

THE KHYBER PAKHTUNKHWA LOCAL GOVERNMENT ACT, 2013.

(KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2013)

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¹Inserted vide Khyber Pakhtunkhwa Act No. XI of 2015

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THE KHYBER PAKHTUNKHWA LOCAL GOVERNMENT ACT, 2013.

(KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2013)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 7th November, 2013].

**AN
ACT**

to construct and regulate local government institutions in the Province of the Khyber Pakhtunkhwa and to consolidate laws relating to these institutions and to provide for matters connected therewith and ancillary thereto.

WHEREAS it is expedient to encourage local government institutions composed of elected representatives and having special representation of peasants, workers, women, minorities and youth;

AND WHEREAS clause (i) of Article 37 of the Constitution of the Islamic Republic of Pakistan, as a principle of policy, requires decentralization of government administration so as to facilitate expeditious disposal of its business to meet the convenience and requirements of the public;

AND WHEREAS clause (1) of Article 140A of the Constitution of the Islamic Republic of Pakistan, provides for establishment of a local government system and devolution of political, administrative and financial responsibility and authority to the elected representatives of the local governments;

AND WHEREAS for the purposes aforesaid it is necessary to re-organize the local government system in the Province of the Khyber Pakhtunkhwa and consolidate laws relating to these institutions;

It is hereby enacted as follows:

**CHAPTER – I
INTRODUCTION**

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Local Government Act, 2013.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa except, areas notified as cantonments or any other area excluded by Government through notification in the official Gazette.

(3) It shall come into force on such date as Government may, by notification appoint, and different dates may be appointed for different provisions of this Act.

¹[1A. **Power to exclude any provision of the Act.**- Government may by notification exempt any area or areas from all or any of the provisions of this Act.]

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

- ²[(a) “biometric” means the measurement and analysis of unique physical characteristics such as fingerprints for verifying and authenticating the personal identity of a voter;]
- ³[(aa) “building” includes any shop, house, hut, out-house, shed, stable or enclosure built of any material and used for any purpose, and also includes a wall, well, verandah, platform, plinth, ramp, stair-case and steps;
- (b) “building line” means a line beyond which the outer face or any part of an external wall of a building may not project in the direction of any street, existing or proposed;
- (c) “cattle” includes cows, buffaloes, bulls, oxen, bullocks, calves, camels, heifers, sheep and goats;
- (d) “conservancy” means the collection, treatment, removal and disposal of refuse;
- (e) “devolution” means conferment by Government of its administrative and financial authority for the operation management and control of specified offices of Government to the local governments;
- (f) “District” means a revenue district notified under the West Pakistan Land Revenue Act, 1967 (W.P. Act No. XVII of 1967);
- (g) “drain” includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying sullage or rain water;

¹Added vide Khyber Pakhtunkhwa Act No. XXXIV of 2015

²Inserted vide Khyber Pakhtunkhwa Act No. XXIV of 2015

³Re-numbered vide Khyber Pakhtunkhwa Act No. XI of 2015

- (h) “erect or re-erect a building” means the construction of a new building and includes such material alterations of building as enlargement of any wall, verandah, fixed platform, plinth or a part of the building, structural conversion into one or more places for human habitation of a building not originally meant for the purpose, structural conversion of two or more places of human habitation into a greater number of such places, addition of any rooms, building substance or other structure to a building, re-construction of whole or any part of the external walls of a building or the renewal of the parts of a wooden building, construction in a wall adjoining any street or land not belonging to the owner of the wall, construction of a door opening to such street or land, such alteration of the internal arrangements of a building as affects its drainage, ventilation or other sanitary arrangements or its security or stability;
- (i) “factory” means a factory as defined in “The Khyber Pakhtunkhwa Factories Act, 2013 (Act No. XVI of 2013)”;
- (j) “Government” means Government of the Khyber Pakhtunkhwa;
- (k) “land” includes land which is being build up or is built up or is covered with water or is under cultivation or is fallow;
- (l) “local area” means an area specified in Chapter-II;
- (m) “local council” means a District Council, Tehsil Council, Town Council, Village Council or, as the case may be, Neighbourhood Council;
- (n) “mal-administration” means and includes-
 - (i) an omission or commission, a decision, process or recommendation, which is contrary to law, rules, or regulations or is a departure from established practice or procedure or is arbitrary, biased, discriminatory, oppressive, perverse, unjust or unreasonable or is based on irrelevant grounds; or
 - (ii) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as administrative excess, bribery, favoritism, jobbery and nepotism; or

- (iii) delay, inaction, incompetence, inefficiency, ineptitude or neglect in the administration or discharge of duties and responsibilities; or
 - (iv) repeated notices, prolonged hearings or unnecessary attendance while deciding cases; or
 - (v) avoidance of disciplinary action against an officer or official whose action is held by a competent authority to be biased, capricious, patently illegal or vindictive;
- (o) “market” means a place where persons assemble for the sale and purchase of meat, fish, fruit, vegetables or any other article of food or for the sale and purchase of livestock or animals and includes any place which may, from time to time, be notified as market;
- (p) “mauza” means a revenue estate declared under the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);
- (q) “misconduct” means transgression of prescribed code of conduct or dereliction from duty or deliberate unlawful behavior or violation of law or rules or lawful directions or orders of Government and includes-
 - (i) gross negligence in performance of duties with manifest wrongful intent or evil design; or
 - (ii) an act that results in wrongful gain to any person by wrongful application of law; or
 - (iii) making or managing appointment, promotion or transfer of an officer or official in violation of law or rules or for extraneous consideration; or
 - (iv) bribery, corruption, robbery, favoritism, nepotism or willful diversion of the fund of the local government;
- (r) “municipal services” include intra-city network of water supply, sanitation, conservancy, removal and disposal of sullage, refuse, garbage, sewer or storm water, solid or liquid waste, drainage, public toilets, express ways bridges, flyovers, public roads, streets, foot paths, traffic signals, pavements and lighting thereof, public parks, gardens, arboriculture, landscaping, bill boards, hoardings, fire fighting, land use

control, zoning, master planning, classification, declassification or reclassification of commercial or residential areas, markets, housing, urban or rural infrastructure, environment and construction, maintenance or development thereof and enforcement of any law or rule relating thereto;

- (s) “Neighbourhood” means a mohallah, a group of streets, lanes or roads, in areas with urban characteristics, designated as Neighbourhood by Government;
- (t) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;
- (u) “peasant” means a person who is a landless farm worker or, one who during the period of five years preceding the year in which election is held, has been the owner of not more than five acres of land and depends directly on it for subsistence living;
- (v) “prescribed” means prescribed by rules;
- (w) “prohibited zone” means any area or areas within a district declared as prohibited zone by a public notice by the concerned District Government for the purposes of this Act;
- (x) “Province” means the Province of the Khyber Pakhtunkhwa;
- (y) “refuse” includes rubbish, offal, night-soil, carcasses of animals, deposits of sewerage, waste and any other offensive matter;
- (z) “rent” means whatever is by law payable in money or kind by a tenant or lessee on account of the occupation of any building or land or use of any machinery, equipment or vehicle;
- (aa) “rules” means rules made under this Act;
- (bb) “schedules” mean schedules appended to this Act;
- (cc) “specify” means specified by Standing Orders of Government;
- (dd) “street line” means a line dividing the land comprised in, and forming part of a street from the adjoining land;

- (ee) “sullage” includes sewerage, polluted water, rain water and any other offensive matter carried by a drain;
- (ff) “tax” includes any cess, fee, rate, toll or other charge leviable under this Act;
- (gg) “tehsil” means a Tehsil notified under the West Pakistan Land Revenue Act, 1967 (W.P. Act No. XVII of 1967);
- (hh) “town” means an area notified by the Government under section 9 to be a Town in a City District;
- (ii) “Village” means an integrated and contiguous human habitation commonly identified by a name and includes a Dhok, Chak, Kalay, Goth, Gaown, Basti or any other comparable habitation;
- (jj) “worker” means a person directly engaged in work or is dependent on personal labour for subsistence living and includes a worker as defined in the Khyber Pakhtunkhwa Industrial Relations Act, 2010 (Act No. XVI of 2010).

3. Local governments to work within the provincial framework.---(1) The local governments established under this Act shall function within the Provincial framework and shall faithfully observe the federal and provincial laws.

(2) In the performance of their functions, the local governments shall not impede or prejudice the exercise of the executive authority of Government.

CHAPTER – II LOCAL AREAS AND CONSTITUTION OF LOCAL GOVERNMENTS

4. Local areas for local governments.--- For the purpose of this Act Village, Neighbourhood, Tehsil, Town, District and City District shall be local areas for local governments.

5. Constitution of local governments.---(1) Subject to other provisions of this Act, local governments constituted under this Act shall be:

- (a) a City District Government for district Peshawar;
- (b) a District Government for a district other than Peshawar;
- (c) a Tehsil Municipal Administration for a Tehsil;

- (d) a Town Municipal Administration for a Town in the City District;
- (e) a Village Council for a village in the rural areas; and
- (f) a Neighbourhood Council for a Neighbourhood in areas with urban characteristics.

(2) Government may, by notification in official Gazette, specify the name by which a local government shall be known and unless so specified, it shall be known as the local government of the place where its office is situated.

(3) Save as otherwise provided in this Act, every local government shall be competent to acquire, hold or transfer any property, movable and immovable, to enter into contract and to sue or be sued in its name, through officer designated in this regard.

(4) Government shall prescribe rules of business for local governments notifying structure and working of local government administration, groups of offices, allocation of business, appointment, posting, promotion and transfer of officers and officials, performance evaluation, channels of communication, coordination of local council business, consultation between offices and incidental matters for smooth and efficient disposal of official business.

6. Delimitation of Village Council and Neighbourhood Council.---(1) A Village Council shall be an area comprising one or more muaziat or, in the case of an area where revision of settlement under the law has not been taken, one or more census villages;

(2) In the case of an area with urban characteristics, a neighbourhood council shall be an area comprising a whole number of population census blocks as delimited for the purpose of last preceding census or a combination of whole number of census blocks and a whole number of muaziat, notified as such by Government:

Provided that, as far as may be,-

- (a) the area of a village and neighbourhood council shall be a territorial unity;
- (b) the boundaries of a village and neighbourhood council shall not cross the limits of a tehsil;

- (c) the area of a village council shall comprise a whole number of patwar circles, or a patwar circle may contain a number of whole village councils;
- (d) the area of a neighbourhood council shall comprise a whole number of census blocks as delimited for the purpose of the preceding population census or a whole number of muaziat or a combination of a whole number of census blocks and muaziat; and
- (e) the population of village and neighbourhood council within a district shall range between 2,000 to 10,000 calculated on the basis of last preceding population census¹[.]

²[Deleted].

7. Delimitation of Tehsils and Districts.---Government shall, by notification in the official Gazette, declare tehsils and districts notified under the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967), to be tehsils or, as the case may be, districts under this Act.

8. Provisions of District apply to City District.---Save as otherwise provided in this Act, the provisions relating to District shall, *mutatis mutandis*, apply to City District and any reference in these provisions to ³[Nazim, District Government], Naib Nazim District Council, District Government and District Council shall, respectively, be read as reference to Nazim, City District Council, Naib Nazim City District Council, City District Government and City District Council respectively.

9. Setting up of a Town.---(1) Government may, by notification in the official Gazette, declare a whole number of contiguous Village Councils and Neighbourhood Councils to be a Town in the City District under this Act.

(2) Government shall, by notification in the official Gazette, declare every Town referred to in sub-section (1) to be a Tehsil or Sub-division for the purpose of this Act.

(3) Save as otherwise provided in this Act, the provisions relating to Tehsil shall, *mutatis mutandis*, apply to Town and any reference in these provisions to Nazim, Tehsil Council, Naib Nazim Tehsil Council, Tehsil Municipal Administration and Tehsil Council shall, respectively, be read as reference to Nazim, Town Council, Naib Nazim, Town Council, Town Municipal Administration and Town Council.

¹Replaced vide Khyber Pakhtunkhwa Act No. XI of 2015

²Deleted vide Khyber Pakhtunkhwa Act No. XI of 2015

³Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

10. Delimitation Authority and principles of delimitation.---(1) Government shall, by notification in the official Gazette, constitute a Delimitation Authority for delimitation of village councils, neighbourhood councils and territorial wards for general seats to tehsil, town and, as the case may be, district councils.

(2) All wards for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, existing boundaries of administrative units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of wards.

(3) As far as may be, the wards for elections to the same council shall be equal among themselves in population.

CHAPTER – III DISTRICT GOVERNMENT

11. Composition of District Government.---(1) In every district, there shall be a district government which shall consist of a district council and district administration made up of the devolved offices.

(2) Executive Authority of district government shall vest in ¹[Nazim, District Government]and he/she shall be responsible to ensure that the business of the district council is carried out in accordance with this Act and other laws for the time being in force.

12. Devolution and grouping of offices.---(1) On commencement of this Act, the organization, functions, administration and financial management of local councils in the province shall come under the administrative and financial control of the successor local governments as provided in section 126 of this Act.

(2) On the commencement of this Act, the administrative and financial authority for the management of the offices of Government, specified in Part-A of the first Schedule in a District shall stand devolved to the District Government of that District.

(3) The Government may, in addition to the offices specified in subsection 92), setup other offices specified in Part-B of the First Schedule in the city district.

13. Authority and responsibility of District Government.---(1) The authority of district government shall comprise the operation, management and control of offices of the departments which are devolved to it; provided that district

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

government shall exercise such authority in accordance with general policy of Government.

(2) Every order in district government shall be expressed to be made in the name of the district government and shall be executed by a duly authorized officer.

(3) The district government shall be responsible to the people and the Government for improvement of governance and delivery of services within the ambit of authority devolved to it.

14. Functions and Powers of the ¹[Nazim, District Government].--- The functions and powers of ²[Nazim, District Government] shall be to-

- (a) provide vision for district-wide development, leadership and direction for efficient functioning of district government;
- (b) develop strategies and timeframe for accomplishment of goals approved by district council;
- (c) ensure implementation of devolved functions and maintain administrative and financial discipline;
- (d) oversee formulation and execution of the annual development plan;
- (e) present budget proposals to district council for approval;
- (f) present to district council bi-annual reports on the performance of offices of district government;
- (g) call for quarterly reports from Government departments in the district, other than those devolved to district government, present them to district council and forward them to Government along with recommendations of district council and his comments for consideration and action;
- (h) initiate inspections of tehsil municipal administration, village councils and neighbourhood councils in the district;
- (i) issue executive orders to officers-in charge of the devolved departments for discharge of their functions;

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

²Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

- (j) represent district government on civic and ceremonial occasions; and
- (k) perform any other function as may be assigned to him by Government.

15. Personal responsibility of the ¹[Nazim, District Government].---The ²[Nazim, District Government], shall be personally responsible for any loss flowing from decisions made by him personally or under his directions in violation of this Act or any other law for the time being in force and for any expenditure incurred without lawful authority.

16. Disciplinary powers of the ³[Nazim, District Government].--- ⁴[Nazim, District Government] shall have powers to take disciplinary action against functionaries in district government under efficiency and disciplinary rules prescribed in this regard.

CHAPTER – IV DISTRICT COUNCIL

17. Composition of the District Council.---There shall be a District Council in each district which shall consist of general seats, seats reserved for women, peasants and workers, youth and non-muslims as provided in Part-A of Second Schedule to this Act.

18. Functions and powers of the District Council.---The functions and powers of the district council shall be to-

- (a) approve bye-laws for district government;
- (b) approve taxes on subjects provided in this Act;
- (c) approve long term and short term development plans, annual and supplementary budgetary proposals of district government including proposals for changes in the schedule for establishment of devolved offices and, where required, intra-district fiscal transfers;
- (d) elect Standing Committee of the district council for each office of district government to oversee matters and service delivery obligations assigned to the office and report to the

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

²Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

³Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁴Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

district council its findings on efficiency, responsiveness, service delivery standards and performance of the respective office for its review;

- (e) elect Finance Committee of the district council for examination of tax and budget proposals, re-appropriations and supplementary grants;
- (f) elect District Accounts Committee to scrutinize the accounts showing appropriations of sums granted by the district council for expenditure of the district government, audit reports, statement of income and expenditure and such other matters as the district council may refer to it;
- (g) elect a Committee on Conduct of Business to consider matters regarding procedure and smooth conduct of business in the district council;
- (h) elect District Committee on Assurances to scrutinize reports on implementation of assurances, promises and undertakings given to the district council;
- (i) elect a Code of Conduct Committee to oversee the observance of code of ethics by the members;
- (j) constitute joint committees of village and neighbourhood councils for overseeing working of Government offices, district government offices and municipal offices providing services in their areas;
- (k) make recommendations for enhancement of care for disabled, disadvantaged and marginalized segments;
- (l) review reports presented by the ¹[Nazim, District Government]; and
- (m) review recommendations of District Accounts Committee on the accounts of district government.

19. Functions of District Council in the City District.---In addition to the functions specified in section 18, the district council in a city district shall perform the following functions, namely:

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

- (a) approve master plans, zoning, land use plans, including classification and reclassification of land, environment control, urban design, urban renewal and ecological balances;
- (b) review implementation of rules and bye-laws governing land use, housing, markets, zoning, environment, roads, traffic, tax, infrastructure and public utilities;
- (c) approve proposals for public transport and mass transit systems, construction of express ways, fly-overs, bridges, roads, under passes, and inter-town streets;
- (d) approve development schemes for beautification of areas along rivers; and
- (e) review development of integrated system of water reservoirs, water sources, treatment plants, drainage, liquid and solid waste disposal, sanitation and other municipal services.

20. City District Council to approve certain plans for the Towns.---In case of a Town in the city district, the city district council shall perform the functions of approval of such macro municipal plans as may be notified by city district government.

CHAPTER –V TEHSIL AND TOWN MUNICIPAL ADMINISTRATION

21. Composition of Tehsil and Town Municipal Administration.---(1) In every tehsil there shall be a tehsil municipal administration which shall consist of the tehsil council, tehsil municipal officers, municipal officers and other officials of the local council.

(2) The Executive Authority of tehsil municipal administration shall vest in the Nazim, tehsil council and he shall be responsible to ensure that the business of tehsil municipal administration is carried out in accordance with this Act.

22. Functions and powers of Tehsil Municipal Administration.---The functions and powers of tehsil municipal administration shall be to-

- (a) monitor and supervise the performance of functionaries of Government offices located in the tehsil and hold them accountable by making inquiries and reports to the district government or, as the case may be, Government for consideration and action;

- (b) prepare spatial plans for the tehsil including plans for land use and zoning and disseminate these plans for public enquiry;
- (c) execute and manage development plans for improvement of municipal services and infrastructure;
- (d) exercise control over land-use, land-subdivision, land development and zoning by public and private sectors for any purpose, including for agriculture, industry, commercial markets, shopping centers; residential, recreation, parks, entertainment, passenger and freight transport and transit stations;
- (e) enforce municipal laws, rules and bye-laws;
- (f) prevent and remove encroachments;
- (g) regulate affixing of sign-boards and advertisements;
- (h) provide, manage, operate, maintain and improve municipal services;
- (i) prepare budget, long term and annual municipal development programmes;
- (j) maintain a comprehensive data base and information system on services, in the tehsil, municipal record and archives and provide public access to it on nominal charges;
- (k) collect taxes, fines and penalties provided under this Act;
- (l) organize sports, cultural, recreational events, fairs and shows;
- (m) organize cattle fairs and cattle markets;
- (n) co-ordinate and support municipal functions amongst village and neighbourhood councils;
- (o) regulate markets and services, issue licenses, permits, grant permissions and impose penalties for violation thereof;
- (p) manage municipal properties, assets and funds;
- (q) develop and manage schemes, including site development in collaboration with district government;

- (r) authorize officers to issue notice, prosecute, sue and follow up criminal, civil and recovery proceedings against violators of municipal laws; and
- (s) prepare financial statements and present them for audit.

23. Functions and powers of the Nazim, Tehsil Council.---(1) The functions of the Nazim, tehsil council shall be to-

- (a) provide vision for tehsil-wide development, leadership and direction for efficient functioning of municipal administration and tehsil based offices of Government;
- (b) formulate strategies for infrastructure development, improvement in delivery services and implementation of laws;
- (c) oversee formulation and implementation of long term and annual development programmes at tehsil level;
- (d) present budget proposals for approval of tehsil council;
- (e) prepare and present report on the performance of municipal administration in tehsil council at least twice a year;
- (f) call for quarterly reports from Government departments in the tehsil, present them to tehsil council and forward them to district government or, as the case may be, Government along with recommendations of tehsil council and its comments for consideration and action;
- (g) supervise utilization of funds allocated to tehsil municipal administration; and
- (h) represent tehsil municipal administration on civic and ceremonial occasions.

(2) The Nazim, tehsil council shall be personally responsible for any loss flowing from decisions made by him personally or under his directions in violation of any provisions of this Act or any other law for the time being in force and for any expenditure incurred without lawful authority.

(3) The Nazim, tehsil council may, and if directed by the Government shall-

- (a) create and supervise special units for management and administration of municipal services in the jurisdiction of erstwhile municipal committees, and other areas having urban characteristics, in the tehsil;
- (b) notify representation of the local people for oversight and control by clustering the Nazimeen of contiguous neighbourhood councils in the units so created; and
- (c) ensure appropriate allocation of human and financial resources to support municipal services in the units.

(4) Nazim tehsil council shall have powers to initiate disciplinary action against functionaries in the tehsil municipal administration under efficiency and discipline rules applicable to the employees of local council service and servants of the local councils.

CHAPTER – VI TEHSIL COUNCIL

24. Composition of Tehsil Council.---There shall be a tehsil council in each tehsil which shall consist of general seats, seats reserved for women, peasants and workers, youth and non-muslims as provided in Part-B of Second Schedule to this Act.

25. Functions and powers of Tehsil Council.---The functions and powers of tehsil council shall be to-

- (a) approve taxes, fines and penalties proposed by the Nazim, tehsil council;
- (b) approve bye-laws for delivery of municipal services;
- (c) approve annual budget and appropriations for tehsil municipal administration;
- (d) approve long and short term development plans;
- (e) approve land use, zoning and master plan of the tehsil, development and maintenance programmes proposed by the tehsil municipal administration;
- (f) elect Standing Committees of the tehsil council for municipal offices, tehsil based offices and sub-offices of devolved functions to oversee matters and service delivery obligations

assigned to municipal offices, offices and sub-offices of devolved functions in the tehsil and report to the tehsil council their findings on efficiency, responsiveness, service delivery standards and performance of the respective offices for its review;

- (g) elect Finance Committee of the tehsil council for examination of tax and budget proposals, re-appropriations and supplementary grants;
- (h) elect Tehsil Accounts Committee to scrutinize the accounts showing appropriations of sums granted by the tehsil council for expenditure of tehsil municipal administration, audit reports, statement of income and expenditure and such other matters as the tehsil council may refer to it;
- (i) elect a Committee on Conduct of Business to consider matters regarding procedure and smooth conduct of business in the tehsil council;
- (j) elect Tehsil Committee on Assurances to scrutinize reports on implementation of assurances, promises and undertakings given to the tehsil council;
- (k) elect a Code of Conduct Committee to oversee the observance of code of ethics by the members;
- (l) review the reports and recommendations of Tehsil Accounts Committee; and
- (m) review the performance reports presented by the Nazim, tehsil council.

CHAPTER – VII VILLAGE AND NEIGHBOURHOOD COUNCILS

¹[26. **Establishment of Village Council and Neighbourhood Council.**---After delimitation of Village Council and Neighbourhood Council by Election Commission of Pakistan, Government shall by notification in the official Gazette, notify Village Council and Neighbourhood Council in all districts.]

¹Substituted vide Khyber Pakhtunkhwa Act No. XI of 2015

27. Composition of Village Council and Neighbourhood Council.---(1) Every village council and neighbourhood council, shall comprise of ten to fifteen following members:-

- (a) five to ten members determined on the basis of population elected to general seats;
- (b) two members elected to seats reserved for women;
- (c) one member elected to seat reserved for peasants and workers;
- (d) one member elected to seat reserved for youth; and
- (e) one member elected to seat reserved for non-Muslims.

(2) The village council or the neighbourhood council, as the case may be, shall be a multimember ward for election of members to be held on non-party basis through adult franchise and joint electorate.

(3) The candidates securing highest and second highest number of votes in the election to the general seats of the village council or the neighbourhood council, as the case may be, shall respectively be the Nazim and Naib Nazim of the village council or the neighbourhood council, as the case may be ¹[:]

²[Provided that if the required number of general members of Village Council or Neighborhood Council have been elected unopposed, the election of Nazim and Naib Nazim of village council or neighborhood council, as the case may be, shall be conducted in the manner as provided in section 79.]

(4) Executive Authority of the village council or the neighbourhood council, as the case may be, shall vest in respective Nazim village council or the neighbourhood council, who shall be deputized by the concerned Naib Nazim during his temporary absence.

Explanation.---For the purposes of this section and section 17 and section 21 of this Act, the term “youth” means a duly qualified candidate for election under this Act, who is below thirty five years of age on the last day fixed for filing of nomination papers.

28. Functions and responsibilities of the Nazim, Village Council and Neighbourhood Council.---(1) The Nazim of village council and neighbourhood council shall:

¹Replaced vide Khyber Pakhtunkhwa Act No. XI of 2015

²Added vide Khyber Pakhtunkhwa Act No. XI of 2015

- (a) provide leadership for council-wide development and preparation of budget;
- (b) organize management of municipal infrastructure with in the area of respective village council or neighbourhood council;
- (c) chair panels of members constituted for amicable settlement of disputes;
- (d) report to tehsil municipal administration and district government in respect of:
 - (i) encroachment on state and local government property;
 - (ii) violation of land use plans, building codes, rules and bye-laws;
 - (iii) sale and trade of dangerous and offensive articles;
 - (iv) adulteration of articles of food; and
 - (v) breach of public water courses with in the area of the village council or neighbourhood council, as the case may be;
- (e) prepare and send quarterly reports on the performance of functionaries of all offices located in the area including Education, Health, Public Health Engineering, Agriculture, Livestock, Police and Revenue to tehsil municipal administration and district government.

(2) The Nazim, village council or the Nazim neighbourhood council, as the case may be, shall be responsible for any loss flowing from his decisions and directions in violation of this Act or any other law for the time being in force and for expenditures incurred without lawful authority.

(3) The Nazim, neighbourhood council shall represent the council in the special units created under section 23 of this Act.

29. Functions of the Village Council or Neighbourhood Council.---(1) Functions of the village council and neighbourhood council, as the case may be, shall be to:

- (a) monitor and supervise the performance of functionaries of all government offices located in the area of the respective village

council or neighbourhood council, including education, health, public health engineering, agriculture, livestock, police and revenue, and hold them accountable by making inquiries and reports to the tehsil municipal administration, district government or, as the case may be, the Government for consideration and action;

- (b) provide effective forum for out of court amicable settlement of disputes and constitute panels of members for the purpose, constitute panels of members as conciliators;
- (c) register births, deaths and marriages;
- (d) implement and monitor village level development works;
- (e) improve water supply sources, maintain water supply distribution system and take measures to prevent contamination of water;
- (f) maintain village level infrastructure, footpaths, tracks, streets, prevent and abate nuisances and encroachments in public ways, public streets and public places;
- (g) maintain and improve collective property including playgrounds, graveyards, funeral places, eid-gah, parks, public open spaces and community centers;
- (h) identify development needs of the area for use by municipal administration and district government in prioritizing development plans;
- (i) make arrangements for sanitation, cleanliness, disposal of garbage and carcasses, drainage and sewerage system;
- (j) display land transactions in the area for public information;
- (k) mobilize community for maintaining public ways, public streets, culverts, bridges and public buildings, de-silting of canals and other development activities;
- (l) develop sites for drinking and bathing of cattle;
- (m) organize cattle fairs and agriculture produce markets;
- (n) organize sports teams, cultural and recreational activities;

- (o) organize watch and ward in the area;
- (p) promote plantation of trees, landscaping and beautification of public places;
- (q) regulate grazing areas, establish cattle ponds and provide protection against stray animals and animal trespass;
- (r) consider and approve annual budget presented by the respective Nazim, village council or neighbourhood council;
- (s) facilitate formation of voluntary organizations for assistance in functions assigned to it;
- (t) facilitate the formation of co-operatives for improving economic returns and reduction of poverty;
- (u) elect an Accounts Committee and review its recommendations on the annual statement of accounts and audit reports; and
- (v) report cases of handicapped, destitute and of extreme poverty to district government.

(2) The respective village council or neighbourhood council shall assist district government and tehsil municipal administration in conducting surveys, collecting socio-economic data and selecting sites for municipal and social facilities and services.

CHAPTER – VIII LOCAL GOVERNMENT FINANCE

30. Establishment of Local Funds and Public Accounts.---(1) There shall be established a district fund, a tehsil fund, village fund and neighbourhood fund, as the case may be, for each respective local government.

(2) To the credit of respective Fund shall be placed all revenues received by a local government from the following sources:

- (a) monies transferred by another local government under this Act;
- (b) grants made or monies received from Government or other authorities in Pakistan;
- (c) the proceeds of taxes levied by a local government under this Act;

- (d) rents and profits payable or accruing to a local government from immovable property vested in or controlled or managed by it;
- (e) proceeds or any other profits howsoever known or called from bank accounts and investments of a local government;
- (f) gifts, grants or contributions by individuals or institutions;
- (g) income accruing from markets or fairs regulated by a local government;
- (h) fines imposed and recovered under this Act; and
- (i) proceeds from other sources of income which are placed at the disposal of a local government under directions of Government.

(3) To the credit of respective Public Account of the local government shall be placed all revenues received by a local government from the following sources-

- (a) receipts accruing from trusts administered or managed by it;
- (b) refundable deposits received by it; and
- (c) deferred liabilities.

(4) A local government, may and if required by Government shall establish and maintain a separate fund for any special purpose to which one or more sources of revenue mentioned in sub-section (2) or any part of these sources or any specified portion of the Fund may be assigned and which shall be administered and regulated in such manner as Fund of the local government.

31. Custody and Operation of Local Funds and Public Account.---(1) Monies credited to a Fund or a Public Account of a local government shall be kept in the State Bank, Government treasury, a post office or a bank in such manner as shall be specified by the Government from time to time.

(2) The Funds shall be operated in such a manner as may be prescribed.

32. Charged expenditure.---(1) The following expenditure shall be charged on the Fund of local government, that is to say:

- (a) such sums as are required for repayment of debt;

- (b) any sum required to satisfy any judgment, decree or award against the local government by any Court or Tribunal;
- (c) such sums as the local government may be required by Government to contribute towards the conduct of elections, the maintenance of specified group of functionaries and the auditing of accounts; and
- (d) any expenditure declared by Government to be so charged.

(2) If any expenditure is a compulsory charge on the Fund of a local government and is not paid, Government may, by order, direct the person having the custody of the Fund to pay such amount, or so much thereof as may be possible from time to time, from the balance of the Fund.

33. Application of Funds.---(1) The money credited to the Fund of a local government shall be expended in accordance with Annual Budget approved by the respective local council.

(2) No local government shall transfer monies to a higher level of Government except by way of repayment of debts or for carrying out deposit works or as provided in this Act.

(3) Where a new local government is to take over during a financial year as a result of fresh elections, the outgoing local government shall not spend funds or make commitments for any expenditure, under any demand for grant or appropriation, in excess of eight percent per mensem of the budgeted funds for remainder of its term in office.

34. Budget Preparation.---(1) The annual budget for each local government shall contain estimates of:

- (a) grants-in-aid from Government;
- (b) amounts available in the respective Fund;
- (c) receipts for the next year; and
- (d) expenditures to be incurred for the next year.

(2) The Government shall sufficiently, before the beginning of each financial year, notify the provisional grants, which may be credited to the Fund of a local government from the Provincial Consolidated Fund.

(3) No demand for a grant shall be made except on the recommendation of the respective Nazim.

(4) Conditional grants from Government or other local government will be shown separately in the budget and will be governed by conditions provided therein.

(5) Before the commencement of a financial year each local government shall, for its Fund, prepare in the prescribed manner, a budget for that year.

35. Approval of Budget.---(1) Before the commencement of the next financial year, each Nazim shall, present the budget for consideration and approval of the respective local council.

(2) The budget of a local government shall be approved by simple majority of its total membership of the respective council.

(3) No other business shall be taken up by a council during the budget session.

(4) In case a budget is not approved by the local council before commencement of the financial year to which it relates, Government shall prepare, approve and authenticate budget for the local government.

(5) A local council shall not be empowered to approve a budget if the sums required to meet estimated expenditures exceed the estimated receipts.

(6) The Nazim shall authenticate by his signature a schedule specifying the:

(a) grants made or deemed to have been made by the local council; and

(b) the several sums required to meet the expenditure charged upon the Fund of the local government.

(7) The schedule so authenticated shall be laid before the local council, but shall not be open to discussion or vote thereon.

(8) The schedule so authenticated shall be communicated to the respective Accounts Officials and Government.

(9) At any time before the expiry of the financial year to which budget relates, a revised budget for the year may, if necessary, be prepared and sanctioned

and such revised budget shall, so far as may be, be subject to the provisions of this section.

36. Accounts.---(1) The accounts of receipts and expenditure of local governments shall be kept in such form and in accordance with such principles and methods as the Auditor-General of Pakistan may prescribe.

(2) The following arrangement for maintaining of accounts in Local governments shall be followed:

- (a) the District Accounts Officer shall maintain the accounts of each District Government;
- (b) the Tehsil Accounts Officer shall maintain the accounts of the tehsil municipal administration;
- (c) the Village Accountant shall maintain the accounts of village council;
- (d) the Neighbourhood Accountant shall maintain the accounts of neighbourhood council; and
- (e) the Accounts Officer mentioned in clauses (a),(b) (c) and (d) shall perform pre-audit of all payments from the respective Fund before approving disbursements of monies.

(3) The District Accounts Officer shall, quarterly and annually, consolidate the accounts of local governments in the district separately for receipts from the Government and local resources and send a copy to Government, Accountant General and ¹[Nazim, District Government].

(4) Local governments shall conspicuously display annual accounts for public inspection.

(5) Accounts Committees of the respective local councils shall hold public hearings to consider audit reports, objections to statement of accounts and recommend appropriate action to the local council.

37. Audit.---(1) The Auditor General of Pakistan shall, on the basis of such audit as he may consider appropriate or necessary, certify the accounts compiled and prepared by the respective accounts officials of local governments for each financial year, showing annual receipts and disbursements for the purposes of each local government and shall submit certified accounts with such notes, comments or

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

recommendations as he may consider necessary to the Government and Nazim of respective local council.

(2) The Nazim shall cause the audit report to be submitted to the respective local council and the local council shall refer it to its Accounts Committee for examination.

(3) Every district government and tehsil municipal administration shall publish its annual audit report for information of public.

(4) Every ¹[Nazim, District Government]and tehsil council shall appoint an Internal Auditor as principal support person for provision of information to him and members of the respective local council on fiscal performance of the local government.

CHAPTER – IX LOCAL GOVERNMENT PROPERTY

38. Ownership of property.---(1) Subject to any conditions imposed by Government, the property specified hereunder shall vest in the respective local government if it is-

- (a) vested in a local government through succession;
- (b) transferred to the local government by the Government or any other authority, organization or an individual; and
- (c) constructed or acquired by a local government with its title.

(2) The properties of Government in possession of the local councils established under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa. Act. No. VIII of 2012), shall pass on to their successors as provided in this Act till varied by Government.

(3) The local government shall, subject to policy of Government or contractual obligations, make bye-laws for the use, development, improvement, management and inspection of property which is owned by or vests in it or which is placed under its management charge.

(4) Subject to other provisions of this Act, Government shall not, except with the prior consent of the local government concerned, reallocate or in any manner divest title of properties vested in that local government under this Act.

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

39. Stock taking by the Nazim.---(1) Every Nazim shall, on assumption of his office and thereafter, once in every year on a date fixed by him, take physical stock of movable and immovable properties of the local government and present a report to the local council.

(2) The report shall contain-

- (a) particulars of the properties held during the preceding year;
- (b) total value of the property and annual return there from;
- (c) particulars of unserviceable articles and losses if any; and
- (d) plans for utilization, development and improvement during the following year.

40. Use and disposal of properties.---(1) Properties of local government shall be used only for public purposes.

(2) Immovable properties of local government shall not be sold or permanently alienated:

Provided that such properties may be given on lease through competitive bidding in public auction for a period to be determined by the Government:

Provided further that no such property under or near a fly-over bridge shall be leased or otherwise given to any person for private, commercial or non-commercial use, and any order, licence, permission, tehbazari ticket, handcart passes or certificate issued by any authority at any time in this respect shall stand withdrawn and shall be deemed cancelled.

(3) Movable property of a local government which is required to be disposed of and all articles declared unserviceable shall be sold through competitive bidding in public auction.

41. Personal Responsibility with regard to loss and waste.---(1) Every official or servant of a local government, every member of a local council, and every person charged with administration and management of property of a local government shall be personally responsible for any loss or waste, financial or otherwise, of any property belonging to a local government which is a direct consequence of decisions made by him personally or under his directions in violation of this Act or any other law for the time being in force or which accrues as a result of his negligence or misconduct, and shall be liable to pay such surcharge as may be determined by the respective Accounts Committee and such amount shall be recoverable as arrears of land revenue.

(2) Any person aggrieved by the imposition of liability under sub-section (1) may prefer an appeal to Government whose decision shall be final:

Provided that no order shall be passed in appeal, except after giving the aggrieved person an opportunity of being heard.

CHAPTER – X LOCAL GOVERNMENT TAXATION

42. Imposition, notification and enforcement of Taxes.---(1) A local government subject to the provisions of any other law may, and if directed by Government shall, levy all or any of the taxes and levies specified in the Third Schedule.

(2) No tax shall be levied without previous publication of the tax proposal inviting and hearing public objections and approval of the respective local council.

(3) A local government may reduce, suspend or abolish a tax.

(4) Where a tax is levied or modified, the local government shall specify the date for the enforcement thereof, and such tax or the modification shall come into force on such date.

(5) Government shall have power to direct a local government to levy any tax, increase or reduce any such tax or the assessment thereof and suspend or abolish the levy of any tax.

43. Model Tax Schedule.---Government may frame Model Tax Schedules and when such Schedules have been framed a local government shall be guided by them in levying a tax.

44. Rating Areas and Property Tax.---(1) On commencement of this Act, every tehsil shall be rating area within the meaning of the Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1958 (W.P. Act V of 1958).

(2) The rate of property tax in an area within a tehsil shall be subject to approval of respective tehsil council:

Provided that in the areas within a tehsil where rate has not been determined, the areas shall be deemed to be exempted from property tax till determination of the rate.

(3) Unless varied under sub-section (2) above, the existing rates in the areas within a tehsil shall remain in force.

Explanation.---For the purpose of this section the “rate” shall mean the tax leviable under the Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1958 (W.P. Act V of 1958).

45. Collection and recovery of taxes.---(1) Failure to pay any tax and other money claimable under this Act shall be an offence.

(2) All arrears of taxes, rents and other moneys claimable by a local government under this Act shall be recoverable as arrears of land revenue.

(3) Government may empower any local government to recover arrears of taxes or any other moneys claimable by the local government under this Act by distress and sale of the movable property belonging to the person concerned or by attachment and sale of the immovable property belonging to him.

(4) Government may specify the officials or classes of officials by whom the power under sub-section (2) shall be exercised and prescribe the manner in which it shall be exercised.

46. Liability on account of taxes.---(1) A local government may by notification, call upon any person to furnish such information, produce such record or accounts or to present such goods or animals liable to any tax as may be necessary for the purpose of determining the liability of such person to a tax.

(2) Any official of a local government authorized in this behalf, may after due notice, enter upon any building or premises for the purpose of assessing the liability of such building or premises to any tax, or inspecting any goods or animals therein liable to any tax.

(3) Any official of a local government authorized in this behalf may, in the prescribed manner, seize and dispose of any goods or animals on which any tax is due and is not paid.

47. Deduction of taxes from salaries.---If a local government levies a tax on professions, trades or callings, it may require the employer of the person liable to such tax to deduct the tax from the salary or wages payable to such person, and on such requisition the amount of the tax due shall be deducted from the salary or wages of the persons concerned and credited to the Fund of the local government.

48. Petitions against valuation and assessment.---No assessment of a tax under this Act or valuation there for, or the liability of a person to be so taxed, shall be called in question except by a petition presented to such authority, in such manner and within such period as may be prescribed.

49. Taxation rules.---All taxes and other charges levied by a local government shall be imposed, assessed, leased, compounded, administered and regulated in such manner as may be prescribed by rules which may, among other matters, provide for the obligation of the tax payer and the duties and powers of the officials responsible for the assessment and collection of taxes.

50. Local governments not to incur debt.---(1) No local government shall incur any debt.

(2) No monies of the local government shall be invested in securities other than those floated or approved by the Federal Government or Provincial Government.

CHAPTER – XI PROVINCIAL FINANCE COMMISSION AND FISCAL TRANSFERS

51. Constitution of Provincial Finance Commission.---Government shall constitute a Provincial Finance Commission hereinafter referred to as “Finance Commission”.

52. Composition of the Finance Commission.---(1) The Finance Commission shall consist of eleven members, including:

- (a) Minister for Finance Department, who shall be the Chairman of the Finance Commission;
- (b) Minister for Local Government, Elections and Rural Development Department ¹[who shall be the Co-Chairman of the Finance Commission];
- (c) two members of the Provincial Assembly of Khyber Pakhtunkhwa, one each nominated by the Chief Minister and Leader of Opposition in the Provincial Assembly;
- (d) Secretary to Government, Finance Department;
- (e) Secretary to Government, Planning and Development Department;
- (f) Secretary to Government, Local Government, Elections and Rural Development Department;

¹Added vide Khyber Pakhtunkhwa Act No. XXX of 2015

- (g) Secretary to Government, Law, Parliamentary Affairs and Human Rights Department;
- (h) two Nazimeen, district councils elected by Nazimeen district councils in the province; and
- (i) two Nazimeen, tehsil councils elected by Nazimeen of tehsil councils in the province.

(2) The Finance Department shall provide secretariat support to the Finance Commission and provide annual statement on transfer of funds in accordance with recommendations of the Finance Commission.

(3) No proceedings or act of the Finance Commission shall be invalid merely on the ground of existence of a vacancy in its composition.

(4) Subject to this Act, the Finance Commission shall regulate its procedure and business.

53. Functions of the Finance Commission.---(1) The Finance Commission shall make recommendations to the Government on:

- (a) the amount of grant for local governments out of the proceeds of Provincial Consolidated Fund in a financial year in addition to the grant in lieu of Octroi and Zilla Tax:

Provided that in addition to the establishment charges budgeted for the devolved functions and transfers in lieu of Octroi and Zilla Taxes, the development grant for local governments shall be so determined that it is not less than fifty percent of the total development budget of the province in the respective year;

- (b) formula for distribution of the grant among local governments in the province;
- (c) the amount of special grants for local governments with modalities and conditions to access the facility;
- (d) grants in aid to local governments in need of assistance; and
- (e) matters relating to local government finance.

(2) While making recommendations, the Finance Commission shall take into account the principles of fiscal need, fiscal capacity, fiscal effort and fiscal performance of local governments.

(3) The Finance Commission shall also take into consideration poverty, population, lag in infrastructure and revenue base of local governments as factors while formulating its recommendations.

(4) The Finance Commission shall present to the Government annually a report on the analysis of fiscal transfers, the situation of own-source revenue in local governments and the reach and quality of their services and the Government shall cause the report to be laid before the Provincial Assembly.

CHAPTER – XII SUPERVISION OF LOCAL GOVERNMENTS

54. Local government Commission.---(1) Government shall appoint a Local Government Commission, which shall consist of-

- (a) Minister for Local Government, Elections and Rural Development Department, who shall be the Chairman of the Local Government Commission;
- (b) two members of the Provincial Assembly, one each nominated by the Chief Minister and Leader of Opposition in the Provincial Assembly;
- (c) two eminently qualified and experienced technocrats including a woman selected by Government for a period of three years;
- (d) Secretary to Government, Law, Parliamentary Affairs and Human Rights Department; and
- (e) Secretary to Government, Local Government, Elections and Rural Development Department.

(2) The Local Government Commission may, for any specific assignment, co-opt any other person as member; provided that, when it is seized with an inquiry against a Nazim, it shall be mandatory for the Local Government Commission to co-opt a disinterested ¹[Nazim, District Government] as member.

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

(3) Government shall provide separate budget for the Local Government Commission with Director General, Local Government and Rural Development as Principal Accounting Officer, who shall provide secretarial support and render assistance to the Local Government Commission.

(4) No act or proceedings of the Local Government Commission shall be invalid by reason or existence of any vacancy, or defect, in its constitution.

55. Functions of the Local Government Commission.---(1) Functions of the Local Government Commission shall be to:

- (a) conduct annual and special inspections of local governments and submit reports to the Government;
- (b) conduct, on its own initiative or, whenever, so directed by the Chief Minister or, whenever, a reference is made by a ¹[Nazim, District Government], an inquiry by itself or through district government into any matter concerning a local government;
- (c) resolve disputes between local governments;
- (d) submit to the Chief Minister an annual report on the over-all performance of district governments and tehsils municipal administration; and
- (e) take cognizance of violations of laws and rules by a local government.

(2) Where the Local Government Commission is of the opinion that suspension of a Nazim, Naib Nazim or a member of a local council is necessary for the purposes of a fair enquiry or preventing him from continuing with any unlawful activity during an enquiry, it may recommend to the Chief Minister for suspension of such Nazim, Naib Nazim or a member of a local council, as the case may be, for a maximum period of thirty days.

(3) Where, on an inquiry, the Local Government Commission holds a Nazim, Naib- Nazim, or a member of a council guilty of misconduct, it shall recommend appropriate action, including his removal, to the Chief Minister.

(4) The Local Government Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) compelling production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.

56. Responsibility of the Local Government Commission.---The Local Government Commission shall be responsible to the Chief Minister.

57. Relations of Government with District Government.---(1) District Government shall carry out its functions in accordance with provisions of this Act and the rules made there under.

(2) Government may provide guidelines and render advice to ¹[Nazim, District Government] for achieving the ends of Government policy and for promoting economic, social and environmental security of the province.

58. Directions by Chief Minister.---The Chief Minister, may by himself or through any officer specifically authorized by him, issue directives in public interest to a ²[Nazim, District Government] for implementation and if he fails to comply with the directions, the Chief Minister may require the Chief Secretary to take such action as the situation may necessitate.

59. Suspension and removal of a Nazim.---(1) Where, in the opinion of the Chief Minister, a Nazim is deliberately avoiding or abstaining wilfully or failing to comply with directions given under this Act, the Chief Minister may, for reasons to be recorded and conveyed in writing, suspend him for a period not exceeding thirty days and refer the matter to the Local Government Commission for enquiry.

(2) During the course of enquiry, the Local Government Commission shall provide an opportunity of personal hearing to the suspended Nazim and shall submit its report along with its recommendations which may include removal of the Nazim to the Chief Minister for appropriate action in light of such recommendations.

(3) During the period of suspension of the Nazim, the Naib Nazim shall act as Nazim and in case no decision is taken within thirty days from the date of suspension of the Nazim, he shall stand re-instated to his office.

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

²Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

60. Setting aside an order of ¹[Nazim, District Government].---(1) Where, in the opinion of the Chief Minister, an order or decision of the ²[Nazim, District Government] is not in conformity with law or is against the interest of the people, he may, for reasons to be recorded and conveyed to the ³[Nazim, District Government], suspend such order or, as the case may be, decision, refer the matter to the Local Government Commission for enquiry to be completed within sixty days and may on receipt of the report, quash the order or decision of the ⁴[Nazim, District Government], if it is so recommended by the Local Government Commission:

Provided that, if no action is taken within sixty days of suspension of the order or decision of the ⁵[Nazim, District Government], such order or, as the case may be, decision shall stand restored.

(2) The quashment of an order or decision referred to in sub-section (2) shall be notified by Government in official Gazette.

61. Internal controls, inspection and supervision.---(1) ⁶[Nazim, District Government] may, with the approval of district council, designate inspecting officers to objectively examine the performance of a tehsil municipal administration, village council and neighbourhood council in relation to service delivery.

(2) Inspection reports prepared on specified format and containing evaluation of performance in relation to achievement of targets, responsiveness to citizens' difficulties, efficiency in delivery of services and transparency in functioning, shall be presented to the district council.

(3) If the district council resolves that the situation requires action against the concerned Nazim, Naib Nazim or member of the concerned local council, it may require ⁷[Nazim, District Government] to refer the matter to the Local Government Commission.

(4) In all other cases, the ⁸[Nazim, District Government] may require the the respective Nazim to take appropriate remedial action.

62. Setting aside an order of Nazim, Tehsil Council.---(1) On a motion initiated by ⁹[Nazim, District Government], a district council may, by a resolution stating the grounds thereof, passed by a simple majority of its total membership, set aside an order or decision of general application taken by Nazim, tehsil council or

¹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

²Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

³Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁴Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁵Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁶Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁷Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁸Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

⁹Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015

resolution of the tehsil council, as the case may be, if it considers the same to be inconsistent with law or against the interest of the people or public policy.

(2) The result of the approval of the resolution of district council shall be notified by district government.

63. Setting aside decisions of Nazim, Village Council and Resolution of Village Council etc.---(1) On a motion initiated by Nazim, tehsil council, a tehsil council may, by a resolution stating the grounds thereof, passed by simple majority of its total membership, set aside an order or decision taken by Nazim, village council, Nazim, neighbourhood council, or a resolution of village council or, as the case may be, a resolution of neighbourhood council, if it considers the same to be inconsistent with law or against the interest of the people or public policy.

(2) The result of the resolution referred to in sub-section (1), shall be notified by the tehsil municipal administration.

64. Suspension of Resolutions and Proceedings.---Where in the opinion of Government anything done or intended to be done as a result of a resolution of a local council is not in conformity with law, Government for reasons to be recorded may suspend the execution of such resolution and prohibit the doing of anything resolved to be done.

65. Conduct of members of the Local Councils.---(1) The Code of Conduct Committee in each local council shall ensure adherence of all members of the local councils, Nazimeen and Naib Nazimeen to the prescribed code of ethics for promoting their honest, responsible and efficient functioning and behavior.

(2) The Code of Conduct Committee shall monitor the conduct of the elected representatives and report incidents of inefficiency and corruption to the concerned local council which may invoke proceedings of disqualification against such member.

CHAPTER – XIII LOCAL GOVERNMENT RESPONSIBILITY FOR ENFORCEMENT OF LAWS

66. Offences, punishments and their cognizance.---(1) The offences specified in Fourth and Fifth Schedules shall be liable to punishment by way of imprisonment, fine, seizure, forfeiture, confiscation, impounding and such other penalties as are provided in this Act.

(2) Whoever commits any of the offences specified in-

- (a) Part-I of the Fourth Schedule shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to fifty thousand rupees, or with both and, where an accused was directed by the Enforcement Officer for immediate discontinuance of the offence, the Court may impose a further fine which may extend to one thousand rupees for every day for the period the accused has persisted in the offence from the date of its commission;
- (b) Part-II of the Fourth Schedule shall be punishable with imprisonment which may extend to six months or fine which may extend to five thousand rupees, or with both and, where an accused was directed by the Enforcement Officer for immediate discontinuance of the offence, the Court may impose a further fine which may extend to two hundred rupees for every day for the period the accused has persisted in the offence from the date of its commission; and
- (c) Fifth Schedule shall in the first instance, be liable to fine by issuing a ticket specified in the Sixth Schedule and, where an accused repeats the offence within a period of two months for which he was subjected to fine, he shall be liable to the same punishment as provided in clause (b).

(3) The offences specified in clause (a) of sub-section (2) shall be cognizable and information in this regard shall be reported to the respective police station for registration of a case against the accused.

(4) A Court shall take cognizance of the offences specified in clause (b) of sub-section (2) on a complaint made in writing by Enforcement Officer.

(5) The offences specified in Part II of the Fourth Schedule and Fifth Schedule shall be tried in a summary manner in accordance with the provisions of section 260 to 265 of the Code of Criminal Procedure, 1898 (Act V of 1898), but the limit of punishment mentioned in sub-section (2) of section 262 thereof shall not be applicable.

(6) Government may, by notification in the official Gazette, entrust to a local government the enforcement responsibility of any other law for the time being in force.

67. Appointment and control of Enforcement Officers.---(1) On a motion initiated by its Nazim, the district council or, as the case may be, the tehsil council shall designate officers as Enforcement Officers for the offences specified in Fourth and Fifth Schedules.

(2) The district government shall notify Controlling Authority for the Enforcement Officers.

68. Imposition of fine through ticketing.---(1) Where any person, in the opinion of an Enforcement Officer, is contravening any provision of the law relating to the offences specified in Fifth Schedule, he shall charge the accused by issuing a ticket in the form specified in Sixth Schedule for payment of fine, if such offence has been committed for the first time in two months.

(2) The ticket shall be issued in quadruplicate by delivering three copies to the accused after obtaining his signatures or thumb impression on the fourth copy to be retained by the Enforcement Officer for record.

(3) The person to whom a ticket has been issued under this section may either contest the imposition of fine in the Court within ten days from the date of the issuance of the ticket or deposit the fine within that period and provide a copy of payment receipt to the Enforcement Officer.

(4) The fine may be deposited in the designated Bank Account of the local government within ten days from the date of imposition for credit in the Fund of the local government:

69. Procedure for default in deposit of fine.---(1) The Enforcement Officer shall, on daily basis, provide a scroll of all unpaid tickets to the Controlling Authority, who shall forward the same to the court having jurisdiction in the cases.

(2) The court receiving the scroll shall issue summons to the accused forthwith stating date of hearing for trial as enumerated in section 66.

(3) Where on the first date of hearing, the accused appears before the court and produces proof of deposit of fine, or unconditionally admitting his failure, deposits the fine forthwith along with the penalty which shall not be less than ten percent and not more than twenty five percent of the amount of fine as determined by the court in accordance with the procedure provided in sub-section (2) of section 388 of the Code of Criminal Procedure, 1898 (Act V of 1898) further proceedings against the accused may be dispensed with and no conviction shall be recorded against him.

(4) Upon failure of the accused to appear before the court in response to the summons, the court shall forthwith issue warrants for arrest of the accused and upon issuance of such warrants the accused will be liable to punishment under clause (b) of sub-section (2) of section 66.

(5) The fines imposed by a court for an offence specified in Fifth Schedule shall on collection be deposited in the Fund of the respective local government.

70. Municipal Wardens.---(1) With prior approval of Government, the city district government and tehsil municipal administration may establish and maintain municipal wardens;

(2) Government may, notwithstanding anything contained in the Police Order, 2002, or in any other law, specify the duties which the municipal wardens may be required to perform.

71. General Powers of Enforcement Officers.---(1) In case of any serious threat to the public health, safety or welfare or danger to life and property, or where violation of any rule or bye-law is being committed, the Enforcement Officer may, in his area of jurisdiction, in addition to imposition of fine or initiating prosecution under this Act-

- (a) suspend any work;
- (b) seize the goods;
- (c) seal the premises;
- (d) demolish or remove work; or
- (e) issue directions for taking corrective measures within a specified time.

(2) An Enforcement Officer shall not enter any dwelling unit without permission of the occupier or search warrant from a court competent jurisdiction.

(3) An Enforcement Officer may, in relation to the offences specified in Fourth and Fifth Schedules-

- (a) issue notices in writing on behalf of the local government;
- (b) initiate legal proceedings in the Court; and
- (c) assist in defending legal proceedings initiated against the local government.

72. Registers, reports and enforcement Gazette.---(1) District Government shall specify registers for maintaining record of cases and forms for monthly reports regarding enforcement activities.

(2) The Controlling Authority shall periodically review enforcement effort, compile reports and publish quarterly District Enforcement Gazette.

73. Police support to Enforcement Officers etc.---A local government may requisition a police contingent on deputation or payment of charges in accordance with the provisions of Police Order, 2002 (Chief Executive's Order No. 22 of 2002).

Chapter – XIV LOCAL COUNCIL ELECTIONS

74. Franchise, Wards and Electoral College.---(1) Save as otherwise provided, election of members of village council, neighbourhood council, tehsil council and district council shall be held on the basis of adult franchise and joint electorate.

(2) Wards for the general seats in tehsil council and district council shall be single member territorial wards.

(3) Each tehsil or, as the case may be, each district shall be a single ward for all seats reserved for women, peasants and workers, youth and non-muslims allocated to the tehsil or district in the respective parts of Second Schedule.

(4) Members to fill seats reserved for women, peasants and workers, youth and non-muslims in the tehsil council and district council shall be elected through proportional representation system of political parties' list of candidates on the basis of the total number of general seats secured by each political party in the respective local council.

(5) The Electoral College for the election of Nazim and Naib-Nazim, District Council shall be members of the District Council.

(6) The Electoral College for the election of Nazim and Naib-Nazim Tehsil Council shall be members of the Tehsil Council.

(7) Elections to District Councils and Tehsil Councils shall be held on party basis and a political party shall be eligible to obtain an election symbol for contesting these elections.

Explanation: ---For the purpose of this section:

- a) the expression "total number of general seats secured by each political party" shall include independent returned candidates or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of returned candidates and delivers an acceptance letter from the Party Leader addressed to the respective District Returning Officer.

- b) all members of the respective local councils notified as returned candidates in the elections held under this Act shall be deemed to be members of the electoral college.
- c) the term "Political Party" shall have the same meaning as assigned to it in the Political Parties Order, 2002 (Chief Executive's Order No. 18 of 2002) and the provisions of the said Order shall mutatis mutandis apply to political parties contesting election to district and tehsil councils.
- d) the term election symbol shall have the same meaning and connotation as assigned to it in the Allotment of Symbols Order, 2002.

75. Authority for Local Council Elections.---(1) Election to the local councils shall be held by the Election Commission of Pakistan, hereinafter referred to as Election Commission.

(2) The Election Commission may require any person or authority to perform such functions or, render such assistance for the purpose of elections, including preparation of electoral rolls and disposal of election petitions and other disputes under this Act as deemed fit.

(3) The Election Commission may authorize any of its officers to exercise any of its powers and to perform any of its functions under this Act.

(4) It shall be the duty of all executive authorities in the province to assist the Election Commission in the discharge of its functions.

76. Other powers and functions of the Election Commission.---The Election Commission shall also exercise such other powers and perform such other functions as may be prescribed.

77. Preparation of Electoral Rolls.---(1) A person shall be entitled to be enrolled as a voter if he-

- (a) is a citizen of Pakistan;
- (b) is not less than eighteen years of age on the first day of January of the year in which an election is to be held; and
- (c) fulfils such other conditions as the Election Commission may specify.

(2) The electoral rolls for the local council elections shall be prepared by the Election Commission in the manner it may deem appropriate and the electoral rolls shall not be invalid by reason of any erroneous description therein of any person listed or of an omission of the name of any person entitled to be enrolled or of inclusion of the name of any person not so entitled.

(3) Every person whose name is entered in the electoral roll, and no person whose name is not so entered, shall be entitled to cast a vote at an election to the local council.

¹[**77A. Identification of voter.**---The identity of a voter at a polling station shall be confirmed and satisfied by the concerned authorities by using biometrics machine specified and provided by the Election Commission:

Provided that where no biometric machine is provided by the Election Commission, the identity of a voter shall be confirmed and satisfied by the concerned authority by using normal procedure of identification.]

78. Qualifications for candidates and elected members.---(1) A person shall qualify to be elected or to hold an elective office or membership of a local council, if he-

- (a) is a citizen of Pakistan;
- (b) is at least twenty one years of age;
- (c) is enrolled as a voter in the electoral rolls of the relevant ward or a council;
- (d) is of good character and is not commonly known as one who violates Islamic injunctions; has adequate knowledge of Islamic teachings and practices, obligatory duties prescribed by Islam as well as abstains from major sins; provided that these qualifications shall not apply to a person who is a non-muslim, but such a person shall have a good reputation;
- (e) has not been declared by a competent court to be of unsound mind;
- (f) is not in the service of the federal, a provincial or a local government or, any statutory body or a body which is controlled by any such government or, in which any of such governments has a controlling share or interest, except the

¹Added vide Khyber Pakhtunkhwa Act No. XI of 2015

holders of elected public office and part-time officials remunerated either by salary or fee; provided that in case of a person who has resigned or retired from such service, a period of not less than six months has elapsed since his retirement;

- (g) has not been dismissed, removed or compulsorily retired from public service on the grounds of moral turpitude, unless a period of five years has elapsed since his dismissal, removal or compulsory retirement;
- (h) does not possess assets which are inconsistent with his declaration of assets or justifiable means, whether held in his own name or of the dependents or any other person or corporate body in whose name assets are held in trust or under any other formal or informal arrangement whereby the de-facto control of such assets including their sale, transfer or pecuniary interest, is retained by him;
- (i) has not been adjudged a willful defaulter of any tax or other financial dues owed to the federal, a provincial, or a local government or any financial institution, including utility bills outstanding for six months or more;
- (j) has not been convicted by a court of competent jurisdiction on a charge of corrupt practice involving moral turpitude or misuse of power or authority under any law for the time being in force, unless a period of five years has elapsed since his released;
- (k) has not been sentenced to imprisonment for more than three months for an offence under any law and, a period of not less than five years has elapsed since his release; and in case of a member or a holder of a public office, has not been sentenced to imprisonment;
- (l) has not failed to file the required return of election expenses or is not convicted for exceeding the limits of election expenses prescribed under the electoral laws and rules;
- (m) has not been declared an un-discharged insolvent by any court;
- (n) does not engage in any transaction involving pecuniary interest with the local government of which he is a member;
- (o) does not absent himself without reasonable cause from three

consecutive meetings of the council of which he is a member; provided that a member shall not be disqualified if the absence was necessitated by a national emergency or force majeure;

- (p) does not fail to attend a mandatory training course as required under this Act;
- (q) has not been and is not involved, in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society; and
- (r) has not used, directly or indirectly, for his election the platform, flag, symbol, affiliation and financial or material resources or support of an ethnic or sectarian or proscribed party, formation or organization.

(2) Whoever-

- (a) is found by the Election Commission to have contravened the provisions of sub-section (1) shall stand disqualified from being a candidate for election to any office of the local governments for a period of three years; or
- (b) having been elected as a member of a local council or a holder of an elective office of the local government is found by the Election Commission to have contravened the provisions of sub-section (1) shall cease forthwith to be an elected member or to hold the office of such member and stand disqualified from being a candidate for election to a local council for a period of three years.

(3) If any question arises whether a member of a local council has become disqualified from being a member, the Nazim, unless he decides that no such question has arisen, shall refer the question to the Election Commission within fifteen days and should he fail to do so within the aforesaid period it shall be deemed to have been referred to the Election Commission.

(4) The Election Commission shall decide the question within ninety days from its receipt or deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant.

¹[78A. **Disqualification on grounds of defection.**---(1) If a member of a party composed of a single political party in a Council-

- (a) resigns from membership of his political party or joins another party in a Council; or
- (b) votes or abstains from voting in a Council contrary to any direction issued by the political party to which he is a member, in the Council, in relation to-
 - (i) election of the Nazim or Naib Nazim in a Council; or
 - (ii) a vote of confidence or a vote of no-confidence; or
 - (iii) approval of annual budget,-

he may be declared in writing by the Party Head to have defected from the political party, and the Party Head may forward a copy of the declaration to the Presiding Officer of the concerned Council and the Chief Election Commissioner and shall similarly forward a copy thereof to the member concerned:

Provided that before making the declaration, the Party Head shall provide such member with an opportunity to show cause as to why such declaration may not be made against him.

Explanation: For the purpose of this section,-

- (i) "Council" means the Town Council, Tehsil Council or the District Council, as the case may be;
- (ii) "Party Head" means any person, by whatever name called or declared as such by the Party and includes the nominee of the Party Head; and
- (iii) "Presiding Officer" means the Naib Nazim of the concerned Council.

(2) A member of a Council shall be deemed to be a member of a political party if he, having been elected as a candidate or nominee of a political party which constitutes the party in the concerned Council or has become a member of such political party as per provision of clause (a) of sub-section (7) of section 74 of this Act.

¹Inserted vide Khyber Pakhtunkhwa Act No. XXIX of 2015

(3) Upon receipt of the declaration under sub-section (1), the concerned Presiding Officer, shall within two days refer, and in case he fails to do so it shall be deemed that he has referred, the declaration to the Chief Election Commissioner, who shall lay the declaration before the Election Commission for its decision thereon confirming the declaration or otherwise within thirty days of its receipt by the Chief Election Commissioner.

(4) Where the Election Commission confirms the declaration, the member referred to in sub-section (1) shall cease to be a member of the concerned Council and his seat shall become vacant.

(5) Any party aggrieved by the decision of the Election Commission may, within thirty days, prefer an appeal to the High Court which shall decide the matter within sixty days from the date of the filing of the appeal.

(6) Nothing contained in this section shall apply to the Nazim or Naib Nazim of the Council.]

79. Term of office, first meeting, election of Nazim or Naib- Nazim and conduct of business in Local Council.---(1) The term of office of a local council shall be three years commencing on the date on which it holds its first meeting:

Provided that the first meeting shall be held not later than fifteen days from the day on which the names of its members are notified.

(2) Save as otherwise provided, a local council shall in its first meeting and to the exclusion of any other business elect from its members a Nazim and Naib Nazim by open division ¹[:]

²[Provided that the Nazim and Naib Nazim of the District Council or Tehsil or Town Council, as the case may be, shall be elected by the votes of the majority of the total membership of the District Council or Tehsil or Town Council, as the case may be:

Provided further that if no Nazim or Naib Nazim secure such majority in the first poll, a second poll shall be held between the members who secure the two highest number of votes in the first poll and the member who secures a majority of votes of the total membership of the concerned District Council or Tehsil or Town Council shall be declared to have been elected as Nazim or Naib Nazim, as the case may be:

Provided also that if the number of votes secured by two or more members securing the highest number of votes is equal, further two sittings with interval of

¹Replaced vide Khyber Pakhtunkhwa Act No. XXX of 2015

²Added vide Khyber Pakhtunkhwa Act No. XXX of 2015

one week in between, shall be held and if no one of them secures a majority of votes of the total membership of the concerned District Council or Tehsil or Town Council, as the case may be, the Council shall stand dissolved and matter shall be referred to the Election Commission for holding fresh elections.]

(3) Government ¹[either itself or through its authorized officers] shall notify the assumption of offices by Nazimeen, Naib-Nazimeen and members of the Local Councils.

(4) Every local council shall meet at least once in every month and regulate its business in accordance with bye-laws made by it:

Provided that district council shall be in session for at least forty five accumulated days in a year.

(5) Save as otherwise provided, all meetings of the local council shall be convened by the respective Nazim and shall be presided over by the Naib Nazim.

(6) Save as otherwise provided, decisions of the local council shall be taken by resolutions passed by a simple majority of the members present and voting and a copy of each resolution shall be transmitted to the Government.

(7) Quorum for the meetings of local council shall be thirty three percent of its total membership.

(8) Meetings of the local council shall be open to public, unless the local council, by a resolution, decides to hold any meeting in camera.

(9) Minutes of the meetings of the local council shall be recorded and maintained by Secretary of the local council:

Provided that Assistant Director, Local Government Election and Rural Development Department in the district shall act as Secretary of the district council and shall be responsible for coordinating matters relating to secretarial functions of village and neighbourhood councils in the district.

80. Oath of office and declaration of assets.---(1) A member, a Nazim and Naib-Nazim shall, before taking his seat, make and subscribe to an oath in such form as may be specified.

(2) Every Nazim, Naib-Nazim and member shall, after taking oath of office, declare his assets in the manner prescribed.

¹Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2015

81. Casual vacancy.---(1) If the office of a member or a Nazim and Naib-Nazim for any reason, falls vacant during the term of office of a local council, a new member or a Nazim and Naib-Nazim, as the case may be, shall be elected in the prescribed manner within ninety days from the date such vacancy is notified and he shall hold office for the residue of such term.

(2) If the vacancy in the office of member occurs within four months of the expiry of the term of a local council, the vacancy shall not be filled.

82. Resignation.---(1) A member of a local council may resign his office by tendering resignation in writing to the Nazim of a local council of which he is a member.

(2) A Nazim village council or neighbourhood council, may resign his office by tendering resignation in writing to the Nazim of respective tehsil council.

(3) A Nazim, tehsil council, or, as the case may be, district council, may resign his office by tendering resignation in writing addressed to the Chief Minister.

(4) The resignations so tendered shall deem to be accepted and effective forthwith.

(5) Copies of all resignations shall be forwarded to the Election Commission.

83. Removals.---(1) Where proceedings of disqualification have been initiated on an application made by any person or by the Election Commission on its own motion against a member, Nazim, or Naib-Nazim, the Election Commission or any authority authorized by it may issue a notice to him to show cause, within a specified period as to why proceedings against him may not be taken for his removal.

(2) Where the Election Commission or an authority authorized by it is not satisfied with the reply to the notice or any reply to the said notice is not filed within the specified period, it may order for an enquiry in the matter and for that purpose appoint an enquiry officer.

(3) On the basis of enquiry, the Election Commission or an authority authorized by it may order the removal of a member, Nazim, or, as the case may be, Naib- Nazim:

Provided that before an order of removal is passed, member, Nazim, or, as the case may be, Naib-Nazim against whom enquiry proceedings are carried out shall be afforded a reasonable opportunity of being heard, including personal hearing if so requested.

84. Vote of no-confidence.---A Nazim and Naib-Nazim, shall cease to hold office if a vote of no-confidence is passed against him in the prescribed manner by simple majority of the total number of members of the local council electing him ascertained through open division:

Provided that-

- (a) a motion of no-confidence shall not be moved before the expiry of six months of his assumption of office as Nazim and Naib- Nazim; and
- (b) where a motion of no-confidence against a Nazim and Naib- Nazim has been moved and has failed to secure the requisite majority of votes in its favour at the meeting, no similar motion shall be moved against him before the expiry of six months from the date such motion was moved.

85. Bar against dual membership.---A Nazim, Naib- Nazim or member of a local council may contest election for any political office after resigning from his respective existing office before filing of his nomination papers.

86. Notification of election, resignation and removal of Nazim, Naib- Nazim, members, etc.---Every election, resignation or removal of a Nazim, Naib- Nazim, or a member, or the vacation of office by them shall be notified by the Election Commission.

87. Election petition and Election Tribunal.---(1) No election under this Act shall be called in question, except by an election petition made by a candidate for the election.

(2) For the hearing of an election petition the Election Commission shall, by notification, appoint an officer to be an Election Tribunal for such areas as may be specified in the notification.

(3) Subject to the provisions of this Act, every election petition shall be made and tried in such manner as may be prescribed by the Election Commission.

(4) The Election Tribunal shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (V of 1908) and shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

88. Corrupt practice.---A person guilty of bribery, personating, or undue influence shall be punishable for an offence of corrupt practice with imprisonment for a term which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

89. Bribery.---A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf-

- (a) receives, agrees or contracts for any gratification for voting or refraining from voting or for being or refraining from being a candidate at, or withdrawing or retiring from, an election;
- (b) gives, offers or promises any gratification to any person for the purpose of-
 - (i) inducing a person to be or to refrain from being a candidate at an election; or
 - (ii) inducing a voter to vote or refrain from voting at any election; or
 - (iii) inducing a candidate to withdraw or retire from an election; or
 - (iv) rewarding a person for having been or for having refrained from being a candidate at an election; or
 - (v) rewarding a voter for having voted or refrained from voting at an election; or
 - (vi) rewarding a candidate for having withdrawn or retired from an election.

Explanation.-In this section, 'gratification' includes a gratification in money or estimable in money and all forms of entertainment or employment for reward.

90. Personating.---A person is guilty of personating, if he votes or applies for a ballot paper for voting as some other person whether that other person is living or dead or fictitious.

91. Undue influence.---A person is guilty of undue influence, if he-

- (a) in order to compel any person to vote, refrain from voting, or to induce or compel any person to withdraw his candidature at an election, directly or indirectly, by himself or by any other person on his behalf-
 - (i) makes or threatens to make use of any force, violence or restraint;

- (ii) inflicts or threatens to inflict any injury, damage, harm or loss; or
 - (iii) uses any official influence or governmental patronage; or
- (b) on account of any person having voted or refrained from voting, or having withdrawn his candidature, does any of the acts specified in clause (a); or
- (c) by abduction, duress or any fraudulent device or contrivance-
 - (i) impedes or prevents the free exercise of the franchise by a voter; or
 - (ii) compels, induces or prevails upon any voter to refrain from voting or compels any voter to vote.

Explanation.-In this section, 'harm' includes social ostracism or ex-communication or expulsion from any caste or community.

92. Illegal practice.---A person is guilty of illegal practice punishable with fine which may extend to ten thousand rupees, if he-

- (a) obtains or procures, or attempts to obtain or procure, the assistance of any officer or official of the federal government, Government or a local government or authority to further or hinder the election of a candidate;
- (b) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for voting or is disqualified from voting;
- (c) votes or applies for a ballot paper for voting more than once at any polling station;
- (d) removes a ballot paper or a ballot box from a polling station or destroys, damages or tampers with the ballot-box used at a polling station;
- (e) knowingly induces or procures any person to do any of the aforesaid acts; or
- (f) fails to provide statement of election expenses as required under this Act;

- (g) makes or publishes a false statement-
 - (i) concerning the personal character of a candidate or his relation calculated to adversely affect the election of such candidate or, for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable ground for believing, and did believe, the statement to be true;
 - (ii) relating to the symbol of a candidate whether or not such symbol has been allocated to such candidate; or
 - (iii) regarding the withdrawal of a candidate;
- (h) knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying voters to or from the polling station, except when a person conveys himself or any member of the household to which he belongs, to or from the polling station; and
 - (i) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

93. Prohibition of canvassing.---A person is guilty of an offence punishable with fine which may extend to ten thousand rupees, if he, on the polling day in connection with the election-

- (a) convenes, calls or organizes within a ward any meeting; or
- (b) within a radius of two hundred meters of the polling station-
 - (i) canvasses for votes;
 - (ii) solicits vote of any voter;
 - (iii) persuades any voter not to vote at the election or for a particular candidate; or
 - (iv) exhibits, except with the permission of the returning officer and at a place reserved for the candidate or his polling agent beyond the radius of one hundred meters of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote, or discourage the voters from voting, for any contesting candidate.

94. Disorderly conduct near polling station.---A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees, or with both, if he-

- (a) uses, in such manner as to be audible within the polling station any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds; or
- (b) persistently shouts in such manner as to be audible within the polling station; or
- (c) does any act which-
 - (i) disturbs or causes annoyance to any voter visiting a polling station for the purpose of voting; or
 - (ii) interferes with the performance of the duty of a presiding officer, polling officer or any other person performing any duty at a polling station; or
- (d) abets the doing of any of the aforesaid acts.

95. Tampering with papers.---A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, if he:

- (a) fraudulently defaces or destroys any nomination paper or ballot paper;
- (b) fraudulently takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorized under the rules to put in;
- (c) without due authority-
 - (i) supplies any ballot paper to any person;
 - (ii) destroys, takes, opens or otherwise interferes with any ballot box or packet or ballot papers in use for the purpose of election; or
 - (iii) breaks any seal affixed in accordance with the provisions of the rules; or
 - (iv) causes any delay or interruption in the beginning, conduct or completion of the procedure required to be

immediately carried out on the close of the poll; or

- (v) fraudulently or without due authority attempts to do any of the aforesaid acts.

96. Interference with secrecy of voting.---A person is guilty of an offence punishable with imprisonment which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, if he:

- (a) interferes or attempts to interfere with a voter when he records his vote;
- (b) in any manner obtains or attempts to obtain, in a polling station, information as to the candidate for whom a voter in that station is about to vote or has voted; or
- (c) communicates at any time any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted.

97. Failure to maintain secrecy.---Any candidate or polling agent attending a polling station, or any person attending the counting of votes, is guilty of an offence punishable with imprisonment which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, if he-

- (a) fails to maintain or aid in maintaining the secrecy of voting; or
- (b) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

98. Conduct of officials.---A presiding officer, polling officer or any other officer or official performing a duty in connection with an election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand rupees, or with both, if he, during the conduct or management of an election or maintenance of order at the polling station:

- (a) persuades any person to give his vote;
- (b) dissuades any person from giving his vote;
- (c) influences in any manner the voting of any person;

- (d) does any other act calculated to further or hinder the election of a candidate;
- (e) fails to maintain or aid in maintaining the secrecy of voting;
- (f) communicates, except for any purpose authorised by any law, to any person before the poll is closed any information as to the name or number on the electoral roll of any voter who has or has not applied for a ballot paper, or has or has not voted at a polling station; and
- (g) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

99. Breach of official duty in connection with election.---A presiding officer, assistant presiding officer, or any other person employed by any such officer in connection with his official duties imposed by or under this Act is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, if he, willfully and without reasonable cause, commits breach of any such official duty, by act or omission.

100. Assistance by Government servants.---A person in the service of Government, the federal government, a local government, or a body owned or controlled by the Government, federal government or a local government is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand rupees, or with both if he, in any manner, gives any assistance calculated to further or hinder the election of a candidate.

101. Summary trial.---All offences under this Chapter except the offence of corrupt practice shall be tried summarily under the provisions of the Code of Criminal Procedure 1898 (Act V of 1898).

102. Cognizance.--- No court shall take cognizance of the offences relating to conduct of officials and breach of official duty except on the complaint in writing of the Returning Officer concerned.

103. Prosecution of offences under this Chapter.---Save as otherwise provided no court shall take cognizance of an offence under this chapter except upon a complaint in writing made by order or, or under authority from, the Election Commission.

CHAPTER – XV
MANAGING TRANSITION

104. Administrative Transition.---(1) On coming into force of this Act, any office, authority or municipal body set up or controlled by Government shall continue providing services without any interruption during the devolution process or its entrustment to any local government under this Act.

(2) All functionaries of district councils, municipal corporation, municipal committees and union councils set up under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012), shall continue to perform their respective duties and responsibilities with the successor local government under this Act, until transferred to any other local government.

105. Employees salaries not to be reduced on transfer, etc.---(1) On allocation, re-allocation or transfer of the employees of the Government, municipal corporation, district councils, municipal committees and union councils or any other authority, agency or body to any local government established under this Act, the salaries, emoluments and pensions of such employees shall not be reduced on such allocation, re-allocation or transfer.

(2) The Government shall ensure the payment of salaries, emoluments and pensions of the employees referred to in sub-section (1), including the employees of the Local Council Service and the Servants of Local Councils set up under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012) till such time as Government may deem appropriate.

106. Bar on recruitments.---(1) During the transition period specified in this Act and till the adjustment for optimal utilization of all employees of the Government, Local Council Service and Servants of Local Councils, no fresh recruitment shall be made to fill any vacancy in local governments set up under this Act, except with the express sanction of government;

(2) Government shall make available the services of the employees placed in its surplus pool for utilization in the offices devolved to local governments.

(3) Local governments shall utilize the services of the employees of the Local Councils set up under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012) for meeting the shortfall in the offices of local governments.

107. Financial transition.---(1) All taxes and rents which were being charged, levied and collected by any office of Government, development authority, agency or any local council, shall continue to be charged, levied and collected under this Act by the successor local governments and every person liable to pay such taxes and

rents and accumulated arrears and receivables shall continue to make payment thereof until revised, withdrawn or varied under this Act.

(2) Where any local council established under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012), was receiving any grant or any compensation in lieu of octroi, toll tax, export tax, or any other tax, the successor local government under this Act shall continue to receive such grant or compensation.

108. Transitional timeframe.---All actions required for giving effect to the provisions of this Act and transition to the local government system set up there under shall be completed within one year of the commencement of this Act.

CHAPTER – XVI MISCELLANEOUS

109. Complaint Cell.---Every district government, tehsil municipal administration, village council and neighbourhood council shall set up a complaint cell for redressal of grievances within the ambit of their responsibilities under this Act.

110. Training.---The Nazimeen, Naib- Nazimeen, members of the local councils and functionaries in local governments shall attend training courses for such periods and in such manner and at such places as may be prescribed by Government.

111. Appeals.---Any person aggrieved by any order passed by a local government or its functionaries, in pursuance of this Act or the rules or bye-laws made there under, may appeal to such authority, in such manner and within such period as may be specified.

112. Rules.---(1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the fore-going power, such rules may provide for all or any of the matters specified in Part –I of Seventh Schedule.

(3) The rules made under sub-section (1) shall be subject to previous publication in the official Gazette and shall meet the following considerations:-

- (a) consistency with the provisions of this Act, democratic decentralization and subsidiarity;
- (b) enhancement of welfare of the people;

- (c) fairness and clarity; and
- (d) natural justice and due process of law.

113. Bye-laws.---(1) A district council, tehsil council, village council and neighbourhood council may, in their ambit of responsibilities, make bye -laws to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the matters specified in Part-II of the Seventh Schedule:

Provided that the Government may make model bye-laws on any, some or all of relevant subjects for the sake of uniformity.

114. Members and servants to be public servants.---All Nazimeen, Naib-Nazimeen, members of the local councils, functionaries of the local governments and every other person duly authorized to act on behalf of the local governments shall be public servants within the meanings of section 21 of the Pakistan Penal Code (Act XIV of 1860) and shall be subject to the provisions of sections 161 to 169 of the said Code.

115. Delegation of Powers.---A Nazim may delegate any of his powers, including financial powers, under this Act or the rules or bye-laws to any of the officer in the local government fully or partly and subject to such restrictions or conditions as he may deem fit, after approval by the local council.

¹[**115A. Outsourcing of functions.**---Government may, by notification, exclude any of the functions assigned to the City District Government, District Government, Tehsil Municipal Administration or Town Municipal Administration, as the case may be, and outsource these functions to any authority, firm or company on such terms and conditions as it may determine in accordance with the existing laws or rules in force in the Province.]

116. Action taken in good faith.---No suit, prosecution, or other legal proceedings shall lie against any public servant serving in local governments for anything done in good faith under this Act.

Explanation: The word “good faith” shall have the same meaning as given to it in section 52 of the Pakistan Penal Code.

¹Inserted vide Khyber Pakhtunkhwa Act No. XXIX of 2015

117. General powers of local governments, etc.---(1) Every local government shall perform its functions conferred by or under this Act.

(2) Government shall specify general powers and standard procedures to guide local governments in performance of their functions.

118. Local Council Board.---(1) Until otherwise decided by the Government, the Local Council Board established under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012), for the administration of the Local Council Service and Servants of Local Councils shall continue to function.

(2) Government shall, within one year after commencement of this Act, provide for service structure of the Local Council Service and the Servants of Local Councils including specification of posts to be filled through Khyber Pakhtunkhwa Public Service Commission.

119. Act to override other laws on the subject.---The provisions of this Act shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

120. Repeal and saving.---(1) Soon after the commencement of this Act, the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012) shall stand repealed and all Local Councils created under the said law shall stand dissolved.

(2) Save as otherwise specifically provided, nothing in this Act, or any repeal effected thereby shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order, rule, regulation, bye-laws appointment, conveyance, mortgage, deed, document or agreement and contract made or saved, fee levied, tax imposed or assessed, scheme prepared or executed, resolution passed, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any law repealed or amended by this Act and any such thing, action, investigation, proceedings, order, rule, regulation, bye-laws appointment, conveyance, mortgage, deed, document, agreement, contract fee, tax, resolution, direction, proceedings or instrument suits, right or claims shall, if in force at the commencement of this Act and not inconsistent with any of the provisions of this Act, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed, passed, given, executed instituted, acquired or issued under this Act.

121. Succession.---(1) On commencement of this Act, the following local governments shall succeed the rights, assets and liabilities of the local councils established or continued under the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act. No. VIII of 2012):

- (a) in the case of municipal corporation, municipal committee, university town and district council in Peshawar district by the city district government, Peshawar;
- (b) in the case of district councils in districts other than Peshawar, by the respective district governments;
- (c) in the case of municipal committees for urban areas in districts other than Peshawar by the respective tehsil municipal administration;
- (d) in case of union councils in rural areas of the province by village councils to the extent of functions assigned to them within their area of responsibility; and
- (e) in case of union councils in areas with urban characteristics by the neighbourhood councils to the extent of functions assigned to them within their area of responsibility.

(2) The Local Government Elections and Rural Development Department, Government of Khyber Pakhtunkhwa shall retain and continue to exercise administrative control over Local Area Development Authorities in the province.

(3) Government or an officer designated by Government shall, within one hundred and eighty days of the commencement of this Act, divide rights, assets and liabilities of the local councils including adjustment of the staff amongst the local governments and the decision of Government or of the designated officer shall be final.

122. Certain matters to be prescribed.---Where this Act makes any provision for anything to be done but no provision or no sufficient provision has been made as respects the authority by whom, or the manner in which it shall be done, then it shall be done by such authority and in such manner as may be specified.

123. Removal of difficulty.---Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

FIRST SCHEDULE

[See section 12]

PART-A**Devolved Office**

- (i) Primary and Secondary Education
- ¹[(ii) Deleted]
- ²[(iii) Deleted]
- ³[(iv) Deleted]
- (v) Mother and Child Health Care Centers
- (vi) Basic Health Units
- (vii) Rural Health Centers
- (viii) Social Welfare
- ⁴[(ix) Deleted]
- ⁵[(x) Sports, Culture and Youth Affairs]
- (xi) Revenue & Estate
- (xii) Agriculture (Extension)
- (xiii) Livestock
- (xiv) On-Farm Water Management
- (xv) Soil Conservation ⁶[Deleted]
- (xvi) Fisheries
- (xvii) Cooperatives
- ⁷[(xviii) Deleted]
- (xix) Hospitals other than District Headquarters, Teaching and Tertiary Hospitals
- (xx) Rural Development & Rural Works
- (xxi) Communication and Works, District Roads and Buildings
- (xxii) Public Health & Public Health Engineering
- (xxiii) Population Welfare
- (xxiv) Coordination, Human Resource Management, Planning, Development, Finance and Budgeting functions for the devolved offices

PART –B**ADDITIONAL GROUP OF OFFICES IN CITY DISTRICT**

- (i) Public Transport Public transportation and mass transit
Passenger and freight transit terminals

¹Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015²Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015³Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015⁴Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015⁵Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2015⁶Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015⁷Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2015

Traffic planning, engineering and parking

Note: Depending upon the economies of scale and nature of infrastructure the City District Government may vary grouping of offices contained in Part-C and set up district municipal offices for integrated development and management of the following services:

- (a) Water source development and management, storage, treatment plants, and macro-distribution;
- (b) Sewage tertiary and secondary network, treatment plants, and disposal;
- (c) Storm water drainage network and disposal;
- (d) Flood control protection and rapid response contingency plans;
- (e) Natural disaster and civil defense planning;
- (f) Solid waste management, treatment and disposal, including land fill sites and recycling plants;
- (g) Industrial and hospital hazardous and toxic waste treatment and disposal;
- (h) Environmental control, including control of air, water, and soil pollution in accordance with federal and provincial laws and standards;
- (i) Master planning, land use, zoning and classification, reclassification;
- (j) Urban design and urban renewal programme; promulgation of building rules and planning standards;
- (k) Parks, forests, play grounds, sporting, and other recreational facilities;
- (l) Museums, art galleries, libraries, community and cultural centers;
- (m) Conservation of historical and cultural assets;
- (n) Landscape, monuments, and municipal ornamentation;
- (o) Urban and housing development, including urban improvement and upgrading, and urban renewal and redevelopment, with care being taken to preserve historical and cultural monuments;

(p) Regional markets and city-wide commercial centers.

**SECOND
SCHEDULE**[See sections
17 & 24]**Part-A**

District	General	Women	Peasants/ Workers	Minorities	Youth	Total
Peshawar	92	31	5	5	5	138
Haripur	45	15	3	3	3	69
Nowshera	47	16	3	3	3	72
Charsadda	49	17	3	3	3	75
Swabi	56	19	3	3	3	84
Mardan	75	25	4	4	4	112
Kohat	32	11	2	2	2	49
Karak	21	7	2	2	2	34
Hangu	19	7	1	1	1	29
Bannu	49	17	3	3	3	75
Lakki Marwat	33	11	2	2	2	50
DI Khan	49	16	3	3	3	74
Tank	16	6	1	1	1	25
Abbottabad	51	17	3	3	3	77
Mansehra	59	20	3	3	3	88
Battagram	20	7	1	1	1	30
Swat	67	22	4	4	4	101
Buner	29	9	2	2	2	44
Shangla	28	10	2	2	2	44
Chitral	24	8	2	2	2	38
¹ [Dir-Upper	32	10	2	2	2	48]
Malakand	28	10	2	2	2	44
² [Kohistan	16	6	1	1	1	25]
³ [Kohistan- Lower	23	8	2	2	2	37]
Dir-Lower	41	13	2	2	2	60
⁴ [Torghar	16	5	1	1	1	24]

¹Substituted vide Khyber Pakhtunkhwa Act No. XXI of 2014²Substituted vide Khyber Pakhtunkhwa Act No. XI of 2015³Inserted vide Khyber Pakhtunkhwa Act No. XI of 2015⁴Substituted vide Khyber Pakhtunkhwa Act No. XXI of 2014

Part-B

Tehsil	General	Women	Peasants /	Minorities	Youth	Total
Peshawar	92	31	5	5	5	138
Charsadda	25	9	2	2	2	40
Tangi	12	4	1	1	1	19
Shabqadar	12	4	1	1	1	19
¹ [Nowshera	20	7	1	1	1	30]
² [Jehangira	12	4	1	1	1	19]
Pabbi	15	5	1	1	1	23
Kohat	25	9	2	2	2	40
Lachi	7	3	1	1	1	13
Karak	9	3	1	1	1	15
Banda Daud Shah	5	1	1	1	1	9
Takht-e-Nusrati	7	3	1	1	1	13
Hangu	10	4	1	1	1	17
Thall	9	3	1	1	1	15
Bannu	43	15	3	3	3	67
Domel	6	2	1	1	1	11
Lakki Marwat	24	8	2	2	2	38
Sari Naurang	9	3	1	1	1	15
D.I Khan	21	7	2	2	2	34
Pahar Pur	11	4	1	1	1	18
Parwah	7	3	1	1	1	13
Kulachi	5	1	1	1	1	9
Daraban (Kala)	5	1	1	1	1	9
Tank	16	6	1	1	1	25
Mardan	46	16	3	3	3	71
Takht Bhai	17	6	1	1	1	26
Katlang	12	4	1	1	1	19
Swabi	14	5	1	1	1	22
Lahor	11	4	1	1	1	18
Topi	11	4	1	1	1	18
Razzar	20	7	1	1	1	30
³ [Abbottabad	38	13	2	2	2	57]
⁴ [Havailian	13	5	1	1	1	21]
Haripur	37	13	2	2	2	56
Ghazi	8	3	1	1	1	14
Mansehra	36	12	2	2	2	54

¹Substituted vide Khyber Pakhtunkhwa Act No. XXI of 2014²Inserted vide Khyber Pakhtunkhwa Act No. XXI of 2014³Substituted vide Khyber Pakhtunkhwa Act No. XI of 2015⁴Substituted vide Khyber Pakhtunkhwa Act No. XI of 2015

Ogi	11	4	1	1	1	18
Ballakot	12	4	1	1	1	19
Judbah	7	3	1	1	1	13
¹ [Hassanzai	9	3	1	1	1	15]
Battagram	12	4	1	1	1	19
Allai	8	3	1	1	1	14
Palas	13	5	1	1	1	21
Dassu	11	4	1	1	1	18
Pattan	10	4	1	1	1	17
Kandia	5	1	1	1	1	9
Babuzai	17	6	1	1	1	26
Matta Shamozi	13	5	1	1	1	21
Khwarzakhela	7	3	1	1	1	13
Behrain	8	3	1	1	1	14
Kabal	12	4	1	1	1	19
Charbagh	5	1	1	1	1	9
Bari Kot	5	1	1	1	1	9
Alpuri	19	7	1	1	1	29
Puran	9	3	1	1	1	15
² [Dir-Upper	13	4	1	1	1	20]
Kalkot	5	1	1	1	1	9
Wari	9	3	1	1	1	15
Barawal	5	1	1	1	1	9
Taimarghra	6	2	1	1	1	11
Samar Bagh	6	2	1	1	1	11
Adnezai	8	3	1	1	1	14
Lal Qila	5	1	1	1	1	9
Khall	5	1	1	1	1	9
Balambat	6	2	1	1	1	11
Munda	5	1	1	1	1	9
Chitral	14	5	1	1	1	22
Mastoj	10	4	1	1	1	17
Daggar	10	4	1	1	1	17
Gagra	9	3	1	1	1	15
Khado Khel	5	1	1	1	1	9
Totali (Mandan)	5	1	1	1	1	9
Batkhela	17	6	1	1	1	26
Dargai	11	4	1	1	1	18

¹Substituted vide Khyber Pakhtunkhwa Act No. XXI of 2014²Substituted vide Khyber Pakhtunkhwa Act No. XXI of 2014

THIRD SCHEDULE

[See section 42]

Part - I

DISTRICT GOVERNMENT

1. Tax for Education and Health.
2. Any other tax authorized by the Government.
3. Local rate on lands assessable to land revenue.
4. Fees in respect of educational and health facilities established or maintained by the District Government.
5. Fee for licenses or permits and penalties or fines for violations.
6. Fees for specific services rendered by a district government.
7. Collection charges prescribed for recovery of tax on behalf of the government, other local governments or any statutory authority.
8. Toll on roads, bridges, ferries maintained by District Government.
9. Rent for land, buildings, equipment, machinery, and vehicles owned by the District Government.
10. Fee for major industrial exhibitions and other public events organized by the District Government.

Part - II

CITY DISTRICT GOVERNMENT

1. Taxes enumerated in Part-I.
2. Fee on advertisements, other than on radio and television, and bill-boards.
3. Fee for approval of building plans, erection and re-erection of buildings.
4. Charges for execution and maintenance of works of public utility lighting of public places, drainage, conservancy and water supply operated and maintained by City District Government.

Part - III
TEHSIL MUNICIPAL
ADMINISTRATION

1. Local tax on services.
2. Fee on sale of animals in cattle markets.
3. Market Fees.
4. Tax on the transfer of immovable property.
5. Urban Immovable Property Tax as specified in this Act.
6. Fee for fairs, agricultural shows, cattle fairs, industrial exhibitions, tournaments and other public events organized by Tehsil Municipal Administration.
7. Fee for licenses or permits and penalties or fines for violations.
8. Fee on cinemas, dramatical, theatrical shows and tickets thereof, and other entertainment.
9. Collection charges prescribed for recovery of any tax on behalf of the Government, other local governments or any statutory authority.
10. Rent for land, buildings, equipment, machinery and vehicles owned by Tehsil Municipal Administration.
11. Fee for specific services rendered by a Tehsil Municipal Administration.
12. Tax on vehicles other than motor vehicles registered in the Tehsil.
13. Fee on advertisements, other than on radio and television, and billboards.
14. Fee for approval of building plans, erection and re-erection of buildings
15. Charges for development, betterment, improvement and maintenance of works of public utility like lighting of public places, drainage, conservancy and water supply by Tehsil Municipal Administration.

Part - IV
TOWN MUNICIPAL
ADMINISTRATION

1. Taxes enumerated at Serial # 1 to 12 of Part-III.
2. Fee for approval of building plans, erection and re-erection of buildings with the approval of the City District Government.

Part-V
VILLAGE &
NEIGHBOURHOOD
COUNCILS

1. Prescribed fees for licensing of professions and vocations in the area of the Council.
2. Fees for registration and certification of births, marriages, and deaths.
3. Charges for specific services rendered by the Council.
4. Rate for the remuneration of Village and Neighbourhood guards.
5. Rate for the execution or maintenance of any work of public utility like lighting of public places, drainage, conservancy and water supply operated by the Council.
6. Conservancy charges.

FOURTH SCHEDULE
[See section 66]

**LIST OF OFFENCES WITH ENFORCEMENT JURISDICTION REQUIRING
COURT TRIAL
PART-I**

S.#	Offence
1.	Overcharging or illegally charging any tax, fee, fine, charge or rate by an employee of a local government or a contractor or his staff without the authority of a local government.
2.	Preparing or using counterfeit or proscribed Forms of the local government.
3.	Wilfully obstructing any officer or servant of a local government or any person authorized to exercise powers under this Act.
4.	Failure to deliver back possession of property to the local government on cancellation and expiration of lease.
5.	Doing an act without license or permission when the doing of such act requires a license or permission under this Act or the rules or bye-laws made under it.
6.	Evasion of payment of tax or other impost lawfully levied by a local government.
7.	Contravention of the prohibition or attempt or abetment of any of the offences in this Part

8.	Discharging any dangerous chemical, inflammable, hazardous or offensive article in any drain, or sewer, public water course or public land vested in or managed, maintained or controlled by the local government in such manner as causes or is likely to cause danger to persons passing by or living or working in neighbourhood, or risk or injury to property.
9.	Failure of industrial or commercial concerns to provide adequate and safe disposal of affluent or prevention of their mixing up with the water supply or sewerage system.
10.	Supplying or marketing drinking water for human consumption in any form, from any source which is contaminated or suspected to be dangerous to public health, or its use has been prohibited by a local government on the ground of being unsafe for human consumption, or whose quality and suitability for human consumption has not been ascertained and certified by a laboratory authorized by the Government.
11.	Cultivation of agriculture produce or crop, for supply or sale to public using such manure, or irrigating it with sewer water or any such liquid as may be injurious to public health or offensive to the neighbourhood.
12.	Violation of the prohibitions provided in the Master Plan, the sanctioned Site Development Schemes under this Act or any other law for the time being in force including plans and schemes sanctioned under the repealed
13.	Adulteration of any eatable or drinkable or consumable item sold or supplied to the public.
14.	Manufacturing, trading, storing or supplying any eatable or drinkable item and other items unsafe for human consumption or public health.
15.	Without license from relevant authority manufacturing, storing, trading or carrying fire crackers, fire balloons or detonators or any dangerous chemical, inflammable, hazardous or offensive article or material.
16.	Immovable encroachment in or on or under any property or any open space or land vested in or managed, maintained or controlled by a local government.
17.	Erection or re-erection of building over set back area or parking area or building line area required to be left open under the rules or using such space for any purpose which is not approved.
18.	Changing or converting into any other use any portion of a commercial building or area specified or earmarked for public parking.

19.	Failure to demolish or otherwise secure a building declared by the local government to be dangerous.
20.	Establishing any parking stand on any property or on any open space and public park or land vested in or managed, maintained or controlled by a local government on or under a street, road, graveyard or a drain without
21.	Quarrying, blasting, cutting timber or carrying building operations in such manner as causes or is likely to cause danger to persons passing by or living or working in the proximity.
22.	Erection or re-erection of a building without the sanction required under this Act or using a building for a purpose which may endanger the security of people.
23.	Dyeing or tanning skins within such distance of any commercial or residential areas as may be specified by the local government.
PART-II	
S.#	Offence
24.	Contravention of the prohibition or attempt or abetment of any of the offences in this Part.
25.	Manufacturing, keeping, storing or selling wire thread or any other material meant for kite flying or in the manner causing danger to the human life or the electric installations or disruption in electric supply.
26.	Preparation and sale of article or articles of food or drink by a person apparently suffering from any infectious or contagious disease that may endanger the health of people.
27.	Establishing any cattle market without permission of the local government.
28.	Establishing any bus, wagon, taxi or other commercial motorized or non- motorized vehicle stand for the purpose of plying them on different routes on any road, street, footpath, public place or any other property vested or managed or controlled or maintained by a local government without its permission.
29.	Establishing or running any restaurant or vending stalls for eatables on any road, street, footpath, public place, over a drain, or any other property vested in or managed or controlled or maintained by a local government without its permission.
30.	Establishing a brick kiln and lime kiln within such distance of a residential area as may be specified by the local government.

31.	Cutting down of any tree, or erection or demolition of any building or part of a building where such action is declared under this Act to be a cause of danger or annoyance to the public.
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FIFTH SCHEDULE

[See section 66 & 68]

OFFENCES WHERE TICKET CAN BE ISSUED

S.#	Offence	Amount of Fine
1.	Neglect in safe storage of eatable, drinkable and other consumable items sold or supplied to the public.	Rs. 2,000
2.	a. Fixing of wooden <i>khokhas</i> , and temporary shops or extension thereof on footpaths or beyond the street line. b. Plying of handcarts for the sale of goods without permission.	Rs.1,000 Rs.200
3.	Failure by the owner or occupier of any land to clear away and remove any vegetation declared by a local government to be injurious to health or offensive to neighbourhoods.	Rs. 500
4.	Slaughtering of animals for the sale of meat at a place other than the place set apart for the purpose.	Rs. 500
5.	Without the permission of the local government causing or knowingly or negligently allowing the contents of any sink, sewer or cesspool or any other offensive matter to flow, or drain or to be put upon any street, or public place, or into irrigation channel or any sewer or drain not set apart for the purpose.	a. Rs. 2,000 in case of commercial concerns. b. Rs.500 for others.
6.	Keeping or maintaining any cattle in any part of the prohibited zone or failure to remove the cattle from the prohibited zone within the specified time when an order to this effect has been made.	Rs. 500
7.	Keeping ferocious dogs or other animals in residential areas or taking such animals to public places or the areas specified by the local government, without leash or chain and without being muzzled or to set at large any animal or dog infected with rabies or any other infectious disease.	Rs. 500

8.	Obstructing or tampering with any road, street, drain or pavement.	Rs. 2,000
9.	Obstructing or tampering with any main pipe, meter or any apparatus or appliance for the supply of water or sewerage system.	Rs. 2,000
10.	Without previous sanction of the local government- laying out a drain or altering any drain in a street or road; connecting any house drain with a drain in a public street; and drawing off, diverting or taking any water.	Rs. 1,000
11.	Excavation of earth, stone or any other material within such distance of the residential area as specified by the local government.	Rs. 1,000
12.	Burying or burning a dead body at a place which is not a public or registered burial or burning place, except with the sanction of the local government.	Rs. 1,000
13.	Failure to furnish, on requisition, information in respect of any matter which a local government is authorized to call for under any of the provisions of the Act, rules or bye-laws or furnishing wrong information.	Rs. 500
14.	Obstructing lawful seizure of animals liable to be impounded on the ground of violations of rules or by-laws governing the picketing, tethering, keeping, milching or slaughter of animals or their trespass of private or public property.	Rs. 500
15.	Picketing, parking animals or collecting carts or vehicles on any street, using any street as a halting place for vehicle or animals or as a place for encampment without permission of the local government.	Rs. 500
16.	Causing or permitting animals to stray or keeping, tethering, stalling, feeding or gazing any cattle on any road, street or thoroughfare or in any public place or damaging or causing or permitting to be damaged any road, street or thoroughfare by allowing cattle to move thereon.	Rs. 500
17.	Disposal of carcasses of animals within prohibited distance.	Rs. 500
18.	Failure to dispose of offal, fat or any organ or part of a dead animal in a place set apart for the purpose by the local government.	Rs. 500

19.	Throwing or placing any refuse, litter or garbage on any street, or in any place, not provided or appointed for the purpose by a local government.	Rs. 500
20.	Failure to provide for disposal of litter or garbage inside or outside a shop by its owner.	Rs. 500
21.	Failure to maintain clean premises of the area in front of a shop, office or factory up to the public street or road serving this facility.	Rs. 1000
22.	Watering cattle or animals, or bathing or washing at or near a well or other source of drinking water for the public.	Rs. 500
23.	Steeping hemp, jute or any other plant in or near a pond or any other excavation within such distance of the residential area as may be specified by a local government.	Rs. 1,000
24.	Failure to provide, close, remove, alter, repair, clean, disinfect or put in proper order any latrine, urinal drain, cesspool or other receptacle for filth, sullage, water or refuse by an owner of a house, shop, office, industry or premises.	Rs. 3,000 for commercial concerns Rs.500 for house
25.	Failure to clean the premises, houses, shops and cultivated lands of the plastic bags and other non-perishable materials.	Rs. 500
26.	Damaging or polluting physical environment, inside or outside private or public premises, in a manner to endanger public health.	Rs. 2,000 for public premises Rs.500 for private premises
27.	Failure by the owner or occupier of any land to cut or trim the hedges growing thereon which overhang any well, tank or other source from which water is derived for public use.	Rs. 500
28.	Failure by the owner or occupier of any land or building to clean, repair, cover, fill up or drain off any private well, tank or other source of water supply, which is declared under this Act to be injurious to health or offensive to the neighbourhood.	Rs. 1,000
29.	Failure to stop leakages of water pipes, faucets and sanitary fittings resulting in dirty water pools affecting physical environment and breeding of mosquitoes.	Rs. 1,000
30.	Failure of an owner or occupier of any building or land to put up and keep in good condition troughs and pipes for receiving or carrying water or sullage water.	Rs. 1,000

31.	Feeding or allowing to be fed an animal meant for dairy or meat purposes, on deleterious substance, filth or refuse of any kind which is dangerous to health of consumers.	Rs. 1,000
32.	Defacing or disturbing any direction-post, lamp post or lamp extinguishing or any light arranged by a local government without due authority.	Rs. 1,000
33.	Fixing or allowing the fixing of any bill, notice, play card, poster or other paper or means of advertisement against or upon any private or public building or place other than the places fixed for the purpose by a local government.	Rs. 1,000
34.	Exhibiting any obscene advertisement.	Rs. 1,000
35.	Loud playing of music or radio, beating of drum or tom-tom, blowing a horn or beating or sounding any brass or other instruments or utensils in contravention of any general or special prohibition issued by a local government or a hospital or an educational institution.	Rs. 1,000
36.	Loud shouting in abusive language causing distress to the inhabitants of a neighbourhood or village or any other public place.	Rs. 1,000
37.	Using or allowing the use for human habitation of a building declared by a local government to be unfit for human habitation.	Rs. 1,000
38.	Failure to lime-wash or repair a building, if so required by local government.	Rs. 1,000
39.	Begging importunately for alms by exposing any deformity or disease or any offensive sore or wound to solicit charity.	Rs. 500
40.	Causing or permitting to be caused by any owner or keeper of an animal who through neglect or otherwise damage any land or crop or produce of land, or any public road, by allowing such animal to trespass thereon.	Rs. 1,000
41.	Selling cattle and animals in contravention of any law, rule or by-laws of a local government.	Rs. 1,000
42.	Kite flying in contravention of any general or specific prohibition issued by local governments.	Rs. 300

43.	Keeping pigeon or other birds in a manner causing danger to air traffic.	Rs. 500
44.	Digging of public land without the permission in writing of local government.	Rs. 1,000
45.	Contravention of the prohibition or direction of the local government issued under the Act.	Rs. 500
46.	Attempt or abetment of any of the offences in this Schedule.	Same as for the offence specified in the Schedule

SIXTH SCHEDULE
[See section 68]
FORM OF TICKET

<p>Name & Address of the Offender: _____</p> <p>NIC No. _____</p> <p>Particulars of Offence:(Section of Law with details of offences: _____</p> <p>Date of commission of Offence: _____</p> <p>Amount of Fine: Rs. _____ (in letters)</p> <p>Date by which the Fine is to be paid _____</p> <p><i>(Note: The amount of fine shall be deposited in Bank)</i></p> <p>Corrective actions ordered: _____</p> <p>Name of the Court having jurisdiction: _____</p> <p>Signature or Thumb Impression of the Offender: _____</p> <p>Signatures and seal of Enforcement Officer _____</p> <p><u>Copy-1</u> (To be retained by Enforcement Officer)</p>	<p>Name & Address of the Offender: _____</p> <p>NIC No. _____</p> <p>Particulars of Offence:(Section of Law with details of offences: _____</p> <p>Date of commission of Offence: _____</p> <p>Amount of Fine: Rs. _____ (in letters)</p> <p>Date by which the Fine is to be paid _____</p> <p><i>(Note: The amount of fine shall be deposited in Bank)</i></p> <p>Corrective actions ordered: _____</p> <p>Name of the Court having jurisdiction: _____</p> <p>Signature or Thumb Impression of the Offender: _____</p> <p>Signatures and seal of Enforcement Officer _____</p> <p><u>Copy-2</u> (To be retained by Offender on payment of fine)</p>	<p>Name & Address of the Offender: _____</p> <p>NIC No. _____</p> <p>Particulars of Offence:(Section of Law with details of offences: _____</p> <p>Date of commission of Offence: _____</p> <p>Amount of Fine: Rs. _____ (in letters)</p> <p>Date by which the Fine is to be paid _____</p> <p><i>(Note: The amount of fine shall be deposited in Bank)</i></p> <p>Corrective actions ordered: _____</p> <p>Name of the Court having jurisdiction: _____</p> <p>Signature or Thumb Impression of the Offender: _____</p> <p>Signatures and seal of Enforcement Officer _____</p> <p><u>Copy-3</u> (To be returned to Enforcement Officer by offender after payment within ten days)</p>	<p>Name & Address of the Offender: _____</p> <p>NIC No. _____</p> <p>Particulars of Offence:(Section of Law with details of offences: _____</p> <p>Date of commission of Offence: _____</p> <p>Amount of Fine: Rs. _____ (in letters)</p> <p>Date by which the Fine is to be paid _____</p> <p><i>(Note: The amount of fine shall be deposited in Bank)</i></p> <p>Corrective actions ordered: _____</p> <p>Name of the Court having jurisdiction: _____</p> <p>Signature or Thumb Impression of the Offender: _____</p> <p>Signatures and seal of Enforcement Officer _____</p> <p><u>Copy-4</u> (To be sent by the Bank to the local Accounts Officer)</p>
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SEVENTH SCHEDULE

[See sections 112 and 113]

Part - I Rules

1. Local Government (Conduct of Elections);
2. Local Government (Taxation);
3. Local Government (Servants);
4. Local Government (Budget and Accounts);
5. Local Government (Contracts);
6. Local Government (Works & Services);
7. Local Government (Development Authorities);
8. Local Government (Regulation of Site Development Schemes);
9. Local Government (Monitoring & Supervision);
10. Local Government (Provision of Information and Transparency);
11. Local Government (Internal Audit);
12. Local Government (Public Private Partnership);
13. Local Government (Conduct of Inspections).
14. Local Government (Elected Officials Conduct);
15. Local Government (Procurement);
16. Local Government (Fiscal Transfers);
17. Local Government (Registration of births, deaths and marriages; and
18. Any other set of rules necessary for implementation of this Act.

Part – II Bye-laws

1. Conduct of Business and Conduct of Meetings
2. Zoning, master planning, and buildings.
3. Dangerous buildings and structures.
4. Prevention of encroachments.
5. Elected officials remuneration and allowances
6. Agricultural Development

7. Community Development and Social Welfare.
8. Registration of sale and control of cattle and animals.
9. Registration, management and regulation of orphanages, widow homes, senior citizens homes, homes for the mentally ill, and women in distress.
10. Regulation of burial and cremation places.
11. Slaughter of animals and maintenance of slaughterhouses.
12. Prevention of adulteration of foodstuffs.
13. Animal husbandry and milk supply.
14. Prevention and abatement of nuisances.
15. Dangerous and offensive articles and trades as indicated in the **Annexure**.
16. Regulation of traffic.
17. Organization and regulation of fairs, shows, tournaments and other public gatherings.
18. Prevention of beggary, juvenile delinquency and other social evils.
19. Licensing.
20. Regulation of Markets.
21. Libraries.
22. Parks and open places.
23. Prevention of air, water, noise, and soil pollution.
24. Forests and plantations.
25. Property Management.
26. Farm produce markets.
27. Encroachment on any public road, public street, or public place.
28. Picketing, parking animals or collecting carts or vehicles on any street.
29. Throwing or placing refuse on any street, or in any place not provided or appointed for the purpose.
30. Dyeing or tanning animal skins.
31. Tampering with any main, pipe, or any apparatus or appliance for the supply of water.
32. Excavation of earth, stone or any other material.
33. Disposing of carcasses of animals.

34. Use of sewer water for farming.
35. Flow or drain to be put upon any street, or public place, or into an irrigation channel or any sewer or drain not set apart for the purpose.
36. Fixing any bill, notice, placard, or other paper or means of advertisement against or upon any building or place other than the places fixed for the purpose.
37. Fixing of wooden khokhas, plying of handcarts for the sale of goods, and temporary or permanent shops or extensions thereof on footpaths or beyond the street line.
38. Pollution of air, water or soil.
39. Watering cattle or animals, or bathing or washing at, or, near a well or other source of drinking water for the public.
40. Other matters as in the opinion of the District Council are necessary or expedient to be provided for in the bye-laws.

ANNEXURE

[See Serial # 15 Seventh
Schedule]

DANGEROUS AND OFFENSIVE ARTICLES AND TRADES

1. The business of storing or selling timber, firewood, coal, charcoal and coke, hay, straw, grass and bamboo, jute, shrub, hemp, munj and their products, matches, explosives, petrol, oil and lubricants, paper, ghee and other dangerously inflammable materials.
2. Sugar refining and sugar refineries.
3. Preparation of aerated water.
4. Operating or running bake houses.
5. Electroplating.
6. Welding.
7. Storing packing, pressing, cleaning, preparing or

manufacturing by any process whatever, blasting powder, ammunition, fireworks, gun-powder, sulphur, mercury, gases, gum, cotton, saltpeter, nitro compounds, nitro mixtures, phosphorous or dynamite.

8. Cleaning, dying, preparing or manufacturing by any process whatever, cloth or yarn in indigo and other colours.
9. Storing, processing, cleaning, crushing, melting, preparing or manufacturing by any process whatever or dealing in bones, tallow, offal, fat blood, soap, raw hides and skins, candles, manure, catgut and oil cloth.
10. Manufacturing oils.
11. Washings or drying wool or hair.
12. Making or manufacturing bricks, surkhi, tiles or earthenware pots, clay pipes or other earthenware by any process of baking or burning.
13. Burning or grinding of limestone or metal stone or storing of lime for sale.
14. Cleaning or grinding of grain or chilies by any kind of class of machinery.
15. Keeping animals likely to create nuisances.
16. Fell mongering.
17. Casting of heavy metals such as iron, lead, copper and brass.
18. Dealing in poisons, acid, chemicals, liquid or otherwise.
19. Wholesale storing, cleaning, pounding and selling of tobacco except the storing of tobacco required for the preparation of biddis, cigars or cigarettes.
20. Operating or running tin factories.
21. Manufacture of safes, trunks and boxes.
22. Marble cutting and polishing.
23. Glass leveling and polishing.

24. Manufacture of cement and hume pipes.
25. Storing, packing, pressing, cleaning, preparing or manufacturing by any process whatever, rags, pitch, tar, turpentine demmar, coconut, fibre, flax, hemp, rosin or spirit.
26. Tanning, pressing or packing hide or skins whether raw or dry.
27. Trade or operation of Ferries.
28. Working of power-looms, rice husking plants, steam whistle, steam trumpet or electric or hand operated sirens beyond hours fixed for their operation by a local government.
29. Discharging firearms and letting off fire-works, fire balloons or detonators or any game dangerous to life, dwelling and other property.
30. Any other article or trade declared by Government to be dangerous to life, health, or property or likely to cause nuisance either from its nature or by reason of the manner in which or the conditions under which, the same may be processed or carried on.