

## **The Gujarat Town Planning & Urban Development Act 1976**

(Please view full text for details)

In exercise of the powers conferred by the section 3 of the Gujarat State Legislature (Delegation of Powers) act, 1976, the President enacted The Gujarat Town Planning and Urban Development ACT, 1976 to consolidate and amend the law relating to the making and execution of development plans and town planning schemes in the state of Gujarat, which came in to force from 1st February 1978.

In exercise of the powers conferred by the section 118 of the above Act, the Gujarat Government made Rules consistent with the provisions of this Act, namely, The Gujarat Town planning and Urban Development Rules, 1979.

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### **THE BOMBAY PROVINCIAL MUNICIPAL CORPORATION ACT 1949**

- (1) The State Government has powers to declare local areas to be cities and to alter the limits of the municipal corporation under article-243 Q (2) of the constitution of India and as per the provisions of section 3-A.
- (2) The qualifications, disqualifications, disabilities, liabilities of councilors for removal and elections of the municipal councilors by the State Government have been specified under section- 10,11,13,14,19 and 20.
- (3) The Municipal Commissioners are appointed by the Government under Section 36
- (4) The appointments, confirmations pay scales and punishments in the various posts under the Municipal Corporations. have been specified under section. 45 to 56.
- (5) The obligatory functions and discretionary functions have been specified under section 61, 62, and 63.
- (6) The State Government has powers to give sanction to the proposals of the land acquisitions of the Municipal Corporation under Section - 78.
- (7) The State Government has powers to sanction the proposals of the Municipal Corporations regarding allotment of land to a member of SC and ST and other backward classes or for the purpose of construction or maintenance of public hospitals run by public charitable trust, less than the market rate as per the proviso of Section - 79 (d).
- (8) The State Government has powers to give permission to borrow loans from the financial institutions as per section - 109.
- (9) The Municipal Corporations have been authorized to levy the different taxes under section - 127, 129, 130, 131, 132, 133.
- (10) The State Government has powers to fix up minimum and maximum rates of property tax as per Section - 141.
- (11) The State Government has powers to sanction the proposals of the Municipal Corporations for the street land as per section - 204.
- (12) The State Government has powers to require performance of duties in default of any municipal authority as per section 448.

- (13) The State Government has powers to suspend the resolutions passed by the Municipal Corporations as per section - 451(1).
- (14) The State Government has powers to dissolve Municipal Corporation in case of incompetency Persistent or excess or abuse of Powers as per section - 452.
- (15) The State Government has powers to sanction the rules making additions and alterations to the schedules of the Act by the municipal corporations as per section - 454 and 455.
- (16) The State Government has powers to make rules for carrying out the purpose of this Act as per section - 456
- (17) The State Government has framed the Bombay Provincial Municipal Corporations ( Reservation in the office of the Mayor) Rules 1995 and the Bombay Municipal Corporations ( Conduct of Election ) (Amendment ) Rules 1995.

### **THE GUJARAT MUNICIPALITIES ACT, 1963: -**

- (a) The State Government is empowered to constitute Municipalities and change the limit of the municipalities under provision of Act and also vide article 243Q(2) and 243 Q respectively of Constitution of India.
- (b) The State Election Commission is empowered to held election of the municipalities under section 6 and 7.
- (A) The following powers have been delegated to the Director of Municipalities vide a Notification No.KV-193-91-GMA-1090-2951-M dated 31st July,1991
- (1) The Director of Municipalities is empowered under section 37(1)(a) to remove from office any Councilor of a Municipality.
- (2) The Director of Municipalities is empowered under section 37(1)(b)to remove from office any President or Vice-President of a Municipality.
- (3) The Director of Municipalities is empowered under section 37(A) to disqualify any Councilor for misconduct in the discharge of his duties.
- (4) The Director of Municipalities is empowered under section 38(4) to entertain appeals.
- (5) The Director of Municipalities is empowered under section 258(3) to entertain appeals of the municipalities.

(B) The following powers have been delegated to the Director of Municipalities and Regional Director of Municipalities vide notification No.No.KV-193-91-GMA-1090-2951-M dated 31st July,1991

- (1) The Director of Municipalities and Regional Director of Municipalities are empowered under section 11(3)(A) (v) and (vi) to sanction fixation by municipality of higher amount of value of any article for purpose of this provision.
- (2) The Director of Municipalities and Regional Director of Municipalities are empowered under section 82(2) for constituting the municipal fund.
- (3) The Director of Municipalities and Regional Director of Municipalities are empowered under section 84 (1) power to authorize any municipality to extend to persons or properties beyond the municipal borough any service provided by the municipality within that borough.
- (4) The Director of Municipalities and Regional Director of Municipalities are empowered under section 84(3) to sanction the incurring of expenditure by a municipality on education or medical relief outside its jurisdiction.
- (5) The Director of Municipalities and Regional Director of Municipalities are empowered under section 87-D (c) to require printing of annual reports on the municipal administration of a borough.
- (6) The Director of Municipalities and Regional Director of Municipalities are empowered under section 88 to determine the rates and conditions of payment to be made by a municipality for the maintenance and treatment of indigent persons under going antirabic treatment in any institution.
- (7) The Director of Municipalities and Regional Director of Municipalities are empowered under section 89 to prescribe the rates of payments to be made by a municipality for the maintenance and treatment of lunatics and lapers.
- (8) The Director of Municipalities and Regional Director of Municipalities are empowered under section 91-F(b) to sanction the reclamation of Waste land and bringing there of under cultivation.
- (9) The Director of Municipalities and Regional Director of Municipalities are empowered under section 101 (c) procedure preliminary to imposing tax.
- (10) The Director of Municipalities and Regional Director of Municipalities are empowered under section 102 to sanction, modify and impose conditions.
- (11) The Director of Municipalities and Regional Director of Municipalities are empowered under section 112(1)(2) to appoint persons to authenticate the assessment list and to recover from the municipality the expenses incurred by such persons and reasonable remuneration payable to such person.

(12) The Director of Municipalities and Regional Director of Municipalities are empowered under section 145 to recovery any amount due the Municipality by the Government from the amount of the grant payable to the municipality.

(13) The Director of Municipalities and Regional Director of Municipalities are empowered under section 260 to prevent extravaginee in this employment of establishment.

(14) The Director of Municipalities and Regional Director of Municipalities are empowered under section 262(2)&(3) to provide for performance of duties on default by municipality.

(15) The Director of Municipalities and Regional Director of Municipalities are empowered under section 263(2)(b) to appoint officer.

(16) The Director of Municipalities and Regional Director of Municipalities are empowered under section 271 to order municipality to make rules.

(17) The Director of Municipalities and Regional Director of Municipalities are empowered under section 273(1)&(2) Proviso to sanction rules framed under clause (d) of section 271 relating to Chief Officers, Health Officers or Engineers and powers to withdraw the powers of any municipality conferred under sub-section (2) of section 273.

(18) The Director of Municipalities and Regional Director of Municipalities are empowered under section 275 of The Gujarat Municipalities Act, 1963 - to make bye-laws.

(C) The following powers have been delegated to the Collector vide notification No.No.KV-193-91-GMA-1090-2951-M dated 31st July,1991

(1) The Collector is empowered under section 155 to require a person intending to construct, alter externally or add to any building or to construct or reconstruct any projecting portion of a building to furnish to the Chief Officer a plan certified by person recognized by the municipality.

(2) The Collector is empowered under section 214 to declare any area within a municipal borough as affected by the out break of any dangerous disease and to prescribe the limitations, restrictions and conditions subject to which the Municipality shall exercise the powers specified in sub-section (2) of this section.

(3) The Collector is empowered under section 216 to withdraw, in the case of section 214, may power and to cancel or modify any limitation restriction or condition prescribed in respect of any such power and to cancel any order passed by a municipality in exercise of any such power.

(4) The Collector is empowered under section 219(1) to confer on a municipality the powers specified in sub-section (2).

[D] The following powers have been authorized to the Director of Municipalities and Regional Director of Municipalities, Assistant Director and All Collectors vide Order No.KV/1/92/GMA/1090/2951-(3)/M dated 2nd January,1992.

- (1) The Director of Municipalities is authorized under sub-section (5) of Section 35 for any dispute regarding any resignation tendered by President.
- (2) The Director of Municipalities is authorized under sub-section (1) of Section 40 for suspension of President or Vice-President from office.
- (3) The Director of Municipalities is authorized under Section 254 for previous sanction for prosecution against President or Vice-President or Councilor.
- (4) The Director of Municipalities and Regional Director of Municipalities are authorized under sub-section (2) of section 70 for liability of Councilors for mis-application of municipal fund, and under section 78 for transmission of accounts and section 83 for application of Municipal fund and property within and without the municipal borough.
- (5) The Collectors are authorized under sub-section (1) of sections 270 for powers and duties of the municipality be performed and under sub-section (5) of section 35 for dispute regarding the resignation of Vice President or Councilor of a municipality.
- (6) The Sub-Divisional Magistrate ( Prant Officer) have been authorized for the purpose of supervision and inspection of Municipalities under section 257 vide Notification No. KV-77 of 2002- NPL-4502-2117-M, dated 17th June, 2002. The State Government has powers under section 65 (2) of The Gujarat Municipalities Act, 1963 for giving approval of transaction of sale of Municipal properties having value of Rs. 1 lakh or more on a lease of more than 10 years.
- (7) The Collectors have powers to take action under section 259 in case of emergency.
- (8) The term of office of the President has been increased from one year to two and half years by Gujarat

Act No.3 of 2000 dated 2/3/2000.

- (9) The state government has powers for revision of appeal under section 264.

### **THE BOMBAY RENTS, HOTEL AND LODGING, HOUSE RATES CONTROL ACT 1947.**

- (1) The state government has amended the said act by the GUJARAT ACT NO. 26 on 5-9-2001 to protect the rights of tenants and to construct the house of the tenants by amending sections 11, 12, 17(d) and frame the rules vide notification no. GH/V/73/2001/HBA/102001/2044/TH dated 13/6/2002 by inserting rule no. 28 for the

acquisition of the site of the landlord and fixing the market of the land acquired and build a new house for the tenant under section 49 for the settlement of tenants by the owners or the collectors as the case may be.

(2) The state government has also amended the said act by the GUJARAT ACT NO. 27 of 2001 on 30/10/2001 to exempt any premises constructed on or after the 30/10/2001 for a period of ten years. i.e. 30/10 /2011 from the provisions of the Bombay Rents, Hotel and Lodging, House Rates Control Act 1947.

### **GUJARAT HOUSING BOARD ACT, 1961**

1. The State Govt. is empowers to appoint chairman and ten other member under section 5, sanction to programmer and budget under section 29, transfer to vested land to ULB under section 35 and to turn or close public street vested in it under section 38.
2. The State Govt. is empowers to dispose of land under section 49.
3. The State Govt. is empowers to frame rules under section 73.
4. The State Govt. is empowers to give direction to the board under section 82.
5. The State Govt. is empowers to dissolution of board under section 84.

### **ADOPTION OF EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION ) ACT,1993.**

This act is adopted by the State Government and is in force in the urban areas. The details are as follows :

For the prohibition of employment of manual scavengers and for the regulation as well as construction of dry latrines and for construction and maintenance of water seal latrines an Act was passed and was assented by Hon. President on 5<sup>th</sup> June,1993.

As Parliament has no power to make law for States, the State Government were requested to pass resolution according to provision of clause (1) of article 252 of the constitution. And accordingly a resolution was passed in the House of assembly under rule-100 of Gujarat Assembly Rules and the said Act was by adopted by State Government by issuing a notification No.GH/L/SCW/1095/510(97)G dated 25/6/1997.

After adopting the said Act it was resolved by resolution No.SCW/1095/1243(97)G dated 28/3/97 that the Act will be implemented in Urban Areas by Urban Development and



Urban Housing Department and in rural areas by Panchayat, Rural Housing and Rural Development Department.

Urban Development and Urban Housing Department was required to frame necessary rules on behalf of the State Government as provided in the Sections 3(1), (2), 4, 5(1), 6(1), 7, 8, 9, 10,11,13(4) and 23 of the said Act. Following actions are taken.

1. As said Act was to be implemented in Urban Areas by Urban Development and Urban Housing Department following actions are taken by the department.
2. A Notification under Section 3 (1), (2) specifying the urban and public notice of 90 days was published on 24/12/99.
3. After expiry of 90 days i.e. w.e.f. 1/4/2000 the Employment of Manual Scavengers and construction of Dry Latrines was prohibited in urban areas of the State means the said Act is brought into force.
4. A Notification under Section 23(1), (2) Rules for urban areas were published on 1/4/2000.
5. After that a notification No. under Section 5(1) appointing District Magistrate as Executive Authority was published on 18/4/2000. A Notification to empower the executive Authority to inquire or investigate the existence of dry latrines, or occurrence of open defecation, and closure or demolish the existing dry latrines was published on 29/1/2003
6. As stated above Under Section 23, Rules for Urban areas were published in official gazette on 1/4/2000 and same were tabled on the House of Assembly as per the provision of Section 23(4) on 28/3/2001 after approval of Hon. Speaker. Said rules were also forwarded to the Committee on subordinate Legislation on 23/7/2001.
7. All District Collectors were instructed to appoint their subordinate officers for effective implementation of Act by D.O. Letter dated 20/7/2001.
8. A notification under Section 10(2) to recover expenditure incurred with a penal interest @ 12% for default of Section 3 is issued on 11<sup>th</sup> October,2001.

9. Constitution of State Level and District Level Co-ordination and Monitoring is approved by Government and same is constituted vide Notification dated 6/2/2002.

10. A notification prescribing duties and power of Executive Authority as per provision of Act is published on 29/1/2003.

11. A notification to appoint Deputy Collectors within their districts as Inspector for the Act is published on 17/2/2003.

12. For Sections 4,6,7,8,10,11 only State Government is having powers and there is no provision to delegate powers in said Act so no notification is required to be issued.