

# LOCAL SELF-GOVERNANCE ACT, 2055 (1999)

Date of Royal Assent:

16 Baishak 2056 (April 30, 1999)

Act number 5 of the year 2056 (1999)

## **AN ACT MADE TO PROVIDE FOR LOCAL SELF-GOVERNANCE**

Preamble: Whereas, it is expedient to:

Make provisions conducive to the enjoyment of the fruits of democracy through the utmost participation of the sovereign people in the process of governance by way of decentralization,

Institutionalize the process of development by enhancing the participation of all the people including the ethnic communities, indigenous people and down-trodden as well as socially and economically backward groups in bringing out social equality in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of the fruits of development,

Have institutional development of local bodies capable of bearing responsibility, by providing such responsibility and power at the local level as is necessary to formulate and carry out plans, and constitute local bodies for the development of the local self-governance system in a manner that they are able to make decisions on the matters affecting the day-to-date needs and lives of the people, by developing local leadership;

Now, therefore, be it enacted by the Parliament in the twenty-sixth year of the reign of His Majesty's King Birendra Bir Bikram Shah Dev.

### **Part – 1**

#### **Preliminary**

1. **Short Title and Commencement:** (1) This Act may be called "The Local Self-governance Act, 2055 (1999)."

(2) It shall come into force immediately.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act,-

- (a) "Local Body" means the Village Development Committee, Municipality and District Development Committee.
- (b) "Village Council" means the Village Council constituted under Section 8.
- (c) "Village Development Committee" means the Village Development Committee constituted under Section 12.
- (d) "Ward Committee" means the Ward Committees constituted under Section 7 in regard to the Village Development Committee and under Section 75 in regard to the Municipality.
- (e) "Chairperson" means the Chairperson of the Village Development Committee.
- (f) "Vice-Chairperson" means the Vice-Chairperson of the Village Development Committee.
- (g) "Municipal Council" means the Municipal Council constituted under Section 76.
- (h) "Municipality" means the Municipality constituted under Section 80.
- (i) "Mayor" means the Mayor of the Municipality.
- (j) "Deputy Mayor" means the Deputy Mayor of the Municipality.
- (k) "District Council" means the District Council constituted under Section 172.
- (l) "District Development Committee" means the District Development Committee constituted under Section 176.
- (m) "President" means the President of the District Development Committee.

- (n) "Vice-President" means the Vice-president of the District Development Committee.
- (o) "Member" means –
  - (1) In the case of the Village Development Committee, any Member of the Village Development Committee, and this term also includes the Chairperson and Vice-Chairperson of the Village Development Committee.
  - (2) In the case of the Municipality, any Member of the Municipality and this term also includes the Mayor and Deputy Mayor of the Municipality.
  - (3) In the case of the District Development Committee, any Member of the District Development Committee, and this term also includes the President and Vice-President of the District Development Committee.
- (p) "Secretary" means –
  - (1) In the case of Village Development Committee, any employee appointed to act as the Secretary of the Village Development Committee, pursuant to Section 253.
  - (2) In the case of Municipality, any employee appointed to act as the Secretary of the Municipality, pursuant to Section 253.
  - (3) In the case of District Development Committee, any employee appointed to act as the Secretary of the District Development Committee, pursuant to Section 253.

- (q) "Prescribed" or "As Prescribed" means prescribed or as prescribed in this Act or in the Rules or Byelaws made under this Act.

3. **Principles and Policies of Local Self-governance**: Government of Nepal shall, in accordance with the guidelines set forth in \*the Constitution of the kingdom of Nepal, 1990, on decentralization, pursue the following principles and policies for the development of local self-governance system: -

- (a) Devolution of such powers, responsibilities, and means and resources as are required to make the Local Bodies capable and efficient in local self-governance.
- (b) Building and development of institutional mechanism and functional structure in Local Bodies capable of considering for local people and bearing responsibilities.
- (c) Devolution of powers to collect and mobilize such means and resources as are required to discharge the functions, duties, responsibility and accountability conferred to the Local Bodies.
- (d) Having the Local Bodies oriented towards establishing the civil society based on democratic process, transparent practice, public accountability, and people's participation, in carrying out the functions devolved on them.
- (e) For the purpose of developing local leadership, arrangement of effective mechanism to make the Local Body accountable to the people in its own areas.
- (f) Encouraging the private sector to participate in local self-governance in the task of providing basic services for sustainable development.

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\* At present , Interim Constitution of Nepal is in force .

## Part – 2

### Provisions Relating to Village Development

#### Chapter – 1

##### Village Development Area, Ward Division and Ward Committee

4. **Specification of Village Development Area and Center:** (1) Government of Nepal may, taking also into account the geographical situation, population, communal unity or diversity of inhabitants, specify any rural area of Nepal, as a village development area, and set out the four boundary thereof. In so specifying the village development area, Government of Nepal shall, as required, consult with the District Development Committee.
- (2) Government of Nepal may, in consultation with the Village Council, specify a convenient place within a village development area specified under Sub-section (1) as the Center of that area.
- (3) All the village level offices shall be located in the Center of the village development area specified under Sub-section (2).
5. **Division of Wards:** Government of Nepal shall, taking also into account of the geographical situation, divide the village development area specified under Section 4 into nine Wards consisting of equal population to the extent possible.
6. **Alteration of Boundary:** (1) In the event of necessity to alter the boundary of any village development area specified under Section 4 or of any Ward divided under Section 5, Government of Nepal shall form a committee comprising also the concerned expert and, on the recommendation of the committee as well as with the approval of the Election Commission, shall alter the boundary of such a village development area or Ward, without affecting the election constituencies delimited for election of members of the House of Representatives.

Provided that in so altering any boundary, it shall have to be made prior to one year of the year of election.

(2) In case the concerned District Council makes a recommendation, upon a resolution adopted by a two-thirds majority of the concerned Village Council that it is necessary to alter the boundary of any village development area, Government of Nepal shall, subject to Sub-section (1), alter the boundary.

7. **Constitution of Ward Committee:** A Ward Committee shall be constituted comprising of the Ward Chairperson and Ward Members as follows elected by the Nepalese citizens who are in possession of the qualifications to become voters under the prevailing law, of each Ward of the Village Development Committee, from amongst the persons having possessed the required qualifications to become a Member of the Village Council under Section 10: -
- (a) One Ward Chairperson,
  - (b) One Woman Ward Member, and
  - (c) Three Ward Members.

## **Chapter – 2**

### **Provisions relating to Village Council**

8. **Constitution of Village Council:** (1) A Village Council shall be constituted in any village development area specified under Section 4.
- (2) The Village Council shall consist of the Members as follows: -
- (a) Chairperson and Vice-Chairperson of the Village Development Committee,
  - (b) Ward Chairperson, Woman Ward Member and Ward Members of each Ward Committee,
  - (c) Six persons including one woman nominated by the Village Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down-trodden and indigenous people living within the village development area, belonging to the class whose representation in the Village Council does not exist and who are in possession of

the required qualifications to become the Member of the Village Council under Section 10.

9. **Term of Office of Member of Village Council:** (1) The term of office of a Member of the Village Council shall be of five years.

(2) In reckoning the term of office of a Member of the Village Council, it shall be reckoned from the first day of *Shrawan* of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of *Ashadh* of every five years, not exceeding a term of five years.

(3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members of the Village Council is held prior to the expiry of the term of office of the Member of the Village Council under this Section, the term of office of the existing Member of the Village Council shall be deemed to have been expired, and the newly elected members of the Village Council shall have the authority to discharge functions.

(4) In reckoning the term of office of such Member even in cases where, owing to the fact that the election to the office of any Member of the Village Development Committee or Ward Committee could not be held or nomination of the Member of the Village Council could not be made at the scheduled time due to any reason, it is held in any other time, the term shall be reckoned as if the elections were held or nomination made at the scheduled time.

(5) In case the office of any Member of the Village Council becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that –

(1) By-election or nomination shall have to be held or made, as the case may be, within one year of the date of vacancy of the office.

- (2) No by-election or nomination shall be held or made for a period less than one year.

10. **Qualifications Required for a Member of Village Council:** In order to become a Member of the Village Council, one shall have to possess the following qualifications: -

- (a) Being a Nepalese citizen,
- (b) Having attained twenty-one years of age and possessed qualification to become a voter under the prevailing law,
- (c) Having settled up any goods in-kind and cash due to the Village Development Committee,
- (d) Having no personal interest in any contract, or in any dealings on movable, immovable property, with the Village Development Committee,
- (e) Having not been held to misappropriate public property, Provided that this Clause shall not apply, if an evidence showing the settlement thereof is produced.
- (f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment
- (g) Being not disqualified under any law.

11. **Termination of Membership of Village Council:** The membership of the Village Council shall cease to continue in the following circumstances: -

- (a) If he/she does not possess the qualifications referred to in Section 10,
- (b) If the Ward or the part thereof where he has been living is taken out from the concerned village development area or amalgamated to any other village development area or Municipal Area,

- (c) If he is elected to the office of President, Vice-president or Member of the District Development Committee or is nominated as a Member of the District Council,
- (d) If he/she becomes a candidate in the election of the Members of the House of Representatives or National Assembly or is nominated as a Member of the National Assembly,
- (e) If he/she absents him/herself from three consecutive meetings of the Village Council, without giving a reasonable notice,

Provided that such a Member shall not be given a notice indicating the termination of his/her membership without giving him a reasonable opportunity to defend him/herself.

- (f) If his/her term of office as set forth in Section 9 expires,
- (g) If he/she is punished under the prevailing law on a corruption charge or a criminal charge involving moral turpitude or a criminal charge carrying punishment of imprisonment for more than three years,
- (h) If he/she resigns,
- (i) If he/she dies.

### **Chapter – 3**

#### **Provisions relating to Village Development Committee**

12. **Constitution of Village Development Committee:** (1) A Village Development Committee shall be constituted as an executive of the Village Council in a village development area specified under Section 4.
- (2) The Village Development Committee shall consist of the Chairperson, Vice-Chairperson and Members as follows: -
- (a) One Chairperson and one Vice-Chairperson elected by the Nepalese citizens within the village development area who

have possessed the qualifications to become voters under the prevailing law,

- (b) Nine Ward Chairmen, elected by the Nepalese citizens, who have possessed qualifications to become voters under the prevailing law, of each Ward of the village development area at the rate of one each from their respective Wards,
- (c) Two Members including one woman nominated by the Village Development Committee from amongst the Members of the Village Council as referred to in Clause (c) of Sub-section (2) of Section 8.

13. **Village Development Committee to Be Autonomous and Corporate**

**Body:** (1) Each Village Development Committee shall be an autonomous and corporate body with perpetual succession.

(2) The Village Development Committee shall have a seal of its own.

(3) The Village Development Committee may, like an individual, acquire, use, sell and dispose of movable and immovable property.

(4) The Village Development Committee may, like an individual, sue or be sued in its own name.

14. **Term of Office of Member:** (1) The term of office of a Member of the Village Development Committee shall be of five years.

(2) In reckoning the term of office of a Member of the Village Development Committee, it shall be reckoned from the first day of *Shrawan* of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of *Ashadh* of every five years, not exceeding a term of five years.

(3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members is held prior to the expiry of the term of office of the Member under this Section, the term of office of the existing Member shall be deemed to have been expired, and the newly elected members shall have the authority to discharge functions.

(4) In reckoning the term of office of a Member even in cases where, owing to the fact that the election or nomination to the office of any Member of the Village Development Committee could not be held or made at the scheduled time due to any reason, it is held or made in any other time, the term shall be reckoned as if the election was held or nomination made at the scheduled time.

(5) In case the office of any Member of the Village Development Committee becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that –

(1) By-election or nomination shall have to be held or made, as the case may be, within one year of the date of vacancy of the office.

(2) No by-election or nomination shall be held or made for a period less than one year.

15. **Oath To Be Taken:** (1) The Chairperson shall take an oath before the District Judge, the Vice-Chairperson and Members before the Chairperson and, in the absence of the Chairperson the Vice-Chairperson before the District Judge, and the Members before the Vice-Chairperson.

(2) The Members of the Village Council other than those referred to in Sub-section (1) shall take an oath before the Chairperson and, in the absence of the Chairperson, before the Vice-Chairperson.

(3) Without taking an oath pursuant to Sub-section (1) or (2), no Member of the Village Council and the Village Development Committee shall be entitled to assume his office.

16. **Office May be Relinquished:** (1) The Chairperson may relinquish his office by tendering his resignation to the Village Development Committee through the Vice-Chairperson, and the Vice-Chairperson and Members may do so by tendering it to the Chairperson.

(2) The Members of the Village Council other than those referred to in Sub-section (1) may relinquish the office by tendering resignation to the Chairperson.

17. **Qualifications Required for Member:** One shall have to possess the following qualifications to be elected or nominated as a Member of the Village Development Committee: -

- (a) Being a Nepalese citizen,
- (b) Having attained twenty-one years of age and possessed qualification to become a voter under the prevailing law,
- (c) Having settled up any goods in-kind and cash due to the Village Development Committee,
- (d) Having no personal interest in any contract, or in any dealings on movable, immovable property, with the Village Development Committee,
- (e) Having not been held to misappropriated public property,

Provided that this Clause shall not apply, if an evidence showing the settlement thereof is produced.

- (f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment.
- (g) Being not disqualified under any law.

18. **Termination of Membership:** The Membership of the Village Development Committee shall cease to continue in the following circumstances: -

- (a) If he/she does not possess the qualifications referred to in Section 17,
- (b) If the Ward or the part thereof where he/she has been living is taken out from the concerned village development area or amalgamated to any other village development area or municipal area,

- (c) If he is elected to the office of President, Vice-president or Member of the District Development Committee or is nominated as a Member of the District Council,
- (d) If he/she becomes a candidate in the election of the Members of the House of Representatives or National Assembly or is nominated as a Member of the National Assembly\*,
- (e) If he absents him/herself from three consecutive meetings of the Village Development Committee without giving a reasonable notice,
 

Provided that such a Member shall not be given a notice indicating the termination of his membership without giving him/her a reasonable opportunity to defend him/herself.
- (f) If he/she is punished under the prevailing law on a corruption charge or a criminal charge involving moral turpitude or criminal charge carrying punishment of imprisonment for more than three years,
- (g) If his/her term of office as set forth in Section 14 expires,
- (h) If he/she resigns,
- (i) If he/she dies.

19. **The Statement of Property To Be Made Public:** The Member shall, within thirty days of the date of oath taken under Section 15, have to make public the statement of the movable and immovable property remained in his name and that of his/her family member living in same joint family.

Provided, however, that the Chairperson and the Vice-Chairperson shall, even after they are relieved of the office, make public the statement of such property within thirty days of their relieving of the office.

20. **Classification of Village Development Committees:** (1) Government of Nepal may, as prescribed, classify the Village Development Committees on the

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\* At present , Interim Constitution Assembly is at under .

basis of population, geographical diversity and facilities relating to transportation, communications, education and health, and may make arrangement for the development of those Village Development Committees which have low facilities available and are situated in an undeveloped village development area, by making them affluent with means and facilities on the recommendation of the concerned District Development Committee.

## **Chapter – 4**

### **Meetings and Working Procedures**

21. **Meetings of Ward Committee:** (1) The Ward Committee shall meet at least once in a month.

(2) The Ward-Chairperson shall convene the meeting of the Ward Committee, with specifying the date, time and venue of such meeting.

(3) The Ward-Chairperson shall preside over the meetings of the Ward Committee and, in his/her absence, the Member chosen by the members of the Ward Committee present at the meeting from amongst themselves shall preside over the meeting of the Ward Committee.

(4) Decisions of the Meeting may be made by a majority of three Members including the person presiding over it.

(5) Other matters relating to the meetings of the Ward Committee shall be as determined by the Ward Committee itself.

22. **Meeting of Village Council:** (1) The Village Council shall normally meet twice a year.

(2) The Chairperson of the Village Development Committee shall convene the meetings of the Village Council.

(3) The meetings of the Village Council shall have to be normally convened within the last day of the month of Shrawan and that of Poush each year.

(4) The meeting of the Village Council shall be presided over by the Member chosen by the Members, other than the Members of the Village

Development Committee, present at each meeting of the Village Council from amongst themselves.

Provided that prior to the selection of the Chairperson at the meeting of the Village Council, the senior most member, on account of age, among the Members of the Village Council present shall preside over that meeting.

(5) The Secretary of the Village Development Committee shall act as the Secretary of the Village Council.

(6) The Secretary shall, at the direction of the Chairperson of the Village Development Committee, have to send a notice of the date, time and venue of the meeting of the Village Council to all the Members of the Village Council in advance of at least fifteen days of the meeting.

(7) The presence of fifty percent members of the number of Members existing for the time being at the meeting of the Village Council shall be deemed to have constituted a quorum for the meeting.

(8) In case the meeting of the Village Council could not be held due to the lack of the quorum, another meeting shall have to be convened by giving a seven-day notice. The quorum for such meeting shall be one-thirds. Even if the quorum be not constituted there, another meeting shall have to be convened again on the following day thereof, and that meeting shall be conducted no matter how many members are present at the meeting.

(9) If one-third Members of the Village Council request the Chairperson in writing to convene a meeting to discuss any particular matter, the Chairperson shall have to convene an extra-ordinary meeting of the Village Council within thirty days of the day of such a request.

(10) The Secretary shall authenticate the decisions of the meetings of the Village Council.

(11) Other procedures relating to the meetings of the Village Council shall be as prescribed.

23. **Meeting of Village Development Committee:** (1) The meeting of the Village Development Committee shall be held at least once in a month.

(2) The Secretary shall, as ordered by the Chairperson, convene the meetings of the Village Development Committee.

Provided that if the Chairperson does not order to convene the meeting even until three months, the Secretary shall, upon the request in writing of one-third members, convene the meeting of the Village Development Committee.

(3) The meeting of the Village Development Committee shall be presided over by the Chairperson or, in the absence of the Chairperson by the Vice-Chairperson and, even if the Vice-Chairperson absents him/herself, by a Member chosen by the Members present at the meeting from amongst themselves.

(4) If fifty per cent Members of the total number of the Members existing for the time being are present at a meeting of the Village Development Committee, the quorum for the meeting shall be deemed to have constituted.

(5) The concerned Area Member of the District Development Committee shall have to be invited to participate in the meetings of the Village Development Committee.

(6) The Secretary shall authenticate the decisions of the meetings of the Village Development Committee.

(7) Other procedures relating to the meetings of the Village Development Committee shall be as prescribed.

24. **Decisions of Meeting:** (1) Unless otherwise provided for in this Act, decisions of the meetings of the Village Council and the Village Development Committee shall be made on the basis of a majority of the Members present at the meeting.

Provided that a majority of the number of the total Members shall be required to decide on a proposal referred to in Clauses (b) and (c) of Sub-section (1) of Section 26.

(2) In the event of a tie of votes at a meeting of the Village Council and Village Development Committee, the person presiding over the meeting shall exercise a casting vote.

25. **Functions, Duties and Powers of the Ward Committee**: The functions, duties and powers of each Ward Committee under the Village Development Committee shall be as follows: -

- (a) To keep neat and clean the roads, ways, bridges, drainage, ponds, lakes, wells, deep water, taps, etc. within the Ward.
- (b) To arrange for disposal of wastes, dirt and rotten materials and to make arrangements to encourage the inhabitants of the Ward for maintaining sanitation.
- (c) To assist the Village Development Committee in keeping inventory of and in protecting population, houses, land, rest houses, shelters, inns, divine places like temples, shrines, mosques, monasteries, *madarasa*, etc., barren land, ponds, lakes, wells, deep water, taps etc., and similar other religious and cultural places of public importance, within the Ward.
- (d) To look after the canals, drills, dams (*Paini*) etc. within the Ward.
- (e) To assist in afforesting in the barren land and hills, steeps and grassland, plain, pampas places and in conserving the environment, within the Ward.
- (f) To assist in management of health centers, health offices etc. in the Ward.
- (g) To assist in the establishment and operation of schools and libraries in the Ward.
- (h) To supervise the projects and program completed and being carried out within the Ward.
- (i) To motivate the inhabitants of the Ward to register personal events.

- (j) To assist in the acts relating to the protection and earning of livelihood of the backward ethnic communities, helpless, disabled and heirless persons within the Ward.
- (k) To carry out such other functions as directed and ordered by the concerned Village Development Committee.

26. **Functions, Duties and Powers of Village Council:** (1) The functions, duties and powers of the Village Council shall be as follows: -

- (a) To pass the budgets, plans and program submitted by the Village Development Committee.
- (b) To adopt the resolutions relating to the levying and collecting of taxes, charges, fees, levies etc. proposed by the Village Development Committee.
- (c) To adopt the resolutions relating to the raising of loans or selling or disposing or transferring of immovable properties proposed by the Village Development Committee.
- (d) To discuss on the irregularities determined by the audit report of the Village Development Committee and direct the Village Development Committee to take necessary action for the clearance of the irregularities in respect of those irregularities which cannot be regularized under the prevailing law.
- (e) To grant approval, as required, on such number of positions, remuneration, allowance and other facilities of the employees proposed by the Village Development Committee as are to be borne from its own internal source.
- (f) To evaluate the administrative functions of the Village Development Committee and give necessary directions to the Village Development Committee.

- (g) To evaluate the development and construction works carried out within the village development area and give necessary directions.
- (h) To approve the Byelaws of the Village Development Committee.
- (i) To carry out such other functions as prescribed.

(2) The Village Council shall constitute an accounts committee under the Chairpersonship of any Member of the Village Council, consisting of three members including the Chairperson; and the functions, duties and powers of such a committee shall be as prescribed.

(3) The Village Council may form various committees to render necessary advice and suggestions to the Village Council on various matters in a manner that the Members of the Village Council other than the members included in the accounts committee referred to in Sub-section (2) are included in the subject-wise committees as prescribed.

(4) Other functions, duties and powers of the Village Council shall be as prescribed.

27. **Advisory Committee May Be Formed:** (1) The Village Development Committee may, if it deems it necessary, form an advisory committee comprising of members ranging from three to nine, including social workers, intellectuals and persons having technical knowledge and skills to render assistance in its functions.

(2) Other matters relating to the advisory committee shall be as prescribed.

28. **Functions, Duties and Powers of Village Development Committee:** In addition to executing or causing to be executed the decisions and directions of the Village Council, the functions, duties and powers of the Village Development Committee shall be as follows: -

- (a) **Relating to Agriculture:**

- (1) To carry out or cause to be carried out agricultural development program within the village development area.
- (2) To arrange for agricultural *Haats* (weekly temporary bazaar), markets and fairs or to assist in organizing such fairs within the village development area.
- (3) To operate or cause to be operated veterinary hospitals, as per necessity, for the prevention and control of animal diseases within the village development area, and to arrange or cause to be arranged for pasture areas, as required, for cattle grazing.

(b) **Relating to Rural Drinking Water:**

- (1) To prepare drinking water projects for the supply of drinking water required within the village development area and to implement and operate the same, and to arrange or cause to be arranged for their maintenance.
- (2) To construct, maintain and repair or cause to be constructed, maintained and repaired wells, deep water, ponds, taps etc. within the village development area.
- (3) To preserve or cause to be preserved the sources of water within the village development area.

(c) **Relating to Works and Transport:**

- (1) To prepare projects on tracks and trails, and rural roads required within the village development area and to implement the same and make arrangement for their maintenance and repair.

- (2) To maintain and repair bridges, twines, *ghats* (embankments) and culverts handed over by various agencies.

(d) **Relating to Education and Sports:**

- (1) To establish pre-primary schools with own source, to give permission to establish them and to operate and manage the same.
- (2) To supervise and manage the schools being operated within the village development area.
- (3) To assist in providing primary level education in mother tongue within the village development area.
- (4) To make program on adult education and informal education and to carry out or cause to be carried out the same.
- (5) To establish and operate or cause to be established or operated libraries.
- (6) To formulate plans on the development of sports and to implement the same, and to extend support to the development of sports by constituting village level sports development committee.
- (7) To make arrangements for providing scholarships to the students of oppressed ethnic communities who are extremely backward on economic point of view.

(e) **Relating to Irrigation and Soil-erosion and River Control:**

- (1) To prepare projects of irrigation, dams, canals, water channel, water bank (*Pani ghat*) etc. required within the village development area and to implement or cause to be implemented the same.

(2) To prepare program on soil-erosion and river control that affects the village development area and to implement or cause to be implemented the same.

(3) To generate and distribute electricity and to cause to be generated and distributed the same.

(f) **Relating to Physical Development:**

(1) To build community buildings, rest houses and public toilets.

(2) To prepare criteria for houses, buildings, roads and other physical infrastructures etc. to be constructed within the village development area, and to grant approval as prescribed for the construction of them.

(3) To formulate land-utilization plans of the village and to implement or cause to be implemented the same.

(4) To make or cause to be made arrangements for necessary sewerage and drainage in settlement areas.

(g) **Relating to Health Service:**

(1) To operate and manage village level health center, health post and sub-health posts.

(2) To prepare program on primary health education and sanitation and disposal of wastes and garbage in the village development area and to implement the same.

(3) To provide assistance in the development and expansion of herbs.

(4) To launch program on family planning and maternity and childcare.

(h) **Relating to Forests and Environment:**

- (1) To afforest or have afforestation in barren land, hills, steppe and steep land and in public land.
- (2) To prepare program in respect of forests, vegetation, biological diversity and soil conservation and to carry out or cause to be carried out the same.
- (3) To make various program on environment protection and to carry out or cause to be carried out the same.

(i) **Relating to Language and Culture:**

- (1) To keep records of religious places and rest houses, inns, shelters etc. within the village development area and to look after and preserve them or cause to be done the same.
- (2) To preserve or cause to be preserved various languages, religions and cultures and assist in their development.

(j) **Relating to Tourism and Cottage Industries:**

- (1) To preserve, develop and expand tourist areas and to make or cause to be made arrangements for preventing pollution in such places.
- (2) To act as a motivator for carrying out cottage industries in the village development area.

(k) **Miscellaneous:**

- (1) To develop human resources, to make arrangements for making available employment and self-employment opportunities.
- (2) To provide assistance for cooperativeness.
- (3) To keep records of population, houses, land and livestock within the village development area.

- (4) To carry out or cause to be carried out necessary works in respect of controlling natural calamities.
- (5) To register birth, death and other personal events in accordance with the prevailing law.
- (6) To maintain the inventory of the helpless, orphan and disabled children within the village development area and to make arrangements for keeping them in appropriate place.
- (7) To prepare necessary plans for the upliftment of women within the village development area and to implement the same.
- (8) To carry out activities regarding the protection of orphan children, helpless women, aged and old, disabled and incapacitated persons in line with the national policy and to carry out or cause to be carried out acts regarding the wiping out of social ill-practices and the protection of girls and women.
- (9) To protect movable and immovable properties which are under ownership and control of the Village Development Committee.
- (10) To frame Byelaws of the Village Development Committee and submit them to the Village Council.
- (11) To control immoral activities like sale and distribution of intoxicating substances and gambling and playing cards within the village development area.
- (12) To encourage or cause to be encouraged to carry out cooperative, industrial and commercial activities generating income to the Village Development

Committee with the investment of private sector as well.

- (13) To formulate various program based on cooperativeness and to carry out or cause to be carried out the same.
- (14) To evaluate the performance of the Secretary and forward it with recommendation to the authority.
- (15) To carry out such other functions as are prescribed by the prevailing law.

(2) The Village Development Committee shall encourage consumer groups and other non-governmental organizations for the development and construction works to be done in the village development area and it shall have such works done through such groups or organizations.

(3) The Village Development Committee shall exercise the powers conferred on it under this Act and the Rules and Byelaws framed under this Act.

29. **Functions, Duties and Powers of the Chairperson:** (1) The functions, duties and powers of the Chairperson shall be as follows: -

- (a) To convene the meetings of the Village Council and the Village Development Committee.
- (b) To submit and cause to be submitted necessary resolutions and documents at the meetings of the Village Council and Village Development Committee.
- (c) To safely keep or cause to be safely kept the books of accounts of income and expenditure and other documents of the Village Development Committee.
- (d) To make necessary arrangements in respect of preparing budgets and plans of the Village Development Committee.

- (e) To execute or cause to be executed the decisions of the Village Development Committee.
- (f) To supervise and control the day-to-day administration of the Village Development Committee.
- (g) To make necessary recommendation under the prevailing law.
- (h) To take care of, maintain and repair and require to take care of, maintain and repair the movable and immovable properties of the Village Development Committee.
- (i) To allocate subject-wise functions to the Vice-Chairperson and Members.
- (j) To depute the Vice-Chairperson, Members and the Secretary, as required, on duty.
- (k) To give in-charge to the Vice-Chairperson, if he becomes unable to present in the Village Development Committee for a period exceeding seven days and, in the absence of even the Vice-Chairperson, to give in-charge to the senior-most Member on account of age, or to any other Member.
- (l) To perform such other functions as are prescribed.

(2) The Chairperson shall not have to leave his Village Development Committee for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub-section (2), the Village Development Committee shall make decision thereon.

30. **Function, Duties and Powers of the Vice-Chairperson:** (1) The functions, duties and powers of the Vice-Chairperson shall be as follows: -

- (a) To act as acting Chairperson in the absence of the Chairperson.
- (b) To perform such other functions as are prescribed.

(2) The Vice- Chairperson shall not have to leave his Village Development Committee for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub- section (2), the Village Development Committee shall make decision thereon.

31. **Functions, Duties and Powers of Member:** (1) The functions, duties and powers of the Member shall be as follows: -

- (a) To prepare plans on development and construction works in own Ward and submit the same to the Village Development Committee.
- (b) To arrange for forwarding to the Village Development Committee the feasible projects from non-governmental organizations by discussing on the undertaking of development and construction works.
- (c) To submit to the Village Development Committee the particulars relating to the Ward as and when demanded.
- (d) To help consumers groups and other non-governmental organizations in the selection of projects and formulation of plans.
- (e) To give in-charge to the eldest Member among the Ward Members referred to in Clauses (b) and (c) of Section 7 of this Act, or to any other Members if he/she becomes unable to present in the Ward Committee for a period exceeding seven days.
- (f) To allocate the functions of the Ward Members.
- (g) To carry out such other functions as are prescribed.

(2) The Member shall not have to leave his Village Development Committee for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub-section (2), the Village Development Committee shall make decision thereon.

(4) The Members of the concerned Ward Committee shall assist the Member in discharging his functions.

32. **Functions, Duties and Powers of the Secretary:** The Secretary shall, being under the direct direction of the Chairperson, discharge and exercise the functions, duties and powers as follows: -

- (a) To execute the approved village development program.
- (b) To maintain the accounts of expenditure incurred on the construction works and to have them cleared.
- (c) To keep the up-to-date records of the projects being carried out and completed within the village development area.
- (d) To maintain the accounts of income and expenditure of the Village Development Committee.
- (e) To make expenditures for the execution of the decisions subject to the limit of the budget approved for this purpose by the Village Development Committee.
- (f) To have the accounts of the Village Development Committee audited, to get the clearance of irregularities of accounts, and to have recovery under the prevailing law of the irregular amount of expenditure, if such amount is required to be recovered.
- (g) To maintain the records of movable and immovable properties and properties in-kind of the Village Development Committee.

- (h) To be present at Village Council and the meetings of the Village Development Committee, to minute the decisions of them, to take the custody of minutes books and to authenticate the decisions.
- (i) To take custody of the case files of the cases filed in the Village Development Committee.
- (j) To keep the records of population of the village development area up-to-date by registering birth, death, and other personal events.
- (k) To have administrative control of the employees under the Village Development Committee.
- (l) To perform such other functions as are prescribed under the prevailing law.

## **Chapter – 5**

### **Judicial Power of Village Development Committee**

33. **Judicial Powers:** The Village Development Committee shall have the power to hear and settle at first instance the following cases within such village development area from such date as may be prescribed by Government of Nepal by publishing a notification in the Nepal Gazette: -

- (a) Cases on boundary of land, public land, *Sandhi Sarpan* (inconvenience in respect of boundary or way-outs), *Aali Dhur*, canals, dams, ditches or allocation of water and encroachment on roads or way-outs,
- (b) Cases on compensation for damage of crops,
- (c) Cases on forced labour (*Beth-begar*) and cases under the Chapter on Wages,
- (d) Cases under the Chapter on Paupers,
- (e) Cases under the Chapter on Missing and Finding of Quadrupeds,

- (f) Cases under No. 8 and 9 of the Chapter on Construction of Houses,
- (g) Cases under the Chapter on *Kalyan Dhan* (hidden and unclaimed properties),
- (h) Cases under the Chapter on Deposits except those under No. 5 of that Chapter,
- (i) Cases on providing expenses for fooding and clothing according to status and income under No. 10 of the Chapter on Partition,
- (j) Cases on uses of water bank (*ghat*) and security of public property,
- (k) Cases under the Chapter on Quadrupeds other than the killing of cow,
- (l) Cases on pasture land, grass, fuel woods,
- (m) Cases on entering into, staying in or attempting to enter in or stay in other's house forcefully,
- (n) Except those cases referred to in Annex-1 and Annex-2 of the Government Cases Act, 2049 (1993), such other cases as assigned by Government of Nepal by publishing a notification in the Nepal Gazette,

34. **Formation of Arbitration Board:** (1) The Village Development Committee shall form an arbitration board to hear and settle the cases filed in the Village Development Committee under Section 33.

(2) In forming the arbitration board by the Village Development Committee pursuant to sub- section (1), it shall appoint in the arbitration board three persons as agreed upon between the parties to a case, from amongst the persons enlisted in the list of arbitrators referred to in Section 35.

(3) In case the parties to a case fail to reach an agreement in the appointment of arbitrators under Sub-section (2) from amongst the persons

enlisted in the list of arbitrators, the parties to the case shall appoint each arbitrator of their own and provide the name of such arbitrator to the Village Development Committee.

The Village Development Committee, after having so received the names of two arbitrators, shall appoint one other arbitrator from amongst the persons enlisted in the list of arbitrators referred to in Section 35.

(4) In cases where the parties to a case fail to reach an agreement on appointment of arbitrators pursuant to Sub-section (2) or the parties to the case do not send the name of one arbitrator each appointed by them under Sub-section (3), the Village Development Committee shall appoint the three persons from amongst the persons enlisted in the list of arbitrators referred to in Section 35, as arbitrators.

(5) The Village Development Committee shall designate one arbitrator as the Chairperson of the arbitration board from amongst the arbitrators appointed as arbitrators under Sub-sections (2), (3) or (4).

35. **List of Arbitrators:** (1) For the purpose of hearing and settling the cases filed under this Act at first instance, the Village Development Committee shall prepare a list of arbitrators, setting out their names, surnames and addresses as well, comprising such persons from among the local persons and social workers, as are deemed appropriate, with the consent of such persons, and shall publish it in the Office of the Village Development Committee for public information.

(2) The Village Development Committee shall have to include the women and backward class as well, to the extent possible, in the list of arbitrators referred to in Sub-section (1).

36. **Exercise of Jurisdiction:** (1) The three arbitrators shall collectively exercise the jurisdiction of arbitrators and the opinion of majority shall be deemed the decision of the arbitrators.

(2) In case the majority of the arbitrators could not be formed under Sub-section (1) and they hold different opinions, such opinions shall be

submitted to the Village Development Committee and the opinion supported by the Village Development Committee shall prevail on that matter.

37. **Process of Decision Making:** (1) The arbitrators shall, to the extent possible, cause the concerned parties to negotiate with each other on the case submitted to them and have the case compromised.

(2) In case the arbitrators fail to have compromise pursuant to Sub-section (1), they shall exercise their jurisdiction under Section 36 on such case and decide it.

38. **Crossing off the Case List:** In case a compromise or decision is made under Section 37, the Village Development Committee shall put its seal on the compromise or decision, mention it in its records and cross off the list of that case filed in the Village Development Committee.

39. **Procedures on Cases:** The process of filing the cases to be initially heard and settled by the Village Development Committee under this Act, the method of examination and proceedings on such cases, the process of the service of summons, the process of getting the parties appeared, provision on time-limit, period for disposal of cases, the procedures on making compromise or decision shall be as prescribed.

40. **Right to Appeal:** Any party not satisfied with a decision made pursuant to Sub-section (2) of Section 37 may appeal to the concerned District Court within thirty-five days of the hearing or knowledge of the decision.

41. **Enforcement of Decisions:** (1) In cases where the parties agree to fulfill any obligation of making payment or handing over things according to a compromise or decision made in regard to a case under the jurisdiction of the Village Development Committee, the Village Development Committee shall at once execute or cause to execute the compromise or decision.

(2) In cases any party fails to fulfill obligation of making payment or handing over things under the compromise or decision, the Village Development Committee shall forward a list along with the details of the obligation to be so paid or fulfilled to the concerned Land Revenue Office.

(3) The Land Revenue Office shall, upon being so requested under Sub-section (2), have to execute the compromise or decision by fulfilling the procedures under the prevailing law.

42. **Transfer of Cases:** The cases or complaints lying before the Village Development Committee constituted under the Village Development Committee Act, 2048 (1991) shall be transferred to the Village Development Committee constituted under this Act.

## **Chapter – 6**

### **Formulation of Plans of Village Development**

#### **Committee and Process of Implementation**

43. **Formulation of Plans of Village Development Committee:** (1) Each Village Development Committee shall formulate periodical and annual plans for the development of the village development area.

(2) In formulating the plans of the Village Development Committee pursuant to Sub-sections (1), the Village Development Committee may, as per necessity, obtain external consultancy service.

(3) In formulating the plans, the Village Development Committee shall have to give priority to the following projects: -

- (a) Projects which are production-oriented and from which consideration may be obtained sooner.
- (b) Projects raising living standard, income and employment of, and giving direct benefits to, the rural people, and contributing to the alleviation of poverty.
- (c) Projects that can be operated with low cost and larger people's participation.
- (d) Projects to be operated through local means, resources and skills.
- (e) Projects providing direct benefits to the women as well as backward class and children.

(f) Projects that can contribute to protect and promote the environment.

(5) To formulate the plans to be launched in the forth-coming year, it shall be required to do as follows in the current year: -

(a) The Village Development Committee shall be required to obtain the guidance and prior estimation of the resources and means from the District Development Committee and other concerned agencies for the forth-coming fiscal year until the month of Marg of each year. Even the Village Development Committee itself shall have to provide guidance on selection of projects and formulation of plans to the different Ward Committees for the formulation of service and development program for the forth-coming fiscal year.

(b) Projects shall have to be invited from the Ward Committees, consumers' committees and non-governmental organizations in the village development area, and plans shall have to be formulated on the basis thereof.

(6) In formulating periodical plans, the following matters shall have to be included: -

(a) Geographical, economic and natural heritages of the village and present uses thereof.

(b) Possibilities of production in various sectors on account of comparative cost benefit.

(c) Areas comprising backward castes, tribes and poor people and various development works done or required to be done in such areas.

(d) Income-generating and skills-oriented development works for women and children.

- (e) Description of the completed projects under various subjects and sectors and provision on the operation and maintenance thereof.
- (f) Various sectoral short-term and long-term development works on the basis of development possibility and pollution controlling works.
- (g) Plans on human resources development in various subject areas to be formulated by the local people themselves.

(7) In formulating annual plans, the following matters shall have to be taken as the basis.

- (a) Directives received from the District Development Committee on national development policy.
- (b) Overall necessities indicated by periodical plans.

44. **Preparation of Resource Map**: Each Village Development Committee shall, for the development of the village development area, have to collect village level objective data and prepare a resource map reflecting the situation of the village.

45. **Feasibility Study of the Project to Be Carried Out**: In the course of implementation of its projects, the Village Development Committee shall have to undertake or cause to be undertaken feasibility study of the project with also setting out the matters as follows: -

- (a) Objectives of the project,
- (b) The number of population to be benefited from the project and the type of benefit,
- (c) Whether the project to be selected is new or incomplete one,
- (d) Whether the needs can be fulfilled or problem be solved through any other means without carrying out the project,

- (e) The estimate of the expenditures and cost of the materials that may be required in completing the project and the required amount of time therefor ,
- (f) The cash, labour in-kind and similar other contribution that may be received from the users,
- (g) Charge or maintenance and repair expenses which may be collected from the users or operational system, and
- (h) Any other matter, if any, required to be set out.

46. **Selection of the Project:** (1) In selecting a project, it shall have to be selected on the basis of the resource map as referred to in Section 44 and the report of project feasibility study referred to in Section 45.

(2) In selecting a project, it shall have to be selected so as to protect and promote the environment.

(3) In selecting projects, those projects, which shall have utmost participation and labour of the local inhabitants, shall have to be selected.

(4) After receiving the estimate of the grant to be made available to the Village Development Committee, the project shall have to be selected on the basis of priority.

(5) The information on the selected projects shall have to be made public among the inhabitants of the village.

47. **Coordination among Village Development Committee and Governmental and Non-governmental Agencies:** In formulating its plans and service program, the Village Development Committee shall have to maintain coordination with governmental, non-governmental and donor agencies implementing different services and development program in the village development area in the following matters: -

- (a) To remove duplication between the Village Development Committee and the concerned agency on investment to be made in any service sector.
- (b) To maintain complementary coordination among the investors.
- (c) To chiefly maintain the role of consumers on procedures of the both.
- (d) To follow the method whereby the inhabitants of the village can have maximum benefit from the investment.
- (e) To determine timetable for the implementation of various program.

48. **Operation of the Project of Village Development Committee:** (1) The projects of the Village Development Committee shall be operated as follows: -

- (a) Through own resources of the Village Development Committee,
- (b) Through the grants of the District Development Committee,
- (c) Through the grants of Government of Nepal,
- (d) Through various non-governmental organizations and agencies.

(2) After the selection of the projects, the Village Development Committee shall have to prepare a calendar of operation and implement or cause to be implemented such projects.

(3) The program to be operated by the non-governmental organization shall have to be operated by entering into an agreement with the Village Development Committee.

(4) The projects which are to be included in the District Plan shall have to be passed by the Village Council and sent to the District Development Committee.

(5) In cases where the program to be operated by the Village Development Committee carry the investment of non-governmental

organizations too, such program shall have to be operated in accordance with the agreement entered into between the two organizations.

(6) Special projects to be operated with the grants of Government of Nepal shall be operated in accordance with the process prescribed by Government of Nepal.

(7) In formulating plans by the Town Development Board situated in the village development area, it shall formulate them in consultation with the Village Development Committee.

49. **Implementation and Management of Projects:** (1) The village level projects shall be carried out through consumers' committees.

(2) In case trainings are required to the members of the consumers' committee for operation of the project, such trainings shall have to be provided to them.

(3) The consumers' committee may collect service charges from the consumers who receive service from such project.

(4) Amounts of service charges received pursuant to Sub-section (3) shall have to be expended for the repair, maintenance and protection of the project concerned.

(5) The consumers' committee shall have to up-date the details of the incomes and expenditures referred to in Sub-sections (3) and (4) and submit it to the Village Development Committee.

50. **Directives to be Abided by:** The Village Development Committee shall have to abide by the directives given, from time to time, by the National Planning Commission and the District Development Committee in respect of the formulation and operation of its plan.

51. **Non-Governmental Organizations to be Encouraged:** (1) The Village Development Committee shall have to encourage the non-governmental organizations for the acts of identification, formulation, approval, operation, supervision, evaluation, repair and maintenance of the village development program within each village development area.

(2) The projects to be operated by a non-governmental organization shall be operated through its own resources and the resources obtained from the Village Development Committee as well as the District Development Committee.

(3) The organization concerned shall have to submit a full description of the project to the Village Development Committee.

(4) The non-governmental organization shall have to operate projects by keeping coordination with the Village Development Committee.

(5) The Village Development Committee may implement and operate plans through non-governmental organizations.

52. **Appraisal of Projects**: The Village Development Committee shall have to evaluate all the projects being operated within the village development area quarterly.

53. **Examination, Release and Clearance of Projects**: (1) After the completion of the project, it shall have to be examined, released and cleared as prescribed.

(2) After receiving the information of the completion of a project from the project operating agency, the Village Development Committee shall examine, release and clear the project on the basis of the work completion report and the evaluation submitted by the technician.

(3) In case the technical assistance that may be required for the purpose of Sub-section (2) is not available in the Village Development Committee, the District Development Committee shall have to make available such assistance.

(4) The Village Development Committee shall have to inform the District Development Committee in respect of the project completed by it, and the District Development Committee shall have the technical examination and evaluation of such project carried out and shall approve, release and clear such project.

54. **Repair, Maintenance, Expansion and Management of the Examined and Released Project:** (1) The Village Development Committee may, after the completion of a project, impose service charge on the beneficiaries of the project for the repair, maintenance and expansion of the project.

(2) The repair, maintenance, expansion and management of the project shall have to be done with the amount of the service charge collected pursuant to Sub-section (1).

(3) The Village Development Committee shall have to prepare and maintain an up-to-date account of incomes and expenditures as referred to in Sub-sections (1) and (2).

## **Chapter – 7**

### **Financial Provisions**

55. **Taxes the Village Development Committee is Entitled to Levy:** The Village Development Committee may levy the taxes as follows in its area at the rate approved by the Village Council, not exceeding the prescribed rate: -

- (a) **House and Land Tax:** Annual house and land tax on each house and land on the basis also of size, type, design and structure of the houses within the Village Development Committee.
- (b) **Land Revenue or Land Tax:** Land revenue or land tax on the land within the village development area. Provided that the twenty-five per cent amount of revenue raised from land revenue or land tax shall have to be handed over to the District Development Committee.
- (c) **Haat (temporary weekly bazaar) Market Shop Tax:** *Haat* market shop tax for shops kept in livestock and regular *Haat* market, fair, fete etc. organized within the village development area.

- (d) **Vehicle Tax**: Vehicle registration and annual vehicle tax on the prescribed vehicles within the village development area and occasional vehicle tax on all kinds of vehicles entering into its area.

Provided that, on the prescribed vehicles entered into Nepal, the Village Development Committee of such village development area, through which area such vehicle enters into at first from any foreign country, may levy tax as prescribed and after payment of tax within one village development area, such tax shall not be levied again in other places.

- (e) **Entertainment Tax**: Entertainment tax may be levied as prescribed on the places of entertainment such as permitted cinema-hall, video-hall, and cultural-show hall located within the village development area.
- (f) **Rent and Tenancy (*Bitauri*) Tax**: Rent and tenancy tax on the temporary shops given on rent at the *Haat* market places constructed, supervised or operated by itself or at unregistered (*Ailani*) land or road sides, within the village development area.
- (g) **Advertisement Tax**: Advertisement tax on signboards placed within the village development area.
- (h) **Business Tax**: Business tax on the prescribed industry, trade, profession or occupation within the village development area.
- (i) **Commercial Video Tax**: Commercial video tax within the village development area.
- (j) **Natural Resources Utilization Tax**: Tax to be levied for commercial exploitation of natural resources and heritage within the village development area.

(k) **To levy other taxes as prescribed.**

56. **Service Charges:** (1) The Village Development Committee may impose the service charges as follows at the rate approved by the Village Council, for the services made available by it within its area: -

- (a) Service charge on sanitation, drainage and sewerage.
- (b) Tourist places entrance charge.
- (c) Entrance charge on parks, garden, picnic places and view towers etc.
- (d) Charge for performing entertainment activities like magic and circus.

(2) The Village Development Committee may impose and collect service charge on the amount realized by it for somebody else, if it realizes and recovers any other's amount and goods.

57. **Fees:** The Village Development Committee may charge fees as follows within its area at the rate approved by the Village Council, not exceeding the prescribed rate:

- (a) Licensing and renewal fee for television, video and other equipment.
- (b) Approval (*Baksauni*) fee.
- (c) Recommendation fee.

58. **Income May Be Generated Through Selling:** The Village Development Committee may sell the following objects situated within its area: -

- (a) Soil of governmental barren land.
- (b) Products of public ponds or gardens.
- (c) Assets of the Village Development Committee.
- (d) Among the forest products situated within the village development area, dried timber, fire woods, branches, splints, twigs, roots etc.

(e) Straw, grass etc.

59. **Loan May Be Raised:** The Village Development Committee may raise loan or borrow money as approved by the Village Council, with or without pledging any movable and immovable property under the ownership and possession of Village Development Committee or under the guarantee of Government of Nepal, from a bank or any other organization or institution.

60. **Funds of the Village Development Committee:** (1) The Village Development Committee shall have a fund.

(2) The fund referred to in Sub-section (1) shall consist of the amounts as follows.

(a) Amount received from Government of Nepal or District Development Committee.

(b) Amount received from fees, charges, levies, and rents.

(c) Amount obtained from the sale of movable and immovable properties and other objects of the Village Development Committee.

(d) Amount received from the use, other than public use, of water of public rivers and streams.

(e) Amount received from donations, grants, assistance or gifts.

(f) Amount to be obtained for extending cooperation in the acts of preventing smuggling and theft of forests products located within the village development area.

(g) Amount received from the income generating program.

(h) Amount of loan and borrowing obtained from bank or any organization or agency.

(i) Amount received from fines and penalties.

(j) Amount obtained from authorization sanctioned by Government of Nepal or available under other prevailing law.

(3) Amounts collected in the fund shall have to be deposited in a bank.

61. **Mode of Making Expenditure of Amount from the Fund:** (1) The fund shall be operated through joint signatures of the Chairperson or a Member designated by him and of the Secretary.

(2) No amount may be spent from the fund without getting approved the annual budget and program from the Village Council.

(3) The Secretary may spend amount from the fund for executing the decisions of the Village Development Committee, subject to the budget and program approved by the Village Council.

(4) In spending the amount from the fund, it shall have to be spent as prescribed.

(5) The financial report of the amount spent from the fund shall have to be submitted to the meetings of the Village Council, and the Village Development Committee shall have to publicly inform on its incomes and expenditures in all of its Wards within one month of the date of each meeting of the Village Council.

62. **Transfer in Budget Heads:** The Village Development Committee may transfer the budget allocation amount from one head to another not exceeding ten percent of the amount of the head in the annual budget approved by the Village Council.

Provided that no transfer of budget head may be made on the heads of contingency and financial assistance.

63. **Construction and other Contract:** (1) In getting a construction work done, the Village Development Committee shall have to do, and cause to be done, as follows: -

- (a) Contracts and other transactions be as prescribed.
- (b) The accounts and books of the Village level plans are maintained by the concerned bodies.

(2) The Village Development Committee may execute the development and construction works either by itself or through the non-governmental organizations, consumers' groups, contracts or direct hiring, as prescribed.

(3) All contract documents to be entered into by the Village Development Committee shall bear the signature of the Chairperson or a Member designated by him and the Secretary.

64. **Provision of Auction Sale:** The process of auctioning or selling the goods and properties not required for any work for the Village Development Committee shall be as prescribed, as per the policy approved by the Village Council.

65. **Remaining Amount of Budget:** Any unspent amount of budget in one fiscal year shall have to be included in the budget of the next fiscal year for the purpose of carrying out the projects or program remained incomplete in the current fiscal year.

66. **Maintenance of Accounts:** (1) The Village Development Committee shall have to maintain the records of books and accounts of its income and expenditure, as prescribed.

67. **Remuneration and Meeting Allowances:** (1) The Chairperson and Vice-Chairperson shall receive remuneration as prescribed.

(2) The meeting allowance as prescribed may be provided to the Members for taking part in the meeting of the Village Development Committee.

68. **Assets of Village Development Committee:** (1) The Village Development Committee shall have the full title over the following properties situated within the village development area, and the Village Development Committee shall have to supervise, repair, maintain and manage such properties: -

- (a) Properties constructed and purchased from the fund of the Village Development Committee or granted to it by Government of Nepal, District Development Committee or any organization or individual,
- (b) Public properties not subject to any proprietary right of any individual and not within the ownership of Government of Nepal or District Development Committee, such as public drainage, sewerage, bridges, ponds, temples, public rest houses, inns, houses, water-spouts, taps, wells, grazing fields, water bank (*ghat*), outlets and roads,
- (c) Forests according to the existing forest laws or handed over by Government of Nepal,
- (d) Natural heritages.

(2) The Village Development Committee shall not be allowed to sell and dispose of or otherwise relinquish its title and possession on the properties as referred to in Sub-section (1) without the approval of Government of Nepal. Any such sale, disposal or relinquishment of the title and possession to any person without approval shall, *ipso facto*, be null and void in any circumstance whatsoever.

69. **Audit:** (1) The internal audit of incomes and expenditures of the Village Development Committee shall be carried out by the District Development Committee within four months from the date of completion of a fiscal year.

(2) The final audit of the Village Development Committee shall have to be carried out by an auditor approved by the District Development Committee on the recommendation of the accounts committee constituted by the Village Council.

(3) The Chairperson shall have to take necessary actions on the issues referred to in the audit report and submit such report along with the details of actions taken to the accounts committee.

(4) The accounts committee shall have to study the report submitted by the Chairperson under Sub-section (3) and furnish it to the Village Council along with its opinion and suggestions.

(5) The Village Council shall discuss on the report received with the suggestions and opinion of the account committee and if the irregularities shown and determined by the audit can not be regularized, it shall give directions to the Village Development Committee for the clearance and settlement of such irregularities.

## **Chapter – 8**

### **Punishment**

70. **Punishment and Penalty May Be Imposed:** (1) In cases any person does any of the following acts within the village development area, the Village Development Committee may punish him as follows: -

- (a) If any one does such acts as to plant trees, erect a wall, or construct house, shed etc. with an intention of causing obstacles to others, the Village Development Committee may order to remove such tree, or construction and, if the concerned person does not remove these objects as per such order, the Village Development Committee may remove the same. The expenses incurred while so removing may be recovered from the concerned person being reluctant to carry out the order and such person may be punished with a fine of up to one thousand rupees.
- (b) If any one constructs or places drainage, toilet, safety-tank etc. or does similar acts creating obstacles and barriers with an intention of causing trouble to others, the Village Development Committee may order to stop such act or demolish or remove such construction. If any one disagrees to stop, demolish or remove according to such order, the Village Development Committee may depute persons to stop, demolish or remove the same. The expenses incurred while so demolishing or removing shall be

recovered from the concerned person who has not obeyed the order and such person may be punished with a fine of up to one thousand rupees.

- (c) If any one dumps solid wastes at places other than those designated within the village development area, such person may be punished with a fine of up to one hundred rupees, and the expenses to be incurred on removal of such solid waste may also be recovered from the concerned person.
- (d) If any person without permission of the Village Development Committee erects fences or enclosures on or stops any public road, tracks and trails or place, and causes obstruction to the movement, the Village Development Committee shall require him to remove such fences or enclosures or things of obstruction and may punish him with a fine of one hundred to five hundred rupees.
- (e) If any person damages or causes loss to, or encroaches on, or misappropriates any public property or destroy any public structure within the village development area, such person shall be liable to punishment, if any, prescribed under the prevailing law, and if no such punishment is provided for, the Village Development Committee may punish such person with a fine of up to five thousand rupees, and may recover the amount of such loss or damage from the concerned person or require such person to render them into original condition.
- (f) If any person constructs a building, shed etc. without authorization on public land or does such construction works by encroaching public land situated within the village development area, the Village Development Committee may punish the person carrying out such construction works with a fine of up to five thousand rupees and may order to demolish the building, sheds etc. so constructed. In case any person does not obey such an

order, it may depute persons to demolish such buildings, sheds, etc. The Village Development Committee may realize and collect the expenses incurred for such demolition from the concerned person.

- (g) If any person dumps solid wastes at the house, courtyard, or yard of any neighbor or does any act fouling the environment, the Village Development Committee may punish such person with a fine under Clause (c) and require such person to remove such solid wastes.
- (h) If any person carries out such activity as to disturb peace in the neighboring place or society by way of installing any type of instrument or through any equipment or means of entertainment within the village development area, the Village Development Committee may order not to do such act or to remove the equipment if it is so required; and if the concerned person does not carry out such order, the concerned person may be punished with a fine of up to five hundred rupees.
- (i) The Village Development Committee may order to place a price index on the shops, and it may fine the concerned shop- owner with an amount of up to five hundred rupees, in case such shop does not place the price index accordingly.
- (j) It shall arrange for pinfolds in the Village Development Committee and the Wards to control strayed quadrupeds and may realize and recover the claimed amount or crops in accordance with the law.

(2) In case any person does not pay the taxes, fees, charges, fares imposed or levied by the Village Development Committee or any other amounts due and payable to it, the Village Development Committee may punish such person with a fine of up to five hundred rupees and may stop the service made available by the Village Development Committee, in regard to such person.

(3) In case any person commits any act in contravention of this Act, or the Rules, Bye-laws or Orders made under this Act, such person shall be punished with punishment, if any, prescribed elsewhere in this Act; and if punishment is not so prescribed, the Village Development Committee may punish such person with a fine of up to five hundred rupees.

(4) If any person who has already been punished under this Section, commits the same offence again, the Village Development Committee may punish such person with two-fold punishment for each instance.

(5) Any party who is not satisfied with the punishment imposed by the Village Development Committee under this Section may appeal to the concerned District Court within thirty-five days of the date of knowledge of such decision.

71. **Recovery of Punishment and fine**: The punishment and fine imposed by the Village Development Committee under Section 70 shall be recovered by following the process as referred to in Section 260.

### **Part – 3**

#### **Provisions Relating to Municipality**

##### **Chapter – 1**

###### **Municipal Area, Ward Division and Ward Committee**

72. **Specification of Municipal Area and Center**: (1) Government of Nepal may specify any area within Nepal, having a population of at least twenty thousand and with electricity, roads, drinking water and communications facilities, as a municipal area and set out the four boundary thereof.

(2) Notwithstanding anything contained in Sub-section (1), Government of Nepal may specify any area in the hilly and mountainous area, having a population of at least ten thousand and with electricity, transportation, drinking water and communication facilities, as a municipal area and set out the four boundaries thereof.

(3) Government of Nepal may, in consultation with the Municipal Council, specify a convenient place within a municipal area specified under Sub-sections (1) and (2) as the center of that area.

(4) All the municipal level offices shall be located in the center of the municipal area specified under Sub-section (3).

73. **Division of Wards**: Government of Nepal shall, taking also into account of the geographical situation, divide the municipal area specified under Section 72 into at least nine Wards consisting of equal population to the extent possible.

74. **Alteration of Boundary**: (1) In the event of necessity to alter the boundary of any municipal area specified under Section 72 or of any Ward divided pursuant to Section 73, Government of Nepal shall form a committee comprising also the concerned expert and, on the recommendation of the committee as well as with the approval of the Election Commission, shall alter the boundary of such a municipal area or Ward, without affecting the election constituencies delimited for election of members of the House of Representatives.

Provided that in so altering any boundary, it shall have to be made prior to one year of the year of election.

(2) In case the concerned District Council makes a recommendation, upon a resolution adopted by a two-thirds majority of the concerned Municipal Council that it is necessary to alter the boundary of any municipal area, Government of Nepal shall, subject to Sub-section (1), alter the boundary.

75. **Constitution of Ward Committee**: A Ward Committee shall be constituted comprising of the Ward Chairperson and Ward Members as follows elected by the Nepalese citizens, who are in possession of the qualifications to become voters under the prevailing law, of each Ward of the Municipality, from amongst the persons having possessed the required qualifications to become a Member of the Municipal Council under Section 78: -

(d) One Ward Chairperson,

(e) One Woman Ward Member, and

(f) Three Ward Members.

## Chapter – 2

### Provisions relating to Municipal Council

76. **Constitution of Municipal Council:** (1) A Municipal Council shall be constituted in any municipal area specified under Section 72.

- (2) The Municipal Council shall consist of the Members as follows: -
- (a) Mayor and Deputy Mayor of the Municipality,
  - (b) Ward Chairperson, Woman Ward Member and Ward Members of each Ward Committee,
  - (c) No less than 6 persons and no more than 20 persons including woman nominated by the Municipal Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down-trodden and indigenous people living within the area of the Municipality, belonging to the class whose representation in the Municipal Council does not exist and who are in possession of the required qualifications to become the Member of the Municipal Council under Section 78.

Provided, however, that out of the persons to be so nominated, at least forty per cent persons shall have to be women.

77. **Term of Office of Member of Municipal Council:** (1) The term of office of a Member of the Municipal Council shall be of five years.

(2) In reckoning the term of office of a Member of the Municipal Council, it shall be reckoned from the first day of *Shrawan* of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of *Ashadh* of every five years, not exceeding a term of five years.

(3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members of the Municipal Council is held prior to the expiry of the term of office of the Member of the Municipal Council under this Section, the term of office of the existing Member of the Municipal Council shall be deemed to have been expired, and the newly elected Members of the Municipal Council shall have the authority to discharge functions.

(4) In reckoning the term of office of such Member even in cases where, owing to the fact that the election to the office of any Member of the Municipality or Ward Committee could not be held or nomination of the Member of the Municipal Council could not be made at the scheduled time due to any reason, it is held in any other time, the term shall be reckoned as if the elections were held or nomination made at the scheduled time.

(5) In case the office of any Member of the Municipal Council becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that –

- (1) By-election or nomination shall have to be held or made, as the case may be, within one year of the date of vacancy of the office.
- (2) No by-election or nomination shall be held or made for a period less than one year.

78. **Qualification Required for a Member of Municipal Council:** In order to become a Member of the Municipal Council, one shall have to possess the following qualifications: -

- (a) Being a Nepalese citizen,
- (b) Having attained twenty-one years of age and possessed qualification to become a voter under the prevailing law,
- (c) Having settled up any goods in-kind and cash due to the Municipality,

(d) Having no personal interest in any contract, or in any dealings on movable, immovable property, with the Municipality,

(e) Having not been held to have misappropriated public property,

Provided that this Clause shall not apply, if an evidence showing the settlement thereof is produced.

(f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment.

(g) Being not disqualified under any law.

79. **Termination of Membership of Municipal Council:** The membership of the Municipal Council shall cease to continue in the following circumstances: -

(a) If he/she does not possess the qualifications referred to in Section 78,

(b) If the Ward or the part thereof where he has been living is taken out from the concerned municipal area or amalgamated to any other village development area or Municipality,

(c) If he/she is elected to the office of President, Vice-president or Member of the District Development Committee or is nominated as a Member of the District Council,

(d) If he/she becomes a candidate in the election of the Members of the House of Representatives or National Assembly or is nominated as a member of the National Assembly,

(e) If he / she absents him/herself from three consecutive meetings of the Municipal Council without giving a reasonable notice,

Provided that such a Member shall not be given a notice indicating the termination of his/her membership without giving him/her a reasonable opportunity to defend himself.

- (f) If his/ her term of office under Section 77 expires,
- (g) If he/she is punished under the prevailing law on a corruption charge or a criminal charge involving moral turpitude or criminal charge carrying punishment of imprisonment for more than three years,
- (h) If he/ she resigns,
- (i) If he/she dies.

### **Chapter – 3**

#### **Provisions relating to Municipality**

80. **Constitution of Municipality:** (1) A Municipality shall be constituted as an executive of the Municipal Council in a municipal area specified under Section 72.

(2) The Municipality shall consist of the Mayor, Deputy Mayor and Members as follows: -

- (a) One Mayor and one Deputy Mayor elected by the Nepalese citizens within the municipal area who have possessed the qualifications to become voters under the prevailing law,
- (b) Ward Chairmen, elected by the Nepalese citizens, who have possessed qualifications to become voters under the prevailing law, of each Ward of the municipal area at the rate of one each from their respective Wards.
- (d) Two Members including one woman nominated by the Municipality from amongst the Members of the Municipal Council as referred to in Clause (c) of Sub-section (2) of Section 76.

81. **Municipality to Be Autonomous and Corporate Body:** (1) Each Municipality shall be an autonomous and corporate body with perpetual succession.
- (2) The Municipality shall have a seal of its own.
- (3) The Municipality may, like an individual, acquire, use, sell and dispose of movable and immovable property.
- (4) The Municipality may, like an individual, sue or be sued in its own name.
82. **Term of Office of Member:** (1) The term of office of a Member of the Municipality shall be of five years.
- (2) In reckoning the term of office of a Member of the Municipality, it shall be reckoned from the first day of Shrawan of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of Ashadh of every five years, not exceeding a term of five years.
- (3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members is held prior to the expiry of the term of office of the Member under this Section, the term of office of the existing Member shall be deemed to have been expired, and the newly elected Members shall have the authority to discharge functions.
- (4) In reckoning the term of office of a Member even in cases where, owing to the fact that the election or nomination to the office of any Member of the Municipality could not be held or made at the scheduled time due to any reason, it is held or made in any other time, the term shall be reckoned as if the elections was held or nomination made at the scheduled time.
- (5) In case the office of any Member of the Municipality becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that –

- (1) By-election or nomination shall have to be held or made, as the case may be, within one year of the date of vacancy of the office.
  - (2) No by-election or nomination shall be held or made for a period less than one year.
83. **Oath To Be Taken:** (1) The Mayor shall take an oath before the District Judge, the Deputy Mayor and Members before the Mayor and, in the absence of the Mayor, the Deputy Mayor before the District Judge and the Members before the Deputy Mayor.
  - (2) The Members of the Municipal Council other than those referred to in Sub-section (1) shall take an oath before the Mayor and, in the absence of the Mayor, before the Deputy Mayor.
  - (3) Without taking an oath pursuant to Sub-section (1) or (2), no Member of the Municipal Council and the Municipality shall be entitled to assume his office.
84. **Office May be Relinquished:** (1) The mayor may relinquish his office by tendering his resignation to the Municipality through the Deputy Mayor, and the Deputy Mayor and Members may do so by tendering it to the Mayor.
  - (2) The Members of the Municipal Council other than those referred to in Sub-section (1) may relinquish the office by tendering resignation to the Mayor.
85. **Qualifications Required for Member:** One shall have to possess the following qualifications to be elected or nominated as a Member of the Municipality:
  - (a) Being a Nepalese citizen,
  - (b) Having attained twenty-one years of age and possessed qualification to become a voter under the prevailing law,
  - (c) Having settled up any goods in-kind and cash due to the Municipality,

(d) Having no personal interest in any contract, or in any dealings on movable, immovable property, with the Municipality,

(e) Having not been held to have misappropriated public property,

Provided that this Clause shall not apply, if an evidence showing the settlement thereof is produced.

(f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment.

(g) Being not disqualified under any law.

86. **Termination of Membership**: The Membership of the Municipality shall cease to continue in the following circumstances: -

(a) If he does not possess the qualifications referred to in Section 85,

(b) If the Ward or the part thereof where he has been living is taken out from the concerned municipal area or amalgamated to any other village development area or municipal area,

(c) If he/ she is elected to the office of President, Vice-president or Member of the District Development Committee or is nominated as a Member of the District Council,

(d) If he/she becomes a candidate in the election of the Members of the House of Representatives or National Assembly or is nominated as a Member of the National Assembly,

- (e) If he/she absents him/herself from three consecutive meetings of the Municipality, without giving a notice indicating a reasonable cause,

Provided that such a Member shall not be given a notice indicating the termination of his membership without giving him an reasonable opportunity to defend himself.

- (f) If he/she is punished under the prevailing law on a corruption charge or a criminal charge involving moral turpitude or criminal charge carrying punishment of imprisonment for more than three years,
- (g) If his/her term of office under Section 82 expires,
- (h) If he/she resigns,
- (i) If he/she dies.

87. **The Statement of Property To Be Made Public:** Each Member shall, within thirty days of the date of oath taken under Section 83, make public the statement of the movable and immovable property remained in his name and that of his family member living in his joint family.

Provided, however, that the Mayor and Deputy Mayor shall, even after they are relieved of the office, make public the statement of such property within thirty days of their relieving of the office.

88. **Classification of Municipality:** (1) Government of Nepal may classify the Municipalities constituted under Section 80, on the basis of population, sources of income and other urban facilities, as follows: -

- (a) Municipal Corporation,
- (b) Sub-municipal Corporation,
- (c) Municipality.

(2) The following Municipalities classified under Sub-section (1) shall have the population and urban facilities as follows: -

- (a) **Municipal Corporation**: With the population of at least three hundred thousand and annual income source of minimum four hundred million rupees, having the facilities of electricity, drinking water and communications, having the main road and accessory roads of the town pitched, availability of highly sophisticated nature of service in respect of health services, having the necessary infrastructures as required for international sports program, availability of adequate opportunities for higher education in different subjects and having at least one university established and other similar adequate urban facilities and having already been existed as a Sub-municipal Corporation.
- (b) **Sub-municipal Corporation**: With the population of at least one hundred thousand and annual income source of minimum one hundred million rupees, having the facilities of electricity, drinking water and communications, having the main roads of the town already pitched, having the facilities of higher level education and health services, ordinary facilities for national as well as international level sports program, having the provisions of public gardens and city halls and other similar necessary urban facilities and having already been existed as a Municipality.
- (c) **Municipality**: A semi-urban area with a population of at least twenty thousand, and annual source of income of minimum five million rupees and with electricity, roads, drinking water, communications and similar other minimum urban facilities.

Provided that in the cases of mountainous and hilly areas, a population of at least ten thousand and annual

source of income of minimum five hundred thousand rupees shall be sufficient even if there is no road facility.

(3) Notwithstanding anything contained in Sub-section (1) and (2), this provision shall have no effect on the Municipalities already existing here before.

(4) Government of Nepal may also declare as a cultural town on the prescribed basis in order to preserve historical and archaeological objects and art and culture of a town.

## **Chapter – 4**

### **Meetings and Working Procedures**

89. **Meetings of Ward Committee:** (1) The Meeting of a Ward Committee shall be held at least once in a month.

(2) The Ward-Chairperson shall convene the meeting of the Ward Committee, with specifying the date, time and venue of such meeting.

(3) The Ward-Chairperson shall preside over the meetings of the Ward Committee, and in his absence, the Member chosen by the Members of the Ward Committee present at the meeting from amongst themselves shall preside over the meeting of the Ward Committee.

(4) Decisions of the Meeting may be made by a majority of three Members including the person presiding over it.

(5) Other matters relating to the meetings of the Ward Committee shall be as determined by the Ward Committee itself.

90. **Meeting of Municipal Council:** (1) The Municipal Council shall normally meet twice a year.

(2) The Mayor of the Municipality shall convene the meetings of the Municipal Council.

(3) The meetings of the Municipal Council shall have to be normally convened within the last day of the month of *Shrawan* and that of *Poush* each year.

(4) The meeting of the Municipal Council shall be presided over by the Member chosen by the Members, other than the Members of the Municipality, present at each meeting of the Municipal Council from amongst themselves.

Provided that prior to the selection of the Chairperson at the meeting of the Municipal Council, the senior-most member, on account of age, among the Members of the Municipal Council present shall preside over that meeting.

(5) The Secretary of the Municipality shall act as the Secretary of the Municipal Council.

(6) The Secretary shall, at the direction of the Mayor of the Municipality, have to send a notice of the date, time and venue and agenda of the meeting of the Municipal Council to all the Members of the Municipal Council in advance of at least fifteen days of the meeting.

(7) The presence of fifty percent members of the number of Members existing for the time being at a meeting of the Municipal Council shall be deemed to have constituted a quorum for the meeting.

(8) In case the meeting of the Municipal Council could not be held due to the lack of the quorum, another meeting shall have to be convened by giving a seven-days notice. The quorum for such meeting shall be one-thirds. Even if the quorum be not constituted there, another meeting shall have to be convened again on the following day thereof, and that meeting shall be conducted no matter how many Members are present at the meeting.

(9) If one-third Members of the Municipal Council request the Mayor in writing to convene a meeting to discuss any particular matter, the Mayor shall have to convene an extra-ordinary meeting of the Municipal Council within thirty days of the day of such request.

(10) The Secretary shall authenticate the decisions of the meetings of the Municipal Council.

(11) Other procedures relating to the meetings of the Municipal Council shall be as prescribed.

91. **Meeting of Municipality:** (1) The meeting of the Municipality shall be held at least once in a month.

(2) The Secretary shall, as ordered by the Mayor, convene the meetings of the Municipality.

Provided that if the Mayor does not order to convene the meeting even until three months, the Secretary shall, upon the request in writing of one-third Members, convene the meeting of the Municipality.

(3) The meeting of the Municipality shall be presided over by the Mayor or, in the absence of the Mayor, by the Deputy Mayor and, even if the Deputy Mayor absents him/herself, by a Member chosen by the Members present at the meeting from amongst themselves.

(4) If fifty per cent Members of the total number of the Members existing for the time being are present at a meeting of the Municipality, the quorum for the meeting shall be deemed to have constituted.

(5) The concerned Are Member of the District Development Committee shall have to be invited to participate in the meetings of the Municipality.

(6) The Secretary shall authenticate the decisions of the meetings of the Municipality.

(7) Other procedures relating to the meetings of the Municipality shall be as prescribed.

92. **Decisions of Meeting:** (1) Unless otherwise provided for in this Act, decisions of the meetings of the Municipal Council and the Municipality shall be made on the basis of a majority.

Provided that a majority of the number of the total Members shall be required to decide on a proposal referred to in Clauses (b) and (c) of Sub-section (1) of Section 94.

(2) In the event of a tie of votes at a meeting of the Municipal Council and Municipality, the person presiding over the meeting shall exercise a casting vote.

93. **Functions, Duties and Powers of the Ward Committee:** The functions, duties and powers of each Ward Committee under the Municipality shall be as follows: -

- (a) To assist the Municipality in keeping inventory of, and in protecting, population, houses, land, rest houses, shelters, inns, temples, shrines, hermitages, monasteries, mosques, *madarasa*, divine places, barren land, ponds, wells, lakes, deep water, canals, taps, stone water taps etc, within the Ward.
- (b) To keep neat and clean the roads, ways, bridges, drainage, ponds, lakes, wells, deep water, stone water taps, temples, shrines, monasteries, public place etc. within the Ward.
- (c) To arrange for disposal of wastes, dirt, rotten materials and for keeping the streets and corners within the Ward clean, and make arrangements to encourage the inhabitants of the Ward for maintaining sanitation.
- (d) To look after the canals, drills, water spouts (*Paini*) etc. within the Ward.
- (e) To assist in afforesting in the barren land and hills, steeps and steppe places and in conserving the environment, within the Ward.
- (f) To assist in management of health centers, health posts etc. in the Ward.
- (g) To assist in the establishment and operation of schools and libraries in the Ward.
- (h) To catch the strayed quadrupeds and hand over them to the concerned agency.

- (i) To arrange for electricity lamps on the roads and streets within the Ward.
- (j) To keep safely the accounts of incomes and expenditures and other documents of the Ward Committee.
- (k) To assist the Municipality in the selling of food grains and other necessary goods at reasonable price within the Ward.
- (l) To distribute the goods of sports for the development of sports and help to organize art, dramas and cultural program for the development of language and culture.
- (m) To take any unclaimed or helpless person being seriously ill in the Ward to nearby hospital or health center and have such person treated.
- (n) In case any helpless or unclaimed person dies in the Ward, to arrange for cremation of such person.
- (o) To arrange for B.C.G., polio vaccination for the children in the Ward and to arrange for the prevention of infectious diseases.
- (p) To motivate the inhabitants of the Ward to register personal events.
- (q) To assist in carrying out various activities to raise the level of consciousness of the inhabitants of the Municipality.
- (r) To help in protecting the barren land.
- (s) To help in preserving ancient monuments within the Ward.
- (t) To help in preserving the temples of historical, archaeological, cultural and religious importance, within the Ward.
- (u) To help the Municipality in having continuity to the cultural dance, songs as well as hymns reflecting originality.

- (v) To assist in the acts relating to the protection and earning of livelihood of the backward ethnic communities, helpless, disabled and heirless persons within the Ward.
- (w) To carry out such other functions as directed and ordered by the concerned Municipality.

94. **Functions, Duties and Powers of Municipal Council:** (1) The functions, duties and powers of the Municipal Council shall be as follows: -

- (a) To pass the budgets, plans and program submitted by the Municipality.
- (b) To adopt the resolutions relating to the levying and collecting of taxes, charges, fees, levies etc. proposed by the Municipality.
- (c) To adopt the resolutions relating to the raising of loans or selling or disposing or transferring of immovable properties proposed by the Municipality.
- (d) To discuss on the irregularities determined by the audit report of the Municipality and direct the Municipality to take necessary action for the clearance of the irregularities in respect of those irregularities that can not be regularized under the prevailing law.
- (e) To grant approval, as required, on such number of positions, remuneration, allowance and other facilities of the employees proposed by the Municipality as are to be borne from its own internal source.
- (f) To evaluate the administrative functions of the Municipality and give necessary directions to the Municipality.
- (g) To evaluate the development and construction works carried out within the municipal area and give necessary directions.

(h) To approve the byelaws of the Municipality.

(i) To carry out such other functions as prescribed.

(2) The Municipal Council shall constitute one accounts committee under the Chairpersonship of any Member of the Municipal Council, comprising in maximum of five members including the Chairperson; and the functions, duties and powers of such a committee shall be as prescribed.

(3) The Municipal Council may constitute various committees to render necessary advice and suggestions to the Municipal Council on various matters in a manner that members of the Municipal Council other than the members included in the accounts committee referred to in Sub-section (2) are included in the subject-wise committees as prescribed.

(4) Other functions, duties and powers of the Municipal Council shall be as prescribed.

95. **Advisory Committee May Be Formed:** (1) The Municipality may, if it deems it necessary, form an advisory committee comprising of members ranging from three to nine, including social workers, intellectuals and persons having technical knowledge and skills, to render assistance in its functions.

(2) Other matters relating to the advisory committee shall be as prescribed.

96. **Functions, Duties and Power of Municipality:** In addition to executing or causing to be executed the decisions and directions of the Municipal Council, the functions and duties to be performed by the Municipality mandatorily in the municipal area shall be as follows: -

(a) **Relating to Finance:**

(1) To prepare annual budgets, plans and program of the Municipality and submit them to the Municipal Council.

- (2) To keep the accounts of incomes and expenditures, and other documents pertaining thereto in an up-dated manner.
- (3) To expend the money to execute the decisions of the Municipality, subject to the limits of the approved budget.
- (4) To raise taxes, charges and fees etc. approved by the Municipal Council.

(b) **Relating to Physical Development:**

- (1) To frame land-use map of the Municipality area and specify and implement or cause to be implemented, the industrial, residential, agricultural, recreational areas etc.
- (2) To prepare housing plan in the area of Municipality and implement or cause to be implemented the same.
- (3) To carryout plans on drinking water and drainage in the areas of Municipality and operate, maintain and repair or cause to be operated, maintained and repaired the same.
- (4) To develop, or cause to be developed, green zones, parks and recreational areas in various places in the Municipality area.
- (5) To arrange for, or cause to be arranged for, public toilets in various places in the Municipality area.
- (6) To approve or cause to be approved designs of houses, buildings etc. to be constructed in the areas of the Municipality.
- (7) To build community building and rest houses.

(c) **Relating to Water resources, Environment and Sanitation:**

- (1) To preserve rivers, streams, ponds, deep water, wells, lakes, stone water-taps etc. and utilize, or cause to be utilized them properly.
- (2) In the event of necessity to carry out irrigation plans in the Municipality area, to make plans thereof and implement and cause to be implemented the same.
- (3) To control and prevent, or cause to be controlled and prevented the possible river-cuttings, floods and soil erosion in the Municipality area.
- (4) To assist, or cause to be assisted, in environment protection acts by controlling water, air and noise pollution to be generated in the Municipality area.
- (5) To protect or cause to be protected the forests, vegetation and other natural resources within the Municipality area.
- (6) To carry out or cause to be carried out sanitation program in the Municipality area.
- (7) To carry out and manage or cause to be carried out and managed the acts of collection, transportation and disposal of garbage and solid wastes.
- (8) To generate and distribute or cause to be generated and distributed electricity in the Municipality area.

(d) **Relating to Education and Sports Development:**

- (1) To establish, operate and manage pre-primary schools with own source in the Municipality area and give permission to establish the same.

- (2) To extend supports in the operation and management of schools being operated within the Municipality area and to make recommendations for the establishment and dissolution of such schools.
- (3) To assist in providing primary level education in mother tongue within the Municipality area.
- (4) To make arrangements for providing scholarships to the students of oppressed ethnic communities who are extremely backward on economic point of view.
- (5) To prepare and implement or cause to be implemented program on Municipality level adult education and informal education.
- (6) To open, operate and manage or cause to be opened, operated and managed, libraries and reading halls in the Municipality area.
- (7) To prepare and implement or cause to be implemented, sports development program.
- (8) To develop or cause to be developed sports by constituting Municipality level sports development committee.

(e) **Relating to Culture:**

- (a) To prepare an inventory of the culturally and religiously important places within the Municipality area and maintain, repair, protect and promote, or cause to be maintained, repaired, protected and promoted, them.
- (b) To protect, promote and use or cause to be protected, promoted and used, archaeological objects, languages, religion and culture within the Municipality area.

(f) **Relating to Works and Transport:**

- (1) To prepare plans of unpitched and pitched roads, bridges and culverts as needed within the Municipality area, except those roads which are under the responsibility and control of Government of Nepal, and construct, maintain and repair or cause to be constructed, maintained and repaired, the same.
- (2) To arrange or cause to be arranged for bus parks and parking places of rickshaws (three-wheelers), horse-carts, trucks etc. within the Municipality area.
- (3) To prescribe the upper limit of pushcarts, rickshaws, horse-carts etc. in consideration of transport requirement of the Municipality and register and provide number to them.

(g) **Relating to Health Service:**

- (1) To operate and manage, or cause to be operated and managed, municipal level hospitals, Ayurvedic dispensaries and health centers.
- (2) To open, operate and manage, or cause to be operated and managed, health posts and sub-health posts within the Municipality area.
- (3) To formulate program relating to family planning, mother and child welfare, extensive vaccination, nutrition, population education and public health, and to implement or cause to be implemented the same.
- (4) To arrange, or cause to be arranged, for prevention of epidemics and infectious diseases.

- (5) To ban the public use of such things and objects in the Municipality area as are harmful to the public health or remove the same.
- (6) To ban the sale, distribution and consumption of such type of consumer goods which may cause adverse effects on public health.

(h) **Relating to Social Welfare:**

- (1) To arrange, or cause to be arranged, for cremation of heirless dead person, and to make arrangements for orphanages for helpless people, orphans and children bereaved of parents.
- (2) To carryout, or cause to be carried out, program relating to the interests and welfare of the women and children and acts relating to the control of immoral profession and trade.

(i) **Relating Industry and Tourism:**

- (1) To act or cause to act as a motivator to the promotion of cottage, small and medium industries in the Municipality area.
- (2) To protect, promote, expand and utilize or cause to be protected, promoted, expanded and utilized, natural, cultural and touristic heritage within the Municipality area.

(j) **Miscellaneous:**

- (1) To do plantation on either side of the roads and other necessary places in the Municipality area.
- (2) To determine and manage places for keeping pinfolds and animal slaughter house.

- (3) To protect barren and governmental unregistered (*Ailani*) land in the Municipality area.
- (4) To determine and manage crematoriums.
- (5) To act for the development of trade and commerce.
- (6) To frame byelaws of the Municipality and submit it to the Municipal Council.
- (7) To carry out necessary functions on the controlling of natural calamities.
- (8) To maintain inventory of population and houses and land within the Municipality area.
- (9) To register birth, deaths and other personal events pursuant to the prevailing law.
- (10) To maintain inventory of the helpless, orphan and disabled children within the Municipality area and arrange to keep them in appropriate place.
- (11) To secure public interest by killing rabid and strayed dogs and specify the places to bury dead animals and birds into.
- (12) To have such trees cut and houses, walls etc. creating hazardous results demolished.
- (13) To up-date the block numbers of the houses in the Municipality area.
- (14) To arrange for animal slaughterhouses.
- (15) To impound and auction strayed animals.
- (16) To arrange for lighting on the roads and alleys.
- (17) To grant approval to open cinema halls in the Municipality area.

- (18) To arrange or cause to be arranged for *Haat* bazaar, markets, fairs and exhibitions etc.
- (19) To operate and manage or cause to be operated and managed fire brigades.
- (20) To confer the honor of distinguished person of the town on any distinguished person.
- (21) To carry out or cause to be carried out other acts relating to the development of the Municipality area.
- (22) To render assistance for the development of cooperative.
- (23) To evaluate the performance of the Secretary and forward it with recommendation to the authority.
- (24) To encourage or cause to be encouraged to carry out cooperative, industrial and commercial activities generating income to the Municipality with the investment of private sector as well.
- (25) To formulate various program based on cooperativeness and to carry out or cause to be carried out the same.
- (26) To carry out such other functions as are prescribed under the prevailing law.

(2) In addition to the functions, and duties referred to in Sub-section (1), the Municipality may also perform the following optional functions in the Municipality area: -

- (a) To make necessary arrangement for providing standard school education in the Municipality area.
- (b) To launch literacy program to eradicate illiteracy from the Municipality area.

- (c) To open and operate libraries and reading halls in various places within the Municipality area.
- (d) To control unplanned settlement within the Municipality area.
- (e) To make the structure and development of the town well planned through the functions such as guided land development and land use.
- (f) To arrange for the aged rest- houses and orphanages.
- (g) To arrange for the supply of electricity and communications facilities.
- (h) To arrange for recreational parks, playing grounds, museums, zoos, parks etc. in the Municipality area.
- (i) In order to reduce unemployment, to collect the data of unemployed persons and launch employment-generating program.
- (j) To launch program to control river pollution.
- (k) To provide ambulance service in the Municipality area.
- (l) To arrange for dead body carriers in the Municipality area.
- (m) To carry out preventive and relief works to lessen the loss of life and property caused from natural calamity.

(3) Consumer groups and other non-governmental organizations shall have to be encouraged for the development and construction works to be done in the Municipality area and such works shall have to be done through such groups or organizations as far as possible.

(4) The Municipality shall exercise the powers conferred on it under this Act and the Rules and Byelaws framed under this Act.

97. **Functions, Duties and Powers of the Mayor:** (1) The functions, duties and powers of the Mayor shall be as follows: -

- (a) To convene the meetings of the Municipal Council and the Municipality.
- (b) To submit and cause to be submitted necessary resolutions and documents at the meetings of the Municipal Council and Municipality.
- (c) To safely keep or cause to be safely kept the books of accounts of income and expenditure and other documents of the Municipality.
- (d) To execute or cause to be executed the decisions of the Municipality.
- (e) To supervise and control or cause to supervised and controlled the day-to-day administration of the Municipality.
- (f) To make necessary recommendation under the prevailing law.
- (g) To take care of, maintain and repair and require to take care of, maintain and repair the movable and immovable properties of the Municipality.
- (h) To make necessary arrangements in respect of preparing budget and plans of the Municipality.
- (i) To allocate subject-wise functions to the Deputy Mayor and Members and depute the Deputy-Mayor, Members and the Secretary on duty.
- (j) To give in-charge to the Deputy Mayor, if he becomes unable to present in the Municipality for a period exceeding seven days and, in the absence of even the Deputy Mayor, to give in-charge to the senior most Member on account of age, or to any other Member.
- (k) To allocate functions of the Ward Members.

(1) To perform such other functions as are prescribed.

(2) The Mayor shall not have to leave his area for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub- section (2), the Municipality shall make decision thereon.

98. **Function, Duties and Powers of Deputy-Mayor:** (1) The functions, duties, and powers of the Deputy-Mayor shall be as follows: -

(a) To act as acting Mayor in the absence of the Mayor.

(b) To perform such other functions as are prescribed.

(2) The Deputy- Mayor, shall not have to leave his/her area for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub- section (2), the Municipality shall make decision thereon.

99. **Function, Duties and Powers of Member and Ward Member:** (1) The functions, duties and powers of the Member shall be as follows: -

(a) To prepare plans on development and construction works in own Ward and submit the same to the Municipality.

(b) To arrange for forwarding to the Municipality, the feasible projects from consumers groups and non-governmental organizations by discussing on the undertaking of development and construction works.

(c) To submit to the Municipality the particulars relating to the Ward as and when demanded.

(d) To help consumers groups and other non-governmental organizations in the selection of projects and formulation of plans.

- (e) To make necessary recommendations under the prevailing law.
- (f) To help in arranging the supply system.
- (g) To give in-charge to the eldest Member among the Members referred to in Clauses (b) and (c) of Section 75 of this Act, if he becomes unable to present in the Ward Committee for a period exceeding seven days.
- (h) To carry out such other functions as are prescribed.

(2) The Member shall not leave his area for a continuous period of more than thirty days, except for a reasonable cause.

(3) In case there arises a question whether the cause is reasonable or not for the purpose of Sub-section (2), the Municipality shall make decision thereon.

(4) The functions, duties and powers of the Ward Member shall be as follows: -

- (a) To assist the Ward Committee in the acts of preparing resource maps of public objects, things and places of religious, natural and cultural importance, such as population, houses and land, public rest houses, inns, shelters, shrines, temples, mosques, monasteries, divine places, *Madarasa*, barren land, ponds, lakes, wells, deep water, taps, stone water taps etc. and similar other objects situated within the Ward,
- (b) To assist the Ward Committee in the preparation of annual program and action plan of the Ward Committee and in the implementation of prepared program and action plans,
- (c) To provide information to the Ward Committee regarding whether the construction works are being carried out within the Ward in accordance with the standard and criteria,

- (d) To supervise and monitor the works relating to development and construction being carried out on contract or by the Consumers' Committee or by direct hiring, and to provide the information thereof to the Ward Committee,
- (e) To assist in the acts of realizing and recovery of taxes, fees, charges, levies and service charge imposed by the Municipality as approved by the Municipal Council,
- (f) To assist the Ward Committee in the acts of cleaning the places of public importance and keeping the public roads, courtyards and alleys neat and clean,
- (g) To assist the Ward Committee in controlling strayed quadrupeds and rabies disease and other similar contagious diseases, and
- (h) To perform other functions as are prescribed.

100. **Function, Duties and Powers of Secretary:** The functions, duties and powers of the Secretary shall be as follows: -

- (a) To perform all administrative functions of the Municipality under the direction of the Mayor.
- (b) To execute the approved town development program under the direction of the Mayor.
- (c) To maintain the accounts of expenses incurred on the construction works performed within the Municipality and to submit the accounts of such construction for clearance.
- (d) To keep accurately the records of the projects completed by consumers' groups, non-governmental organizations or other entities.
- (e) To maintain the accounts of income and expenditure of the Municipality.

- (f) To make expenditures for the execution of the decisions of the Municipality, subject to the limit of the budget approved for this purpose.
- (g) To have the accounts of the Municipality audited, to get the clearance of irregularities of accounts, and to recover or cause to be recovered the amount of irregular expenditures under the prevailing law.
- (h) To maintain the records of movable and immovable properties of the Municipality and to protect such property.
- (i) To supervise and control all the employees of the Municipality and those deputed on duty by Government of Nepal.
- (j) To be present at the meetings of the Municipality and to perform and cause to be performed the functions that are required.
- (k) To make necessary arrangements for taking custody of the case files of the cases filed in the Municipality.
- (l) To keep or cause to be kept the records of population of the Municipality area up-to-date by registering births, death, and other personal events.
- (m) To be present at the meetings of the Municipal Council and the Municipality, minute the decisions, take the custody of minutes book and authenticate the decisions.
- (n) To have administrative control of the employees under the Municipality.
- (o) To perform such other functions as prescribed under the prevailing law

## Chapter – 5

### Judicial Power of Municipality

101. **Judicial Powers:** The Municipality shall have power to hear and settle at first instance the following cases within such Municipality area from such date as may be prescribed by Government of Nepal by publishing a notification in the Nepal Gazette:

- (a) Cases on border/boundary of land, *Sandhi Sarpan* (inconvenience in respect of boundary or way-outs), *Aali Dhur*, canals, dams, ditches or allocation of water and encroachment on roads or way-outs,
- (b) Cases on compensation for damage of crops,
- (c) Cases on forced labour (*Beth-Begar*) and cases under the Chapter on Wages,
- (d) Cases under the Chapter on Paupers,
- (e) Cases under the Chapter on Missing and Finding of Quadrupeds,
- (f) Cases under No. 8 and 9 of the Chapter on Construction of Houses.
- (g) Cases under the Chapter on *Kalyan Dhan*, (Hidden and unclaimed properties),
- (h) Cases under the Chapter on Deposits except those under No. 5 of that Chapter,
- (i) Cases on providing expenses for fooding and clothing according to status and income under No. 10 of the Chapter on Partition,
- (j) Cases on uses of water bank (*ghat*) and security of public property,

- (k) Cases under the Chapter on Quadrupeds other than the killing of cow,
- (l) Cases on pasture land, grass, fuel woods,
- (m) Cases on entering into, staying in or attempting to enter in or stay in other's house forcefully,
- (n) Except those cases referred to in Annex-1 and Annex-2 of the Government Cases Act, 2049 (1993), such other cases as assigned to the Municipality by Government of Nepal by publishing a notification in the Nepal Gazette.

102. **Formation of Arbitration Board:** (1) The Municipality shall form an arbitration board to hear and settle the cases filed in the Municipality under Section 101.

(2) In forming the arbitration board by the Municipality under Sub-section (1), it shall appoint three persons as agreed upon between the parties to a case from amongst the persons enlisted in the list of arbitrators referred to in Section 103, as arbitrators.

(3) In case the parties to a case fail to reach an agreement in the appointment of arbitrators under Sub-section (2) from amongst the persons enlisted in the list of arbitrators, the parties to the case shall appoint each arbitrator of their own and provide the name of such arbitrator to the Municipality. The Municipality, after having so received the names of two arbitrators, shall appoint one other arbitrator from amongst the persons enlisted in the list of arbitrators referred to in Section 103.

(4) In cases where the parties to a case fail to reach an agreement on appointment of arbitrators pursuant to Sub-section (2) or the parties to the case do not send the name of one arbitrator each appointed by them under Sub-section (3), the Municipality shall appoint the three persons of the concerned Ward, to the extent possible, from amongst the persons enlisted in the list of arbitrators referred to in Section 103, as arbitrators.

(5) The Mayor shall designate one arbitrator as the Chairperson of the arbitration board from amongst the arbitrators appointed as arbitrators under Sub-sections (2),(3) or (4).

103. **List of Arbitrators:** (1) For the purpose of hearing and settling the cases filed under this Act at first instance, the Municipality shall, immediately after the constitution of the Municipality, prepare a list of arbitrators, setting out their names, surnames and addresses as well, comprising such persons from among the local persons, social workers and legal experts, as are deemed appropriate, with the consent of such persons, and shall publish it in the Municipality Office for public information.

(2) In preparing the list of arbitrators under Sub-section (1), it shall have to be so prepared that all the Wards of the Municipality can be represented, to the extent possible.

(3) The woman and back ward class as well, to the extent possible, shall be included in the list of arbitrators referred to in Sub-section (1).

104. **Exercise of Jurisdiction:** (1) The three arbitrators shall collectively exercise the jurisdiction of arbitrators and the opinion of majority shall be deemed the decision of the arbitrators.

(2) In case the majority of the arbitrators could not be formed under Sub-section (1) and they hold different opinions, such opinions shall be submitted to the Municipality and the opinion supported by the Municipality shall prevail on that matter.

105. **Process of Decision Making:** (1) The arbitrators shall, to the extent possible, cause the concerned parties to negotiate with each other on the case submitted to them and have the case compromised.

(2) In case the arbitrators fail to have compromise pursuant to Sub-section (1), they shall exercise their powers under Section 104 and decide the case.

106. **Crossing off the Case List:** In case a compromise or decision is made under Section 105, the Municipality shall put its seal on the compromise or decision,

mention it in its records and cross off the list of that case filed in the Municipality.

107. **Procedures on Cases:** The process of filing the cases to be initially heard and settled by the Municipality under this Act, the method of examination and proceedings on such cases, the process of the service of summons, the process of getting the parties appeared, provision on time-limit, period for disposal of cases, the procedures on making compromise or decision shall be as prescribed.
108. **Right to Appeal:** Any party not satisfied with a decision made pursuant to Sub-section (2) of Section 105 may appeal to the concerned District Court within thirty-five days of the hearing or knowledge of the decision.
109. **Enforcement of Decisions:** (1) In cases where the parties agree to fulfill any obligation of making payment or handing over things according to a compromise or decision made in regard to a case under the jurisdiction of the Municipality, the Municipality shall at once execute or cause to execute the compromise or decision.
- (2) In cases any party fails to fulfill obligation of making payment or handing over things under the compromise or decision, the Municipality shall forward a list along with the details of the obligation to be so paid or fulfilled to the concerned Land Revenue Office.
- (3) The Land Revenue Office shall, upon being so requested under Sub-section (2), have to execute the compromise or decision by fulfilling the procedures under the prevailing law.
110. **Transfer of Cases:** The cases or complaints lying before the Municipality constituted under the Municipality Act, 2048 (1991) shall be transferred to the Municipality constituted under this Act.

## Chapter – 6

### Formulation of Plans of Municipality and Process of Implementation

111. **Formulation of Plans of Municipality:** (1) Each Municipality shall have to formulate periodical and annual development plans for the development of the municipal area.

(2) In formulating the plans, the Municipality shall, as per necessity, have to launch plans such as land-use, land-pulling, and guided land development for making the development of the municipal area balanced and planned.

(3) In formulating plans pursuant to Sub-sections (1) and (2), the Municipality may, as per necessity, obtain external consultancy service.

(4) In formulating the plans, Municipality shall have to give priority to the following projects: -

- (a) Projects which are income generating and from which consideration may be obtained sooner.
- (b) Projects raising living standard, income and employment of, and giving direct benefits to, the people of the Municipality, and contributing to poverty alleviation.
- (c) Projects that can be operated with low cost and larger people's participation.
- (d) Projects to be operated through local means, resources and skills.
- (e) Projects providing direct benefits to the women as well as backward class and children.
- (f) Projects that can contribute to protect and promote the environment.

(5) To formulate the plans to be launched in the forth-coming year, it shall be required to do as follows in the current year: -

- (a) The Municipality shall have to obtain guidance and prior estimation of the resources and means from Government of Nepal, District Development Committee and other concerned bodies for the coming Fiscal Year until the month of Marg of each year. Even the Municipality itself shall have to provide guidance on selection of projects and formulation of plans to the different Ward Committees for the formulation of service and development program for the forth-coming fiscal year.
  - (b) Projects have to be invited from the Ward Committees, consumers' committees, and non-governmental organizations in the municipal area, and plans have to be formulated on the basis thereof.
- (6) In formulating periodical plans, the following matters shall have to be included: -
- (a) Geographical, economic and natural heritages of the town and present uses thereof.
  - (b) Possibilities of production in various sectors on account of comparative cost benefit.
  - (c) Areas comprising backward castes, tribes and poor people and various development works done or required to be done in such areas.
  - (d) Income-generating and skills-oriented works for the women and children.
  - (e) Description of the completed projects under various sectors and provision on the operation and maintenance thereof.
  - (f) Various sectoral short-term and long-term development works on the basis of development possibility.
  - (g) Plans on human resources development in various subject areas to be formulated by the local people themselves.

(7) In formulating annual plans, the following matters have to be taken as the basis.

- (a) Directives received from the National Planning Commission and the District Development Committee on national development policy.
- (b) Overall necessities indicated by periodical plans.
- (c) Suggestions received from the Ward Committee.

112. **Preparation of Resource Map**: Each Municipality shall, for the development of the municipal area, have to collect municipal level objective data and prepare a resource map reflecting the situation of the municipal area.

113. **Feasibility Study of the Projects To Be Carried Out**: In the course of implementation of municipal projects, the Municipality shall have to undertake or cause to be undertaken feasibility study of the project with also setting out the matters as follows: -

- (a) Objectives of the project,
- (b) The number of people to be benefited from the project and the type of benefit,
- (c) Whether the project to be selected is new or incomplete one,
- (d) Whether the problem can be solved through any other means without operating the project,
- (e) The estimate of the expenditures and cost of the materials that may be required in completing the project and the required amount of time therefor,
- (f) The cash, labor in-kind and similar other contribution may be received from the users,
- (g) Charge or maintenance expenditures which may be collected from the users, or operational system, and

(h) Any other matter, if any, required to be set out.

114. **Selection of the Project**: (1) In selecting a project, it shall have to be selected on the basis of the resource map as referred to in Section 112 and the report of project feasibility study referred to in Section 113.

(2) In selecting a project, it shall have to be selected so as to protect and promote the environment.

(3) In selecting projects, such projects as may have utmost participation of the local people and labour shall have to be selected.

(4) After receiving the estimate of the grant to be made available to the Municipality, the project shall have to be selected on the basis of priority.

(5) The information on the selected projects shall have to be made public among the inhabitants of the Municipality.

115. **Coordination among Municipality, Governmental and Non-governmental Agencies**: In formulating plans and service program of the Municipality, the Municipality shall have to maintain coordination with governmental, non-governmental and donor agencies implementing different services and development program in the municipal area in the following matters: -

(a) To remove duplication between the Municipality and the concerned agency on investment to be made in any service sector.

(b) To maintain complementary coordination among the investors.

(c) To chiefly maintain the role of consumers on procedures of the both.

(d) To follow the method whereby the inhabitants of the Municipality can have maximum benefit from the investment.

- (e) To determine timetable for the implementation of various program.

116. **Operation of Municipal Level Project:** (1) Municipal level projects may be operated as follows: -

- (a) Through resources of the Municipality,
- (b) Through the grants of the District Development Committee,
- (c) Through the grants of Government of Nepal,
- (d) Through amounts obtained from various native and foreign non-governmental organizations.
- (e) Through financial mobilization within the municipal area.

(2) After the selection of the projects, the Municipality shall have to prepare a calendar of operation and implement or cause to be implemented such projects.

(3) The program to be operated by a non-governmental organization shall have to be operated by entering into an agreement with the Municipality.

(4) The projects which are to be included in the District plan shall have to be passed by the Municipality and sent to the District Development Committee.

(5) In cases where the program to be operated by the Municipality carry the investment of non-governmental organizations too, such program shall have to be operated as per the agreement entered into between the two organizations.

(6) Special projects which are to be operated with the grant of Government of Nepal shall have to be operated in accordance with the process prescribed by Government of Nepal.

(7) In formulating plans by the Town Development Board situated in the municipal area, it shall formulate them in consultation with the Municipality.

117. **Implementation and Management of Projects:** (1) The Secretary shall have to prepare a calendar of projects operation to operate the projects approved by the Municipal Council.

(2) The Secretary shall implement or cause to be implemented the projects as per the calendar referred to in Sub-section (1) in coordination with the concerned Ward Committee.

Provided that the projects that have direct concern with the people at the municipal level shall be operated through consumers' committee.

(3) In case trainings are required to the members of the consumers' committee for operation of the project, the Municipality shall make arrangements therefor.

(4) The consumers' committee may collect service charges from the consumers who receive service from such project.

(5) Amounts of service charges received pursuant to Sub-section (4) shall have to be expended for the repair, maintenance and protection of the project concerned.

(6) The consumers' committee shall have to up-date the details of the incomes and expenditures referred to in Sub-sections (4) and (5) and submit it to the Municipality.

118. **Appraisal and Evaluation of Projects:** (1) After any municipal level project has been completed, a technical examination and clearance as well as evaluation of the project shall have to be done.

(2) All the municipal level projects being operated by the Municipality shall have to be examined quarterly.

(3) The aspects to be covered in carrying out impact assessment and appraisal of the projects shall be as prescribed.

119. **Consumers' Group May Be Formed:** (1) In implementing the municipal level project, the Municipality may form consumers' groups through the

concerned agency from amongst the persons who receive direct benefit from the project.

(2) The functions, duties and powers of the consumers' group shall be as prescribed.

120. **Operation of Projects by Consumers' Group and Non-governmental**

**Organization:** (1) In implementing and operating projects, consumers' groups and non-governmental organizations shall have to do so in coordination with the Municipality.

(2) The cost estimate of the projects shall be done as prescribed.

(3) The consumers' groups and non-governmental organizations shall have to up-date accounts of their transactions, get them audited and submit the same to the concerned Municipality.

121. **Non-Governmental Organizations to be Encouraged:** (1) The

Municipality shall have to encourage the non-governmental organizations for the acts of identification, formulation, operation, evaluation, repair and maintenance of the town development program within the area of each Municipality.

(2) The projects to be operated by any non-governmental organization shall be operated through its own resources and the resources obtained from the Municipality.

(3) The non-governmental organization operating a project shall have to submit a full description of the project to the Municipality.

(4) The Municipality may implement and operate plans through non-governmental organizations.

122. **Directives to be Abided by:** The Municipality shall have to abide by the

directives given by the National Planning Commission, Government of Nepal and the District Development Committee in respect of the formulation and operation of the town development plan.

123. **Examination, Release and Clearance of Project:** (1) After the completion of a project, it shall have to be examined, released and cleared as prescribed.
- (2) After receiving the information of the completion of a project from the project operating agency, the Municipality shall examine, release and clear the project on the basis of the work completion report and the evaluation submitted by the technician.
- (3) The examination, release and clearance of a completed project shall be approved by the Municipal Council.
124. **Repair, Maintenance and Management of the Project:** (1) The Municipality may collect service charge from the beneficiaries of a project for the repair and maintenance of the project.
- (2) The repair, maintenance and necessary management of the project shall be done with the amount of the service charge collected pursuant to Sub-section (1).
- (3) The Municipality shall have to maintain an up-to-date account of incomes and expenditures as referred to in Sub-sections (1) and (2).

## **Chapter – 7**

### **Financial Provision**

125. **Fund of the Municipality:** (1) The Municipality shall have a separate fund of its own.
- (2) The fund referred to in Sub-section (1) shall consist of the following amounts: -
- (a) Grants received from Government of Nepal.
  - (b) Grants received from the District Development Committee.
  - (c) Amounts received from revenue allocation.

- (d) Donations, gifts, contributions, assistance and other amounts received from any person, organization and institution.
- (e) Amount obtained from the sale of movable and immovable properties.
- (f) Amount received from taxes, fees, service, charges, duties, tariffs, fares etc.
- (g) Amount received from loan investments.
- (h) Amount received from mobilization of the resources.
- (i) Amount received from fines and penalties.
- (j) Amount received from auction sale of goods.
- (k) Amount received from contracts.
- (l) Amount received under the prescribed percentage of the land tax.
- (m) Deposits and borrowing amounts.
- (n) Amounts to be received from any other sources.
- (o) Amount sanctioned by Government of Nepal for the specified program.

(3) Any amounts collected in the fund of the Municipality shall have to be deposited in a bank.

126. **Mode of Making Expenditure of Amount from the Fund of the Municipality:** (1) The fund of the Municipality shall be operated through the joint signature of the Secretary and the Accounts Chief.

(2) The Mayor may expend the amount as referred to in the financial assistance, subject to the limitation of the approved budget.

(3) The Secretary may expend the amount for executing the decisions of the Municipality, subject to the budget approved by the Municipal Council.

(4) Amount from the fund of the Municipality may be expended as prescribed, subject to the budget approved by the Municipal Council.

(5) Statements of expenditures made from the fund of the Municipality shall have to be submitted to the meeting of the Municipality, and the Municipality shall have to publicly inform on its incomes and expenditures in all of its Wards within one month of the meeting of each Municipal Council.

(6) Administrative expenditures of the Municipality shall be as prescribed.

127. **Provisions Relating to Approval of Construction, Procurement and**

**other Contract**: (1) In getting a construction work done, the Municipality shall have to do, and cause to be done, as follows: -

(a) Contracts and other transactions shall be as prescribed.

(b) The concerned bodies shall have to maintain the accounts and books of the municipal level plans.

(2) The Municipality may execute the development and construction works either itself or through the non-governmental organizations, consumers' groups, contracts or direct hiring, as prescribed.

(3) The Secretary shall sign all contract documents to be entered into by the Municipality.

128. **Transfer in Budget Heads**: The Municipality may transfer the budget allocation amount from one head to another not exceeding twenty percent of the amount of the head in the annual budget approved by the Municipal Council.

Provided that no transfer in budget head shall be made on the heads of contingency and financial assistance.

129. **Provision of Auction Sale**: The process of auctioning or selling the goods and properties not required for any work for the Municipality shall be as prescribed as per the policy approved by the Municipal Council.

130. **Preparation of Budget of Municipality**: (1) The Secretary shall, at the direction of the Mayor, prepare the annual budget of income and expenditure of

the Municipality prior to the beginning of each fiscal year and submit it to the Municipality for approval.

(2) The actual details of its income and expenditure of the previous fiscal year, the amount of income and expenditure already made as per the approved budget of the current fiscal year, and the estimate of income and expenditure to be made possibly by the end of the current fiscal year, together with the proposed plans and program and estimates of income and expenditure for the forth-coming fiscal year shall have to be included in the annual budget.

(3) The Mayor shall have to submit the budget submitted pursuant to Sub-section (1) to the Municipal Council for its approval.

131. **Remaining Amount of Budget:** Any unspent amount of the budget in one fiscal year shall have to be included in the budget of the next fiscal year for the purpose of carrying out the projects or program remained incomplete in the current fiscal year.

132. **Maintenance of Records:** (1) The Municipality shall have to maintain the records of books and accounts of its income and expenditure, as prescribed.

(2) The Municipality shall not be allowed to make administrative expenditures beyond the limit set by the Municipal Council.

133. **Remuneration and Meeting Allowances:** (1) The Mayor and Deputy Mayor shall receive remuneration as prescribed.

(2) The Members shall receive meeting allowances as prescribed by the Municipal Council for taking part in the meeting of the Municipality.

134. **Assets of the Municipality:** (1) The Municipality shall have title over the following properties situated within the area of the Municipality, and the Municipality shall have to supervise, repair, maintain and manage such properties: -

(a) Properties constructed and purchased from the fund of the Municipality or granted to it by Government of Nepal or any organization or individual.

- (b) Public properties not subject to any proprietary right of any individual and not within the control of Government of Nepal or District Development Committee, such as public drainage, sewerage, bridges, ponds, temples, public rest houses, inns, houses, water springs, water-spouts, wells, grazing fields, outlets, courtyards, alleys, roads, paths and trees on either side of the roads.
- (c) The houses, land, parks, gardens, bus-parks etc. under the ownership of the Municipality.
- (d) Forests according to the prevailing forest laws or handed over by Government of Nepal.
- (e) Natural heritages.

(2) The Municipality shall not be allowed to sell and dispose of or otherwise relinquish its title and possession on the properties as referred to in Sub-section (1) without the approval of Government of Nepal. Any such sale or disposal or relinquishment of the title to any person without the approval shall, *ipso facto*, be null and void in any circumstance whatsoever.

135. **Audit**: (1) The Municipality shall itself do the internal audit of its income and expenditure.

(2) The final audit of income and expenditure of the Municipality shall have to be carried out by a registered auditor appointed by the Municipal Council on the recommendation of the accounts committee.

(3) The Mayor shall have to submit to the accounts committee the final audit report together with the financial statement prepared in carrying out the final audit.

(4) The accounts committee shall have to discuss on the final audit report submitted by the Mayor and furnish it to the Municipal Council along with its opinion and suggestions.

(5) The Municipality Council may regularize any irregular amount shown in the audit report received along with the suggestions and opinion of the

accounts committee. The Municipal Council shall forward to the Municipality to take necessary action, pursuant to the prevailing law, for the purpose of settlement and realization in respect of those irregular amounts that cannot be regularized by it. Upon receipt of such writing, the Municipality shall have to realize and recover as government dues.

## **Chapter – 8**

### **Taxes, Fees, Service Charges and Fares**

136. **Land Revenue and House and Land Tax:** (1) The Municipality may levy house and land tax, as prescribed, on each house and land within its jurisdiction on the basis of the size, type, design, construction and structure of the house and compound and area covered by the house, as approved by the Municipal Council.

(2) The Municipality may impose land revenue and land tax as prescribed on the land within the municipal area.

137. **Rent Tax:** (1) The Municipality may collect rent tax, as prescribed, on the amount of rent in cases where any house, shop, garage, go down, stall, shed, factory, land or pond within its jurisdiction is rented wholly or partly.

(2) The Municipality may impose rent or tenancy charges, as prescribed, on temporary shops permitted to be kept at the market places, public places, unregistered land or road-sides constructed, supervised or operated by it within its jurisdiction.

Provided that no permanent shop shall be allowed to be constructed in a manner to obstruct the public movement and sanitation.

138. **Enterprise Tax:** The Municipality may levy and collect enterprise tax, as prescribed, on trade, profession or occupation within its jurisdiction on the basis of capital investment and financial transactions.

139. **Vehicle Tax:** The Municipality may levy vehicle registration and annual vehicle tax on the prescribed vehicles within its jurisdiction and occasional vehicle tax, as prescribed, on all kinds of vehicles entering into its area.

140. **Property Tax**: The Municipality may levy an integrated property tax, within its jurisdiction at the prescribed rate.
141. **Entertainment Tax**: The Municipality may levy entertainment tax, as prescribed, on the means of entertainment such as cinema halls, video-halls, cultural-show halls permitted within the municipal area.
142. **Commercial Video Tax**: The Municipality may levy tax as prescribed on the video, projector, cable etc. used by any person or organization for commercial purpose.
143. **Advertisement Tax**: The Municipality may levy tax on signboards, globoards, stalls etc. permitted to be placed on roads, junctions, public places in its area for advertisement, publicity etc.
144. **Parking Charge**: The Municipality may impose parking charge, as prescribed, at vehicles parking places managed by it.
145. **Service Charge**: (1) Any Municipality may impose service charge for making available the facilities such as drinking water, electricity, water-tap, public telephone and similar other facilities.
- (2) The Municipality may impose service charges for solid wastes management, sanitation, and sewerage/drainage etc. facilities provided by it in the municipal area.
- (3) The Municipality may collect service charges from the persons using facilities such as public toilets, parks, bathrooms, swimming pools, gymnasiums, guest houses, tourist places, hostels, market places, slaughter houses, crematorium, laundry *ghat* (bank of a river) and similar other facilities, for making available such facilities.
- (4) The Municipality may, with the prior approval of Government of Nepal, carry out the act of providing the facilities referred to in Sub-sections (1), (2) or (3) and collecting the service charges therefore through the private sector or by making the private sector as well participate therein.

(5) The Municipality may determine the expenditures required to repair and maintain the roads, sewerage, bridges, pavements, courtyards, alleys, drainage, electricity etc. constructed by it and collect the same from the concerned consumers annually.

(6) The Municipality may collect service charge as prescribed in valuating the immovable property of any person.

(7) The Municipality may impose fees for approval (*Baksauni*) and recommendation fees in its area, at the rate approved by the Municipal Council, not exceeding the prescribed rate.

146. **Exemption from Taxes, Fees, Charges, Duties etc.:** (1) Notwithstanding anything contained in this Act, the Municipality shall not be entitled to impose taxes, charges, fees, duties etc. except the services charges chargeable for the service provided by the Municipality to Government of Nepal, foreign diplomatic missions or agencies, and non-profit making organizations.

Provided that no such exemption shall be granted to the commercial transactions of any corporation or organization wholly or partly owned by Government of Nepal.

(2) The Municipality shall not be entitled to impose any taxes, charges, fees, duties on the goods imported by Government of Nepal or any development board for the projects operated through foreign loans or aids.

147. **Prohibition to Levy Taxes, Fees, Charges or Duties/Tariff Contrary to Act, Rules:** The Municipality shall not be entitled to collect any kinds of taxes, fees, charges or duties/tariffs contrary to this Act or the Rules made hereunder; and if so collected, Government of Nepal may order to stop that act and to refund the amount of taxes, fees, charges or duties so collected to the concerned person.

148. **Right to Raise Loan:** The Municipality may raise loans, with or without pledging any property under its ownership and possession or under

guarantee given by Government of Nepal, from a bank or any other organization, according to the policy approved by the Municipal Council.

## Chapter – 9

### Provisions relating to the Construction of Building

149. **Prohibition on Construction of Building without Obtaining Approval:**

No person shall, without obtaining construction approval from the Mayor, do construction of a building in the municipal area.

**Explanation:** In this Chapter, "construction of building" means the act to construct a new building, to reconstruct by demolishing the old building, to add a storey or to alter the facade, or to construct a window, door, verandah, attic, porch, shed, stable or garage or erecting a compound wall in alternation of the existing design.

150. **Application for Approval:** Any person or governmental office desiring to construct a building shall have to make an application, in the prescribed format, along with the design of the building, to the Municipality for the approval to construct the building.

**Explanation:** In this Chapter, "governmental office" means and includes all governmental offices and courts as well including the offices of the Supreme Court, Parliament, Commission for the Investigation of the Abuse of Authority, Auditor General, Public Service Commission and other constitutional bodies, and Nepal Army as well as Nepal Police.

(2) Notwithstanding anything contained in Sub-section (1), in making application for approval to construct a building, if any public body is not allowed to submit the design of the building on account of national security, it may mention only the length, breadth, height and storey of the building and its total area in the application.

**Explanation:** In this Chapter "design" means a graphic map, description and other documents relating to the construction of a building.

151. **Matters to be Set Out in Design**: A design of the construction of a new building shall, *inter alia*, set out a separate toilet and soakpit of the building, and if such a building is to be built adjacent to other building, the design shall have to set out the separate column-walls of the building.
152. **Submission of Document of Ownership and Possession or Deed of Consent**: In making application pursuant to Section 150 for approval to construct a building, if construction is to be done in the land of one's own ownership and possession, the document showing the ownership and possession of the land, and if the construction is to be done in the land of any other person's ownership and possession, the document showing the ownership and possession of such person as well as a deed of consent shall have to be submitted.
153. **To Hold Inquiry**: After an application has been made for approval to construct a building pursuant to Section 150, the Municipality shall have to enquire as to whether the application meets the requirements, and if it is found not to meet any requirements, get it to meet the requirement and then do as follows within seven days of the filing of an application meeting the requirements:
- (a) To affix a notice on its office, the house-door of the neighbor and the place of construction of the building in a manner conspicuous to all, asking the neighbor to file a complaint containing the details of grievance, if any, to be caused to him from the construction of such a building, within fifteen days.
  - (b) Within three days after the expiry of the time specified in the notice referred to in Clause (a), to depute jointly an engineer or overseer and other employee to enquire as to whether the building can be allowed to be constructed as mentioned in the design or not.
154. **Submission of Report**: The employees deputed pursuant to Clause (b) of Section 153 shall have to submit to the Municipality a report, along with a deed of public inquiry also setting out the statements made by the persons present at

the time of holding the inquiry as to whether the construction of the building can be allowed or not, and setting out the matter whether the construction of the building as mentioned in the application can be allowed or not, within fifteen days of the date of deputation for such inquiry.

155. **To Give Approval:** (1) The Mayor shall have to give the approval to construct the building within seven days of the receipt of a report referred to in Section 154 if no complaint is filed under Clause (a) of Section 153.

(2) In cases where a complaint has been filed pursuant to Clause (a) of Section 153, the Mayor shall have to give approval to construct the building within thirty days from the date of receipt of the report pursuant to Section 154, except in cases where a decision has to be made on the entitlement upon finding out fact by inquiring into the concerned parties.

(3) If it appears from the complaint filed pursuant to Clause (a) of Section 153 that the entitlement to the land in which the building is to be constructed has to be settled, an order shall be issued by creating an annotation – sheet (*Parcha*) and the concerned parties shall have to be informed to file a case in the court within thirty-five days of the date of filing of such a complaint.

Provided that in cases whether there is a dispute only in respect of some portions of such land, and the applicant makes an application, along with another design, consenting to construct the building in the rest land subject to the title to such disputed portion of the land being as decided by the court, the Mayor may give approval within fifteen days of receipt of such an application.

(4) The Municipality shall have to collect fees as prescribed, in granting the approval to construct a building, pursuant to this Section.

156. **Approval of Design:** (1) In giving the approval to construct any building pursuant to Section 155, the Mayor shall also have to approve the design of such a building.

(2) In approving the design of any building pursuant to Sub-section (1), the Mayor may approve it by making necessary alteration in the design in a

manner to be in conformity with the physical development plan and the standards set pursuant to the prevailing law.

157. **Alteration in Design:** If any alternation has to be made subsequently in the design approved pursuant to Section 156, the Mayor may permit for such alteration in the design, without being prejudicial to the standards set under the prevailing law, to do other acts excepting the addition of storey, change of facade or increasing its length, breadth.
158. **To Give Notice:** Notwithstanding anything contained in Section 157, in case the approval to construct any building can not be granted in accordance with the report received pursuant to Section 154 or for any other reason, the Mayor shall have to give a notice setting out the reasons therefor to the person or public body who has made an application for approval to construct a building pursuant to Section 150, within seven days of the receipt of such a report.
159. **Complaint May Be Filed:** (1) In case the Mayor does not give approval within the time-limit under Section 155, within thirty-five days of the expiry of such time limit and in the case of dissatisfaction with the notice given pursuant to Section 158, within thirty-five days of the receipt of such a notice, the person or body who has made an application for approval to construct a building pursuant to Section 150 may file a complaint in the Municipality.
- (2) In cases where any complaint is filed pursuant to Sub-section (1), the Municipality shall have to direct the Mayor to give approval forthwith if it appears upon inquiring into the facts and matters that the approval has to be given.
160. **Period for Construction of Building:** (1) If the approval to construct a building has been given according to this Act, such a building shall have to be constructed within two years from the date of such approval.
- (2) In the event of failure to construct the building within the time limit specified under sub section (1), an application shall have to be made to the Municipality for extension of the time limit.

(3) If any application is made pursuant to Sub-section (2), the Mayor may extend the time-limit for up to two years by collecting an additional fee at the rate of five percent of the previously paid fee.

161. **Inquiry and Proceedings:** (1) The Mayor may depute any engineer, overseer or employee to inquire into the following matters in respect to any building constructed or being constructed by any one in the municipal area: -

- (a) Whether or not approval has been obtained pursuant to this Act to construct such a building,
- (b) Whether or not such a building has been constructed or is being constructed in accordance with the design approved pursuant to this Act, and
- (c) Whether or not any public land, road, temple, courtyard, sewerage, canal, pond etc. is encroached upon from such a building.

(2) The person deputed to inquire into the matters pursuant to Sub-section (1) shall have to inquire into the matter according to the prevailing law and submit a report, along with his suggestions, to the Mayor within fifteen days of his deputation.

(3) The person constructing the building and all the persons concerned with the act of construction of the building shall answer the questions asked by, and give or show the documents required by, and provide necessary assistance to, the person deputed pursuant to Sub-section (1) for holding inquiry.

(4) In case it is held, as per the report submitted pursuant to Sub-section (2), that anyone has constructed or is constructing a building without obtaining approval pursuant to this Act or by encroaching upon any public land, road, temple, courtyard sewerage, canal, pond, etc., the Mayor shall have to order to demolish the building or any portion thereof.

(5) In case it is held, as per the report submitted pursuant to Sub-section (2), that any person has constructed or is constructing a building by

altering the design approved pursuant to this Act without obtaining approval of the Mayor, the Mayor may order to punish such a person with a fine of upto one hundred thousand rupees or to demolish the building or any portion thereof.

(6) Prior to issuing order pursuant to Sub-section (4) or (5), the Mayor shall have to provide the person constructing such a building with a reasonable opportunity to defend himself.

162. **Appeal:** Any person, who is not satisfied with an order issued by the Mayor pursuant to Sub-section (4) or (5) of Section 161, may file an appeal in the Appellate Court within thirty-five days of receipt of such an order; and the decision made by the Appellate Court in regard to such appeal shall be final.

163. **Demolition of Building and Recovery of Expenditures Incurred:** (1) In cases where an order has been issued pursuant to Sub-section (4) or (5) of Section 161 to demolish any building or any portion thereof, the concerned person shall have to demolish such a building or any portion thereof according to the order of the Mayor or the decision of the Appellate Court within thirty-five days of the decision made by the Appellate Court requiring the demolition of such a building or any portion thereof, if an appeal has been filed against such order pursuant to Section 162, and within thirty-five days of the date of expiry of the time-limit for appeal where no appeal has been filed.

(2) If the concerned person does not demolish such a building or any portion thereof within the time-limit referred to in Sub-section (1), the Municipality itself may demolish such a building or any portion thereof, and the expenditures incurred for so demolishing shall be realized from the concerned person.

164. **Delegation of Power:** The Mayor may delegate the powers conferred on him/her under this Act to the Deputy Mayor or any other Member.

## **Chapter – 10**

### **Punishment**

165. **Power of Municipality to Punish:** (1) The Municipality may punish as follows on the following matters: -

- (a) If any one constructs or places drainage, toilet, safety-tank etc. or does similar acts creating obstacles and barriers with an intention of causing trouble to others, the Municipality may order to stop such act, or demolish or remove such construction. If any one disagrees to stop, demolish or remove according to that order, the Municipality may depute persons to stop, demolish or remove the same. It may realise the expenditures incurred for so demolishing or removing from the concerned person who has not obeyed the order, and punish such person with a fine of up to fifteen thousand rupees.
- (b) If any one does such acts within the municipal area as to plant a tree, erect a wall or construct a building, shed with an intention of causing obstacles to others, the Municipality may order to remove such a tree, wall or building, shed, and if the concerned person does not remove it as per the order, the Municipality may depute persons to remove the same. It may realise the expenditures incurred for so removing from the concerned person who has not obeyed the order, and punish such person with a fine of up to fifteen thousand rupees.
- (c) If any one dumps solid wastes at any places other than those designated within the municipal area, it may punish such person with a fine of up to fifteen thousand rupees,

and realize from such person the expenditures to be incurred to on removal of such solid wastes.

- (d) If any person, without permission of the Municipality, erects fences or enclosures on or stops any public road or place and causes obstruction to the movement, it may require him to remove such fences or enclosures or the things of obstruction, and punish him/her with a fine of up to fifteen thousand rupees.
- (e) If any one damages, or causes loss to, or encroaches on, or misappropriates, any public property or destroy any public structure within the municipal area, such person shall be liable to punishment, if any, prescribed under the prevailing law; and if no such punishment is provided for, the Municipality may punish such person with a fine of up to fifteen thousand rupees, and may recover the amount of such loss from the concerned person or require such person to render it into original condition.
- (f) If any one dumps solid wastes at one's own house, the neighbor's house, courtyard, junction, or does any act fouling the environment, the Municipality may punish such person with a fine of up to fifteen thousand rupees, and may recover the amount of such loss or damage from the concerned person or require such person to render them into original condition.
- (g) If any one carries out such activity as to disturb peace in the neighboring place or society by installing any type of instrument, or by any equipment or means of entertainment within the area of Municipality, the Municipality may order not to do such act or to remove the equipment, if it is so required; and if the concerned person does not carry out

such order, it may punish such person with a fine of upto fifteen thousand rupees.

- (h) The Municipality may order to place a price index on the shops within its jurisdiction, and it may fine the concerned shop-owner with a fine of up to fifteen thousand rupees, in case such shop does not place the price index accordingly.

(2) If any one does not pay the taxes, fees, charges, tariffs contracted or imposed by the Municipality and any other amount due and payable to it, the Municipality may take action as follows: -

- (a) If any one does not pay the taxes, fees, charges, which may be collected under this Act and other amounts due and payable to the Municipality, it may write to the concerned body to stop the transfer of ownership of the movable, immovable property of such person, may seal or lock up the trade, profession, and withhold the transactions including export and import.
- (b) If the amount that the Municipality is entitled to collect under this Act could not be covered up even from the stoppage of the house, land, transaction or assets of the concerned person pursuant to Clause (a), the Municipality may recover it by auctioning his house, land or other assets, if any.
- (c) In cases where any contractor has furnished any deposit or guarantee in the course of any act or transaction under this Act but has failed to carry out such act accordingly, the Municipality may realize by forfeiting such deposit or auctioning off such guarantee.

Provided that in case the proceeds of amount received from the forfeiture or auction sale exceed the amount payable by such person to the Municipality, the

excess amount shall have to be returned to the concerned person.

(3) In auctioning by the Municipality pursuant to Clause (b) or (c) of Sub-section (2), it shall do it according to the prevailing law.

(4) If any one does not pay any taxes, fees, charges, duties, tariffs and any other amount due and payable under this Act, the Municipality may stop the service provided by it, in regard to such person.

(5) If any one commits any act in contravention of this Act or the Rules, Bye-laws or Orders made under this Act, such person shall be punished with punishment, if any, prescribed elsewhere in this Act, and if punishment is not so prescribed, the Municipality may punish such a person with a fine of upto one thousand rupees.

(6) If any one who has already been punished under this Section commits the same offence again, the Municipality may punish such person with two-fold punishment for each instance.

(7) Any party who is not satisfied with the punishment imposed by the Municipality under this Section may appeal to the concerned District Court within thirty-five days of the date of knowledge of such a decision.

166. **Recovery of Punishment and Fine:** The punishment and fine imposed by the Municipality pursuant to this Act shall be recovered by following the process as referred to in Section 260.

## **Chapter – 11**

### **Complaint and Provisions Pertaining Thereto**

167. **Complaint:** (1) Any person who is not satisfied with any order issued or any task ordered by Member or any employee of the Municipality may, except as otherwise provided for in this Act, file a complaint with the Mayor within thirty-five days.

(2) In cases where a complaint has been filed pursuant to Sub-section (1), the Mayor shall have to decide it within ninety days of the filing of such

complaint. If no decision is made by the Mayor within that time limit, the concerned person may file a complaint with Government of Nepal.

(3) After a complaint has been filed pursuant to Sub-section (1) or (2), the Mayor or Government of Nepal may hold necessary enquiry and uphold, quash or alter such an order.

(4) The decision made by the Mayor or Government of Nepal pursuant to Sub-section (3) shall be final.

(5) After anyone has filed a complaint pursuant to Sub-section (1) or (2), the concerned acts and proceedings may be deferred by an order of the authority making decision on such a complaint.

168. **Limitation for Institution of Cases:** No case shall be instituted against the Municipality, Mayor, Deputy Mayor, Member or employee or person assigned to work by the Municipality in respect of any act performed in exercise of the powers conferred by this Act or by the Rules or Bye-laws made under this Act or by the prevailing laws, unless the matters mentioned below are followed: -

(a) After the expiry of one month of the service of notice in writing, indicating the reasons for institution of the case and the name and address of the plaintiff or his attorney, if any, in person or sent by registered office to the Municipality or the Mayor, Deputy-Mayor, or the Member or employee or the person assigned to work by the Municipality, and

(b) Unless the case is filed within three months of the cause of action.

169. **Saving of Action Carried out in Good Faith while Performing Duty or Exercising Power:** The Mayor, Deputy-Mayor or the person assigned to work by the Municipality shall not be liable to punishment for any action carried out by him in good faith while performing the duty required to be performed pursuant to, or exercising the power conferred by, this Act or the Rules or the Bye-laws framed under this Act.

## Part – 4

### Provisions relating to District Development Committee

#### Chapter – 1

##### District Development Area and Delimitation of Area

170. **Specification of District Development Area:** Government of Nepal may specify each District maintained under the Local Administration Act, 2028 (1971) as the district development area.
171. **Delimitation of District Development Area:** (1) Government of Nepal may delimitate each district development area into nine areas in minimum and seventeen areas in maximum in a manner not to be lower than the number of areas fixed at the time of the commencement of this Act.

(2) If the boundary of the areas of the district development area delimited pursuant to Sub-section (1) has to be altered, Government of Nepal shall form a committee comprising the concerned expert as well and may alter the boundary on the recommendation of the committee, in consultation with the District Council and with the approval of the Election Commission.

Provided that in so altering the boundary, it shall have to be made prior to one year of the year of election.

#### Chapter – 2

##### Provisions relating to District Council

172. **Constitution of District Council:** (1) A District Council shall be constituted in the district development area specified pursuant to Section 170.
- (2) The District Council shall consist of the Members as follows: -
- (a) Chairperson and Deputy-Chairperson of each Village Development Committee in the District,
  - (b) Mayor and Deputy Mayor of each Municipality in the District,

- (c) Members of the District Development Committee,
- (d) Members of the House of Representatives and the National Assembly within the District, ex-officio Member,
- (e) Six persons including one woman nominated by the District Council from amongst those social workers, socially and economically backward tribes and ethnic communities, down-trodden and indigenous people within the District, belonging to the class, whose representation in the District Council does not exist and who are in possession of the required qualifications to become the Member of the District Council pursuant to Section 174.

173. **Term of Office of Member of District Council:** (1) The term of office of a Member of the District Council shall be of five years.

(2) In reckoning the term of office of a Member of the District Council, it shall be reckoned from the first day of *Shrawan* of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of *Ashadh* of every five years, not exceeding a term of five years.

(3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members is held prior to the expiry of the term of office of the Member pursuant to this Section, the term of office of the existing Member shall be deemed to have been expired, and the newly elected Members shall have the authority to discharge functions.

(4) In reckoning the term of office of the Member, even in cases where, owing to the fact that the election to the office of any Member of the District Council could not be held or nomination of the Member could not be made at the scheduled time due to any reason, it is held in any other time, the term shall be reckoned as if the election were held or nomination made at the scheduled time.

(5) In case the office of any Member of the District Council becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that-

- (1) By-election or nomination shall have to be held or made within one year of the date of vacancy of the office.
- (2) No by-election or nomination shall be held or made for a period less than one year.

174. **Qualification Required for Member of District Council**: In order to become a Member of the District Council, one shall have to possess the following qualifications:

- (a) Being a Nepalese citizen,
- (b) Having attained twenty-one years of age and possessed qualification to become a voter under the prevailing law,
- (c) Having settled up any goods in-kind and cash due to the District Development Committee,
- (d) Having no personal interest in any contract, or in any dealings on movable, immovable property, with the District Development Committee,
- (e) Having not been held to have misappropriated public property,

Provided that this Clause shall not apply if an evidence showing the settlement thereof is produced.

- (f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment,
- (g) Being not disqualified under any law.

175. **Termination of Membership of District Council**: The membership of the District Council shall cease to continue in the following circumstances: -

- (a) If he/ she does not possess the qualifications referred to in Section 174,
- (b) If the area where he/she has been living is taken out from the concerned district development area or amalgamated to any other area,
- (c) If he/ she becomes a candidate in the election of the \*Members of the House of Representative or Nation Assembly or is nominated as a Member of the Nation Assembly
- (d) If he/she absents himself from three consecutive meetings of the District Council without giving a reasonable notice,  

Provided that such a Member shall not be given a notice indicating the termination of his membership without giving him a reasonable opportunity to defend him/herself,
- (e) If his/ her term of office under Section 173 expires,
- (f) If he/she is and punished under the prevailing law on corruption charge or criminal charge involving moral turpitude or a criminal charge carrying punishment of imprisonment for more than three years,
- (g) If he / she resigns,
- (h) If he /she dies.

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\* At present there exists Constituent Assembly.

## Chapter – 3

### Provision relating to District Development Committee

176. **Formation of District Development Committee:** (1) A District Development Committee shall be constituted as an executive body of the District Council in the district development area specified under Section 170.

(2) The District Development Committee shall consist of the Members as follows: -

- (a) Members elected by the elected Members of the Village Council and Municipal Council in each area of the district from amongst themselves at the rate of one Member from each area,
- (b) President and Vice-president elected by the elected Members of each Village Council and Municipal Council in the district from amongst themselves,
- (c) Members of the \*House of Representative and the National Assembly within the District, ex-officio Member,
- (d) Two Members including one woman nominated by the District Development Committee from amongst the Members of the District Council as referred to in Clause (e) of Sub-section (2) of Section 172.

177. **District Development Committee to be Autonomous and Corporate Body:** (1) Each District Development Committee shall be an autonomous and corporate body with perpetual succession.

(2) The District Development Committee shall have a seal of its own.

(3) The District Development Committee may like an individual, acquire, use, sell and dispose of movable and immovable property.

(4) The District Development Committee may, like an individual, sue or be sued in its own name.

178. **Term of Office of Member of District Council:** (1) The term of office of a Member of the District Council shall be of five years.

(2) In reckoning the term of office of a Member of the District Council, it shall be reckoned from the first day of *Shrawan* of the year in which the term of office begins, and the term of office shall be deemed to have been expired on the last day of *Ashadh* of every five years, not exceeding a term of five years.

(3) Notwithstanding anything contained in Sub-sections (1) and (2), in case the election to new Members is held prior to the expiry of the term of office of the Member pursuant to this Section, the term of office of the existing Member shall be deemed to have been expired, and the newly elected Members shall have the authority to discharge functions.

(4) In reckoning the term of office of the Member, even in cases where, owing to the fact that the election to the office of any Member of the District Council could not be held or nomination of the Member could not be made at the scheduled time due to any reason, it is held in any other time, the term shall be reckoned as if the election were held or nomination made at the scheduled time.

(5) In case the office of any Member of the District Council becomes vacant due to any reason, the vacant office shall be fulfilled only for the remainder of the term through a by-election under the prevailing law to the office of an elected Member and through nomination to the office of a nominated Member.

Provided that-

- (1) By-election or nomination shall have to be held or made within one year of the date of vacancy of the office.
- (2) No by-election or nomination shall be held or made for a period less than one year.

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\* At present there exists Constituent Assembly.

179. **Oath To Be Taken:** (1) The President shall have to take an oath before the District Judge, the Vice- President and Members before the President, and in the absence of the President, the Vice-president before the District Judge, and the Members before the Vice-president.
- (2) The Members of the District Council other than those referred to in Sub-section (1) shall have to take an oath before the President, and in the absence of the President, before the Vice-President.
- (3) Without taking an oath pursuant to Sub-section (1) or (2), no Member of the District Council and the District Development Committee shall assume his/her office.
180. **Office May be Relinquished:** (1) The President may relinquish his office by tendering his resignation to the District Development Committee through the Vice-president, and the Vice-president and Members may do so by tendering resignation to the President.
- (2) The nominated Members of the District Council may relinquish the office by tendering resignation to the President and in the absence of the President, to the Vice-president.
181. **Qualifications Required for Member:** One shall have to possess the following qualifications to be elected or nominated as a Member of the District Development Committee: -
- (a) Being a Nepalese citizen,
  - (b) Having attained twenty-one years of age and possessed qualifications to become a voter under the prevailing law,
  - (c) Having settled up any goods in-kind and cash due to the District Development Committee,
  - (d) Having no personal interest in any contract or in any dealings on movable, immovable property, with the District Development Committee,

- (e) Having not been held to have misappropriated public property,

Provided that this Clause shall not apply if an evidence showing the settlement thereof is produced.

- (f) In the event of having been punished for any criminal charge involving moral turpitude, having passed three years after serving such punishment,
- (g) Being not disqualified under any law.

182. **Termination of Membership**: The membership of the District Development Committee shall cease to continue in the following circumstances:

- (a) If he/she does not possess the qualifications referred to in Section 181,
- (b) If the area where he has been living is taken out from the concerned area or amalgamated to other area,
- (c) If he/she becomes a candidate for the Member of the \*Members of the House of Representative or Nation Assembly or is nominated as a Member of the Nation Assembly
- (d) If he/she absents him/herself from three consecutive meetings of the District Council without giving a notice indicating a reasonable cause,

Provided that such a Member shall not be given a notice indicating the termination of his membership without providing him with a reasonable opportunity to defend himself.

- (e) If his/her term of office under Section 178 expires,
- (f) If he/she is punished under the prevailing law on corruption charge or for a criminal charge involving moral

turpitude or a criminal charge carrying punishment of imprisonment for more than three years,

(g) If he/she resigns,

(h) If he/she dies.

183. **The Statement of Property To Be Made Public:** The Member shall, within thirty days of the date of oath taken under Section 179, have to make public the statement of the movable and immovable property remained in his name and that of his family member living in the same joint family.

Provided, however, that the President and Vice-president shall, even after they are relieved of the office, have to make public the statement of such property within thirty days of their relieving of the office.

184. **Classification of District Development Committees:** Government of Nepal may classify, as prescribed, the District Development Committees on the basis of geographical diversity and transportation, communications, education and health facilities and make arrangement for the development of those District Development Committees which have low facilities available and are situated in an undeveloped district development area by making them affluent with means and facilities.

185. **Meeting of District Council:** (1) The District Council shall normally meet once a year.

(2) The President of the District Development Committee shall convene the meetings of the District Council.

(3) The meeting of the District Council shall normally be convened not later than the last day of the month of *Falgun* each year.

(4) The meeting of the District Council shall be presided over by the Member chosen by the Members, other than the Members of the District Development Committee present at each meeting of the District Council from amongst themselves,

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\* At present there exists Constituent Assembly.

Provided that prior to the selection of the Chairperson at the meeting of the District Council, the senior most Member, on account of age, among the Members of the District Council present shall preside over that meeting.

(5) The Secretary of the District Development Committee shall act as the Secretary of the District Council.

(6) The Secretary shall, at the direction of the President of the District Development Committee, have to send a notice indicating the date, time and venue and agenda of the meeting of the District Council to all Members of the District Council in advance of at least fifteen days of the meeting.

(7) The presence of fifty percent Members of the number of the Members existing for the time being at the meeting of the District Council shall be deemed to have constituted a quorum for the meeting.

(8) In case the meeting of the District Council could not be held due to the lack of the quorum, another meeting shall have to be convened by giving a seven-day notice. The quorum for such a meeting shall be one-thirds. If even that quorum be not constituted, another meeting shall have to be convened again on the following day thereof, and that meeting shall be conducted no matter how many Members are present at the meeting.

(9) If one-thirds Members of the District Council make a request in writing to the President to convene a meeting to discuss any particular matter, the President shall have to convene a special meeting of the District Council within thirty days of such a request.

(10) The Secretary shall authenticate the decisions of the meetings of the District Council.

(11) Other procedures relating to the meeting of the District Council shall be as prescribed.

186. **Meeting of the District Development Committee:** (1) The meeting of the District Development Committee shall be held at least once in a month.

(2) The Secretary shall, as ordered by the President, convene the meetings of the District Development Committee.

Provided that if the President does not order to convene the meeting even until three months, the Secretary shall, upon the request in writing of one-third Members, convene the meeting of the District Development Committee.

(3) The meeting of the District Development Committee shall be presided over by the President, and by the Vice-president, in the absence of the President, and even if the Vice president absents him/herself, by the Member chosen by the Members present at the meeting from amongst themselves.

(4) If fifty percent Members of the total number of Members existing for the time being are present at the meeting of the District Development Committee, the quorum for the meeting shall be deemed to have constituted.

(5) The Secretary shall authenticate the decisions of the meetings of the District Development Committee.

(6) Other procedures relating to the meetings of the District Development Committee shall be as prescribed.

187. **Decisions of Meeting**: (1) Unless otherwise provided for in this Act, any decisions of the meeting of the District Council and the District Development Committee shall be made on the basis of a majority of the Members present at the meeting.

(2) In the event of a tie of votes at a meeting of the District Council and the District Development Committee, the person presiding over the meeting shall exercise the casting vote.

(3) Ex-officio Members shall not be entitled to take part in the voting.

## **Chapter – 4**

### **Functions, Duties and Powers of the District Development Committee**

188. **Functions, Duties and Powers of District Council**: (1) The functions and duties of the District Council shall be as follows: -

(a) To pass the budgets, plans and program submitted by the District Development Committee.

- (b) To adopt the resolution relating to taxes, charges, fees, tariff, loans or borrowings and internal resources submitted by the District Development Committee.
- (c) To evaluate the program relating to the District plan operated by the District Development Committee and give necessary directions.
- (d) To hold discussions on the audit reports of the District Development Committee and give necessary directions to the District Development Committee for settlement of irregular amounts.
- (e) To approve the District level subject-wise program to be operated in the District.
- (f) To approve the byelaws of the District Development Committee.
- (g) To evaluate the administrative functions of the District Development Committee and give necessary directions to the District Development Committee.
- (h) To grant approval, as required, on the remuneration, number of positions, allowances and other facilities of the employees proposed by the District Development Committee.
- (i) To decide on the sale and disposal, transfer of, or letting on hire, the property of the District Development Committee.
- (j) To delegate some of the powers conferred on it to the District Development Committee.

(2) The District Development Committee shall not be entitled to carry out the following functions unless a resolution is passed by a majority of the total number of Members of the District Council: -

- (a) To sell, and dispose of, or transfer the property of the District Development Committee.
- (b) To raise loans.
- (c) To impose taxes, fees, charges, duties.
- (d) Any other matter as prescribed.

(3) The District Council shall exercise the power conferred on it under this Act and Rules and Byelaws made under this Act.

(4) The District Council shall form an accounts committee under the Chairpersonship of any Member of the District Council, comprising in maximum of five members including him/her; and the functions, duties and powers of such a committee shall be as prescribed.

(5) The District Council may form different committees in a manner that the other Members of the District Council, except those who are the members of the accounts committee referred to in Sub-section (4), are included in subject-wise committees as prescribed to render necessary advice and suggestions to the District Council.

(6) The other functions, duties and powers of the District Council shall be as prescribed.

189. **Functions, Duties and Powers of the District Development Committee:**

(1) In addition to implement and cause to be implemented, the decisions and directions of the District Council, the functions and duties of the District Development Committee shall be as follows: -

(a) **Relating to Agriculture:**

- (1) To make District level policy on agriculture and livestock development, and formulate and operate program in consonance therewith, and inspect and monitor, and cause to be inspected and monitored, the program operated.

- (2) To arrange for, and cause to be arranged for, the seeds, fertilizers and other agricultural inputs required in the District.
- (3) To provide, and cause to be provided, the services relating to agriculture extension in the district development area.
- (4) To promote, and cause to be promoted, the agricultural *Haat* markets and fairs.
- (5) To manages and cause to be managed, the markets for agricultural products.

(b) **Relating to Rural Drinking Water and Habitation Development:**

- (1) To formulate and implement, and cause to be implemented, such drinking water plans as are to benefit the people in more than one village development area in rural areas of the district development area.
- (2) To formulate plans on habitation and market development in rural areas of the district development area, and implement and cause to be implemented them.

(c) **Relating to Hydropower:**

To formulate, implement, operate, distribute and maintain and repair projects on mini and micro hydropower and other energy, and cause to be done the same.

(d) **Relating to Works and Transport:**

- (1) To prepare a master plan of district-level roads in the district development area and get it approved by the District Council.

- (2) To build, operate, monitor, evaluate and maintain and repair the approved District level roads, and cause to be done the same.
- (3) To formulate, build and maintain and repair the plans of suspension bridges required in the district development area, and cause to be done the same.
- (4) To make necessary arrangements on the means of transport to be operated within the district development area.
- (5) To give license to "D" class contractors and cancel and renew it pursuant to the prevailing law.
- (6) To develop and promote the waterways and ropeways.

(e) **Relating to Land Reforms and Land Management:**

To protect and promote the *Ailani* (unregistered) land and governmental barren land situated within the district development area.

(f) **Relating to Development of Women and Helpless People:**

- (1) To prepare and implement a plan required for the upliftment of the women in the district development area.
- (2) To carry out acts on the protection of the orphans, helpless women, the aged, disabled and incapacitated persons as per the national policy, and to carry out or cause to be carried out acts on the wiping out of social ill-practices and the protection of the girls and women.

(g) **Relating to Forest and Environment:**

- (1) To prepare plans on forests, vegetation, biological diversity and soil conservation, and implement and cause to be implemented the same.
- (2) To protect and promote, and cause to be protected and promoted, the environment.

(h) **Relating to Education and Sports:**

- (1) To set priority for establishing schools in the district development area and make recommendation therefor.
- (2) To make recommendation, setting out rationale and reasons, for the approval and dissolution of the schools in the district development area.
- (3) To supervise and monitor the schools in the district development area and assist in their operation and management.
- (4) To formulate policies and program on the District level adult education as well as informal education.
- (5) To set program relating to sports and physical development, and implement and cause to be implemented them.
- (6) To form a District level sports development committee.

(i) **Relating to Wages for Labour:**

- (1) To determine rate of wages for labor and rate of workmanship at the district level.
- (2) To set and operate program on abolition of child labor and rescue of the children,

(j) **Relating to Irrigation and Soil-erosion and River Control:**

- (1) To formulate, implement, operate and maintain and repair program on irrigation, ditch, embankment, and small ditch providing facility to more than one village development area in the district development area, and cause to be done the same.
- (2) To formulate plans on prevention of soil- erosion, river cutting etc. in the areas affected from such acts, and implement and cause to be implemented the same.

(k) **Relating to Information and Communications:**

- (1) To give approval to set up cinema halls in the district development area except the Municipality area.
- (2) To open district level libraries, reading rooms and information centers in other rural areas except the Municipality area in the district development area.

(l) **Relating to Language and Culture:**

- (1) To keep records of culturally and religiously important places located within the district development area and to preserve and promote them by having them repaired and maintained.
- (2) To promote, and cause to be promoted, various languages, religions and cultures,
- (3) To preserve, promote and use, and cause to be preserved, promoted and used, the archaeological objects, languages, religion, art and culture within the district development area.

(m) **Relating to Cottage Industry:**

- (1) To maintain records of the cottage industries to be establish within the district development area.
- (2) To identify and develop an industrial zone in the district.

(n) **Relating to Health Service:**

- (1) To operate and manage, and cause to be operated and managed, the district level health posts, hospitals, *Ayurvedic* dispensaries, health centers, health offices etc.
- (2) To formulate and implement the program such as family planning, mother child welfare, extensive vaccination, nutrition and population education and public health.
- (3) To give approval to open sub-health posts in the village development areas under the district development area and inspect and monitor them.
- (4) To make arrangements for the supply of such medicines and materials and equipment relating to treatment as required for the district development area, and inspect and monitor the quality standards thereof.
- (5) To prohibit or remove the public use of the things injurious to the public health in the district development area.
- (6) To prohibit the sale, distribution and consumption of such consumable goods as may cause adverse impacts on the public health.

(o) **Relating to Tourism:**

To protect, promote, expand and utilize the natural, cultural, historical and touristic heritages in the district development area, and cause to be done so.

(p) **Miscellaneous:**

- (1) To maintain data of the district development area.
- (2) To carry out necessary acts in respect of controlling natural calamities.
- (3) To protect the movable and immovable properties remained under the ownership and control of the District Development Committee.
- (4) To draft the byelaws of the District Development Committee and submit it to the District Council.
- (5) To carry out such other functions as prescribed under the prevailing law.

(2) The District Development Committee may give grants for the approved program to any organization, association or body, being subject to the approved budget.

(3) The District Development Committee may, subject to this Act, carry out the development and construction works by entering into agreement as prescribed with any individual, governmental or non-governmental organization or person. Information on the agreement so entered into shall have to be given to Government of Nepal.

Provided that without prior approval of Government of Nepal no such agreement shall be entered with any international non-governmental organization or foreigner.

(4) If it is received information that any project or program of national level operated in the district development area has not been operated effectively or any kind of irregularity has been done there, the District Development

Committee may give necessary suggestions in that regard or make recommendation to the concerned body for action.

(5) In addition to those as mentioned in this Act, other functions, duties and powers of the District Development Committee shall be as prescribed.

190. **Power to Form Sub-committee:** (1) The District Development Committee may, as per necessity, form a sub-committee to render assistance in its functions.

(2) The sub-committee to be formed pursuant to Sub-section (1) may consist of the representative of the consumers' group, the representative of non-governmental organizations, women, backward class, intellectuals, social worker and experts.

(3) The functions, duties, powers and procedures of the sub-committee to be formed pursuant to Sub-section (1) shall be as prescribed by the District Development Committee.

191. **Functions, Duties and Powers of President:** The functions, duties and powers of the President shall be as follows: -

- (a) To direct the Secretary to convene the meeting of the District Development Committee.
- (b) To submit, or cause to be submitted, reports and proposals at the meeting of the District Council and the District Development Committee.
- (c) To make necessary arrangement to prepare budgets and program of the District Development Committee.
- (d) To get progress report prepared by having the decisions of the District Council and the District Development Committee implemented.
- (e) To allocate the subject-wise function to the Vice-President and Member, and monitor and coordinate the district level subject-wise program, and cause to be done so.

- (f) To make necessary recommendations on behalf of the District Development Committee.
- (g) If he becomes unable to be present in the District Development Committee for more than seven days being out of the District, to give in-charge to the Vice-President; and in the absence of even the Vice-President, to give in-charge to the senior most Member on account of age or if he too be unable to assume the charge owing to any reason, to give information thereof to the Secretary.
- (h) To depute the Member and the Secretary in connection with any district level program.
- (i) To inspect and coordinate the Village Development Committees under the district development area.
- (j) To carry out such other functions as prescribed.

(2) The President shall not have to leave his District for more than thirty consecutive days except for reasonable cause.

(3) The President may him/herself approve his deputation for up to seven days in the course of development works in the district.

Provided that if he/she has to go out of his district, he/she may go on deputation by getting it approved by the District Development Committee.

192. **Functions, Duties and Powers of the Vice-President:** (1) The functions, duties and powers of the Vice-President shall be as follows: -

- (a) To act as the acting President in the absence of the President, and
- (b) To carry out, and cause to be carried out, such other functions as prescribed.

(2) The Vice-President shall not have to leave his/her District for more than thirty consecutive days except for reasonable cause.

193. **Functions, Duties and Powers of Member:** (1) The functions, duties and powers of the Member shall be as follows: -

- (a) To have included in the district development plan the plan prepared by the District Development Committee on the matter related with the subject assigned to him/her.
- (b) To inspect, from time to time, the acts and actions carried out by the District Development Committee on the matter related with the subject assigned to him/her.
- (c) To arrange for coordination between the District Development Committee and different governmental and non-governmental social organizations and consumers' groups on the subject assigned to him/her.
- (d) To submit to the District Development Committee information in writing along with his suggestions on the progress made in carrying out the development and construction works on the matter related with the subject assigned to him/her.
- (e) To encourage the local people to form consumers group and non-governmental organizations in the subject assigned to him and mobilize them in the development program.
- (f) To take part in the meeting of the concerned Village Development Committee or Municipality, and submit to the District Development Committee a report on the acts and proceedings of the meeting.
- (g) To carry out such other functions as prescribed.

(2) The Member shall not have to leave his/her district for more than thirty consecutive days except for reasonable cause.

194. **Functions, Duties and Powers of Secretary:** The functions, duties and powers of the Secretary shall be as follows, subject to being directly under the direction of the President: -

- (a) To act as the Secretary of the District Council and the District Development Committee.

- (b) To implement, and cause to be implemented, the decisions of the District Development Committee, under the general supervision of the President.
- (c) To inspect the implementation of the district plan and do and cause to be done progress evaluation thereof.
- (d) To inspect, and cause to be inspected, administrative, accounts management and development program.
- (e) To inspect the progress of the District level program and appraise, and cause to be appraised, the same.
- (f) If the election is to be held owing to being vacant the office of a Member of the District Council or the District Development Committee, to inform the concerned body.
- (g) To act, and cause to act, as the administrative head of the office of the District Development Committee.
- (h) To prepare an inventory of, protect, repair and maintain, the movable, immovable and in-kind property of the District Development Committee, and cause to be done the same.
- (i) To be present at the meeting of the District Council and the District Development Committee, minute the decisions, take the minutes book in the custody and authenticate the decisions.
- (j) To take, and cause to be taken, necessary action on having audit and settlement of irregular amounts.
- (k) To have administrative control of the employees under the District Development Committee.
- (l) To carry out, and cause to be carried out, the functions specified by the prevailing law.

- (m) To carry out such other functions as may be assigned or specified under this Act or the Rules or byelaws made under this Act.

## Chapter – 5

### Formation of Plans of District Development Committee and Process of Implementation

195. **Formulation of Plans of District Development Committee:** (1) Each District Development Committee shall have to formulate periodical and annual development plans for the development of its District.

(2) The National Planning Commission and Government of Nepal shall, on the basis of the plans formulated pursuant to Sub-section (1), have to provide grants and necessary policies and guidelines to the District Development Committee within the month of *Kartik*.

(3) In formulating the plans pursuant to Sub-sections (1) and (2), the District Development Committee may, as per necessity, obtain external consultancy service.

(4) In formulating periodical plans, the following matters shall have to be included: -

- (a) Geographical, economic and natural heritages of the District and present uses thereof.
- (b) Possibilities of production in various sectors on account of comparative cost benefit.
- (c) Areas comprising backward castes, tribes and poorer people and various development works done or required to be done in such areas.
- (d) Income-generating and skills-oriented development works for the women and children.

- (e) Description of the completed projects under various sectors and provision on the operation and maintenance thereof.
- (f) Various sectoral short-term and long-term development works on the basis of development possibility.
- (g) Plans on human resource development in various sectors to be formulated by the local people themselves.

(5) In formulating the annual plan, the following matters shall have to be taken as the basis: -

- (a) Directives received from the National Planning Commission and the concerned Ministry on national development policy.
- (b) District level policies and goals set on the basis of national goal and policy.
- (c) Overall necessities indicated by periodical plans.
- (d) Plans received from the Village Council and the Municipal Council.

196. **Estimation of Resources:** Prior to formulating the annual plan, the District Development Committee shall have to prepare the estimation of the following sources and means: -

- (a) Own labor, resources and means of the District Development Committee.
- (b) Lump sum grants obtained from Government of Nepal.
- (c) Lump sum means obtained from different sectoral Ministries of Government of Nepal for sectoral investment.
- (d) Assistance obtained from other organizations.

197. **Process of Formulation of Plan:** (1) In formulating the district development plan, the District Development Committee shall have to follow the process of participatory planning formulation.

(2) In following the process referred to in Sub-section (1), the projects and program obtained from the District Development Committee shall have to be taken as the main basis.

(3) In formulating the district development plan, the act of formulating the plan shall be carried out after holding necessary discussion on it in the service center, subject-wise plan formulation committee, the integrated plan formulation committee, District Development Committee and the District Council.

(4) Other process of formulation of the plan shall be as prescribed.

198. **Integrated Plan Formulation Committee**: (1) There shall be an integrated plan formulation committee at the district level.

(2) The committee referred to in Sub-section (1) shall comprise the following members: -

- (a) President of the District Development Committee - Chairperson
- (b) Parliamentarians within the concerned district  
development area - Ex-officio Member
- © Coordinators of the subject-wise plan formulation  
committees - Member
- (d) Other persons, as prescribed - Member

(3) The committee as referred to in Sub-section (1) shall coordinate and set the priority of, the projects obtained from the subject-wise plan formulation committees and give them a form of the integrated district development plan.

(4) The procedures of the meetings of the committee referred to in Sub-section (1) shall be as prescribed.

199. **Preparation of Resource Map**: Each District Development Committee shall, for the development of the district, have to collect the objective data of the district and prepare a resource map reflecting the situation of the district.

200. **Feasibility Study of the Project:** In the course of implementation of the district development plan, the District Development Committee shall have to undertake or cause to be undertaken a feasibility study of the project also setting out the following matters: -

- (a) Objectives of the project.
- (b) The number of people to be benefited from the project and the type of benefit.
- (c) Whether the project to be selected is new or incomplete.
- (d) Whether the necessity or the problem can be fulfilled or solved through any other means without operating the project.
- (e) The estimate of the expenditures and cost of the materials, and amount of time required to complete the project.
- (f) The cash, labor in-kind and similar other contribution which can be made by the users.
- (g) Charge or maintenance and repair expenditures which can be collected from the users later on, or operational system.
- (h) Any other matter, if any, required to be set out.

201. **Fixation of Priority:** (1) In formulating the district development plan, the following projects shall be given priority: -

- (a) Program that give direct benefit to the general public and are employment and income generating ones.
- (b) Program that can contribute to increase agricultural products.
- (c) Projects that can be operated through local means, resources and skills and capacity.
- (d) Program that can contribute to protect and promote the environment.

- (e) Income-generating and skill-oriented program for the backward and down-trodden tribes, communities and the women and children.

202. **Selection of the Project:** (1) In selecting a project, it shall have to be selected on the basis of the followings in addition to the report of feasibility study referred to in Section 200: -

- (a) Which can contribute to the protection and promotion of the environment,
- (b) Which may have utmost participation of the local people and labor.

(2) Inhabitants of the district shall have to be informed about the projects selected pursuant to Sub-section (1).

203. **Obligation of the National Planning Commission and Government of Nepal on district development plan:** (1) An estimation of the means to be made available to different Districts in respective sector for the forth-coming Fiscal Year and national development policy related therewith and the priority and other guidelines, if any, shall have to be provided for the formulation of the district development plan. The National Planning Commission shall have to determine the estimation of the means and the guidelines to be so provided on the basis of the goals of the periodical plan of each District and give direction to the sectoral Ministries.

(2) In formulating the district development plan, the District Development Committee shall have to render necessary contribution to the annual development program to be prepared by the Village Council and the Municipal Council.

204. **Coordination among District Development Committee, Governmental and Non-governmental Bodies:** (1) In formulating the integrated district development plan, there shall be held a meeting of governmental and non-governmental organizations implementing different services and development

program within the District and coordination shall be maintained between annual development plans.

(2) The District Development Committee shall invite the representative of the concerned office and hold a meeting to maintain coordination referred to in Sub-section (1).

(3) There shall have to be maintained coordination on the following matters at the coordinating meeting organized pursuant to Sub-section (2): -

(a) To remove duplication in investment to be made in any service sector.

(b) To maintain complementary coordination among the organizations making investment.

(c) To follow the method whereby the inhabitants of the District can have maximum benefit.

205. **Implementation of Plan:** (1) Government of Nepal shall have to sanction the budget along with necessary guidelines to implement the district development plan, after the annual program and budget have been approved.

(2) The program approved by the District Development Committee shall have to be implemented, or cause to be implemented, at the direction of the District Development Committee.

(3) The Village Development Committee or consumers' group shall have the responsibility for the implementation of the plan.

(4) The projects under the district level plan may be implemented and operated through consumers' group. The District Development Committee may, as per necessity, contribute to the implementation by obtaining external consultancy service.

206. **Transfer of Project:** (1) The governmental or semi-governmental bodies engaged in different service and developmental works in the district shall, upon the completion of the project started by them, have to transfer it to the concerned District Development Committee. The operation of the project so

transferred shall be as agreed between the District Development Committee and the concerned body.

(2) The body which transfers the project pursuant to Sub-section (1) shall have to provide technical and consultancy service to the District Development Committee and get the capability of the District Development Committee developed.

207. **Directives to be Abided by:** (1) The National Planning Commission and the concerned Ministry of Government of Nepal may, from time to time, give necessary directions to the District Development Committees in respect of the formulation and operation of the district development plan.

(2) The District Development Committee shall have to abide by the directions given pursuant to Sub-section (1).

208. **Formation of Consumers' Group:** (1) The District Development Committee shall have to form consumers' group through the concerned body from amongst the persons who receive direct benefit from the project while implementing the projects under the district development plan.

(2) The functions, duties and powers of the consumers' group shall be as prescribed.

209. **Operation of Projects by Consumers' Group and Non-governmental Organization:** (1) In implementing and operating a project, consumers' group and non-governmental organization shall have to do so in coordination with the District Development Committee.

(2) The District Development Committee may get any plan implemented and operated through consumers' group and non-governmental organization.

(3) The consumers' group and non-governmental organization implementing the project shall have to maintain and up-date the records of accounts of their financial transactions.

(4) The consumers' group and non-governmental organization implementing the project shall have to give a report of the accounts of their transactions to the District Development Committee and the body implementing the project and the District Development Committee shall have the responsibility for getting the accounts audited.

(5) The cost estimate of the project shall be done as prescribed.

(6) The consumers' group and non-governmental organization may, after the examination and release of the project, take necessary charges from the consumers receiving service, for the repair, maintenance and operation of the project.

210. **Supervision and Monitoring**: (1) There shall be formed one supervision and monitoring committee, according to the alphabetical order, for each year, under the Chairpersonship of the Parliamentarian of the concerned District to determine whether the resources and means estimated in formulating the plan or program by the District Development Committee have been mobilized as per the goals and whether the project has been implemented as per the calendar of implementation, and to give necessary directions for the solution to the obstructions or hindrances that may occur in the implementation of the project. The committee shall consist of the President of the District Development Committee, the Member of the District Development Committee designated by him, and the concerned employees.

(2) The meeting of the committee as referred to in Sub-section (1) shall normally be held once in every four months, and the concerned Member of the District Development Committee shall have to take part in the meeting.

(3) The means estimated, the means available and the actions required for the project shall have to be assessed at the meeting of the committee referred to in Sub-section (1).

(4) The meeting of the committee referred to in Sub-section (1) may warn the concerned party that works have not been carried out according to the calendar of operations and goals.

211. **Appraisal and Evaluation**: (1) The District Development Committee shall have to appraise and evaluate the district development plan as follows: -

- (a) To evaluate the effect of each project completed, after one year.
- (b) To carry out subject-wise description and progress evaluation of the projects being operated, in every six months.
- (c) To evaluate the provisions on the repair and maintenance of the project completed, each year.
- (d) To identify the type of community benefited from the project and the result thereof.
- (e) To identify the increase in production and employment opportunities resulted from the project.
- (f) To identify the effects caused on the ecology from the project.

(2) The District Development Committee shall have to appraise the district development plan as follows: -

- (a) To appraise it at the regular meeting of the District Development Committee after the evaluation has been done pursuant to Sub-section (1).
- (b) To invite the representatives of governmental, non-governmental and donor agencies as well to appraise it, along with the progress report of the District level program operated by them respectively, at the appraisal meeting referred to in Clause (a).
- (c) To forward the report, accompanied by the suggestions obtained at the appraisal meeting, to the body operating the concerned project and present such report at the regular meeting of the District Council.

(3) If, in carrying out the appraisal and evaluation of the district development plan pursuant to Sub-sections (1) and (2), it is received

information that any type of irregularity has been committed in any project or program operated in the district development area, the District Development Committee shall make recommendation to the concerned body for necessary action.

212. **Information and Records Center**: There shall be one information and records center in each District Development Committee to identify the real situation of the district and enhance the planned development process. Such information and records center shall have to collect information and records as follows: -

- (a) Updated objective report of each Village Development Committee, Municipality situated in the District and the District Development Committee.
- (b) The annual evaluation report of the district.
- (c) Each village and municipal level periodical plan.
- (d) Periodical plan of the district.
- (e) Annual audit report of the District Development Committee.
- (f) Annual program of each Village Development Committee and the Municipality.
- (g) Overall annual program of the District Development Committee.
- (h) Description and progress of program of the non-governmental and private sector being operated in the District.
- (i) Reports on study and research done in the District.

213. **Examination and Release of Projects**: (1) After the completion of the project, it has to be examined and cleared as prescribed.

(2) After receiving by the District Development Committee information of the completion of a project from the project operating body, the

District Development Committee shall examine and release the project on the basis of the work completion report and the evaluation submitted by the technician.

214. **Operation and Repair and Maintenance of Projects:** (1) The District Development Committee may transfer the completed projects to the concerned body or consumers' group for their operation and get them operated, repaired and maintained.

(2) If a decision is made that the concerned bodies carry out the act of operation and repair and maintenance of big projects as per the allocation, the act of repair and maintenance may be done jointly also taking into account of the technical and financial sources of the District Development Committee.

(3) The project operating and repairing and maintaining body shall be responsible for collecting necessary charges from the project.

(4) The service charges and maintenance and repair expenditures to be collected by the District Development Committee from the consumers shall be as decided by the District Development Committee. Necessary technical and other assistance may be obtained from the concerned bodies to determine such charges.

## **Chapter – 6**

### **Financial Provisions**

215. **Taxes the District Development Committee is Entitled to Impose:** (1) The District Development Committee may impose tax on roads, paths, bridges, irrigation, ditches, ponds etc. built by or transferred to it, at the rate approved by the District Council not exceeding the rate as prescribed in the district development area.

(2) The District Development Committee may impose tax on wool, turpentine, herbs, worn and torn goods, stones, slates, sand and bone, horn, wing, leather etc. of the animals except those prohibited, pursuant to the prevailing law and on other goods as prescribed at the rate approved by the

District Council not exceeding the rate specified in the district development area.

(3) Upto 35-50% of the amount obtained from the tax referred to in Sub-section (2) shall have to be provided to the concerned Village Development Committee and the Municipality.

216. **Service Charge:** The District Development Committee may impose the following service charge at the rate approved by the District Council not exceeding the rate as prescribed in its area: -

- (a) The service charge of the guest house, library clinic, hermitage, city hall etc. built by it or under its custody.
- (b) The service charge of the ditch, small ditch, embankment etc. built by it.
- (c) Local development fees.
- (d) Other service charge as prescribed.

217. **Fee:** The District Development Committee may impose the following fees at the rate approved by the District Council not exceeding the rate as prescribed in its area:

- (a) Fees for license and renewal thereof, for carrying out watercourse, conducting boats and tunings and fishing.
- (b) Fees for registration of *Panighat* and renewal thereof.
- (c) Fees for recommendation.
- (d) Other fees as prescribed.

218. **Sale:** The District Development Committee may sell, as prescribed the sand in the rivers and canals, *roda*, stones, soil, wood swept by river, etc. lying in its area. Out of the proceeds of such sale of goods, upto 35-50% amount shall have to be provided to the concerned Village Development Committee and the Municipality.

219. **Power to Raise Loan:** The District Development Committee may raise loans, or receive borrowings with or without pledging any of its movable

and immovable property owned and possessed by it or under guarantee given by Government of Nepal, from a bank or any other organization, according to the policy adopted by the District Council.

220. **Provision relating to Revenue Allocation:** The concerned District Development Committee shall be entitled to the amount as prescribed out of the following amounts: -

- (a) Registration fees to be obtained by Government of Nepal for the purchase and sale of house and land.
- (b) Amount to be obtained by Government of Nepal for royalty of mines, petroleum products, forests, water resources, and other natural resources.
- (c) Entrance fee to be obtained by Government of Nepal for entry of tourists into the district development area.

221. **Fund of the District Development Committee:** (1) The District Development Committee shall have a fund of its own.

(2) The fund referred to in Sub-section (1) shall consist of the following amounts: -

- (a) Amounts received from Government of Nepal,
- (b) Amounts received from taxes, fees, duties and tariffs,
- (c) Twenty-five per cent of the land revenue collected by the Village Development Committee and the Municipality,
- (d) Amounts obtained from the sale, rent, fare, interest of movable and immovable properties, or other goods of the District Development Committee,
- (e) Donations, gifts, grants or assistance obtained from any person or organization,
- (f) Amounts obtained from any foreign government or international organization,

- (g) Amounts received from revenue allocation and fines and penalties,
- (h) Amounts obtained from income-generating program operated by the District Development Committee,
- (i) Amounts of loans and borrowings taken by the District Development Committee from any bank or any other organization,
- (j) Amounts obtained from other sources.

(3) Prior to obtaining the amount referred to in Clause (f), the District Development Committee shall have to obtain approval of Government of Nepal.

(4) Any amounts collected in the fund shall have to be deposited in a bank.

222. **Mode of Making Expenditure from the Fund:** (1) The fund shall be operated through joint signature of the Secretary and the Accounts Chief of the District Development Committee.

(2) The President may expend the amount as referred to in the financial assistance, subject to the limitation of the approved budget.

(3) The Secretary may expend the amount for implementing the decisions of the District Development Committee, subject to the budget approved by the District Development Council.

(4) Amounts of the fund of the District Development Committee may be expended as prescribed subject to the budget approved by the District Development Council, pursuant to the prevailing law.

(5) In operating development program, the amounts obtained for subject-wise program shall have to be expended for that very program and shall not have to be expended for other program and under other head.

(6) The Accounts Chief shall have to maintain the accounts of incomes and expenditures of the District Development Committee and get the same audited.

(7) Administrative expenditures of the District Development Committee shall be as prescribed.

223. **Provisions relating to Approval of Construction, Purchase and other**

**Contraction**: The process relating to construction, purchase, contraction or other financial transaction shall be as prescribed:

224. **Transfer in Budget Heads**: (1) The District Development Committee may transfer the amount from one budget head to another not exceeding twenty percent of the head in the annual budget approved by the District Council.

Provided that no transfer in budget head shall be made on the heads of contingency and financial assistance.

(2) The expenditures of the contingent amount shall be as prescribed.

225. **Provision of Auction Sale**: The process of auctioning or selling the goods and properties not required for the District Development Committee, shall be as prescribed, as per the policy approved by the District Council.

226. **Remaining Amount of Budget**: Any unspent amount of the budget in one fiscal year shall have to be transferred to the budget of the next fiscal year for the purpose of using it to complete the incomplete projects and program in the current fiscal year.

227. **Description of Incomes and Expenditures of the District**

**Development Committee**: (1) The District Development Committee shall have to maintain the records reflecting severally the amounts to be obtained in the district from the internal source, means, land revenue, local development fee, donation, gift, aid, other tax, fee, charge, tariff and property or means, resources, sale, loan and grant.

(2) The heads and records of the accounts of incomes and expenditures shall be as prescribed.

228. **Limitation of Administrative Expenditures:** Except as permitted by Government of Nepal to make expenditures on the subject specifically specified, the grant amount provided by Government of Nepal shall not be expended in the administrative function in excess of the percentage as prescribed.

229. **Meeting Allowances and Other Facilities of Members:** The meeting allowances and other facilities of the Members shall be as prescribed.

230. **The District Development Committee to Provide Grants:** (1) The District Development Committee shall have to provide some amounts, out of the amounts to be made available to it, to the Village Development Committee as a grant to be expended in the village level program as prescribed.

(2) In providing the grant pursuant to Sub-section (1), demand for the program, population, geographical remoteness, limitation of internal resources etc. shall have to be taken into account.

231. **Property of the District Development Committee:** (1) The District Development Committee shall have the title over the property constructed or purchased from the fund or conveyed to it by Government of Nepal or any person or organization, and the District Development Committee shall have to look after and manage such property.

(2) The District Development Committee shall not be entitled to sell and dispose of, or otherwise relinquish its title to, the immovable property as referred to in Sub-section (1) without the approval of Government of Nepal. Any such sale or disposal or relinquishment of the title to any person without the approval shall be null and void in any circumstance whatsoever.

232. **Audit:** (1) The internal audit section shall do internal audit of the District Development Committee.

(2) The final audit of incomes and expenditures of the District Development Committee shall be done by the Auditor General.

(3) The District Council shall discuss the audit report received along with the suggestion of the accounts committee, and give direction to the District Development Committee for settlement of irregular amounts if the irregularities indicated in the audit can not be regularized.

## **Chapter – 7**

### **Punishment**

233. **Power to Impose Punishment:** (1) If anyone carries out any act in contravention of this Act or the Rules or bye-laws made under this Act, the District Development Committee may punish him with a fine of upto one thousand rupees. If he repeats the same offence, it may impose the fine by adding hundred percent thereto for each instance.

(2) If anyone intentionally or recklessly alters the property under the custody of the District Development Committee without the permission of the competent authority or misappropriates or damages, or causes to be misappropriated or damaged, such property, the District Development Committee may recover such loss and damage as well from that person.

## **Part – 5**

### **General Provisions relating to Local Body**

#### **Chapter – 1**

##### **Relations between Government of Nepal and Local Body**

234. **Power of Government of Nepal to Give Direction:** (1) Government of Nepal may regularly monitor as to whether the Local Body has carried out the functions entrusted to it pursuant to the prevailing law, whether it has accorded necessary priority to the backward communities, women and children, whether

such matter as the ecological balance has been encouraged, and may give necessary directions.

(2) It shall be the duty of the concerned Local Body to abide by the directions given by Government of Nepal pursuant to Sub-section (1).

235. **Power to Introduce Special Program**: Government of Nepal may, in order to consolidate and enhance the capacity of the Local Bodies, formulate and introduce a special program.

236. **Government of Nepal to Provide Grants**: (1) Government of Nepal shall have to provide the Local Body each year with minimum grant prescribed and also with additional grants on such basis as population, level of development, possibility and capability of mobilizing revenues, necessity of financial resources, regular record keeping of incomes and expenditures, situation of auditing and financial discipline of the concerned Local Body.

(2) Government of Nepal may prescribe the process of, and procedures for, the expenditure of the grant amounts to be obtained under Sub-section (1).

237. **Powers to Form Fiscal Commission**: Government of Nepal may form a fiscal commission also comprising the representative of the concerned federation of the Local Bodies to study and investigate as to the taxes to be imposed by the Local Bodies and the revenue to be allocated between Government of Nepal and the Local Bodies and to make suggestions on the policy to be adopted to make tax system and accounting method timely.

238. **Power to Suspend and Dissolve**: (1) If Government of Nepal has adequate ground of the fact that any Local Body has committed any of the following acts, it may, by stating such reasons in the notice published in the Nepal Gazette, suspend such Local Body: -

(a) If it commits, any act jeopardizing the sovereignty, integrity, nationality or communal harmony of Nepal in a

manner to be contrary to the \*Constitution of the Kingdom of Nepal, 2047 (1990).

- (b) If it misappropriates any property or income of the Local Body.
- (c) If it obstructs the discharging of functions of the Local Body by not holding the meeting of the Local Body for upto one year, except in cases of existence of any circumstance beyond control.

(2) Unless there exists an exceptionally grave situation, the concerned Local Body shall not be deprived of the opportunity, prior to suspension pursuant to Sub-section (1), to submit reasons, if any, for not doing such suspension.

(3) Government of Nepal may make necessary arrangements to carry out the functions of the Local Body if such Local Body is suspended pursuant to Sub- section (1).

(4) Government of Nepal shall have to furnish information on the suspension pursuant to Sub-section (1) to both Houses of Parliament held after the suspension.

(5) In respect of the Local Body suspended pursuant to Sub- section (1), investigation shall be carried out and the matter settled within three months of the date of such suspension. If the proceedings are not completed within that period, such suspension shall *ipso facto* be inoperative.

(6) If, upon investigation made pursuant to sub- section (5), there exist sufficient grounds for dissolution, Government of Nepal may, by publishing a notice in the Nepal Gazette, dissolve such Local Body.

(7) If any Local Body is dissolved pursuant to sub- section (6), the particulars together with the reasons there for shall have to be presented by Government of Nepal to both the Houses of Parliament.

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\* At Present Interim Constitution of Nepal is in force .

(8) The election of the Members to the Local Body dissolved pursuant to Sub-section (6) shall have to be held within one year from the date of such dissolution. Government of Nepal shall make arrangements to carry out the functions of such Local Body pending its election.

239. **Power to Extend Time-limit**: If the election of the Members to the Local Body cannot be held due to natural calamity, economic disarray or similar other special circumstances, Government of Nepal may make arrangements for the performance of the function by either extending the time-limit for up to one year or in any other manner.

240. **Liaison with Government of Nepal**: (1) In making contact with Government of Nepal, the Local Body shall do so through the Ministry of Local Development.

(2) Notwithstanding anything contained in Sub-section (1), the Local Body may have direct contact with other Ministries in respect of the budget and program.

241. **Formation of Monitoring Committee**: (1) There shall be formed a decentralization implementation and monitoring committee as follows to monitor whether or not the acts have been done in accordance with the objectives, policies and provisions of this Act and to get the acts done in harmony with the norms relating to local self-governance: -

- |     |   |                   |
|-----|---|-------------------|
| (a) | Prime Minister  | -Chairperson      |
| (b) | Minister for Local Development  | -Vice-Chairperson |
| (c) | Leader of Opposition Party in the <u>*House of Representative</u>             | -Member           |
| (d) | Ministers of Government of Nepal  | - Member          |
| (e) | Chairperson of the concerned Committee of the <u>*House of Representative</u> | - Member          |

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\* At Present Interim Constitutional Assembly is in place .

\* At Present Interim Constitutional Assembly is in place .

- (f) Vice-Chairperson, National Planning Commission - Member
- (g) Members, National Planning Commission - Member
- (h) Chief Secretary of Government of Nepal - Member
- (i) Secretaries at the Ministries of Government of Nepal - Member
- (j) One representative of each political party representing in the <sup>\*</sup>House of Representative - Member
- (k) Chairperson of the Associations, Federations relating to the Local Body - Member
- (l) Coordinator of the committee formed under Sub-section (5) - Member
- (m) Secretary at the Ministry of Local Development -Member-Secretary

(2) The procedures of the committee formed pursuant to Sub-section (1) shall be as prescribed by the committee itself.

(3) The committee formed pursuant to Sub-section (1) shall have to furnish the report of its business with the concerned committee of the <sup>\*</sup>House of Representative each year.

(4) The direction received from such committee on the report furnished pursuant to Sub-section (3) shall have to be implemented, and cause to be implemented.

(5) There shall be formed a working committee under the committee formed pursuant to Sub-section (1) to carry out act under the direction of such committee.

(6) The working committee formed pursuant to Sub-section (5) shall comprise the members as follows: -

- (a) Minister or Minister of State for Local Development -Coordinator
- (b) Secretary at the Ministry of Local Development - Member

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\* At Present Interim Constitutional Assembly is in place .

\* At Present Interim Constitutional Assembly is in place .

(c) Six persons designated by Government of Nepal from amongst those persons who have experience of at least 10 years in the field of decentralization, revenue, accounts, rural development, administration and law - Member

(d) A person of at least Gazetted First Class, designated by Government of Nepal -Member-Secretary

(7) The tenure of the members designated by Government of Nepal in the working committee formed pursuant to Sub-section (6) shall be three years.

(8) Government of Nepal may extend the tenure of the members appointed pursuant to Sub-section (6) for another period of two years.

(9) The service, facilities and remuneration of the members appointed pursuant to Sub-section (6) shall be as prescribed by Government of Nepal.

242. **Delegation of Power**: (1) Government of Nepal may delegate any or all of the powers conferred on it by this Act to any committee, organization or official, by publishing a notification in the Nepal Gazette.

(2) The powers delegated pursuant to Sub-section (1) may be withdrawn by Government of Nepal at any time.

243. **Matters to be Abided by the Concerned Ministry**: (1) The concerned Ministry shall have to prescribe the development and construction works as the local level, village level, municipal level and district level program.

(2) The concerned Ministry shall have to send the Local Body the estimate of the grants to be provided for the program of the forthcoming years of the Local Body within the month of *Kartik*.

(3) The concerned Ministry shall have to provide necessary assistance to make the Local Body technically capable of carrying out the program of the Local Body.

(4) The Ministry of Local Development shall have to send annual grants to be sent to the Local Body without indicating any subject.

244. **Formation of Co-ordination Committee:** (1) The District Development Committee may form a coordination committee comprising the chief of the subject-wise units of its secretariat related with development, Mayor and coordinators of service centers.
- (2) The committee formed under Sub-section (1) shall render assistance to coordinate the discharge of development and construction works within the District.
- (3) Other functions, duties and powers of the committee formed pursuant to Sub-section (1) shall be as prescribed.
245. **District-level Officer to Assist:** The concerned district level office shall, if it is requested by the Local Bodies to assist in performing development and construction works within their areas, render necessary assistance to such Local Bodies.
246. **Political Parties to Assist:** If the Local Body requests the political parties to assist in discharging the functions required to be performed by it under this Act and the Rules framed under this Act, such political parties shall have to provide necessary assistance.
247. **Police to Assist:** If the Local Body requests the local police to render assistance to carry out the order or decision made by the Local Body under the limit of the law, the local police shall have to render necessary assistance.

## **Chapter – 2**

### **Administrative Organization and Employees**

248. **Establishment of Office:** Each Local Body shall have an office of its own.
249. **Creation of Positions of Employees:** (1) The Local Body shall, on the basis of work-load, have to set positions of employees, along with full description of the works to be done by each body and get the same approved from the concerned Council.

(2) The concerned Council shall, in approving the positions of employees, have to make provisions for the expenditures required for remuneration, allowances, provident fund, gratuity and pension etc. of the employees.

250. **Remuneration and other Facilities of Employees:** (1) The Council of the concerned Local Body shall determine the remuneration of the employees.

(2) The pay-scale of the employees shall be determined on the basis of the pay-scale of the employees of civil service of Government of Nepal.

(3) The Local Body may, subject to its sources, means and administrative budget, provide local allowances and other additional facilities to its employees.

251. **Arrangement of Additional Employees for Project:** The concerned council may grant permission to appoint employees in a manner that the administrative expenditures required for the employees needed for a project to be completed over any specific period are allocated to the concerned Project and that such employees are *ipso facto* removed upon completion of the project.

252. **To Obtain Technical Service and Employees on Contract:** The concerned Council may hire any person or organization or employee providing consultancy on contract for any work of any particular nature with a fixed duration.

253. **Provision of Secretary:** Government of Nepal shall appoint a Secretary to carry out the day-to day functions of the Local Body.

254. **Provision on Transfer:** In case any employee of Government of Nepal desires to be transferred to the service of the Local Body, Government of Nepal may transfer such employee upon fulfilling the process as prescribed.

255. **Terms of Service of Employee:** (1) The local service shall be formed by an Act for the discharge of the functions of the Local Bodies. The operation of that service and terms of service shall be as set by that Act.

(2) Pending the provision referred to in Sub-section (1), the Local Bodies may appoint employees except the secretary.

(3) The provision referred to in Section 253 shall prevail pending the making of provision referred to in Sub-section (1).

256. **Deputation of Employees:** (1) Government of Nepal may, at the request of the concerned Local Body, depute any employee of Government of Nepal or the bodies run with the grants of Government of Nepal to the Local Body to carry out the functions to be carried out by the Local Body under this Act.

(2) The employee deputed pursuant to Sub-section (1) shall be responsible to the concerned Local Body.

(3) The Local Body may make recommendation to the concerned body for reward or departmental action on the basis of the evaluation of the job performance of the employee deputed to the Local Body pursuant to Sub-section (1).

257. **Establishment of Subject-wise Section:** (1) The District Development Committee may, for development and construction works to be carried out in the district development area, set up subject-wise sections in office on the basis of the prescribed criteria.

(2) Pending the establishment of the subject-wise section pursuant to Sub-section (1), the district level development offices of Government of Nepal shall act as per the direction of the District Development Committee for the district level development and construction works.

(3) After the District Development Committee has established the subject-wise sections, Government of Nepal shall not have subject-wise offices for the same function. Upon the termination of the subject-wise offices, the office building, physical facilities relating to operation of office of those offices shall be transferred to the District Development Committee.

(4) The Municipalities may also open subject-wise sections in their office on the basis of the prescribed criteria.

(5) Government of Nepal may depute employees required for subject-wise sections of the Municipality and the District Development Committee.

(6) The District Development Committee shall render assistance to the Municipality in development and construction works.

### **Chapter – 3**

#### **Miscellaneous**

258. **Acquisition of Land:** In case the Local body has to acquire land to carry out any development and construction works within its area, it may acquire the land required for that work by following the requirements of the prevailing law and providing compensation to the concerned land-owner for the land.
259. **Certification of Relationship:** (1) In case any person applies to the Village Development Committee or the Municipality for a certificate of his/her relationship with any person, the Chairperson or Mayor may, if he finds the matter true upon examination, give a certificate of relation certification upon receipt of the prescribed fees.
- (2) The procedures to be followed in giving a certificate certifying the relation by the Chairperson or Mayor under Sub-section (1) shall be as prescribed.
260. **Recovery of Arrears as Government Dues:** If any person does not pay any tax, duty or charge levied or contracted or any other amount due and payable to the Local Body, it shall be recovered by the District Administration Office as government dues.
261. **Local Body to Operate Program in Harmony with its Capacity:** (1) In operating program by the Local Body in exercise of the powers conferred on it by this Act, it shall do so in harmony with its sources, means and capacity.
- (2) Where its sources, means and capacity are not sufficient under Sub-section (1), it shall operate such program only in case assistance is to be received from Government of Nepal.

262. **Exercise of Powers of Local Body**: The powers conferred on the Village Development Committee, Municipality and the District Development Committee under this Act shall, except otherwise provided in this Act, be exercised by the Village Development Committee, Municipality and District Development Committee.
263. **Foreign Contact**: The Local Bodies shall, in making contact with any foreign governments, international organizations, diplomatic missions and international non-governmental organizations, have to obtain prior approval of Government of Nepal.
264. **Delegation of Powers**: The Local Bodies may delegate any of the powers conferred on them under this Act to any committee, sub-committee and Members under them.
265. **Powers to Frame Rules and bye-laws**: (1) Government of Nepal may frame Rules required to implement the objectives of this Act.
- (2) Subject to this Act and the Rules framed hereunder, the Local Body may frame byelaws in order to operate its functions.
266. **Transfer of Assets and Liabilities**: After the commencement of this Act, all the assets and liabilities of the Village Development Committee, Municipality and District Development Committee formed under the Village Development Committee Act, 2048 (1991), the Municipality Act, 2048 (1991) and the District Development Committee Act, 2048 (1991) shall be transferred to the Village Development Committee, Municipality and District Development Committee formed under this Act.
267. **Validity of Actions**: Notwithstanding anything contained in this Act, no act and action undertaken by the Local Body shall become invalid merely on grounds of some irregularities in the formation of or due to vacancy in any office of Members of the Local Body.
268. **Repeal and Saving**: (1) The Village Development Committee Act, 2048 (1991), the Municipality Act, 2048 (1991), the District Development

Committee Act, 2048 (1991) and the Decentralization Act, 2039 (1982) are hereby repealed.

(2) The acts done and actions taken under the Village Development Committee Act, 2048 (1991), the Municipality Act, 2048 (1991) and the District Development Committee Act, 2048 (1991) shall be deemed to have been done and taken under this Act.

(3) The Village Development Committees, Municipalities and District Development Committees existing at the time of commencement of this Act shall be existing pending the formation of the Village Development Committees, Municipalities and District Development Committees referred to in this Act.