterworks and billing and collection of charges.

184. The Chief Municipal Officer may, with the prior approval of the Executive Authority, entrust the work of operation and maintenance of waterworks in the municipal area and the work of billing and collection of water charges to any agency.

F. Offence in Relation to Water-supply

Liability for offence in relation to water-supply.

185. If any offence relating to water-supply is committed under this Act in any premises connected with the municipal waterworks, the owner, the person primarily liable for payment of property tax, and the occupier of the said premises shall be jointly and severally liable for such offence.

G. Harvesting of Rain Water

Provision of rain water harvesting structure.

186. In every building owned or occupied by the State Government or a statutory body or a company or an institution owned or controlled by the State Government, rain water harvesting structure shall be provided in such manner as may be specified by the State Government or the Municipality from time to time.

Chapter XXI

Drainage and Sewerage

A. Functions in Relation to Drainage and Sewerage

Municipality to provide drainage, sewerage and outfall.

187. The Municipality shall, either on its own, or through a Department, or organization, of the State Government, or any agency, construct and maintain drains and sewers, and provide a safe and sufficient outfall, in or outside the municipal area, for effectual drainage and proper discharge of storm-water and sewage of the municipal area in such manner as may not cause any nuisance, either by flooding any part of the municipal area or any area surrounding the outfall or in any other way:

Provided that no place, which has not been used before the commencement of this Act for any of the purposes specified in this section, shall, on the commencement of this Act, be so used except-

(i) in conformity with the provisions of the Sikkim

Urban and Regional Planning and Development Act, 1998, relating to land use planning or any other law relating thereto for the time being in force, or

Act No.7 of 1998.

(ii) with the approval of the State Government, in the absence of any such law:

Provided further that with effect from such date as may be appointed by the State Government in this behalf, no sewage shall be discharged into any watercourse until it has been so treated as not to affect prejudicially the purity and the quality of the water of such watercourse.

vision of means for disposal of sewage.

188. For the purposes of receiving, treating, storing, disinfecting, distributing, or otherwise disposing of sewage, the Municipality may, either on its own, or through a Department, or organization, of the State Government, or any agency, construct, operate, maintain, develop, and manage any works within or outside the municipal area.

B. Proprietary Rights of Municipality in Respect of Drains and Sewage Disposal Works

sting of public drains and sewage disposal works.

189. (1) All public and other drains in, alongside or under any public street, and all sewage disposal works, constructed or acquired out of the Municipal Fund or otherwise, and all works, materials, and things appertaining thereto, which are situated within or outside the municipal area, shall vest in the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be.
- (2) For the purposes of laying, constructing, enlarging, deepening or otherwise repairing or maintaining any such drain or sewage disposal system, so much of the sub-soil appertaining thereto, as may be necessary for such purposes, shall be deemed also to have vested in the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be.
- (3) All drains and ventilation shafts, pipes and all appliances and fittings connected with the drainage works constructed, erected or set up out of the Municipal Fund in or upon premises, not belonging to the Municipality, whether-

(i) before or after the commencement of this Act, and

(ii) for the use of the owner or the occupier of such premises or not,

shall, unless the Municipality, or the concerned Department, or organization, of the State Government, or the agency has otherwise determined, or does otherwise determine at any time, vest, and shall be deemed always to have vested, in the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be.

Explanation. -All public and other drains, which, under any provision of this Act, vest in the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, are hereinafter referred to in this Act as municipal drains.

right of owner or occupier to
obtain sewer connection.

190. (1) The owner or the occupier of any premises shall be entitled to empty sewage of the premises into the sewer main of the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, provided that before doing so, he -

(a) obtains connection from the sewer main of the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, and

(b) complies with such other conditions as may be specified by the Municipality or the concerned Department, or organization, of the State Government, or the agency, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), where any portion of the sewer main of the Municipality or the concerned Department, or organization, of the State Government, or the agency, as the case may be, passes through any property which is a private or public property or which belongs to any corporation or institution, the person, or the persons, or the corporation, or the institution, owning such property, shall be responsible for such portion of such sewer main.

power to make over to, or to
take over from, statutory
authority drainage and
sewerage works.

191. The Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may, with the prior approval of the State Government and subject to such conditions as the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may determine, make over to, or take over from, any authority under any law for the time being in force any drain or sewer or sewage disposal works for administration and management thereof.

C. Municipal Drains

power of making drains.

192. (1) The Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, authorized in this behalf, may carry any municipal drain 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 a reasonable notice, in writing, to the owner or the occupier thereof, into, through, or under, any land whatsoever within the municipal area, or, for the purpose of out-fall or distribution of sewage, outside the municipal area.

(2) The Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, authorized in this behalf, may construct any new drain in place of an existing drain or repair or alter any municipal drain so constructed.

sewage and rain water drains
shall be separate.

193. For the purpose of effectual drainage of any premises in accordance with the provisions of this chapter, it shall be competent for the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, authorized in this behalf, to require that there shall be one drain for sewage, offensive matter and polluted water and an entirely separate drain for rain water or unpolluted sub-soil water or both rain water and unpolluted sub-soil water, each emptying into separate municipal drains or other suitable places.

Provided that -

- (a) the sullage from bathrooms and kitchens shall be separately connected with the sewer main of the Municipality, and

(b) the rain water shall be connected with the natural *nullahs, khola-kholsas, jhoras,* or storm water drainage.

eration, discontinuance,
ansing, etc., of drains.

194. Subject to such terms and conditions as may be provided by regulations from time to time, the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, authorized in this behalf, may -

(a) enlarge, alter the course of, lessen, or arch over, or otherwise improve, any municipal drain within the municipal area,

(b) discontinue, close up, or destroy any municipal drain,

(c) properly flush, clean, and empty any municipal drain, and

(d) restrict emptying, or turning any municipal drain, or throwing into any drain communicating into the municipal drain, any matter likely to damage the drain or to interfere with the free flow of the contents thereof, or to affect prejudicially the treatment and disposal of the contents thereof, or any chemicals, refuse, or waste steam, or any liquid which is dangerous or is the cause of a nuisance or is prejudicial to health, or any petroleum Class 'A', petroleum Class 'B', or petroleum Class 'C'.

Explanation. -For the purposes of this section, the expression "petroleum Class 'A', petroleum Class 'B', or petroleum Class 'c'" shall have the same meaning as in the Petroleum Act, 1934.

30 of 1934.

D. Drains of Private Streets and Drainage of Premises

wers in relation to drainage.

195. Subject to such terms and conditions as may be provided by regulations from time to time, the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, authorized in this behalf, may -

(a) permit the owner or the occupier of any premises having a drain, or the owner of a private drain, to have his drain made to communicate with the municipal

drain for discharge of foul water,

(b) limit the use of the municipal drain by the owner or the occupier of any premises having a private drain or by the owner of a private drain,

(c) require the owner of any land or building, which is without sufficient means of effectual drainage, to construct a drain and to provide all such appliances and fittings as may be necessary for drainage of such land or building,

(d) require the group of owners of a block of premises, which may be drained more economically or advantageously in combination than separately, to undertake at their own expense any work necessary for drainage of such block of premises by a combined operation,

(e) require the owner of any land or building to carry out such construction, repair, or other work as may be necessary for effectual drainage of such land or building, or

(f) authorize any person, who desires to drain his land or building into a municipal drain through a drain of which he is not an owner, to use the drain of which he is not an owner or declare such person to be the joint owner thereof.

premises not to be erected
without drains.

196. (1) It shall not be lawful to erect or to re-erect any premises in the municipal area or to occupy any such premises unless -

(a) a drain is constructed of such size, materials, and description, at such level, and with such fall, as may appear to the Chief Municipal Officer to be necessary for the effectual drainage of such premises, and

(b) there have been provided and set up on such premises such appliances and fittings as may appear to the Chief Municipal Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matters, and conveying the same, from such premises and effectually flushing the drain of such premises and every fixture connected

therewith.

(2) The drain so constructed shall empty into a municipal drain i situated at a distance of not exceeding thirty metres from such premises, but if no municipal drain is situated within such distance, then, such drain shall empty into a cesspool situated within such distance as shall be specified by the Chief Municipal Officer for the purpose.

E. Trade Effluent

Special provisions relating to
the effluent.

197. Subject to the provisions of this Act and the regulations made thereunder and 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 regulations 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.

Special provisions regarding
discharge of trade effluent.

198. Notwithstanding anything contained in this Act or the regulations made thereunder or any usage, custom or agreement, where, in the opinion of the Chief Municipal Officer, any trade premises are without sufficient means of effectual drainage and treatment of trade effluent or the drains thereof, though otherwise not objectionable, are not adapted to the general drainage system of the municipal area, or the effluent is not of specified purity, the Chief Municipal Officer may, by a 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 the discharge thereof 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, or

(d) to alter, amend, repair, or renovate any existing drain, or any purification plant, apparatus, plant-fitting, or article used in connection with any municipal or house-drain.

Chapter XXII
Other Provisions Relating to
Water-supply, Drainage and Sewerage

connection with waterworks
mains and drains not to be
made without permission.

199. Without the permission, in writing, of the Chief Municipal Officer, no person shall, for any purpose whatsoever, at any time, make, or cause to be made, any connection, or communication, with any waterworks or mains or drains, constructed or maintained by, or vested in, the Municipality, or the concerned Department, or organization, of the State Government, or the agency.

Buildings, and private streets
not to be erected or
constructed over watermains,
on municipal drains,
without permission.

200. (1) Without the permission of the Chief Municipal Officer, no building, wall, fence, or other structure shall be erected, and no private street shall be constructed, on any municipal drain or on any watermains constructed or maintained by, or vested in, the Municipality, or the concerned Department, or organization, of the State Government, or the agency.

(2) If any building, wall, fence, or other structure is erected, or private street is constructed, on any drain or waterworks as aforesaid without the permission of the Chief Municipal Officer, 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 such building, wall, fence, or other structure or by the person, constructing such private street, as the case may be, and shall be recoverable as an arrear of tax under this Act.

Building plan not to be
sanctioned unless plan

201. No building plan shall be sanctioned unless such plan conforms to

ating to
ter-supply etc. is in
iformity with rules and
ulations.

such rules or regulations relating to water-supply, drainage, privy, and urinal accommodation, within the premises, and sewerage as may be made in this behalf.

ps of underground
er mains, supply pipes,
ins, etc.

202. Subject to the provisions of section 10 and section 262, the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, shall cause to be maintained complete survey maps, drawings, and descriptions of water-supply mains, supply-pipes, municipal drains, sewers, and connections thereto from all premises in the municipal area.

ights of user of property for
ueducts, lines, etc.

203. (1) The Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may place and maintain aqueducts, conduits, and lines of mains, or pipes, or drains over, under, along, or across, any immovable property, whether within or outside the limits of the municipal area, without acquiring such immovable property, and may, at any time, for the purpose of examining, repairing, altering or removing such aqueducts, conduits, or lines of mains, or pipes, or drains, after giving a reasonable notice of his intention so to do, enter on any such immovable property over, under, along, or across, which the aqueducts, conduits, or lines of mains, or pipes, or drains have been placed:

Provided that the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, shall not acquire any right, other than a right of a user, in such property over, under, along, or across, which any aqueduct, conduit, or line of mains, or pipe, or drain has been placed.

(2) The powers conferred under sub-section (1) shall not be exercised in respect of any property which is vested in the State Government or any local authority, or is under the control or management of the Central Government or any Ministry of the Central Government, save with the permission of the State Government or the local authority or the Central Government or any Ministry of the Central Government, as the case may be, and in accordance with such regulations as may be made in this behalf:

Provided that the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may, without such permission, repair, renew, or amend any existing works, the character or position of which is not

to be altered, if such repair, renewal, or amendment is urgently necessary in order to maintain, without interruption, the supply of water, or drainage, or disposal of sewage, or is such that any delay would be dangerous to health, human life, or property.

(3) In the exercise of the powers conferred by this section on the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, the Chief Municipal Officer, or the agency, as the case may be, shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by him or such agency.

owner of owner of premises
place pipes and drains
through land belonging to
other persons.

204. (1) If it appears to the Chief Municipal Officer that the only or the most convenient means of water-supply to, and drainage of, any premises shall be 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 an 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 an 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 to the owner of the immovable property as aforesaid 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 a 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.

205. Subject to such terms and conditions as may be provided by regulations from time to time, the Chief Municipal Officer may, either on his own or through any agency, authorized by him in this behalf, -

(a) erect upon any land or building, or affix to the outside of any building, or to any tree, any shaft or pipe as may appear to him or such agency to be necessary for the purpose of ventilating any drain or cesspool, whether vested in the Municipality or not, and

(b) examine the condition of a private drain or cesspool within the municipal area in respect of which there is reasonable ground for believing that such private drain or cesspool is in such condition as is prejudicial to health, or is a nuisance, by applying any test other than a test by water under pressure, and if he or such agency

power of Chief Municipal Officer to affix shafts etc. for ventilation of drain or cesspool and testing of drain.

deems it necessary, by opening the ground.

power of Chief Municipal
Officer to execute work after
giving notice to person liable.

206. (1) When, under the provisions of this Act, any person is required, or is liable, to execute any work in relation to water-supply, drainage, and sewerage within the municipal area, the Chief Municipal Officer may, in accordance with the provisions of this Act and the regulations 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 therefor as an arrear of tax under this Act.

work to be done by licensed
plumber

207. (1) The Executive Authority may grant licence to any person possessing such technical qualifications as may be provided by regulations to act as a licensed plumber.

(2) No person, other than a licensed plumber, shall execute any work under chapter XX, chapter XXI, and this chapter, and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Chief Municipal Officer, the work is of a trivial nature, he may grant permission, in writing, for the execution of such work by a person other than a licensed plumber.

(3) The Municipality shall, by regulations, provide for –

- (a) the issue of licence to plumbers,
- (b) the terms and conditions of engagement of licensed plumbers,
- (c) the duties and responsibilities, and the guidelines for the functions, of licensed plumbers,
- (d) the charges to be paid to licensed plumbers for different types of works,

(e) the hearing and disposal of complaints made by the owners or occupiers of any premises with regard to the work executed by licensed plumbers, and

(f) the suspension or cancellation of licence in the case of contravention of any such regulations by any licensed plumber, whether he is prosecuted under this Act or not.

power of access to
waterworks, and drainage and
sewerage installations.

208. (1) The Chief Municipal Officer, or any agency authorized by him in this behalf, or any person appointed by the State Government in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon, or in connection with, any waterworks at all reasonable times,-

(a) enter upon, and pass through, any land within or outside the municipal area, adjacent to, or in the vicinity of, such waterworks, in whomsoever such land may vest, and

(b) convey into and through any such land all necessary materials, tools, and implements.

(2) In the exercise of any power conferred by this section, as little damage as possible may be done, and compensation for any damage which may be done in the exercise of any such power shall be paid by the Chief Municipal Officer, or the agency authorized by him in this behalf, or, if the person so appointed by the State Government has caused the damage, by the State Government.

prohibition of certain acts.

209. (1) No person shall -

(a) willfully 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) willfully 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 water-course 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 poultry 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 chapter XX, chapter XXI, and 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 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 the consent of any other consumer, supply to whom will be affected thereby.

charges for sewerage services
and levy of sewerage tax.

210. (1) The Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may, from time to time, by notification, fix the rate or rates of tax for sewerage services on the basis of number of connection points, number of lavatories, size of house connections, or quantity of sewage flow as may be assessed by the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be.

(2) For the purposes of this Act, the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, shall levy on premises situated in an area where sewerage service is made by it a tax at such rate, not being less than *per cent*, and not more than *percent*, of the assessed annual value of the premises as the Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, may, from time to time, by notification, specify, and different rates of tax may be specified for different areas after taking into consideration the economic condition of the people residing in that area:

Provided that no such tax shall be levied and collected in any area where such tax is already being collected by any authority under the provisions of any other law for the time being in force.

Entrustment of operation and maintenance of sewerage works and billing and collection of sewerage tax.

211. The Chief Municipal Officer may, with the prior approval of the Executive Authority, entrust the work of operation and maintenance of sewerage works in the municipal area and the work of billing and collection of sewerage tax to any agency.

Power of State Government to exercise control over imperfect, inefficient, or unsuitable waterworks, drainage works, or sewerage works.

212. (1) If, at any time, it appears to the State Government that any waterworks, or drainage works, or sewerage works, executed by, or vested in, the Municipality, are maintained, or worked, or run, in an imperfect, inefficient or unsuitable manner, the State Government may, by an order, in writing, direct the Municipality to show cause within such period as may be specified in the order why the waterworks, the drainage works, or the sewerage works, as the case may be, with all plants, fittings, and appurtenances thereof should not be handed over to the control and management of any person or any agency belonging to the State Government or any authority under any law for the time being in force, as may be specified in the order.

(2) If no cause is shown to the satisfaction of the State Government within the period specified in the order referred to in sub-section (I), or the cause shown appears to be untenable, the State Government may, by an order, in writing, direct that the waterworks, the drainage works, or the sewerage works, as the case may be, with all plants, fittings and appurtenances thereof shall be handed over, for such period as the State Government may fix, to the control and management of such person, or agency, or authority, as the State

Government may appoint, and on such terms and conditions as the State Government may determine.

(3) During the period fixed under sub-section (2), the complete control and management of such waterworks, drainage works, or sewerage works, as the case may be, shall vest in the person, or the agency, or the authority, as aforesaid, who shall engage such establishment for the purpose of maintaining and working of such waterworks, drainage works, or sewerage works, as the case may be, as the State Government may, from time to time, determine; and such establishment may include the employees of the Municipality who were, or have been, employed in the maintenance or working of such waterworks, drainage works, or sewerage works.

(4) The cost of such establishment, including costs of all materials, implements and stores, shall be paid out of the Municipal Fund within such period as may be fixed by the State Government.

213. (1) The Municipality shall prepare and maintain a Code to be called the Municipal Water-supply, Drainage, and Sewerage Code which shall include such regulations as may be made from time to time relating to the construction, maintenance, repair, and alteration of waterworks, water-supply mains, supply-pipes, drains, sewers, privies and urinals, cesspools, and appurtenances thereof and other matters under chapter XX or chapter XXI or this chapter.

(2) The regulations as aforesaid shall provide for inspection of premises by the Chief Municipal Officer, or any other officer, or any agency, authorized by him in this behalf, as the case may be, to ascertain compliance with the provisions of this Act and the rules and the regulations made thereunder.

Chapter XXII

I Solid Wastes

A. Functions in Relation to Solid Wastes Management

214. 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, to regulate the management and handling of municipal solid wastes and for development of any infrastructure for collection, storage, transportation, processing, and disposal of such solid wastes

municipal Water-supply,
Drainage, and Sewerage
Code.

ty of Municipality in
spect of solid wastes
management and handling.

either by itself, or through a Department, or organization, of the State Government, or any agency.

29 of 1986

Entrustment of management and handling of solid wastes and billing and collection of charges.

215. 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, 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, or the concerned Department, or any organization, of the State Government, or the agency, 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, 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 Municipality, or the concerned Department, or organization, of the State Government, or the agency, as the case may be, entrust the development of infrastructure for collection, storage, transportation, processing, and disposal of solid wastes and the work of management and handling of municipal solid wastes and 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.

216. The Municipality or the concerned Department, or organization, of the State Government, or any agency, as the case may be, shall either on its own or through the 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 solid wastes from slums and squatter areas or 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 slaughterhouses, meat and fish markets, and fruits and vegetable markets in an environmentally acceptable manner.

id wastes to be property of municipality.

217. All solid wastes deposited in public receptacles, depots, and places provided or appointed under section 218 and all solid wastes collected by the municipal employees or contractors or any agency, authorized in this behalf, shall be the property of the Municipality.

pointment of places for disposal and final disposal of id wastes.

218. The Municipality may, either on its own or through any 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 may consider suitable:

Provided that no place which has not been used before the commencement of this Act for the purposes of this section, shall be so used, except -

(i) in conformity with the provisions of any 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.

B. Collection and Removal of Solid Wastes

ty of owners and occupiers premises to store solid wastes at source of generation

219. 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 bio-degradable wastes,

(ii) recyclable or non-biogradable wastes, and

(iii) domestic hazardous wastes,

so as to ensure that the different types of wastes as aforesaid 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, excrementitious matters, bio-medical wastes and other polluted and obnoxious matters to be collected from the premises of such owners and occupiers 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.

ty of Cooperative Housing
Society, Apartment Owners'
Association, etc.

220. It shall be the duty of the managements of co-operative housing societies, apartment owners' associations, residential and non-residential building complexes, educational buildings, institutional buildings, assembly buildings, business 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 for their subsequent collection and removal by the Municipality:

Provided that a separate community bin shall be provided for the storage of recyclable wastes where door-to-door collection is not made.

Prohibitions.

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

(a) litter any public place 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 any public place, 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.

Penishment for littering on
streets and depositing or
allowing any solid waste.

222. (1) 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 punished on the spot with a fine, being not less than one hundred rupees, as may be determined by regulations from time to time.

(2) Such spot fines may be collected by officers, not below the rank of a sanitary inspector, duly authorized by the Municipality in this behalf.

bio-medical wastes. 223. It shall be the duty of the Municipality, either on its own or through any 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, to regulate the management and handling of bio-medical wastes to the extent such rules apply to the Municipality.

29 of 1986.

hazardous wastes. 224. It shall be the duty of the Municipality, either on its own or through any 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, to regulate the management and handling of hazardous wastes to the extent such rules apply to the Municipality.

Chapter XXIV

Markets, Commercial Infrastructure, and Slaughterhouses

Commercial Infrastructure. 225. The Municipality may, either on its own or through any agency authorized by it in this behalf, implement any scheme for construction, operation, maintenance, and management of commercial infrastructure including district centres, neighbourhood shopping centres, shopping malls, and office complexes, and may rent out, lease, or dispose by outright sale, such commercial infrastructure or any part thereof.

Provision of municipal markets and slaughterhouses. 226. (1) The Chief Municipal Officer may, either on his own or through any agency, provide and maintain in the municipal area such number of municipal markets, slaughterhouses, or stockyards, as he thinks fit, together with stalls, shops, sheds, pans, and other buildings and conveniences for the use of persons carrying on trade or business and may provide and maintain in any such markets, buildings, or other places, machines, weights, scales, and measures for the weighment or measurement of goods sold therein.

(2) Subject to such directions as the Municipality may give in this behalf, the Chief Municipal Officer or any agency, as the case may be, may, by a notice, in writing, close any municipal market or slaughterhouse or stockyard or any portion thereof, on and from such date as may be specified in the notice, and, thereupon, the premises occupied for any municipal market, slaughterhouse, or stockyard, or any portion thereof, so closed, may be disposed of as the property of the Municipality.

e of municipal markets.

227. (1) No person shall, without the general or special permission, in writing, of the Chief Municipal Officer, sell, or expose for sale, any animal or article in any municipal market within the municipal area.

(2) Any person contravening the provisions of sub-section (1), and any animal or article exposed for sale by such person, may, by or under the order of the Chief Municipal Officer, be summarily removed from the market by any police-officer or by any officer or other employee of the Municipality, authorized by the Chief Municipal Officer in this behalf.

ty of stallage, rent and fee.

228. Subject to such regulations as may be made from time to time, the Chief Municipal Officer, either on his own or through any agency, as the case may be, may charge stallage, rent, or fee for the occupation of, or the use of facilities in, a municipal market or a municipal slaughterhouse.

PART VI

URBAN ENVIRONMENTAL MANAGEMENT, COMMUNITY HEALTH, AND PUBLIC SAFETY

Chapter XXV

Local Agenda for Urban Environmental Management

ties of Municipality.

229. (1) Having regard to the links between urban economy, infrastructure, productivity, poverty, and environmental health in the municipal area, the Municipality shall take adequate measures for -

- (a) managing urban environment,
- (b) measuring quality of living and working environment,
- (c) monitoring pollution levels, and
- (d) undertaking health risk assessment.

(2) For carrying out the purposes of sub-section (1), the Municipality shall involve such agencies and community based organizations, either in the public sector or in the private sector, as may be necessary to -

- (a) carry out studies on vulnerability and risk assessment,
- (b) enhance the capability of the Municipality or agencies through research and training activities for better management of environment,
- (c) prepare environmental management strategy and action plan, and establish adequate institutional framework for the implementation thereof, and
- (d) provide and manage environmental infrastructure services.

functions in relation to urban environmental management and submission of report on environmental status of municipal area.

230. (1) Without prejudice to the generality of the provisions of section 229, the Municipality shall, either on its own, or through a Department, or organization, of the State Government, or any agency, undertake functions relating to the following matters :-

- (a) supply of safe water,
- (b) low cost sanitation,
- (c) environmentally sound solid waste management,
- (d) toxic waste collection and disposal,
- (e) waste recycling and recovery,
- (f) control of air pollution,
- (g) control of sound pollution,
- (h) control of cattle and other animals in the municipal area,
- (i) area improvement and resettlement,
- (j) promotion of urban agriculture and urban forestry,
- (k) maintenance of forests excluding tree-felling, development

of parks, gardens, and open spaces,

(l) promotion of community awareness of environmental education, and

(m) such other matters as the Municipality may consider necessary.

(2) The Municipality shall, for undertaking the functions as aforesaid, obtain technical personnel from the Forest, Environment and Wildlife Management Department of the State Government.

(3) The Chief Municipal Officer shall prepare and submit a report on the environmental status of the municipal area at the time of submission of the budget estimates.

Chapter XXVI

Environmental Sanitation and Community Health

A. Duties and General Powers

231. It shall be the duty of the Municipality or any agency authorized by it in this behalf to take adequate measures for each of the following matters, namely :-

(a) inspection, supervision, regulation, and control of premises to ensure proper environmental sanitation,

(b) regulation of public bathing and washing,

(c) provision for, and maintenance of, public conveniences,

(d) grant of licence for keeping animals, and control of stray animals,

(e) grant of licence to -

(i) butchers, and

(ii) owner of slaughterhouses, and

(f) control of nuisance.

232. Subject to such regulations as may be made in this behalf, the Chief Municipal Officer may, either on his own or through any agency authorized by him in this behalf, -

(a) cause any building or other premises to be inspected for the purpose of ascertaining the sanitary condition thereof,

(b) require the owner or the occupier of any land or building or any part thereof to cleanse such land or building or part thereof, if it appears to him or such agency, as the case may be, to be necessary so to do for reasons of sanitation,

(c) issue such order as he deems necessary for the improvement of any unsanitary hut or shed and untenanted premises which are likely to cause risk of disease to the inmates thereof or to the inhabitants of the neighborhood or are, for any reason, likely to endanger community health or safety,

(d) by a notice, in writing, prohibit the owner or the occupier from the use of any building, or any room in a building, which appears to him to be unfit for human habitation, as dwelling, or

(e) direct the filling up of any well, pool, ditch, tank, pond, pit or undrained ground, cistern, or reservoir of any waste or stagnant water, which appears to him to be, or which is likely to become, injurious to health or offensive to the neighborhood.

233. (1) The Chief Municipal Officer may, by a general order, or by a special order affecting such portion of the municipal area as may be specified therein, prohibit –

(a) the making of excavation for the purpose of taking earth therefrom or storing rubbish or offensive matter therein,

or

(b) the digging of cesspool, tanks, ponds, wells, or pits, without his special permission.

(2) No person shall make any excavation referred to in clause (a), or dig any cesspool, tank, pond, well, or pit referred to in clause (b), of sub-section (1) in contravention of any such order.

(3) If any excavation is made, or any cesspool, tank, pond, well, or

pit is dug, in contravention of the order under sub-section (1), the Chief Municipal Officer may, by a notice, in writing, require the owner or the occupier of the land, on which such excavation is made or such cesspool, tank, pond, well, or pit is dug, to fill it up with earth or other material approved by him.

234. Subject to the provisions of the Sikkim Forest, Water Courses and Road Reserve (Preservation and Protection) Act, 1988, the Chief Municipal Officer may, if he thinks fit, by a notice, in writing, require the owner of any land in the municipal area on which trees, shrubs, or hedges grow, to keep such trees, shrubs, or hedges *in a trim condition* so that such trees, shrubs, or hedges do not obstruct traffic on any street or pose any danger to public safety or overhang any street causing inconvenience or danger to the passers-by.

Act No.6 of 1988.

B. Regulation of Public Bathing, Washing, etc.

235. The Chief Municipal Officer may, by an order, in writing, -
- (a) regulate the use by the public of any river, *jhora*, or other public place, whether vested in the Municipality or not, for bathing or washing,
 - (b) prohibit the use by the public of any *jhora*, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream, or well, or any part of any river, whether vested in the Municipality or not, for bathing or washing,
 - (c) prohibit stepping in any tank, reservoir, stream, well, or ditch of any animal, vegetable, or mineral matter likely to render the water thereof offensive or dangerous to health,
 - (d) prohibit bathing in any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream, or well by a person suffering from any contagious or infectious disease,
 - (e) prohibit any person, engaged in any trade or manufacture, from causing to flow into any *jhora*, lake, tank, reservoir, cistern, well, duct, or other place for storage of water, whether vested in the Municipality or not, or drain, or pipe, communicating therewith, any washing or other substance produced in the course of any such trade or manufacture, or willfully do any act connected with any such trade or

manufacture whereby such water is likely to be fouled or corrupted, or

- (f) prohibit the washing of clothes by washer men in pursuance of their calling, except at such places as may be licensed for such purpose

C. Public Conveniences

236. (1) The Municipality shall, by itself or through any agency, provide and maintain in proper and convenient places a sufficient number of public latrines and urinals for use by the public.
- (2) Such public latrines and urinals may be so constructed as to provide separate compartments for each sex.

D. General Provisions

237. (1) No person shall-
- (a) commit any nuisance in any public street or public place, or
- (b) unauthorizedly affix upon any building, monument, post, wall, fence, tree, or other thing, any bill, notice, or other document, or
- (c) unauthorizedly deface, or write upon, or otherwise mark, any building, monument, post, wall, fence, tree, or other thing, or
- (d) carry rubbish, filth, or other polluted and obnoxious matter along any route in contravention of any prohibition in this behalf by the Chief Municipal Officer by a notice, in writing, or
- (e) bury, or cremate, or otherwise dispose of, any corpse at a place not licensed for the purpose, or
- (f) disturb public peace or order in violation of noise pollution control order, if any, or
- (g) cause pollution of air in violation of air pollution control order, if any, or
- (h) cause obstruction to the movement of vehicular or pedestrian traffic without permission from the competent authority.
- (2) Where the Chief Municipal Officer is of the opinion that there is a nuisance on any land or building, he may, by a notice, in writing, require the person by whose act, default, or sufferance the nuisance arises or continues or the owner, lessee or occupier of such land or building to remove or abate the nuisance by

taking such measures, in such manner, and within such period, as may be specified in the notice.

- (3) Where the Chief Municipal Officer is of the opinion that immediate removal of any nuisance continuing on any land or building in contravention of the provisions of this Act is necessary, he may, for reasons to be recorded in writing, cause such nuisance to be removed forthwith.

ontrol of pollution.

- 238. Subject to the provisions of any law relating to air, water or noise pollution for the time being in force and in accordance with any notification by the State Government in this behalf, the Municipality -

- (a) may, with the prior authorization by the State Pollution Control Board (hereinafter referred to in this section as the Board), function as a competent authority for the enforcement of such law,
- (b) shall submit an annual report to the Board, and
- (c) may refer to the Board any other matter pertaining to environmental pollution for advice and guidance on, and regulation of, such pollution.

ver to require wells, tanks, , to be rendered safe.

- 239. Where in any municipal area, any *jhora*, well, tank, reservoir, pool, depression, or excavation, or any bank, or tree is, in the opinion of the Chief Municipal Officer, in a ruinous state for want of sufficient repairs, protection, or enclosure and is a nuisance or is dangerous to passers-by, the Chief Municipal Officer may, by a notice, in writing, require the owner or the part-owner or any other person claiming to be the owner or the part-owner thereof, or failing any of them, the occupier thereof, to repair, protect, or enclose *such jhora*, well, tank, reservoir, pool, depression, excavation, bank or tree in such manner as he thinks necessary, and if, in the opinion of the Chief Municipal Officer, the danger is imminent, he shall forthwith take such steps as he thinks necessary to avert such danger.

arrying, blasting, cutting ber, or carrying on lding operation.

- 240. No person shall quarry, blast, cut timber, or carry on building operations in such manner as to cause, or is likely to cause, danger to persons passing by, or dwelling or working in, the neighborhood

ver to stop improper use of d or building.

- 241. If, within any municipal area, any land or building, by reason of its being abandoned or unoccupied, -

(a) is in a filthy or unwholesome state, or

(b) has become a resort for -

(i) idle and disorderly persons, or

(ii) persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or

(c) is used for gambling or immoral purposes, or

(d) is likely to occasion a nuisance, the Chief Municipal Officer may, after due enquiry, by a notice, in writing, require the owner or the part owner or any person claiming to be the owner or the part owner of such land or building, or the lessee, or any person claiming to be the lessee, thereof to -

(i) secure, enclose, cleanse, or clear such land or building, or

(ii) stop use of such land or building for gambling or immoral purposes, or

(iii) abate the nuisance, within such time as may be specified in the notice, and shall affix a copy of such notice on the door of the building or on some conspicuous part of the land, as the case may be.

luters to pay.

242. The Municipality may, by regulations, provide for recovery of charges from, or imposition of penalty on, such persons as are directly responsible for causing pollution of any kind referred to in this chapter.

Chapter XXVII

Restraint of Infection

municipality to prevent and check dangerous disease.

243. (1) It shall be the duty of the Municipality to take such measures as are necessary for preventing, or checking the spread of, any dangerous disease in the municipal area or any epidemic disease among any animals therein.

(2) Any person, whether as a medical practitioner or otherwise, being in charge of, or in attendance upon, any other person, whom he knows to be, or has reason to believe to be, suffering from a

dangerous disease, or being the owner, lessee, or occupier of any building in which he knows that any such person is so suffering, shall forthwith give information respecting the existence of such disease to the Chief Municipal Officer.

power of Chief Municipal Officer to inspect any place and take measures to prevent the spread of dangerous disease.

244. (1) The Chief Municipal Officer may, at any time, by day or by night, and with or without notice, inspect any place in which any dangerous disease is reported or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place, and shall forthwith send information thereof to the State Government, the District Collector, and the seniormost functionary of the Health Department of the State Government in the District.

(2) When any person suffering from any dangerous disease is found to be -

(a) without proper lodging or accommodation, or

(b) living in a room or house which he neither owns nor pays rent for, nor occupies as a guest or relative of the person who owns, or pays rent for, such room or house, or

(c) living in a *sarai*, hotel, boarding house, or hostel, or

(d) lodged in premises occupied by members of two or more families, the Chief Municipal Officer, or any person authorized by him in this behalf, may, on the advice of any Medical Officer, remove the person so suffering to any hospital or place at which persons suffering from such disease are received for medical treatment and may do anything necessary for such removal.

power of Chief Municipal Officer to cleanse, disinfect, destroy, or control places of infection.

245. (1) The Chief Municipal Officer may cleanse, or disinfect, or cause *destruction of any building, hut or shed, water-source, or lodging house or eating house*, if, in his opinion, such cleansing, disinfection, or destruction would tend to prevent, or to check the spread of, any dangerous disease, and, in case of any emergency, he may cause such cleansing or disinfection to be done by the employees of the Municipality at the cost of the owner or the occupier of such building, hut or shed, water-source, lodging house, or eating house, as the case may be, or, at the cost of the Municipality, if, in his opinion, such owner or occupier is unable to pay the cost owing to

poverty.

(2) Where the Chief Municipal Officer is satisfied that the destruction of any building, hut or shed, or clothing, or article is immediately necessary for the purpose of preventing the spread of any dangerous disease, he may cause such building, hut or shed, or clothing, or article to be destroyed:

Provided that compensation may be paid by the Chief Municipal Officer to any person who sustains substantial loss by the destruction of such building, hut or shed, or clothing, or article.

(3) The Chief Municipal Officer may, on being satisfied that it is in the public interest so to do, by an order, in writing, direct that any lodging house or any place in the municipal area where articles of food and drink are sold, prepared, stored, or exposed for sale, being a lodging house or place in which a case of dangerous disease exists or has recently occurred, shall be closed for such period as may be specified in the order:

Provided that such lodging house or place may be declared to be open, if the Municipal Health Officer certifies that it has been disinfected or is free from infection.

(4) The Chief Municipal Officer or any person authorized by him may, at all reasonable times, enter into, and inspect, any market, building, shop, stall, or place, used for the sale of food or drink, or as a slaughterhouse, or for the sale of drug, and inspect and examine any food, drink, animal, or drug, which may be therein, , and, if such article of food or drink or animal or drug, intended for the consumption of persons, appears to be unfit for such consumption, he may, by a notice, in writing, restrict the sale of such food, drink, animal or drug, as the case may be, in such manner, and for such period, as he may deem fit.

(5) If the Chief Municipal Officer is of the opinion that the water in any *jhora*, well, tank, or other place in the municipal area is likely to cause the outbreak or spread of any disease, he may, by a notice, in writing, prohibit the removal or use of such water for drinking, and require the owner or the person having control of such well, tank, or

other place to take such steps as may be required by such notice to prevent the public from having access to, or from using, such water, and may take such other steps as he may consider necessary or expedient to prevent the outbreak or spread of such disease:

Provided that in the case of an emergency, the Chief Municipal Officer or any person authorized by him in this behalf may, for the purpose of preventing the spread of any dangerous disease, with or without notice and at any time, inspect and disinfect any *jhora*, well, tank, or other place from which water is, or is likely to be, taken,

Special measures in case of outbreak of dangerous or epidemic diseases.

246. (1) In the event of any municipal area or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Chief Municipal Officer may, if he thinks that the

provisions of this Act and the provisions of any other law for the time being in force are insufficient for the purpose of preventing the outbreak of such disease, with the previous approval of the Municipality, -

(a) take such special measures, and

(b) by a notice, in writing, give such directions to be observed by the public or by any class or section of the public as he thinks necessary, to prevent the outbreak of such disease:

Provided that where, in the opinion of the Chief Municipal Officer, immediate action is necessary, he may take such action without such approval and, if he does so, he shall forthwith report such action to the Municipality.

(2) Any person, who commits a breach of any direction given in the notice under clause (b) of sub-section (1) shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

45 of 1860.

Means for disinfection.

247. (1) The Municipality may, in its discretion, or shall, when the State

Government so directs, -

(a) provide proper places within the municipal area with necessary attendants and apparatus for disinfection of conveyances, clothings, beddings, or other articles which have been exposed to infection, and

(b) cause conveyances, clothings, beddings, or other articles brought for disinfection, to be disinfected, either free of charge or on payment of such charges as it may fix.

(2) The Chief Municipal Officer may notify places at which such conveyances, clothings, beddings, or other articles, which have been exposed to infection, shall be washed and, if he does so, no person shall wash any such conveyances, clothings, beddings, or other articles at any place, not so notified, without previous disinfection.

(3) The Chief Municipal Officer may direct the destruction of any clothing, bedding, or other article, which is likely to retain infection, and may give such compensation as he thinks fit for such clothing, bedding, or other article, so destroyed.

Special conveyance for
carrying infected persons.

248. (1) Subject to such regulations as may be made in this behalf, the Chief Municipal Officer may, either on his own or through any agency, provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or dead bodies of persons who died of such disease.

(2) The Chief Municipal Officer may, either on his own or through any agency, provide for disinfection of any public conveyance, which carried any person suffering from a dangerous disease or corpse of any person who died of such disease.

Prohibitions.

249. Subject to such regulations as may be made in this behalf, the Chief Municipal Officer may prohibit -

(a) the letting out of any infected building without being first disinfected,

(b) the disposal of infected articles without disinfection,

(c) the washing of any infected clothes by any washerman or laundry, and

- (d) the making and selling of food, or washing of clothes, by infected persons.

Chapter XXVIII

Disposal of the Dead

ts prohibited in connection
h disposal of dead.

250. (1) No person shall -

- (a) retain a corpse in any premises without burning or burying it, or otherwise lawfully disposing of it, for so long a time after death as may create a nuisance,
- (b) carry a corpse, or any part of a corpse, along any street without having or keeping such corpse or part of such corpse decently covered, or without taking such precautions to prevent risk of infection or injury to the community health as the Chief Municipal Officer may, by a notice, in writing, from time to time, require,
- (c) carry a corpse or part of a corpse along any street on which the carrying of corpse is prohibited by a notice, in writing, issued by the Chief Municipal Officer in this behalf, except when no other route is available,
- (d) remove a corpse or part of a corpse, which has been kept or used for the purpose of dissection, otherwise than in a closed receptacle or vehicle,
- (e) place or leave a corpse or part of a corpse, during its conveyance, on or near any street without urgent necessity ,
- (f) bury, or cause to be buried, any corpse or part of a corpse in the grave, or vault, or otherwise, in such manner as may cause the surface of the coffin or, when no coffin is used, of the corpse or part of the corpse to be at a depth of less than two metres from the surface of the ground,
- (g) build, dig, or cause to be built or dug, any grave or vault in any burial ground at a distance of less than one-half of a metre from the margin of any other grave or vault,
- (h) build or dig, or cause to be built or dug, a grave or

vault in any burial ground in any line, not marked out by or under the order of the Chief Municipal Officer for such purpose,

(i) reopen for the interment of a corpse or any part of a corpse a grave or vault already occupied, without the permission, in writing, of the Chief Municipal Officer,

(j) make, without the permission of the Chief Municipal Officer, any vault or grave for interment within any wall, or underneath any passage, porch, portico, plinth, or verandah, of any place of worship,

(k) build, dig, or cause to be built or dug, any grave or vault, or, in any way, dispose of, or suffer or permit to be disposed of, any corpse at any place, which is not permitted under this chapter, without the permission of the Chief Municipal Officer, and

(l) exhume, without the permission of the Chief Municipal Officer, any body from any place for the disposal of the dead except under the provisions of the Code of Criminal Procedure, 1973, or any other law for the time being in force.

2 of 1974.

(2) The Chief Municipal Officer may, in special cases, grant permission for any of the purposes referred to in clauses G) to (I) of sub-section (I), subject to such general or special order as the State Government may, from time to time, make in this behalf.

(3) Any contravention of the provisions of clauses G) to (I) of sub-section (I) shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973.

2 of 1974.

251. (1) Subject to such regulations as may be made in this behalf, every owner or person having the control of any place which is already used for disposal of the dead, but which has not vested in, or is owned by, the Municipality or any Board appointed by the State Government for administration of such place, shall submit to the Chief Municipal Officer an application for registration of such place, containing such particulars as may be specified by the Municipality, within a period of three months from the date of commencement of this Act.

(2) If the Chief Municipal Officer is satisfied with the application and the particulars under sub-section (I), he may register such place on such terms and conditions as may be provided by regulations.

(3) The Chief Municipal Officer may, with the approval of the Chief Councillor, provide suitable and convenient place for the disposal of the dead within or outside the municipal area, subject to the provisions of any State Act regulating such land use or, in the absence of any State Act in this behalf, with the approval of the State Government.

(4) No place which has not previously been lawfully used or registered for the disposal of the dead shall be opened for such disposal except in conformity with the provisions of any State Act regulating such land use or, in the absence of any State Act in this behalf, with the approval of the State Government.

posals of dead animals.

252. (1) Whenever any animal, which is under the charge of any person, dies, such person shall, within twenty-four hours of such death, either, -

(a) convey the carcass to a place provided or appointed under this Act for the final disposal of carcasses of dead animals, or

(b) give notice of the death of such animal to the Chief Municipal Officer, whereupon he shall cause the carcass to be disposed of.

(2) The Chief Municipal Officer may, for the purpose of the disposal of the carcass of a dead animal referred to in clause (b) of sub-section (1), charge such fee as may be determined by the Municipality by regulations.

(3) Where any dead animal does not belong to any person, the Chief Municipal Officer shall act immediately for causing the carcass to be disposed of.

Chapter XXIX

Forests in Municipal Area, Parks, Gardens, Trees, and Playgrounds

municipality to implement
schemes.

253. (1) The Municipality shall take necessary steps for-

- (a) maintenance of forest, excluding tree-felling, located within the municipal area.
- (b) promotion of urban forestry,
- (c) creation of public parks and gardens, and planting of trees,
- (d) provision of parks and playgrounds for children and youth,
- (e) provision of street-side gardens,
- (f) encouragement of nurseries, and
- (g) organization of flower shows.

(2) For the purposes of sub-section (I), the Municipality shall obtain technical personnel from the Forest, Environment and Wildlife Management Department of the State Government.

(3) The Municipality may, from time to time, take steps to promote awareness about the national heritage of flora and fauna among the school children and the youth.

harvesting of rain water.

254. (1) In every building owned or occupied by the State Government or a statutory body or a company or an institution owned or controlled by the State Government or in public parks, gardens, and other open spaces under its administrative control, rain water harvesting structure shall be provided in such manner as may be prescribed.

(2) The Municipality may, from time to time, take steps to promote harvesting of rain water and may also undertake campaigns to promote public awareness of conservation of rain water.

**PART VII
REGULATORY JURISDICTION**

**Chapter XXX
Development Plan and Local Area Plan**

presentation in District Planning Committee

255. Having regard to the provisions of article 243ZD of the Constitution of India and of any State law enacted under this article, a Municipality shall participate in the election of members of the District Planning Committee and such members shall actively represent the interests of the Municipality in such Committee.

municipality to implement development plans.

256. (1) Having regard to the draft development plan, as prepared by the

District Planning Committee and as approved by the State Government, the Municipality shall implement such components of such development plan as relate to its jurisdiction and carry out such functions as may be assigned to it in this behalf.

(2) Without prejudice to the generality of the foregoing provisions of this section, the Municipality shall by itself or through any other agency undertake, subject to such directions as the State Government may give in this behalf, from time to time, preparation of plans for infrastructure development including water-supply, drainage and sewerage, solid waste management, roads, and transport system accessories.

Local Area Plan, context, and objectives.

257. (1) Subject to such directions as the State Government may give from time to time and the provisions of the Sikkim Urban and Regional Planning and Development Act, 1998, the Municipality may prepare one or more Local Area Plans:

Act No.7 of 1998.

Provided that the Municipality may also prepare, subject to the provisions of this chapter, a Local Area Plan on the basis of any petition by the residents of any area within the jurisdiction of the Municipality.

(2) A Local Area Plan may be prepared in accordance with the provisions of this Act in respect of any land which is -

(a) vacant, or

(b) in the course of development, or

(c) already built upon.

(3) A Local Area Plan -

(a) may be prepared to achieve, and

(b) shall not be limited to the achievement of, the following objectives :-

(i) development or re-development of land, and conservation of buildings, natural features or other physical features,

(ii) providing improvements in the physical layout, making infrastructure and amenities available and managing

the area to enhance health and safety of the occupants to support economic development as well as to enhance the quality of living environment, and

- (iii) preparation of area specific regulatory parameters for Local Area Plan

Explanation. -"area specific regulatory parameters for Local Area Plan" shall include height of buildings, quantum of built-up area, regular lines of streets and building lines, setbacks, floor area ratios, facade controls, parking spaces, loading and unloading spaces, sizes and locations of projections and advertisement signs, and circulation pattern,

(4) A Local Area Plan, which may be prepared to achieve the objectives referred to in sub-section (3), may provide for, but shall not be limited to, the following matters-

- (a) preparation of -

- (i) area specific regulatory parameters for Local Area Plan for an area included in such Local Area Plan,

- (ii) plan for laying out, or re-laying out, of land, either vacant or already built upon,

- (iii) plan showing the layout of new streets or construction, diversion, extension, alteration or improvement, or closing up, of streets, and discontinuance of communications,

- (iv) urban design plans for the area which may include height of buildings, quantum of built- up area, regular lines of streets and building lines, setbacks, floor area ratios, facade controls, parking spaces, loading and unloading spaces, sizes and locations of projections and advertisement signs, and circulation pattern;

- (b) allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, transport facilities, and public purposes of all kinds.

Explanation. -"public purpose" shall mean any purpose concerning, or open to, the people as a whole;

- (c) reservation of land for sale by the Municipality for

residential, commercial, or industrial use, depending upon the nature of the anticipated development;

(d) construction, alteration, or removal of buildings, bridges, and other structures; and

(e) filling up, or reclamation, of low-lying, swampy, or unhealthy areas, or levelling of land:

Provided that the maximum height of building on any land shall be in accordance with the suitability and profiles of the locations based on the stability map of the area as prepared by the Mines and Geology Department of the State Government.

Chapter XXXI Public Streets

A. General Powers

aintenance and
classification of public streets.

258. (1) Subject to such directions as the State Government may give from time to time, all public streets in the municipal area shall be maintained either by the Roads and Bridges Department of the State Government or the Municipality

(2) The Executive Authority shall classify all public streets in the municipal area in the following categories :-

(a) category I -roads other than district roads,

(b) category II -approach roads other than category I roads, and

(c) category III -paths and passages,

(3) The classification shall be done with due regard to the traffic role of the particular public street and the nature and volume of traffic on it, its existing width, and abutting land uses.

aming and numbering of
streets.

259. (1) Subject to such directions as the State Government may give from time to time, the Municipality shall -

(a) determine the name or number by which any street or public place vested in it shall be known,

b) cause to be put up or painted at a conspicuous part of any building, wall or place at or near each end, corner or entrance of such street or some convenient part of such street, the name or number by which it shall be known, and

(c) cause to be put up or painted on boards of suitable size the name of any public place vested in the Municipality.

(2) The Municipality may, having regard to the hierarchy of the street system, by regulations, specify the norms according to which the streets may be named or numbered.

(3) No person shall destroy, remove, deface, or, in any way, injure or alter any such name or number or sub-number put up, or paint any name or number or sub-number different from that put up or painted by order of the Municipality.

unique premises number.

260. (1) The Municipality shall, when so required by the State Government, assign a unique premises number to every premises or part thereof in the municipal area and shall cause to be maintained a register wherein such unique premises number shall be recorded in respect of each such premises.

Explanation. -In this section, the expression "unique premises " number" shall mean a number assigned to the premises or part thereof by the Municipality in the following manner, namely :-

(a) the first three digits indicating the ward number, (b) the next three digits indicating the street number,

(c) the next four digits indicating the premises number, (d) the next three digits indicating the sub-premises number,

(e) the next one digit indicating the code of the building use, such as residential, commercial, industrial or other use, and

(f) the last one digit indicating the code of type of construction.

(2) When the unique premises numbers in respect of premises in any ward of the Municipality have been determined, the Chief Municipal Officer shall notify such unique premises numbers in such manner as may be prescribed.

(3) When, after the unique premises numbers in respect of premises in any ward have been notified under sub-section (2), any person who is required under this Act or any other State law to make any application to the Municipality for any permission or licence or for payment of any tax, or for payment of any dues for any service, or for such other purposes as may be prescribed, the person making the application shall mention in the application the unique premises number assigned under sub-section (1).

rights of way for public
utilities.

261. Subject to the provisions of the Indian Telegraph Act, 1885, the Indian Electricity Act, 1910, the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988 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 :-

13 of 1885. 9 of 1910. Act No.6 of 1988.

(a) the sanction by the Municipality of specific rights of way in any land, other than the forest land, or sub-soil of public or 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 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 public utilities in the municipal area,

maps of public utilities.

262. The Chief Municipal Officer shall cause to be maintained complete survey maps, drawings and descriptions of all public utilities in the municipal area, and maps of fire hydrants and sewerage man-holes in such Form, and in such manner, as may be provided by regulations, and shall ensure the secrecy of the same in conformity with the provisions of any law relating to right to information.

power to prohibit use of
public streets for certain kind
of traffic.

263. The State Government shall, by rules, provide for prohibition of use of public streets for certain kind of traffic.

B. Regular Line of Street Defining regular line of street.

264. (1) Subject to such directions as the State Government may give from time to time, the Municipality may define the regular line on one or both sides of any public street or portions thereof in accordance with the regulations made in this behalf and may redefine at any time any such regular line:

Provided that before such defining or redefining, as the case may be, the Municipality shall, by notice, afford a reasonable opportunity to the residents of premises abutting on such public street to make suggestions or objections with respect to the proposed defined or redefined line of the street and shall consider all such suggestions or objections which may be made within one month from the date of publication of such notice:

Provided further that the street alignment of any public street operative under any law for the time being in force in any part of the municipal area immediately before the commencement of this Act, shall be deemed to be the regular line of such public street defined by the Municipality under this sub-section.

(2) The line defined or redefined shall be called the regular line of the street.

(3) No person shall construct or reconstruct any building or a portion thereof or any boundary wall or other structure whatsoever within the regular line of a street.

(4) The Chief Municipal Officer shall maintain a register containing such particulars as may be specified by the Municipality in this behalf, with plans attached thereto, showing all public streets in respect of which the regular line of the street has been defined or redefined and containing any other particulars which he may deem necessary .

(5) All such registers shall be open to inspection by any person on payment of such fee, and any extract therefrom may be supplied on payment of such charge, as may be determined by the Municipality by regulations.

C. Obstruction on Streets Temporary erection on streets during festivals.

265. The State Government shall, by rules, provide for the following matters:-

(1) temporary erection on streets during festivals,

(2) precautions during construction or repair of street, drain or premises,

(3) regulation of streets, and

(4) restoration of municipal properties by public utilities.

Chapter XXXII
Regulation of Building Activities

266. In this Chapter, unless the context otherwise requires,-

(a) "Advocate" has the same meaning as in the Advocates Act, 1961.

25 of 1961.

(b) "Advocate on Record" means a registered Advocate engaged by a person who has the right and title over the plot or lessee in respect of the plot for a building activity;

(c) "Architect" has the same meaning as in the Architects Act, 1972;

20 of 1972.

(d) "Architect on Record" means a registered Architect engaged by a person who has the right and title over the plot or lessee in respect of the plot for a building activity;

(e) "building activity" with all its grammatical variations and cognate expressions means the carrying out of any building, engineering, mining, or other operation in, over, or under, any land, or the making of any material change -

(i) in any building or land, or

(ii) in the use of any building or land.

Explanation. -"material change in any building" shall include demolition of a building or structure;

(f) "building use" means the use of a building for –

(i) residential,

(ii) educational,

(iii) institutional,

(iv) assembly,

(v) business,

(vi) mercantile (both retail and wholesale),

(vii) industrial (including low, moderate and high fire hazards),

(viii) storage, or

(ix) hazardous

Purpose, in relation to -

(1) "residential building" which means any building in which sleeping accommodation is provided for normal residential purpose with or without cooking facility or dining facility or both, and such building shall include one or two or multi-family dwelling, lodging or rooming house, hostel, dormitory, apartment house and flat, and private garage,

(2) "educational building" which means any building used for school, college or day-care purpose involving assembly for instruction, education or recreation incidental to educational use.

(3) "institutional building" which means any building or part thereof ordinarily providing sleeping accommodation for occupants and used for the purpose of medical or other treatment or care of persons suffering from physical or mental illness, disease or infirmity, care of infants, convalescents or aged persons and for penal or correctional detention in which the liberty of the inmates is restricted, and such building shall include hospital, clinic, dispensary, sanatorium, custodial institution, and penal institution like jail, prison, mental hospital and reformatory,

(4) "assembly building" which means any building or part thereof where groups of people congregate or gather for amusement or recreation or for social, religious, patriotic, civic, travel, sports, and similar other purposes, and such building shall include theatre, motion picture house, drive-in-theatre, city hall, town hall, auditorium, exhibition hall, museum, skating rink, gymnasium, restaurant, eating-house, hotel, boarding-house, places of worship, dance hall, club room, gymkhana, passenger station and terminal of air, surface and other public transportation services, recreation pier,

and stadium,

(5) "business building" which means any building or part thereof used for transaction of business or for the keeping of accounts and records or for similar purposes and such building shall include office, bank, professional establishment, court house, and library for the principal function of transaction of public business and keeping of books and records, and shall also include office buildings (premises) solely or principally used as an office or for office purpose,

(6) "mercantile building" which means any building or part thereof used as shops, stores or markets for display or sale of merchandise, either wholesale or retail, or for office, storage or service facilities incidental to the sale of merchandise and located in the same building, and such building shall include establishments wholly or partly engaged in wholesale trade, manufacturer's whole-sale outlets (including related storage facilities), warehouses, and establishments engaged in truck transport (including truck transport booking agencies),

(7) "industrial building" which means any building or structure or part thereof in which products or materials of all kinds and properties are fabricated, assembled or processed as in assembly plant, and such building shall include laboratory, power plant, smoke house, refinery, gas plant, mill, dairy, factory, workshop, automobile repair garage and printing press,

(8) "storage building" which means any building or part thereof used primarily for the storage or sheltering of goods, wares or merchandise as in warehouse, and such building shall include cold storage, freight depot, transit shed, store house, public garage, hangar, truck terminal, grain elevator, barn and stable, and

(9) "hazardous building" which means any building or part thereof used for the storage, handling, manufacture or processing of highly combustible or explosive materials or products, which are liable to burn with extreme rapidity or which may produce poisonous fumes or explosions during storage, handling, manufacture or processing or which involve highly corrosive, toxic or noxious alkalis, acids or other liquids or chemicals producing flames, fumes, explosions or mixtures of dust or which result in the division of matter into fine particles subject to spontaneous ignition;

- (g) "Construction Engineer" means a person having a bachelor's degree in civil engineering;
- (h) "Construction Engineer on Record" means a registered Construction Engineer engaged by a person who has the right and title over the plot or lessee in respect of the plot for a building activity;
- (i) "person on record" means an Advocate on Record, or an Architect on Record, or a Construction Engineer on Record, or a Structural Engineer on Record, as the case may be;
- (j) "registered Advocate" means an Advocate, registered as such by the Municipality under section 267;
- (k) "registered Architect" means an Architect, registered as such by the Municipality under section 267;
- (l) "registered Construction Engineer" means a Construction Engineer, registered as such by the Municipality under section 267;
- (m) "registered Structural Engineer" means a Structural Engineer registered as such by the Municipality under section 267;
- (n) "Structural Engineer" means a person having a bachelor's degree or equivalent degree in structural engineering;
- (o) "Structural Engineer on Record" means a registered Structural Engineer engaged by a person who has the right and title over the plot or lessee in respect of the plot for a building activity.

Registration of Advocates,
Architects, Construction
Engineers, and Structural
Engineers.

267. The Municipality shall register -

- (a) an Advocate,
- (b) an Architect,
- (c) a Construction Engineer, and
- (d) a Structural Engineer

in the books of the Municipality in such manner, upon submission of such application, on payment of such fee and security deposit, and subject to fulfilling such qualifications and conditions, as may be prescribed:

Provided that no Advocate or Architect or Construction Engineer or Structural Engineer shall be qualified to be registered under this section if he

(a) has been adjudged by a competent court to be of unsound mind, or

(b) is an undischarged insolvent, or

(c) being a discharged insolvent has not obtained from the court of competent jurisdiction a certificate that his insolvency was caused by misfortune without any misconduct on his part, or

(d) has been convicted by any court and sentenced to imprisonment for an offence involving moral turpitude and punishable with imprisonment for a period of not less than six months.

ties and responsibilities of
Advocate on Record,
Architect on Record,
Construction Engineer on
Record, and Structural
Engineer on Record.

268. (1) An Advocate on Record shall -

(a) subject to the provisions of the land laws for the time being in force investigate the right and title over the plot, or the terms and conditions of lease of the plot, on which a building activity is proposed to be undertaken, and

(b) certify in such Form as may be prescribed that the applicant for a building permit -

(i) has the right and title over, or

(ii) is the lessee in respect of the plot for which the building permit is applied for.

(2) An Architect on Record shall -

(a) issue, on satisfying himself that the architectural design and specifications for the building activity comply with the provisions of the rules in this behalf, a certificate to that effect in such Form as may be prescribed,

(b) ask the person who has the right and title over the plot or the lessee in respect of the plot if, in his opinion, the building activity is not being undertaken in accordance with the design and specifications sanctioned under this chapter, to stop the building activity till defects have been remedied to his satisfaction and shall inform the Chief Municipal Officer as

well as the Structural Engineer on Record or the Construction Engineer on Record, as the case may be, and

(c) inform the Chief Municipal Officer, the Structural Engineer on Record, and the Construction Engineer on Record in such Form as may be prescribed if, for any reason, he is relieved of his appointment or responsibilities as the Architect on Record for the building activity in respect of which he has been so appointed, within seven working days from the date of his being so relieved.

(3) A Structural Engineer on Record shall -

(a) satisfy himself that the structural design and specifications of the building activity comply with the provisions of the rules in this behalf, and shall certify to that effect in such Form as may be prescribed, and

(b) inform the Chief Municipal Officer and the Architect on Record or the Construction Engineer on Record, as the case may be, in such Form as may be prescribed if, for any reason, he is relieved of his appointment or responsibilities as Structural Engineer on Record for the building activity in respect of which he has been so appointed, within seven working days from the date of his being so relieved.

(4) A Construction Engineer on Record shall -

(a) undertake all necessary measures including, but not limited to, adequate inspection of the building activity to ensure that such building activity is undertaken in accordance with the detailed designs and specifications provided by the Architect on Record or the Structural Engineer on Record, as the case may be, and sanctioned under this chapter,

(b) give to the Chief Municipal Officer a notice of the commencement of the building activity and an undertaking, in such Form as may be prescribed, that the building activity shall be undertaken in accordance with the detailed designs and specifications provided by the Architect on Record and the Structural Engineer on Record and sanctioned under this chapter,

c) certify in such Form, and at such stages, as may be prescribed that the building activity has been carried out in

accordance with the detailed designs and specifications provided by the Architect on Record or the Structural Engineer on Record, as the case may be, and sanctioned under this chapter,

(d) inform the Chief Municipal Officer immediately in such Form as may be prescribed if the building activity is not being undertaken in accordance with the design and specifications sanctioned under this chapter, and

(e) inform the Chief Municipal Officer and the Architect on Record or the Structural Engineer on Record, as the case may be, in such Form as may be prescribed if, for any reason, he is relieved of his appointment or responsibilities as Construction Engineer on Record for the building activity in respect of which he has been so appointed, within seven working days from the date of his being so relieved.

Registration of registered
advocate, registered
architect, registered
construction Engineer, and
registered Structural
Engineer.

269. If any-

- (a) registered Advocate, or
- (b) registered Architect, or
- (c) registered Construction Engineer, or
- (d) registered Structural Engineer fails to discharge his duties and responsibilities under this chapter, the Chief Municipal Officer may, after giving him a reasonable opportunity of being heard in such manner as may be prescribed, and by an order, in writing, remove his name from the books of the Municipality and, thereupon, he shall cease to be a registered Advocate or registered Architect or registered Construction Engineer or registered Structural Engineer, as the case may be.

Liability of person
undertaking building activity.

270. (1) Any person who, in accordance with the land laws being in force from time to time -

- (a) has the right and title over a plot, or
- (b) is the lessee in respect of a plot, on which a building activity is proposed to be undertaken shall apply for a building permit.

(2) Such person shall -

(a) be responsible for ensuring that the building activity complies with the provisions of the rules in this behalf,

(b) appoint, where necessary, -

(i) an Advocate on Record to ensure and to certify that the applicant for the building permit is the person who has the right and title over the plot or the lessee in respect of the plot on which the building activity is proposed to be undertaken,

(ii) an Architect on Record to ensure and to certify that the architectural design and specifications of the building activity comply with the provisions of the rules in this behalf,

(iii) a Structural Engineer on Record to ensure and to certify that the structural design and specifications of the building activity comply with the provisions of the rules in this behalf,

(iv) in the case of such types of buildings as may be specified by rules in this behalf, an independent Structural Engineer having such qualifications as may be prescribed to undertake a third party verification of the structural design and specifications for the building activity, and to verify and certify that the design and specifications of such building activity comply with the provisions of the rules in this behalf,

(v) a Construction Engineer on Record to ensure and to certify that the building activity has been undertaken in accordance with the detailed design and specifications certified by the Architect on Record appointed under sub-clause (ii) or the Structural Engineer on Record appointed under sub-clause (iii), as the case may be,

(c) obtain a building permit prior to the commencement of the building activity,

(d) obtain a building use permit prior to making use of, or occupying, a building or any part thereof,

(e) inform the Chief Municipal Officer, in writing, if, for any

reason, he ceases to be the person who has the right and title over the plot or the lessee in respect of the plot for which a building permit has been obtained by him, regardless of whether the building activity has commenced or not, within seven working days from the date of such cesser,

(f) inform the Chief Municipal Officer, in writing, if, for any reason, any of the persons on record appointed by him under this section has been relieved of his duties and responsibilities under section 268, within seven working days from the date of his being so relieved, and

(g) ensure that no building activity is undertaken after the building permit has lapsed or has been revoked.

r to undertake building
activity without building
permit or on order of Chief
Municipal Officer suspending
building activity.

271. (1) No person shall undertake any building activity without obtaining a building permit prior to the commencement of such building activity except in such cases as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Chief Municipal Officer may, on receipt of any information or upon his knowledge that any provision of this Act regulating any building activity has been violated, issue an order suspending such building activity, pending the determination of such violation.

ilding permit to be granted
the Architect on Record in
tain cases and his
responsibility to file
documents and deposit fees
h the Municipality

272. Subject to the provisions of clauses (a) and (b) of sub-section (2), and clauses (a) and (b) of sub-section (3), of section 268, an Architect on Record shall grant a building permit in such cases, and in such manner, and shall be responsible for submitting such documents to, and depositing such fee with, the Municipality before granting the building permit as aforesaid, as may be prescribed:

Provided that the grant of any such building permit shall be subject to review by the Chief Municipal Officer and if, during such review, it appears to the Chief Municipal Officer that the building permit as aforesaid has been granted in contravention of any provision of this Act or the rules made thereunder, the Chief Municipal Officer may, after giving the Architect on Record an opportunity of being heard, revoke such building permit, and, thereupon, the provisions of section 278 shall apply.

ilding permit to be granted
Chief Municipal Officer in
other cases of building
activity.

273. Except as otherwise provided in section 271 and section 272, the Chief Municipal Officer shall grant a building permit in all other

cases of building activity on such application, and in such manner, as may be prescribed.

emmed refusal to grant
lding permit in case of
ure of Chief Municipal
icer to dispose of
plication for building
mit and right of applicant
ppeal to State
vernment.

274. (1) If the Chief Municipal Officer fails to dispose of an application for a building permit under section 273 within twenty-one working days from the date of receipt of such application, the person who has the right and title over the plot or the lessee in respect of the plot may presume that his application has been rejected and may, upon such presumption, make, subject to the provisions of sub- section (3) of section 285, an appeal to the State Government.

(2) Upon receipt of such appeal, the State Government may call for a report from the Chief Municipal Officer and dispose of the appeal with such direction as it deems fit within a period of one month from the date of the appeal.

omatic lapse of building
mit on change of right and
e of land or building or
ns and conditions of lease
land or building or on
son on record ceasing to
ction as such for whatever
asons, and grant of fresh
lding permit by new
hitect on Record or by
ief Municipal Officer, as
case may be.

275. A building permit granted under section 272 or section 273 shall lapse automatically if -

(1) the right and title, or the lease, of-

(a) the land on which a building activity is proposed, or

(b) the building, is changed, or

(2) the person on record ceases to function as such for whatever reasons, and, thereupon, a fresh building permit may be granted under section 272 or section 273, as the case may be.

mmencement and
mpletion of building
ivities within specified
e.

276. Any building activity shall commence within such period following the date of grant of a building permit, and shall be completed within such period, as may be determined by the Architect on Record or the Chief Municipal Officer, as the case may be:

Provided that where any building activity cannot be commenced, or completed within the period as aforesaid, the Chief Municipal Officer may, after holding such enquiry as he may deem necessary, and by an order, in writing, extend such period in either case, subject to such conditions as may be specified in the order.

ocation of building permit
violation of provisions on
lding activity (after giving
person who has the right
l title over the plot or the

277. (1) A building permit may, by an order, in writing, be revoked any time after giving the person who has the right and title over the plot

see
 respect of the plot an
 opportunity of being heard),
 and grant of fresh building
 permit on compliance
 therewith.

or the lessee in respect of the plot an opportunity of being heard, if any provision of this chapter or the rules made thereunder governing the building activity is violated.

(2) A fresh building permit may be granted to the person who has the right and title over the plot or the lessee in respect of the plot on his complying with the provisions as aforesaid.

lapse or revocation of
 building permit.

278. Where a building permit has lapsed under section 275 or where a building permit has been revoked under section 277, no building activity shall be proceeded with any further.

of building use permit
 the Architect on Record
 and the Chief Municipal
 Officer on completion, or part
 completion, of building
 activity.

279. (1) A building use permit shall, on completion, or part completion, of the building activity, be obtained prior to occupancy, or use being made, of any building or part of a building except where no building permit is necessary for the building activity.

(2) A building use permit may be issued -

(a) by the Architect on Record where the building permit has been granted by him or his predecessor Architect on Record, and

(b) by the Chief Municipal Officer in other cases.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the Chief Municipal Officer may, on the completion of any building activity, inspect any building with a view to ensuring compliance with the building use permit issued under sub-section (2).

revocation of building use
 permit.

280. (1) The Architect on Record or the Chief Municipal Officer, as the case may be, may revoke a building use permit issued under section 279 at any time after issuing a notice in such Form, and in such manner, as may be prescribed.

(2) A building use permit may be revoked for part of a building.

(3) On the revocation of a building use permit, no use shall be made of the building or the part of the building, as the case may be, for which the building use permit has been revoked.

(4) For the removal of doubt, it is hereby declared that the revocation of a building use permit shall mean that such building use permit is no longer valid and that the Chief Municipal Officer has withdrawn the permission granted to make use of the building or the part of the

building, as the case may be.

power to inspect building and to ensure compliance of provisions on building activities and building use.

281. (1) All buildings including lands on which they are situated shall be subject to inspection by the Chief Municipal Officer with a view to ensuring compliance with the provisions with respect to building activities and building use.

(2) Such inspection may be made by the Chief Municipal Officer at any time without giving any prior notice of his intention so to do.

(3) The person who has the right and title over the plot or the lessee in respect of the plot on which any building activity is being carried on or any person undertaking any building activity on any plot shall allow any officer or other employee of the Municipality, duly authorized by the Chief Municipal Officer in this behalf, to enter the plot and to inspect any building with a view to ensuring compliance with the provisions of this chapter on building activities and building use.

(4) For the purposes of sub-section (3), the officer or the other employee of the Municipality as aforesaid may-

(a) enter between sunrise and sunset any place of a building which is not used, or which he has reason to believe is not used, in accordance with the building use permit,

(b) make examination of the premises,

(c) require the production of any document relating to the land and the building,

(d) direct the occupier of such premises or any part of such premises that such premises or such part of such premises shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b),

(e) take measurements and photographs and make such recordings as he may consider necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment, and

(f) exercise such other powers as may be prescribed.

power to give order to vacate to demolish building and to take other action in case of violation of provisions on building activities and

282. If-

(a) there is any contravention of any provision of this chapter

lding use, or in case of
lding posing danger to life
l property.

relating to building activities in respect of any building or use
of any building, or

(b) any building poses a danger to life and property, the Chief
Municipal Officer may, by order, in writing, direct the person
who has the right and title over the plot or the lessee in respect
of the plot or the occupier of such building to vacate such
building or to seal such building and to take such other action
as the Chief Municipal Officer may deem fit.

ant of variance, and
stitution of Empowered
mmittee and manner of
ctioning thereof.

283. (1) For the purposes of this chapter, "to grant a variance" shall mean
to grant permission to dispense with the provisions of any specific
rules in this behalf.
- (2) The power to grant a variance or to revoke a variance shall vest
on an Empowered Committee to be constituted by the State
Government.
- (3) The Empowered Committee shall consist of the Chief Municipal
Officer, who shall be the Chairman, and such other members, not
exceeding seven, having such qualifications as may be prescribed, to
be nominated by the State Government.
- (4) The Empowered Committee shall function in such manner as
may be prescribed.

ting of heritage building
, constitution of Heritage
nservation Committee, and
anner of functioning thereof.

284. (1) A list of heritage buildings, heritage precincts and heritage
natural features shall be prepared by the Chief Municipal Officer on
the advice of the Heritage Conservation Committee. Such list shall
be finalized only after invitation and consideration of objections and
suggestions of the public.

Explanation. –

(a) When a building or group of buildings or natural features
is listed, it shall automatically mean (unless otherwise
indicated) that the entire property including its entire
compound or plot boundary along with all subsidiary
structures and artifacts within the compound or the plot
boundary, as the case may be, are part of the list.

(b) Such list may be a graded list.

(c) Such list may include buildings (including, but not limited
to, building artifacts and structures), precincts (including, but

not limited to, streets, areas of historic, aesthetic, architectural and cultural value), and natural features of environmental significance and scenic beauty (including, but not limited to, sacred groves, hills, hillocks, water bodies, and the areas adjoining the same, open areas, wooded areas, points, walks, rides, and bridle paths).

(2) The Heritage Conservation Committee shall be appointed by the State Government in the manner prescribed.

(3) The Heritage Conservation Committee shall -

(a) prepare a list of heritage buildings, heritage precincts, and heritage natural features for which building permits shall be granted on the advice of the said Committee,

(b) determine guidelines and conservation principles or maintenance requirements of heritage buildings, heritage precincts or heritage natural features,

(c) advise the Chief Municipal Officer whether, and on what conditions, the building permit may be granted for heritage buildings, heritage precincts or heritage natural features,

(d) advise the Chief Municipal Officer on incentives that may be offered for conservation of heritage buildings, heritage precincts or heritage natural features,

(e) advise the Chief Municipal Officer whether any building rules require relaxation, modification, or alteration for furthering conservation of heritage buildings, heritage precincts or heritage natural features,

(f) recommend to the Chief Municipal Officer guidelines to be adopted by private parties or public agencies sponsoring conservation programmes for heritage buildings, heritage precincts or heritage natural features,

(g) advise the Chief Municipal Officer on any other issues as may be required for conservation of heritage buildings, heritage precincts or heritage natural features, and

(h) appear before the State Government, either independently or through, or on behalf of, the Chief Municipal Officer in cases of appeals under this Act for heritage buildings, heritage precincts or heritage natural features.

(4) The manner of functioning of the Heritage Conservation Committee shall be such as may be determined by the State Government.

Appeal against certain orders
notices issued under the
Act.

285. (1) -Any person, aggrieved by any of the following notices issued or orders made under this Act, may prefer an appeal against such notice or order, as the case may be, to the State Government, namely :-

(a) an order removing the name of a person on record from the books of the Municipality under section 269;

(b) an order suspending building activity under sub-section (2) of section 271;

(c) an order revoking a building permit under sub-section (1) of section 277;

(d) an order refusing to issue a building use permit under sub-section (2) of section 279;

(e) a notice of revocation of building use permit under sub-section (1) of section 280;

(f) an order directing to vacate a building or to seal a building under section 282.

(2) Any appeal under this section shall be filed within a period of thirty days from the date of the notice or, as the case may be, the date of the order appealed against:

Provided that the State Government may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within the said period. (3)

An appeal to the State Government shall be made in such Form, and shall be accompanied by such fees, as may be provided by rules, and shall, except in the case of an appeal under section 274, be accompanied by a copy of the order or the notice, as the case may be, appealed against.

Appeal against orders of State
Government.

286. (1) An appeal shall lie to a court having jurisdiction against an order of the State Government made in an appeal under clause (a), or clause (b), of sub-section (1) of section 285, confirming, modifying, or annulling an order made, or notice issued, under this Act.

(2) The provisions of sub-section (2) of section 285 and the rules made thereunder shall, so far as may be, apply to the filing and

disposal of an appeal under this section as they apply to the filing and disposal of an appeal under the said section.

(3) An order of an appeal under this section, and subject only to such order, an order of the State Government under section 285, and subject to such order of the State Government, an order or notice referred to in sub-section (1) of that section, shall be final.

power of State Government to make rules.

287. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the provisions of this chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:

- (a) procedure during building activity;
- (b) procedure for obtaining building use permit;
- (c) procedure for obtaining variance;
- (d) infrastructure in relation to building activity;
- (e) environmental management;
- (f) pollution control;
- (g) structural safety;
- (h) fire prevention and safety;
- (i) maintenance and upgradation;
- (j) any other matter which may be, or is required to be, provided by rules.

Chapter XXXIII

Municipal Licences

premises not to be used for non-residential purpose without municipal licence.

288. (1) Except as hereinafter provided in this Act, no person shall use, or \ permit to be used, any premises for any of the non-residential purposes mentioned in the Schedule without or otherwise than in conformity with the terms of a licence granted by the Chief Municipal Officer so as not to contravene the provisions of sub-section (2) of this section:

Provided that no such licence shall be given in respect of any non-residential use of a premises, if such use is otherwise than in conformity with the provisions of this Act, or any other law for the time being in force, or the rules or the regulations or the orders made

thereunder.

(2) In the case of a non-residential use of a premises for a purpose for which a licence or permission is required from the Government or any statutory body under any law for the time being in force, no licence under this section shall be given until the licence or the permission under the said law has been produced before the Chief Municipal Officer, and duly authenticated copies thereof have been submitted to him:

Provided that in the case where the production of a licence under this Act is a pre-condition for the grant of a licence under any other law for the time being in force, the Chief Municipal Officer may grant a provisional licence, which shall be authenticated to be final only upon the production of a licence or permission under the said law:

Provided further that such provisional licence shall have validity only for the purpose of fulfilling the preconditions of the grant of a licence under any other law as aforesaid.

(3) In specifying the terms of a licence granted under this section, the Chief Municipal Officer may require the licensee to take all or any of such measures as he may deem fit to guard against danger to life, health or property or for the abatement of nuisance of any kind.

(4) The Municipality shall, by regulations, determine the fees to be paid in respect of a licence granted under sub-section (1), and may specify different fees for different categories of non-residential uses in different areas within the municipal area:

Provided that no such fees shall exceed rupees two thousand and five hundred in any case.

(5) The Municipality may, by regulations, determine -

(a) as to when the initial licence is to be taken out and the procedure of annual renewal thereof, and

(b) the matters connected with the display of licence, inspection of premises, power of inspectors, and such other matters as may be deemed necessary.

registers to be maintained.

289. The Chief Municipal Officer shall maintain in such Form, and in such manner, as may be prescribed, two separate registers of which-

(a) one shall contain premiseswise information of non-

residential uses, indicating the unique premises number, if any, assigned under this Act, and

(b) the other shall contain such information, on the basis of different non-residential user groups for factories, warehouses, medical institutions, educational institutions, and such other uses, as may be provided by regulations.

municipal licence for private
markets.

290. (1) The Chief Municipal Officer may, with the prior approval of the Municipality, grant to any person a licence to establish or keep open a private market on payment of such fees as may be determined by the Municipality by regulations, and may specify such conditions consistent with this Act as he may deem fit.

(2) When the Chief Municipal Officer refuses to grant any licence, he shall record a brief statement of the reasons for such refusal.

(3) The Chief Municipal Officer may, with the prior approval of the Municipality and for reasons to be recorded in writing, by order, suspend a licence in respect of a private market for such period as he thinks fit or cancel such licence.

(4) A private market in respect of which the licence has been suspended or cancelled under sub-section (3) shall be closed with effect from such date as may be specified in the order of suspension or cancellation.

municipal licence for sale of
fish, fish or poultry.

291. (1) No person shall, without or otherwise than in conformity with a licence from the Chief Municipal Officer, carry on the trade of a butcher, fish-monger, poulterer or importer of flesh, intended for human food, or use any place for the sale of flesh, fish or poultry, intended for human food:

Provided that no person shall sell, or expose for sale, any flesh obtained from an animal unless the skinned carcass of the animal is stamped in such manner as the Chief Municipal Officer may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licensed slaughterhouse:

Provided further that no licence shall be required for any place used for sale, or storage for sale, of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

(2) The Chief Municipal Officer may, by order, and subject to such

conditions as to supervision and inspection as he may think fit to impose, grant a licence or may, by order and for reasons to be recorded in writing, refuse to grant a licence.

(3) The Municipality shall, by regulations, determine the procedure for the issue of a licence and renewal thereof.

(4) If any place is used for the sale of flesh, fish or poultry intended for human food in contravention of the provisions of this section, the Chief Municipal Officer may stop the use of such place in such manner as he may consider necessary.

prohibition of unlicensed
activities.

292. (1) Without or otherwise than in conformity with the terms of a licence granted by the Chief Municipal Officer in this behalf, no person shall, within the municipal area, use, or permit to be used, any land or building -

(a) for keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce, or

(b) as a market in respect of which a licence is required under this Act, or

(c) for carrying out work as an artisan, or

(d) for trade of a butcher, fish-monger, poulterer or importer of flesh intended for human food or for sale thereof.

(2) If any land or building, public or private, is used, or permitted to be used, in contravention of the provisions of sub-section (1), the Chief Municipal Officer may stop the use thereof by such means as he deems fit, and may confiscate any article in respect of which such use is being made, prepare an inventory thereof, and, in the case of perishable items, auction them without notice.

power to stop use of premises
used in contravention of
licences.

293. (1) If the Chief Municipal Officer is of the opinion that any premises is being used for a non-residential purpose without a licence under this Act or otherwise than in conformity with the terms of a licence granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means as he may consider necessary.

(2) If a person continues to use a premises in contravention of the provisions of sub-section (1), the Chief Municipal Officer may,

notwithstanding any other action that may be taken against such person under this Act, levy on such person a continuing fine in accordance with the provisions of section 377.

294. (1) The Chief Municipal Officer, or any officer or other employee of the Municipality authorized by him in this behalf, may, at any time by day or night, without notice, inspect and examine any food or drug or any utensil or vessel used for preparing, manufacturing or storing such food or drug.

(2) If, upon such inspection or examination, any such food or drug is, in the opinion of the Chief Municipal Officer or the officer or other employee authorized by him in this behalf, unwholesome or unfit for human consumption, or is not what it is represented to be, or if any such utensil or vessel is of such kind, or in such state, as to render any food or drug prepared, manufactured, or stored therein, unwholesome or unfit for human consumption, he may seize, seal or carry away such food or drug or utensil or vessel

(3) If any food or drug seized under sub-section (2) is, in the opinion of the Chief Municipal Officer, unfit for human consumption, he shall cause such food or drug to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption, and the expenses thereof shall be paid by the person in whose possession such food or drug was at the time of its seizure.

Chapter XXXIV Vital Statistics

295. (1) The State Government may, by notification under sub-section (1) of section 4 of the Registration of Births and Deaths Act, 1969, appoint such officer of that Government as that Government may think fit to be the Chief Registrar of births and deaths for the State of Sikkim (hereinafter referred to in this chapter as the Chief Registrar of births and deaths).

18 of 1969.

(2) The State Government may, for each municipal area, appoint a Registrar of births and deaths occurring in that municipal area:

Provided that in respect of the area within the jurisdiction of the Gangtok Municipal Corporation, the State Government may

power to seize food or drug

appointment of Chief Registrar, Registrar, etc. of births and deaths.

appoint the Health Officer of the said Municipal Corporation to be the Registrar of births and deaths occurring in that area:

Provided further that if the State Government considers any municipal area to be large, that Government may appoint for that municipal area a Sub-Registrar of births and deaths for the purpose of discharging under the superintendence of, and direction by, the Chief Registrar of births and deaths such of the functions of the Chief Registrar of births and deaths as the Chief Registrar of births and deaths may, from time to time, authorize him to discharge.

ties of Registrars of births
and deaths.

296. (1) Each Registrar of births and deaths shall keep himself informed of every birth or death occurring within the area of his jurisdiction and shall ascertain such particulars in respect of every birth or death as may be prescribed in this behalf.

(2) The Registrar's Manual on Registration of Births and Deaths shall be supplied to each Registrar of births and deaths by the Chief Registrar of births and deaths.

gister books to be
maintained.

297. (1) The particulars regarding births and deaths shall be entered in such registers as shall be supplied by the office of the Chief Registrar of births and deaths on cash payment, and such registers shall be maintained by the Registrar of births and deaths for a municipal area.

(2) The forms of the register to be maintained under sub-section (1) shall be such as may be prescribed under sub-section (2) of section 16 of the Registration of Births and Deaths Act, 1969.

18 of 1969.

(3) On an application from a person interested, the Registrar of births and deaths of the concerned municipal area shall issue an extract from any entry in the register of births and deaths on payment of such fee as may be prescribed under clause (i) of sub-section (2) of section 30 of the Registration of Births and Deaths Act, 1969.

18 of 1969

gistration of births and
deaths.

298. Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Registrar of births and deaths of a municipal area shall cause registration of births and deaths taking place within that municipal area.

18 of 1969.

gistration of name of child
of alteration of name.

299. (1) Subject to the provisions of the Registration of Births and Deaths

Act, 1969, and the rules, if any, made thereunder, when the birth of any child has been registered and the name, if any, by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or the guardian of such child or other person proposing such name to be altered or given may, within such period as may be prescribed by rules made under the said Act, deliver to the Registrar of the area in which the birth was registered, such certificate as hereinafter provided, and the Registrar, upon the receipt of the certificate, shall, without any erasure of the original entry, forthwith enter in the register the name mentioned in the certificate as having been given to the child, shall initial and date such entry

18 of 1969.

(2) The certificate shall be in such Form as may be provided by rules made under the Registration of Births and Deaths Act, 1969.

18 of 1969.

300. The correction of errors, or cancellation of entries, in the registers of births and deaths shall be made in accordance with the provisions of the Registration of Births and Deaths Act, 1969.

18 of 1969.

301. Subject to the provisions of the Registration of Births and Deaths Act, 1969, and the rules made thereunder, it shall be the duty of the father or the mother of every child born in the municipal area and, in default of the father or the mother, any relation of the child living in the same premises and, in default of such relation, the person having charge of the child, or any *Auganwadi* worker or the *Panchayat* or any informant, to give to the best of his or her knowledge or belief, to the Registrar of births and deaths of the municipal area concerned within twenty-one days from the date of birth of the child information containing such particulars as may be prescribed under the said Act or the rules made thereunder:

18 of 1969.

Provided that -

- (a) in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the Registrar shall

not enter in the register the name of any person as father of such child, except at the joint request of the mother and the person acknowledging himself to be the father of such child, and such person shall, in such case, sign the register together with the mother,

(b) a person required to give information only in default of some other person shall not be bound to give such information if he believed, and had reasonable grounds for believing, that such information had been given,

and

(c) in the case of any institutional birth, that is to say, when a child is born in a hospital or nursing home or maternity home, the officer-in-charge of such hospital or nursing home or maternity home, as the case may be, shall report such birth to the concerned Registrar of births and deaths within twenty-one days from the date of birth of the child.

Information respecting finding of newborn child.

302. In the matter of sending any information in respect of a newborn child which is found exposed, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.

18 of 1969.

Information regarding deaths.

303. In the matter of sending any information in respect of any death, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.

18 of 1969.

Medical practitioner to certify cause of death.

304. In the matter of any certification by a medical practitioner stating the cause of death, the provisions of the Registration of Births and Deaths Act, 1969, and the rules, if any, made thereunder, shall apply.

18 of 1969.

Duties of police in regard to unclaimed corpses.

305. It shall be the duty of the police to convey every unclaimed corpse to a registered burial or burning ground or other place for disposal of the dead or to a duly appointed mortuary and, thereafter, to inform the Registrar within whose jurisdiction such corpse was found.

Sextons etc., not to bury etc. corpse.

306. A sexton or a keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated in municipal area or

not, shall not bury, burn or otherwise dispose of, or allow to be buried, burnt or otherwise disposed of, any corpse unless such corpse is accompanied by a certificate in such Form as may be prescribed, and signed by a Registrar appointed under section 295 or by a registered medical practitioner or any other medical practitioner authorized by the Government in this behalf.

Chapter XXXV
Disaster Management

307. (1) As far as possible, the Municipality shall, in collaboration with the concerned authorities of the Central Government or the State Government, including the meteorological office, have prepared environmental base maps and impact area diagrams and shall collect other relevant data and shall take necessary steps for erecting installations and other accessories required to mitigate the effects of natural or technological disasters.
- (2) The Municipality shall organize emergency operations and promote public awareness in relation to disaster management.
- (3) The Municipality shall take adequate measures to implement the regulations, if any, made by the planning and urban development authorities to mitigate earthquake hazards in high seismic zones and to promote citizen awareness in this regard.

PART VIII
POWERS, PROCEDURES, OFFENCES AND PENAL TIES
Chapter XXXVI
Procedure

A. Licences and Permissions

308. (1) Whenever it is provided in this Act or the rules or the regulations made thereunder that a licence or a permission, in writing, may be granted for any purpose, such licence or permission shall be signed by the Chief Municipal Officer or by any other officer empowered to grant such licence or permission under this Act or the rules or the regulations made thereunder and shall specify the following particulars in addition to any other particulars required to be specified under any other provision of this Act or the rules or the regulations made thereunder :-
- (a) the date of the grant of licence or permission,
- (b) the purpose and the period, if any, for which it is granted,
- (c) restrictions or conditions, if any, subject to which it is granted,

(d) the name and address of the person to whom it is granted,
and

(e) the fee, if any, paid for the licence or the permission.

(2) Except, as otherwise provided in this Act or the rules or the regulations made thereunder, for every such licence or permission, a fee may be charged at such rate as may, from time to time, be fixed by the Municipality, and such fee shall be payable by the person to whom the licence or the permission is granted.

(3) Save as otherwise provided in this Act or the rules or the regulations made thereunder, any licence or permission granted under this Act or the rules or the regulations made thereunder may, at any time, be suspended or revoked by the Chief Municipal Officer or the officer by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud, or if any of the restrictions or conditions of licence or permission has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or the rules or the regulations made thereunder relating to any matter for which the licence or the permission, as the case may be, was granted:

Provided that -

(a) before making any order of suspension or revocation, an opportunity shall be given to the grantee of the licence or the permission to show cause why it should not be suspended or revoked; and

(b) every such order shall contain a brief statement of the reasons for the suspension or the revocation of the licence or the permission, as the case may be.

(4) When any such licence or permission is suspended or revoked, or when the period for which such licence or permission was granted has expired, the grantee shall, for the purposes of this Act and the rules and the regulations made thereunder, be deemed to be without a licence or permission, as the case may be, until such time as the order suspending or revoking the licence or the permission, as the case may be, is rescinded or until the licence or the permission, as the case may be, is renewed.

(5) Every grantee of any licence or permission granted under this Act shall, at all reasonable times while such licence or permission, as the case may be, remains in force, if so required by the Chief Municipal Officer or the other officer by whom it was granted, produce such licence or permission, as the case may be.

B. Entry and Inspection Power of entry .

309. The Chief Municipal Officer or any other officer or employee of the Municipality authorized by the Chief Municipal Officer in this behalf, or empowered by or under any provision of this Act, may enter into or upon any land or building with or without assistants or workmen, for the purpose of -

(a) ascertaining whether in connection with the land or the building there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder, or

(b) ascertaining whether or not circumstances exist which render it necessary for the Chief Municipal Officer or any other officer or employee of the Municipality authorized by him in this behalf, or empowered by or under any provision of this Act, to take any action or execute any work under this Act or the rules or the regulations made thereunder, or

(c) taking any action or executing any work authorized or required by or under this Act or the rules or the regulations made thereunder, or

(d) making such inquiry, inspection, examination, measurement, valuation or survey as may be authorized or required by or under this Act or as may be necessary for the proper administration of this Act, or

(e) generally ensuring efficient discharge of the functions by any of the municipal authorities under this Act or the rules or the regulations made thereunder

310. (1) The Chief Municipal Officer or any person authorized by him in this behalf, or empowered by or under this Act, may enter upon any land within fifty metres of any work authorized by or under this Act with or without assistants or workmen, for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining

power to enter land or
joining land in relation to
work.

access to such work or for any other purpose connected with the execution thereof.

(2) Every person so authorized shall, before entering upon any such land, state the purpose thereof, and shall, if so required by the owner or the occupier thereof, fence off so much of the land as may be required for such purpose.

(3) Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be necessary, and compensation shall be payable by the Municipality in accordance with the rules or the regulations made under this Act in this behalf to the owner or the occupier of such land or to both for any such damage, whether permanent or temporary.

making into building.

311. (1) It shall be lawful for the Chief Municipal Officer or any person authorized by him in this behalf, or empowered by or under this Act, to make any entry into any place and to open or cause to be opened any door, gate or other barrier, -

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

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

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier, the Chief Municipal Officer or the person authorized or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situate, to witness the entry or the opening and may issue an order, in writing, to them or any of them so to do.

(3) A report shall be made to the Executive Authority, as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

ne of making entry.

312. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry authorized under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Chief Municipal Officer is satisfied that the erection of any building or the execution of any work has been commenced or is being carried on in contravention of the provisions

of this Act in any premises between the period of sunset and sunrise, he may, if he considers it necessary so to do, enter such premises during such period accompanied by a police officer to make an inspection thereof and take such action as may be necessary under this Act.

consent ordinarily to be
obtained.

313. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no land or building shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving such occupier or owner, as the case may be, not less than twenty four hours' notice, in writing, of the intention to make such entry :

Provided that no such notice shall be necessary if the Municipality considers, for reasons to be recorded in writing, that there is immediate urgency for such entry and the service of a notice, in writing, may defeat its purpose.

due regard to be had to social or
religious usages.

314. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

prohibition of obstruction or
molestation in execution of
work.

315. No person shall obstruct or molest any person authorized or empowered by or under this Act, or with whom the Municipality or any of the municipal authorities referred to in section 20 has lawfully contracted, in the execution of his duty or anything which he is authorized or empowered or required to do by virtue, or in consequence, of any of the provisions of this Act or the rules or the regulations made thereunder, or in fulfillment of his contract, as the case may be.

C. Public Notices and Advertisements

public notices how to be made
known.

316. Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Chief Municipal Officer or any other officer of the Municipality authorized by him in this behalf, and shall be widely made known in the locality to be affected thereby by affixing copies

thereof in conspicuous public places within such locality or by publishing the same by advertisement in local newspapers or by such other means as the Chief Municipal Officer may think fit.

newspapers in which advertisements or notices to be published

317. Whenever it is provided by or under this Act or the rules or the regulations made thereunder that notice shall be given by advertisement in local newspapers or a notification or information shall be published in local newspapers, such notice, notification or information shall be inserted in at least two newspapers of which at least one shall be in the regional language.

D. Evidence

proof of consent etc. of Municipality, Chief Councillor, Chief Municipal Officer, etc.

318. Whenever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, anything or the validity of anything done depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of-

- (a) the Municipality, or
- (b) the Executive Authority, or
- (c) the Chief Councillor, or
- (d) the Chief Municipal Officer or any other officer of the Municipality,

as the case may be, a document, in writing, signed, -

(i) in the cases referred to in clause (a) and clause (b), by the Municipal Secretary where there is a Municipal Secretary, or where there is no Municipal Secretary, by the Chief Municipal Officer, and

(ii) in the cases referred to in clause (c) and clause (d), by the Chief Municipal Officer, Purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion, or satisfaction, as the case may be, shall be sufficient evidence thereof.

E. Notices etc.

notices etc. to fix reasonable time.

319. Where any notice, bill, order, or requisition, issued or made under this Act or the rules or the regulations made thereunder, requires anything to be done, for the doing of which no time is fixed in this Act or the rules or the regulations made thereunder, such notice, bill, order or requisition shall specify a reasonable time for doing the

same.

signature on notices etc. may
stamped.

320. (1) Every licence, permission, in writing, notice, bill, summons or other document, which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Chief Municipal Officer or any other officer of the Municipality, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chief Municipal Officer or such other officer, as the case may be, and stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 47.

notices etc. by whom to be
served or issued.

321. Every notice, bill, summons, or other document, required by this Act or the rules or the regulations made thereunder to be served upon, or issued to, any person, shall be served or issued by an officer or other employee of the Municipality or by any person authorized by the Chief Municipal Officer in that behalf.

service of notices etc.

322. (1) Every notice, bill, summons, order, requisition or other document required or authorized by this Act or the rules or the regulations made thereunder to be served or issued by or on behalf of the Municipality or by any of the municipal authorities referred to in section 20, or by any officer or other employee of the Municipality, shall, save as otherwise provided in this Act or the rules or the regulations made thereunder, be deemed to be duly served -

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either -

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company, or

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either -

(i) sent by registered post, or

(ii) delivered at the said place of business, or

(c) where the person to be served is a public body or a Municipality, or a society or other body, if the document is addressed to the secretary, treasurer or other officer of such public body, Municipality, society, or other body at its principal office, and is either, -

(i) sent by registered post, or

(ii) delivered at that office, and

(d) in any other case, if the document is addressed to the person to be served, and

(i) is sent by registered post, or

(ii) is given or tendered to him, or

(iii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the municipal area, or is given or tendered to some adult member of his family, or is affixed on some conspicuous part of the land or building, if any, to which it relates.

(2) Any document, which is required or authorized to be served on the owner or the occupier of any land or building, may be addressed to "the owner" or "the occupier", as the case may be, of such land or building (naming such land or building) without further name or description, and shall be deemed to be duly served, -

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1), or

(b) if the document or a copy thereof so addressed, is delivered to some person on the land or the building or, where there is no such person to whom it can be delivered, is affixed to some conspicuous part of such land or building.

(3) Where a document is served on a partnership under this section, the document shall be deemed to be duly served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises, the Chief Municipal Officer may, by a notice, in writing, require the occupier of such premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in section 320 or section 321 or in this section shall apply to any summons issued under this Act by any court.

Explanation. -For the purposes of this section, a servant shall not be deemed to be a member of the family.

F. Enforcement of Orders to Execute Works etc.

323. (1) When, under this Act or the rules or the regulations made thereunder, any requisition or order is made by a notice, in writing, issued to any person or persons by any municipal authority or any officer of the Municipality, such authority or officer shall specify in such notice such period as such authority or officer may consider reasonable within which -

(a) such requisition or order shall be complied with, and

(b) any objection thereto, in writing, shall be received by such authority or officer.

(2) If any such requisition or order or any portion thereof is not complied with within the period specified in the notice under subsection (1), the Chief Municipal Officer may, subject to the provisions of section 324 and such regulations as may be made by the Municipality in this behalf, take such measures, or cause such measures to be taken, as may, in his opinion, be necessary for causing due compliance with such requisition or order, and, except where otherwise expressly provided in this Act or the rules or the regulations made thereunder, the expenses, if any, incurred by such authority or officer in causing such compliance shall be paid by the person or persons to whom such notice is issued.

(3) The Chief Municipal Officer may take any scheme, execute any work, or cause anything to be done under this section, notwithstanding any prosecution or punishment or liability to punishment of any person under this Act or the rules or the regulations made thereunder for his failure to comply with such requisition or order.

me for complying with
requisition or order, and
power of Chief Municipal
Officer to enforce requisition
order on default.

ommission of objections to
ply with notice.

324. (1) Any person who has been served with a notice under sub-section (1) of section 323 may, within such period as is specified in such notice, deliver to the municipal authority or the officer or the Municipality, as the case may be, any objection, *in writing*, setting forth the objections which he may desire to state for withdrawal or modification of such notice.

(2) Every such objection shall be placed before the Chief Municipal Officer for determination and, pending such determination, compliance with any requisition or order in accordance with such notice shall be stayed.

(3) The Chief Municipal Officer or, if he so directs, any other officer of the Municipality of such rank as may be specified by him, other than an officer who has issued such notice, *shall*, after hearing the person concerned or his agent duly authorized by him, in writing, in this behalf and after considering the circumstances of the case, make such order, either confirming or modifying or cancelling the notice, as he thinks fit.

(4) (a) Where the Chief Municipal Officer or any other officer of the Municipality referred to in sub-section (3) makes an order under that sub-section, either confirming or modifying the notice, he may, if he thinks fit, -

(i) direct that a portion of the expenses, if any, to be incurred in complying with the notice as confirmed or modified shall be borne by the Municipality, and

(ii) fix a time within which the notice so confirmed shall be complied with.

(b) If the notice as confirmed or modified is not complied with by such person within the time fixed under sub-clause (ii) of clause (a), the Chief Municipal Officer shall take such measures, or cause such work to be executed, or such thing to be done, as may, in his opinion, be necessary for causing due compliance with such notice, and the expenses, if any, incurred by the Chief Municipal Officer in this behalf shall be payable to the Chief Municipal Officer on demand and, if not paid within ten days of such demand, shall be recoverable as an arrear of tax under this Act.

power of Municipality to enter into agreement for payment of expenses in instalments.

325. (1) When, under this Act or the rules or the regulations made thereunder, the expenses of any measure taken or work executed or thing done by or under the order of any municipal authority or any officer of the Municipality or any Magistrate are payable by any person, the Chief Municipal Officer may, if he thinks fit and with the approval of the Executive Authority, notwithstanding anything to the contrary contained in this Act or the rules or the regulations made thereunder, enter into an agreement with such person for payment of such expenses in such instalments, and at such intervals, as will secure the recovery of the whole amount due with interest thereon at such rate of interest as may be determined by the State Government from time to time within such period, not exceeding six years, as the Municipality' may determine.

(2) Every such agreement shall provide for adequate security against the whole amount due from such person.

power of Municipality to declare certain expenses to be improvement expenses.

326. (1) If any expenses are to be recovered or are incurred on account of any work mentioned -

(a) in section 193 and section 195, or

(b) in the rules or the regulations made under this Act, the Municipality may, if it thinks fit, declare such expenses to be improvement expenses.

(2) A register shall be maintained by the Chief Municipal Officer showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may, from time to time, be determined by the Executive Authority.

improvement expenses, how recoverable and by whom payable.

327. (1) Any improvement expenses under section 326 shall be a charge on the premises in respect of which, or for the benefit of which, such expenses are incurred, and shall be recoverable in such instalments, and at such intervals, as may be sufficient to discharge such expenses with interest thereon at such reasonable rate as may be determined by the Municipality from time to time, and within such period, not exceeding thirty years, as the Municipality may in each case determine.

(2) The improvement expenses shall be payable by the owner or the

occupier of the premises on which such expenses are chargeable.

recovery of improvement
expenses paid by occupier.

328. Notwithstanding anything contained in section 325, when the occupier of any premises pays any instalment of improvement expenses, he shall, subject to any agreement to the contrary, if any, between himself and the owner of such premises, be entitled to deduct the amount of such instalment from the rent payable by him to such owner or to recover such amount from such owner in pursuance of any order of a court of competent jurisdiction.

right of owner or occupier to
reimburse charge for
improvement expenses.
Execution of work by
occupier on the failure of
owner.

329. At any time before the expiration of the period for payment of any improvement expenses, the owner or the occupier of the premises on which such expenses are chargeable may redeem such charge by paying to the Municipality such part of such expenses as is still payable.

330. Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or the rules or the regulations made thereunder, the occupier, if any, of such land or building may, with the approval of the Chief Municipal Officer, execute such work and shall, subject to any agreement to the contrary between himself and the owner of such land or building, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct any amount thereof from the rent payable by him to such owner.

liability of receivers, agents and
trustees.

331. (1) Whenever under this Act or the rules or the regulations made thereunder, any person, by reason of his -

(a) receiving the rent of any immovable property as receiver or agent or trustee of such property, or

(b) being such receiver or agent or trustee, would receive the rent if such property were let to a tenant, is bound to discharge any obligation imposed on the owner of such property but has not at his disposal funds, belonging or payable to such owner, sufficient for the purpose of discharging such obligation, he shall, within a period of six weeks from the date of service upon him by any municipal authority or officer of the Municipality empowered in this behalf under this Act, of any notice requiring him to discharge such obligation, apply to a court of competent jurisdiction for leave to raise such funds or for such directions as he may consider necessary for such

purpose.

(2) If such receiver or agent or trustee fails to apply to a court of competent jurisdiction under sub-section (1) or, after such court has granted leave to raise funds or has issued directions, fails to discharge such obligation or to comply with such directions within twelve months of such leave or such directions, he shall be personally liable to discharge such obligation

H. Payment of Compensation

332. In any case not otherwise expressly provided for in this Act or the rules or the regulations made thereunder, the Chief Municipal Officer may, with the prior approval of the Executive Authority, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or the rules or the regulations made thereunder on the Chief Municipal Officer or on any other officer or other employee of the Municipality.

333. (1) Any person who has been convicted of any offence under this Act or the rules or the regulations made thereunder shall, without prejudice to any punishment to which he may be subject, be liable to pay such compensation for any damage to any property of the Municipality resulting from such offence as the appropriate municipal authority may consider reasonable.

(2) In the case of any dispute regarding the amount of compensation under sub-section (1), such amount shall, on an application, in writing, made by such person to the Magistrate who convicts such person of such offence, be determined by such Magistrate, and, if the amount of compensation so determined is not paid by such person, such amount shall be recovered under a warrant from such Magistrate as if it were a fine imposed by him on the person liable thereto.

I. Recovery of Expenses or Compensation in Case of Disputes

334. (1) If, in respect of any expenses referred to in section 325, any dispute arises, the Chief Municipal Officer shall refer such dispute to the Civil Court having jurisdiction for determination.

(2) Upon such reference, the Chief Municipal Officer shall defer further proceedings for the recovery of such expenses and shall recover only such amount, if any, as may be determined by the Civil Court having jurisdiction.

application to Civil Court in certain cases of payment of expenses or compensation.

335. Save as otherwise provided in this Act or the rules or the regulations made thereunder or in any other law for the time being in force, in the case of any dispute in respect of any expenses or any compensation payable to any person by any municipal authority or any officer or other employee of the Municipality or any other person under this Act or the rules or the regulations made thereunder, the amount of such expenses or such compensation shall be determined by the Civil Court having jurisdiction at any time within one year from the date of such expenses or such compensation first becoming due.

Recovery of expenses or compensation determined under section 335.

336. If the amount of any expenses or compensation determined under section 3,35 is not paid on demand, such amount shall be recoverable as if the same were due under a decree of the Civil Court having jurisdiction or in the manner provided in chapter XVIII.

Recovery of expenses or compensation by suit in court.

337. Notwithstanding anything contained in section 336, any expenses or compensation determined under section 335 may be recovered by a suit brought in a court of competent jurisdiction.

J. Recovery of Certain Dues

Recovery of certain dues of Municipality.

338. Save as otherwise provided in this Act or the rules or the regulations made thereunder, any sum due to the Municipality on account of any charge, cost, expense, fee, rate or rent or on any other account under this Act or the rules or the regulations made thereunder shall be recoverable from the person from whom such sum is due as if it were property tax.

K. Obstruction of Owner by Occupier

Application to Civil Court by owner when occupier prevents him complying with Act etc

339. (1) Any owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or the rules or the regulations made thereunder or any requirement under any such provision in respect of such land or building, apply to the Civil Court having jurisdiction within the time fixed for compliance with such provision or requirement, and, thereupon, such owner shall not be liable for his failure to comply with such provision or requirement within the time fixed for such compliance.

(2) On receipt of any application under sub-section (1), the Civil Court may make an order, in writing, requiring the occupier of the land or the building, as the case may be, to afford all reasonable facilities to the owner for complying with the provision or the requirement as aforesaid, and may also, if it thinks fit, direct that the

costs of such application and order shall be paid by the occupier.

(3) The occupier shall, within eight days from the date of any order under sub-section (2), afford all reasonable facilities to the owner in compliance with such order. In the event of any continued refusal by the occupier to do so, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise have incurred by reason of his failure to comply with the provision or the requirement as aforesaid.

L. Proceedings before the Civil Court

procedure in Civil Court.

340. (1) Whenever under this Act any application, appeal or reference is made to a Civil Court having jurisdiction, such Civil Court may, for the purpose of any inquiry or proceeding in connection with such application, appeal or reference, summon and enforce the attendance of witnesses and compel them to give evidence or compel the production of documents by the same means, and, as far as possible, in the same manner, as are provided in the Code of Civil Procedure, 1908, and, in all matters relating to any such enquiry or proceedings, the Court shall be guided generally by the provisions of the Code of Civil Procedure, 1908, so far as such provisions are applicable to such inquiry or proceeding.

5 of 1908.

(2) If, in any such inquiry or proceeding, any person summoned to appear before the Court fails to do so, the Court may proceed with such inquiry or proceeding in his absence.

(3) The cost of every such inquiry or proceeding shall be payable by such person or persons, and in such proportion or proportions, as the Court may direct, and, the amount of such cost shall be recoverable as if the same were due under a decree of the Court.

es in proceeding before,
ivil Court.

341. (1) The Municipality may specify a fee -

- (a) for making under this Act any application, appeal or reference to a Civil Court having jurisdiction, or
- (b) for issue of any summons or other process in any inquiry or proceeding in connection with such application, appeal or reference:

Provided that the fee, if any, under clause (a) shall not, in the

case where the value of any claim is capable of being estimated in money, exceed the fee leviable in a similar case under the Code of Civil Procedure, 1908.

5 of 1908.

(2) No application, appeal, or reference under this Act shall be received by a Civil Court having jurisdiction until the fee, if any, under clause (a) of sub-section (1) has been paid:

Provided that the Civil Court may, in any case in which it thinks fit so to do, -

(i) receive such application, appeal or reference, or

(ii) issue summons or other process, without payment of such fee.

payment of half of fees on
element before hearing.

342. Whenever under this Act any application, appeal or reference to a Civil Court having jurisdiction is settled by agreement between the parties concerned before hearing of such application, appeal or reference, half the amount of any fee paid by any of such parties under sub-section (2) of section 341 shall be repaid by the Civil Court to such party.

M. Municipal Courts and Proceeding before Municipal Courts

ation of Municipal Courts
trial of offences under the
t.

343. (1) The State Government shall, with the concurrence of the High Court of Sikkim, designate a Court of Civil Judge-cum-Judicial Magistrate as the Municipal Court at such place or places as the State Government may deem necessary to deal with the cases, and the trial of offences, under -

(a) this Act, and

(b) the rules and the regulations made thereunder, and may prescribe the time within which, and the place or the places at which, such Municipal Court shall sit for such trial of offences.

(2) Every such Municipal Court shall exercise all other powers, and discharge all other functions as provided in this Act.

(3) Each such Municipal Court shall have jurisdiction over such municipal area or areas as may be specified by the State Government with the concurrence of the High Court of the State, by notification.

(4) The procedure in every such Municipal Court shall, except where otherwise specifically provided in this Act, be in accordance with the provisions of the Code of Criminal Procedure, 1973, and such other law, if any, as may be applicable.

2 of 1974.

certain offences to be
cognizable.

344. The offences mentioned in section 271, section 278, section 280, section 282, section 315, and section 378 shall be cognizable within the meaning of the Code of Criminal Procedure, 1973.

2 of 1974.

power of Municipal Court to
try cases in absence of
person summoned to appear.

345. If, in any case, any person, who is summoned to appear before a Municipal Court to answer any charge of an offence under this Act or the rules or the regulations made thereunder, fails to appear on the date and at the time and the place mentioned in the summons issued in this behalf or on any subsequent date to which the hearing of such case is adjourned, the Municipal Court may, if-

(a) service of the summons is, to his satisfaction, proved to have been effected, and

(b) no sufficient cause is shown for non-appearance of such person, hear and determine such case in the absence of such person.

limitation of time for
prosecution.

346. No person shall be liable to any punishment for an offence under this Act or the rules or the regulations made thereunder unless a complaint of such offence is made before a Judicial Magistrate designated by the High Court in consultation with the State Government within six months from the date immediately after -

(a) the date of commission of such offence, or

(b) the date on which the commission or the continuance of such offence is first brought to the notice of the Municipality or the Chief Municipal Officer.

complaint regarding nuisance
and removal thereof.

347. (1) The Chief Municipal Officer or any other officer of the Municipality authorized by him in this behalf, in writing, or any person who resides or owns property in the municipal area, may complain of the existence of any nuisance to a Municipal Court.

(2) Upon receipt of any such complaint, the Municipal Court, after

making such inquiry as he considers necessary, may, if he thinks fit, by an order, in writing, -

(a) direct the person responsible for such nuisance or the owner of the land or the building on which such nuisance exists to take, within such period as may be specified in the order, such measures for abating, preventing, removing, or remedying such nuisance as may appear to the Municipal Court to be practicable and reasonable, and may direct the Chief Municipal Officer to enforce any of the provisions of this Act or the rules or the regulations made thereunder for prevention of such nuisance, and

(b) further direct the person held responsible for the nuisance to pay to the complainant such reasonable cost of the complaint (including compensation for loss of time in prosecuting such complaint) as the Municipal Court may determine:

Provided that where, in the opinion of the Municipal Court, immediate action to prevent the nuisance is necessary, he may dispense with the inquiry as aforesaid and may make forthwith such order as he considers necessary.

(3) If any person responsible for any nuisance or any owner of any land or building on which any nuisance exists fails to comply with any order under sub-section (2) within the period specified in the order, the Chief Municipal Officer may, on the expiry of such period, proceed to take necessary action in accordance with the order, or may take such other measures to abate, prevent, remove, or remedy the nuisance as he may consider necessary, and the cost of any such action shall be recovered from such person or such owner, as the case may be.

power of Municipal Court to
direct payment of fine and
demolition of unlawful works.

348. (1) If, under any provision of this Act or the rules or the regulations made thereunder, any person is, in respect of any unlawful work, liable -

(a) to pay any fine, and also

(b) to demolish such work, the Municipal Court having jurisdiction may, in his discretion, direct such person to pay the fine and also to demolish the work.

(2) All sums realized on account of fine under this section shall be

credited to the Municipal Fund.

N. Legal Proceedings

349. The Chief Municipal Officer may, subject to such directions as the Municipality may give from time to time, -

(a) take, or withdraw from, proceeding against any person who is charged with -

(i) any offence under this Act or any rules or regulations made thereunder, or

(ii) any offence which affects, or is likely to affect, any property or interest of the Municipality or the due administration of this Act, or

(iii) committing any nuisance whatsoever, or

(b) contest or compromise any appeal against assessment of any tax or rate, or

(c) take, or withdraw from, or compromise, any proceeding under this Act for the recovery of expenses or compensation claimed to be due to the Municipality, or

(d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person, or

(e) defend any suit or other legal proceeding brought against the Municipality or against any municipal authority or any officer or other employee of the Municipality in respect of anything done or omitted to be done by the Municipality or such municipal authority or officer or other employee under this Act or the rules or the regulations made thereunder in the official capacity, or

(f) compromise, with the approval of the Executive Authority or, where there is no Executive Authority, with the approval of the Municipality, any claim, suit or other legal proceeding brought against the Municipality or any municipal authority or any officer or other employee of the Municipality in respect of anything done or omitted to be done under any of the foregoing clauses of this section, or

(g) withdraw from, or compromise, any claim against any person in respect of a penalty payable under any contract entered into with such person by the Chief Municipal Officer on behalf of the Municipality, or

(h) institute or prosecute any suit or other legal proceeding or, with the approval of the Executive Authority, or where there is no Executive Authority, with the approval of the Municipality, withdraw from, or compromise, any suit or claim, other than a claim referred to in clause (d), instituted or made, as the case may be, in the name of the Municipality or the Chief Municipal Officer, or

(i) obtain, for any of the purposes mentioned in the foregoing provisions of this section or for securing lawful exercise or discharge of any power or duty vesting in, or imposed upon, any municipal authority or any officer or other employee of the Municipality under this Act, such legal advice and assistance as he may, from time to time, consider necessary or expedient, or as he may be required by the Municipality or the Executive Authority, to obtain.

Notice, limitation, and tender
amends in suits against
municipality etc.

350. (1) No suit shall be instituted in any court having jurisdiction against any municipal authority or any officer or other employee of the Municipality or any person acting under the direction of any municipal authority or any officer or other employee of the Municipality in respect of anything done, or purported to be done, under this Act or the rules or the regulations made thereunder, until the expiration of one month next after a notice, in writing, has been delivered or left at the office of such authority or at the office or the residence of such officer or other employee or person, stating -

(a) the cause of action,

(b) the name and residence of the intending plaintiff,
and

(c) the relief which such plaintiff claims.

(2) Every such suit shall be commenced within four months next after accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required under sub-section (1).

(3) If the municipal authority, at the office of which, or the officer or the other employee of the Municipality or the person acting under the direction of any municipal authority or any officer or other employee of the Municipality, at the office or the residence of whom, a notice

has been delivered or left under sub-section (1), satisfies the court having jurisdiction that the relief claimed was tendered to the plaintiff before the institution of the suit, the suit shall be dismissed.

(4) Nothing in the foregoing provisions of this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963.

47 of 1963.

- emnity.
351. No suit shall be maintainable against any municipal authority or any officer or other employee of the Municipality or any person acting under the direction of any municipal authority or any officer or other employee of the Municipality or a Municipal Court in respect of anything done lawfully and in good faith and with due care and attention under this Act or the rules or the regulations made thereunder.

O. Powers and Duties of Police Officers

- Co-operation of police.
352. (1) Every Police-Officer-in-charge of a police station within the jurisdiction of the Municipality and every officer, and every other employee, subordinate to him, if any (hereinafter referred to in this section as the designated authority), shall -

(a) co-operate with the Municipality for carrying into effect, and enforcing, the provisions of this Act and for maintaining good order in and outside the municipal area, and

(b) assist the Municipality or the Chief Municipal Officer or any other officer or other employee of the Municipality in carrying out any order made by a Municipal Court under this Act.

- (2) It shall be the duty of every police officer -

(i) to communicate without delay to the Chief Municipal Officer or any other officer of the Municipality any information which he received in respect of any design to commit, or any commission of, any offence under this Act or the rules or the regulations made thereunder, and

(ii) to assist the Chief Municipal Officer or any other officer or other employee of the Municipality requiring his aid for the lawful exercise of any power vesting in the Municipality or the Chief Municipal Officer or such other officer or other employee under this Act or the rules or the regulations made

thereunder.

(3) Any officer or other employee of the Municipality may, when empowered by a general or special order of the designated authority, if any, on the recommendation of the Municipality in that behalf, exercise the powers of a police officer for such of the purposes of this Act as may be specified in such general or special order.

(4) The District Magistrate, the Sub-Divisional Magistrate, and the officers under them and the other employees subordinate to them shall cooperate with the municipal authorities in the performance of their duties under this Act.

353. (1) Any police officer may arrest any person who commits, in his view, any offence under this Act or the rules or the regulations made thereunder, provided such person declines to give, on demand, his name and address or gives a name or address which the police officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his correct name and address are ascertained or without the order of a Municipal Court for a period longer than twenty-four hours from the time of arrest, exclusive of the period necessary for the journey from the place of arrest to the court of such Municipal Court.

(3) On an application, in writing, of the Chief Municipal Officer or any other officer authorized by him in this behalf, any police officer above the rank of a constable shall arrest any person who obstructs the Chief Municipal Officer or any other officer or other employee of the Municipality in the exercise of any power or performance of any function, or discharge of any duty, under this Act or the rules or the regulations made thereunder.

(4) On an application, in writing, of the Chief Municipal Officer or any other officer, not below the rank of an officer authorized in this behalf by the Chief Municipal Officer under sub-section (3), any police officer above the rank of a constable shall arrest any person who, in violation of the order referred to in section 282, commences the erection of a building, or execution of any work, referred to in that sub-section or carries on such erection or such execution.

P. General Provisions

- validity of notice and other document.
354. No notice, order, requisition, licence or permission, in writing, or any other document, issued under this Act, shall be invalid merely by reason of defect of Form.
- admissibility of document or copy as evidence.
355. A copy of any receipt, application, plan, notice, order, or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorized by the Chief Municipal Officer in this behalf, be admissible in evidence of the existence of such document or entry, and shall be admitted as evidence of the matters and transactions therein recorded, in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters and transactions.
- attendance of officer or employee of Municipality.
356. No officer or other employee of the Municipality shall, in any legal proceeding to which the Municipality is not a party, be required to produce any register or document, the contents of which can be proved under section 340 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein, save by an order made by a court having jurisdiction.
- prohibition against obstruction of Chief Councillor or any municipal authority etc.
357. No person shall obstruct or molest -
- (a) any municipal authority, or the Chief Councillor, or the Deputy Chief Councillor, or a Councillor, or the Chief Municipal Officer, or any employee of the Municipality or any person employed by the Municipality, or
 - (b) any person, authorized or empowered by or under this Act or with whom the Municipality or any of the municipal authorities has lawfully entered into a contract, in the performance of its or his duty, or in the execution of its or his work, or anything which it or he is empowered or required to do by virtue, or in consequence, of any provision of this Act or the rules or the regulations made thereunder, or in the fulfilment of the contract, as the case may be.
- prohibition against removal of mark.
358. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act or the rules or the regulations made thereunder
- prohibition against removal or alteration of notice.
359. No person shall, without authority, remove, destroy, deface, or

otherwise obliterate any notice exhibited by or under the orders of the Municipality, or any municipal authority, or any officer or other employee of the Municipality specified by the Chief Municipal Officer in this behalf.

prohibition against unauthorized dealings with public place or materials.

360. No person shall, without authority in that behalf, remove earth, sand or other material from, or deposit any matter in, or make any encroachment on, any land vested in the Municipality, or in any way obstruct such land.

liability for loss, waste or misapplication of money or property of Municipality.

361. (1) Every person shall be liable for the loss, waste, or misapplication of any money or other property, owned by, or vested in, the Municipality, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct in the performance of his duty under this Act, and he may, after being given an opportunity by a notice served in the manner provided for the service of summons in the Code of Civil Procedure, 1908, to show cause by a representation, in writing or oral, why he should not be required to make good the loss, by order, be surcharged with the value of such property or the amount of such money by the Commissioner-cum-Secretary, Urban Development and Housing Department, of the State Government and if the amount is not paid within one month of the expiry of the period of appeal specified in sub-section (2), it shall be recoverable as an arrear of tax leviable under this Act.

5 of 1908

(2) The person, against whom an order under sub-section (1) is made, may, within thirty days of the date of communication of the order, appeal to the State Government, and the State Government may confirm, modify or disallow the surcharge:

Provided that no person shall, under this section, be called upon to show cause after the expiry of a period of four years, or, in the case of a Councillor, after a period of one year, from the occurrence of such loss or waste or misapplication.

Councillors and officers and other employees of Municipality to be public servants.

362. Every Councillor, the Chief Municipal Officer, and every other officer or other employee of the Municipality shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

er laws not to be
regarded.

363. Save as otherwise expressly provided in this Act, nothing contained in this Act shall be construed to authorize the Municipality or any municipal authority or any officer or other employee of the Municipality to disregard any law for the time being in force.

Chapter XXXVII
Rules and Regulations

er to make rules.

364. (1) The State Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.
- (2) Any rule made under this Act may provide that any contravention thereof shall be punishable with fine which may extend to five thousand rupees.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rules or the State Legislature agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

er to amend Schedule.

365. The State Government may, by notification, add to, amend or alter the Schedule to this Act.

er to make regulations.

366. The Municipality may, from time to time, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder for the purpose of giving effect to the provisions of this Act.

nditions precedent to
king of regulations.

367. The power to make regulations under section 366 is subject to the condition of the regulations being made after previous publication and to the following further conditions, namely :-

(a) such draft of regulations shall not be further proceeded

with until a period of one month has expired from the date of such publication,

(b) for not less than one month during such period, a printed copy of such draft shall be kept in the office of the Municipality for public inspection, and any person shall be permitted at any reasonable time to peruse such draft, free of charge, and

(c) printed copies of such draft shall be obtainable by any person requiring such draft on payment of such fee as may be fixed by the Executive Authority.

regulations to be subject to approval of State Government.

368. (1) No regulation made by the Municipality under this Act shall have any effect until it has been approved by the State Government and published in the *Official Gazette*.

(2) Before approving any regulations, the State Government may make such changes therein as may appear to it to be necessary.

power of State Government to cancel or modify regulations

369. (1) If the State Government is, at any time, of opinion that any regulation should be cancelled or modified, either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Municipality, and shall specify a reasonable period within which the Municipality may make such representation with regard thereto as it may think fit.

(2) After receipt and consideration of any such representation or if, in the meantime, no such representation is received, after the expiry of the period as aforesaid, the State Government may, at any time, by notification, cancel or modify such regulation either wholly or in part.

(3) The cancellation or modification of any regulation under sub-section (2) shall take effect from such date as the State Government may specify in the notification under that sub-section or, if no such date is specified, from the date of publication of such notification:

Provided that such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.

(4) Any notification under sub-section (2) shall also be published in

local newspapers.

Supplemental provisions
respecting regulations.

370. Any regulation, which may be made by the Municipality under this Act, may be made by the State Government within one year from the date of commencement of this Act, and any regulation so made may be altered or rescinded by the Municipality with the approval of the State Government.

Penalty for breach of
regulation.

371. (1) Any regulation made under this Act may provide that a contravention thereof shall be punishable -

(a) with fine which may extend to two thousand and five hundred rupees, or

(b) with fine which may extend to two thousand and five hundred rupees and, in the case of a continuing contravention, with an additional fine which may extend to two hundred and fifty rupees for every day during which such contravention continues after conviction for the first of such contravention, or

(c) with fine which may extend to two hundred and fifty rupees for every day during which the contravention continues, after the receipt by the person contravening the regulation, of a notice from the Chief Municipal Officer or any other officer of the Municipality, duly authorized in that behalf, requiring such person to discontinue such contravention.

(2) Any such regulation may also provide that a person contravening the regulation shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention

Rules and regulations to be
available for inspection and
purchase.

372. (1) A copy of all rules and regulations made under this Act shall be kept at the office of the Municipality and shall, during office hours, be open, free of charge, to inspection by any inhabitant of the municipal area.

(2) Copies of such rules and regulations shall also be kept at the office of the Municipality and shall be sold to the public at such price as the Executive Authority may determine.

Provisions as to powers, duties or
functions of municipal

373. If any doubt arises as to the municipal authority to which any

particular power, duty or function appertains, the Chief Councillor shall refer the matter to the State Government, and the decision of the State Government thereon shall be final.

Chapter XXXVIII Offences and Penalties

374. Whoever-

(a) contravenes any provision of any of the sections, sub-sections, clauses, provisos or any other provision of this Act, or

(b) fails to comply with any order lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or other provisions, shall be punishable -

(i) with fine which may extend to such amount, or with imprisonment which may extend to such period, as the State Government may, by rules, provide, and

(ii) in the case of a continuing contravention or failure, with an additional fine which may extend to such amount as the State Government may, by rules, provide for every day during which such contravention or failure continues after conviction for the first such contravention or failure:

Provided that in the case of a Municipal Councilor a Nagar Panchayat, the amount to which the fine may extend for various offences, shall be such as the State Government may, by rules, provide, and, in the case of a continuing contravention or failure, the daily additional fine may extend to one tenth of the maximum amount of fine, provided for such class of municipalities in such rules.

375. Any Councillor who knowingly acquires, directly or indirectly, any share or interest in any contract made with, or any work done for, the Municipality except as a shareholder (other than a Director) in an incorporated company or as a member of a co-operative society shall be deemed to have committed the offence punishable under section 168 of the Indian Penal Code.

penalty for not paying tax under chapter XVI.

376. If any person erects, exhibits, fixes or retains any advertisement referred to in chapter XVI, without paying any tax under that chapter, he shall be punished with fine which -

(a) may extend to an amount equal to five times the amount payable as such tax, and

(b) shall not ordinarily be less than an amount equal to two times the amount payable as such tax.

penalty for putting building to any use other than that for which a licence has been granted.

377. When any premises is used or is permitted to be used by any person for any purpose other than that for which a licence has been granted under sub-section (1) of section 288 or as a stable or cattle-shed or cow-house, then such person shall, without prejudice to any other penalty to which he may be subject, be liable to a fine which may extend, in the case of a masonry building, to two hundred and fifty rupees and, in the case of a hut, to twenty-five rupees, and, in the case of continuance of such use, to a further fine which may extend, in the case of a masonry building, to fifty rupees and, in the case of a hut, to five rupees for each day during which such use continues after the first day.

penalty for obstructing contractor.

378. Whoever obstructs or molests any person with whom the Municipality has entered into a contract for execution of any work under this Act shall, on conviction, be punished with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees

penalty for causing damage to property belonging to Municipality.

379. No person shall cause any damage to any property belonging to the Municipality. Any person causing any damage to any property belonging to the Municipality shall, on conviction, be punished with fine which may extend to one thousand rupees.

penalty for encroachment on streets.

380. No person shall cause any encroachment or obstruction on any municipal property such as a street or footpath or park without specific permission of an officer of the Municipality duly authorized to grant such permission. Any person causing such encroachment or obstruction on any municipal property as aforesaid shall, on conviction, be punishable with fine which may extend to one thousand rupees.

penalty for punishment of imprisonment in default of payment of fine.

381. In every case where, under this Act, an offence is punishable with

fine or with imprisonment or with both, and a person is sentenced by a Court having jurisdiction to pay a fine, it shall be competent for such Court to direct that in default of payment of such fine, he shall suffer imprisonment for such term or, as the case may be, such further term, not exceeding six months, as the Court may fix.

neral penalty.

382. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order or requisition issued under any provisions thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to one hundred rupees for every day after the first during which he has persisted in such failure or contravention.

ences by companies.

383. (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 purposes 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.

prosecution.

384. Save as otherwise provided in this Act, no Court shall proceed to the trial of any offence punishable by or under this Act except on the complaint of, or upon information received from, the Chief Municipal Officer or any person authorized by him by general or special order in this behalf.

compounding of offences.

385 (1) The Chief Municipal Officer or, if so authorized by the Municipality in this behalf by a general or special order, the Municipal Health Officer, the Municipal Engineer or any other officer of the Municipality may, either before or after the institution of the proceeding and on payment of such fee as may be specified by regulations, compound any offence as may be classified as compoundable by the State Government by rules.

(2) Notwithstanding anything contained in sub-section (1), no offence punishable by or under this Act or by any rule or regulation made thereunder shall be compoundable if such offence is committed due to the failure to comply with any notice, order or requisition, as the case may be, issued by or on behalf of any of the municipal authorities referred to in section 20, unless and until such notice, order or requisition, as the case may be, has been complied with in so far as such compliance is possible.

(3) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence so compounded.

Chapter XXXIX

Supplemental Provisions

A. Extension of Act to Other Areas and Inclusion or Exclusion of Areas within or from the Municipal Area

power of State Government to
declare intention to extend Act
to other areas.

386. Notwithstanding anything contained in any other law for the time being in force, the State Government may, by notification and in such other manner as it may determine, declare its intention to extend, subject to such modifications and restrictions, if any, as may be specified in the notification, all or any of the provisions of this Act to any other area.

B. Miscellaneous and Transitory Provisions

387. The provisions of this chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

388. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do, or cause to be done anything which may be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this Act.

389. With effect from the date of coming into force of this Act, the Sikkim Municipalities Act, 1995, shall stand repealed.

Act No.6 of 1995

390. (1) Notwithstanding anything to the contrary contained elsewhere in this Act, the State Government may appoint a person to be called the Administrator to exercise all the powers, and discharge all the functions, of the municipal authorities mentioned in section 20 for the period from the date of coming into force of this Act till the first meeting of the Municipality at which a quorum is present.

(2) The Administrator appointed under sub-section (1) may constitute such Committees, and for such period, as he may deem fit.

(3) Each such Committee shall consist of not more than twenty-five persons, appointed on such terms and conditions as the Administrator may deem fit, and shall advise the Administrator in the discharge of his functions under this Act.

By Order.

**R..K. Purkayastha (SSJS)
LR-cum-Secretary
Law Department**

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