

THEW BHUTAN MUNICIPAL ACT, 1999

PART I

PRELIMINARY

Title

1. This Act shall be called the Bhutan municipal act, 1999.

Effective Date

2. The Act shall come into force with effect from 28 July 1999, corresponding to the Bhutanese 15th day of the 6th month of Earth female Hare year.

Purpose

3. The purpose of this act is to enable the establishment of Municipal corporations as legal entities with perpetual succession, and to confer on them such powers as required to forge partnerships between the Municipal Corporation, the residents, business and industry of the Municipality for effective development and governance of the Kingdom's urban communities.

Definitions

4. In this act, unless the context otherwise requires:

“Building or structure” means any physical erection on, above or below the land, including display signs and advertising boards.

“Committee” means a body that may be constituted in accordance with the provisions laid down in subpart 2, Part II of this Act.

“Competent Authority” means the authority that shall be specifically designed by the Royal Government for purpose of this Act.

“Development” means any change to the use of land, the construction of any building or structure, or the alteration to any building or structure.

“Geographical Area” means an area within the Municipality demarcated either by natural or man-made boundaries, designated for the purpose of administration.

“Government Purpose” means a purpose as may be defined from time to time, by the Royal Government. Regarding this Act, Government purpose will include setting up of projects such as, hospitals, industries and any other similar public utilities.

“Incorporation” means, formal approval to the charter of the Municipal Corporation by the Royal Government.

“Land Acquisition” means acquisition of any land or property within the municipal boundaries in accordance with the procedures established by the Royal government.

“Land” means the soil including building or other structures erected on the land, and all vegetation, but in accordance with THRIMSHUNG-CHHENPO does not include any minerals.

“Municipal Corporation” means a corporation incorporated under this act to implement the provisions of the act for the benefit of the residents of a community classified as a Municipality by the Royal government.

“Municipality” means area over which a Municipal Corporation has jurisdiction.

“Person” means any individual, partnership, company, government agency or other association of persons, which is recognized as a separate legal entity.

“Regulation” means subordinate by-laws adopted or enacted by the competent authority in accordance with the provision of an Act.

“Residents” mean Bhutanese citizens residing in the Municipality.

“Royal Government” means the Royal government of Bhutan as a whole or, depending on the context, a particular ministry, division, or any other agency of the government.

“Rules” means subordinate by-laws adopted by the Municipal Corporation in accordance with the provision of this Act.

“Thrompen” means the executive head of the Municipal Corporation.

“Urban Development Plan” means a strategic document outlining the existing and future development within a Municipality.

“Vesting date” means the date on which property, rights and liabilities of the Competent authority are transferred to and vested in a Municipal corporation.

Interpretation – Meaning of Expressions

5. Importing of masculine gender shall include the feminine gender; in the singular shall include plural and vice versa.

PART II

CONSTITUTION AND STRUCTURE OF THE MUNICIPAL CORPORATION

SUBPART I : CREATION OF THE MUNICIPAL CORPORATION

Purpose of Creation

6. The Royal government shall, under this act, create a Municipal Corporation, in accordance with an urban classification as determined from time to time provided the corporation will be able to effectively and equitably provide services, and promote the general well-being of the residents of the Municipality.

Charter

7. In pursuance of Section 6 of this Act, the competent Authority may recommend to the Cabinet to grant a charter stating the name, purpose, organization and other particulars of the Corporation. Granting of the charter as provided for in Schedule I of the Act shall constitute incorporation of the Municipality as the body corporate.

Dissolution of the Municipal Corporation

8. The Municipal Corporation may be dissolved by the Royal Government. Upon such dissolution, a competent Authority shall appointed to directly manage the affairs of the Municipal corporation.

SUB PART 2 : THE MUNICIPAL COMMITTEE (THRO GI TSOGPA).

General

9. The committee shall be the highest decision making body of the Municipal Corporation.

Functions

10. A committee, constituted under this act, shall have the following functions:
- i. to formulate policies and development priorities in respect of the functions of the Municipal Corporation.
 - ii. to adopt rules to enable the Municipal Corporation to carry out its function;
 - iii. to establish procedures and guide lines for the Municipal Corporation that are consistent with the laws and policies of the Royal government to operate efficiently and equitably;

- iv. to review and approve the annual budget, related proposals of the Municipal Corporation;
- v. any other functions that the Competent Authority or the Royal government may assign to the committee;
- vi. to promote traditional architecture.

Composition of the Committee

- 11. The committee shall consist of:
 - i. the chairperson who is appointed by the government;
 - ii. the Thrompen; and
 - iii. not more than nine other Committee members who are elected or appointed in accordance with this Act. This shall be decided in the Corporation charter.

SUBPART 3: ELECTION AND APPOINTMENT OF THE COMMITTEE MEMBERS (THUEME)

- 12. The Municipality may be divided into geographical areas depending on the size of the Municipality, for election or appointment purposes.

Election of Committee Members

- 13. Where the Regulations established by the Competent authority allow for all or some of the Committee Members to be elected, the following shall apply:
 - i. The Thrompen shall be responsible to conduct the election.
 - ii. The Thrompen shall set the date of the election not less than six weeks prior to the date chosen.
 - iii. The Thrompen shall immediately after the setting of the election date notify the residents of the Municipality of the forthcoming election and call for nominations of candidates.
 - iv. The Thrompen shall advise the residents on the number of Members to be elected to represent each geographical area.

Eligibility Criteria for voters

- 14. Person entitled to vote shall be Bhutanese citizen:

- a. who are registered in the census records of the Municipal and;
- b. who have been residents of the Municipality for not less than 5 consecutive years at the date of the election.

Election Procedures

- 15. Election shall be held for each geographical area.
- 16. Election shall be by consensus.
- 17. In the event that a consensus is not reached a secret ballot is to be held.
 - a. The candidate with the largest number of votes in his favour shall be the first Committee Member elected; the candidate with the second number of votes in his favour shall be the second Committee Member elected; and so on until the required number of Committee Members is elected.
 - b. In the event two or more candidate receives the same number of votes, the committee Member shall be determined by drawing of lots.
 - c. At the conclusion of the voting process, the Thrompen shall declare the results of the voting and the names of the Committee Members elected.

Appointment of Committee Members

- 18. Where the regulations to this Act require all or some of the Committee Members to be appointed, they shall be appointed by the competent Authority.

Eligibility Criteria for Committee Members

- 19. Persons eligible to be elected as Committee Members shall be:
 - i. Citizens of the Kingdom of Bhutan;
 - ii. At least 25 years of age;
 - iii. Persons of sound mind;
 - iv. Residents of the Municipality for not less than 5 consecutive years;
 - v. Person with established business house in the Municipality;
 - vi. Literate and able to articulate adequately the views of the residents that he represents and the Municipality's proposal and actions to them;
 - vii. Persons who have not been convicted of a criminal offenses;
 - viii. Person who are willing and able to devote sufficient time to the office of the Committee;
 - ix. Persons who have not been bankrupt within the past five years;
 - x. Person having respect for the nation's law and the Pelden Dukpa's Driglam Choesum.

Duration of Office

- 20 Except as provided for in Section 30, all Committee Members shall be elected or appointed for a period of three years, and shall be eligible for re-appointment.

Declaration of Office

- 21 A person elected or appointed to be a Committee Members is not entitled to act as a Committee Member unless he or she has made the following declaration: "I,.....declare that I will undertake the duties of the office of Committee Member in the best interests of the people in the Municipality of and faithfully and impartially carry out the functions, powers, authorities and discretion vested in me under this or other Act to the best of my skill and judgement".

- 22 The declaration must be:
- i. made before the Chairman; and
 - ii. recorded in the minutes of the Corporation meeting; and
 - iii. dated and signed before the chairman.

Termination of Office

- 23 Committee Member may have his office as a Member terminated by the competent authority at the request of the committee on the following grounds:
- i. The Committee member is absent* from meetings of the Corporation on more than three consecutive occasions without acceptable reason;
 - ii. The Member engages in behaviour likely to bring the Corporation in to disrepute;
 - iii. The Member is incapable of discharging his duties;
 - iv. The Member contravenes any of the terms of his appointment or the provision of this Act;
 - v. The Member submits a resignation letter to the Chairman.

Obligations of Committee Members

24. The Member shall:
- i. act honestly with due skills and care in the interest of the Corporation at all times;
 - ii Not make improper use of their position or the information acquired in their capacities.

Remuneration of committee Members

25. The Members shall be paid a sitting fee for each meeting attended, as determined by the Competent Authority but shall not receive any additional remuneration or salary

for carrying out their duties as Members.

Disclosure of interest

26. In a Member has a direct personal interest in a matter to be considered by the corporation, the member shall disclose the nature of the interest prior to the meetings of the Committee.
27. A disclosure under Section 26 shall be recorded in the minutes of the meeting and unless the Corporation determines otherwise, the members shall not:
- i. be present during any deliberation of the Committee in relation to the matter; or
 - ii. take part in any decision of the Committee in relation to the matter.
28. Section 26 does not apply to matters relating to the supply of goods or services by the Member if the same goods or services are available at the same terms and conditions to the members of public.

Extraordinary Vacancies

29. If the office of a Member becomes vacant because of the provision of section 23, or because of the death of a member an extraordinary vacancy is created.
30. The Competent authority shall appoint a member to fill the existing vacancy.
31. A Member so appointed to fill an extraordinary vacancy shall hold office only until the next election.

SUBPART 4: PROCEEDINGS OF THE COMMITTEE

32. All meetings of the Committee shall be chaired by the chairperson. In the absence of the Chairperson, an acting Chairperson shall be appointed by the Chairperson, and if that is not possible, the committee shall elect an Acting Chairperson for the meetings.
33. The committee shall hold at least two meetings in three months.
34. The initial meeting of the Committee shall be convened by the Chairperson, as soon as practicable after the election of the members.
35. Subsequent meetings shall be on a schedule agreed by the Committee at its first meeting subject to the rights of the chairperson to convene extraordinary meetings if sufficient reasons exist.

36. If deemed beneficial for the development and governance of the Municipality the Committee may invite any Municipal corporation staff member or official of the Royal Government *to participate in its meetings in an advisory capacity.*

Minutes of a Meeting

37. The following procedures shall apply for each meeting:
- i. Minutes of each meeting shall be recorded;
 - ii. Minutes shall be submitted to the next meetings for confirmation;
 - iii. If the minutes are confirmed the Chairperson at the meeting shall sign the minutes and certify that have been confirmed.

Notice of Meeting

38. The Members should be notified one week in advance of the meeting with an agenda.

Quorum

39. At least 2/3 of the members shall comprise a quorum.

Voting

40. Each Member present at the meeting shall have one vote and decisions shall be taken on a simple majority of votes. In the event of an equality of votes the chairperson shall exercise a casting vote.

SUBPART 5: THE THROMPEN AND THE EMPLOYEES OF THE MUNICIPAL CORPORATION

Duration of appointment.

41. The duration of the appointment of the Thrompen shall be at the discretion of the Royal government.

Duties

42. The Thrompen shall be the executive head of the Municipal Corporation.

The duties of the Thormpen shall include, but not be limited to, the following:

- i. Manage the affairs of the corporation under the direction of the Committee;

- ii. Supervise the day-to-day operations and administration of the Municipal Corporation;
- iii. Ensure the proper and adequate implementation of Corporation's rules and regulations;
- iv. Prepare annual budget, and ensure compliance of the approved budgets;
- v. Appoint, in accordance with the policies and procedures of the corporation, staff members for the Municipal corporation, and be responsible for their dismissal or severance as the case may be;
- vi. Serve as the member-secretary of the Committee;
- vii. Interact with the Competent Authority and other organs of the Royal government on matters concerning the development and overall governance of the Municipal corporation; and
- viii. Perform such other duties as the Royal Government may determine from time to time;
- ix. Act on behalf of the Corporation and in its name.

Termination of Appointment

43. The Competent Authority or the Committee may recommend to the Government, the termination/transfer of the Thrompen from the Corporation if, any of the circumstances of section 23 apply to him or her.

Employees of the Municipal Corporation

44. A Municipal Corporation may lay down such persons as considered necessary for the performance of its functions.
45. The Municipal Corporation may lay down rules and guidelines related to the conditions of employment, privileges, rights and responsibilities of the employees, training and opportunities for promotion, retirement benefits and other matters.

Transfer of civil servants by the Royal government to the Municipal Corporation

46. The royal government may transfer or depute civil servants to serve in a Municipal Corporation in accordance with the existing guidelines of the Royal Government.

Conditions of transfer

47. Unless civil servants who are transferred as employees of the Corporation are required to remain in the civil Service, they shall have the following rights and obligations:
- i. They shall resign from the civil Service on the day of the transfer;

- ii. They shall be paid by the Government their separation gratuity and other entitlements;
- iii. They shall be eligible to receive their Provident fund account balance provided that they choose to receive the full balance not later than the date determined by the Chairman for this purpose;
- iv. Civil Servants who decide not to receive the Provident fund Balance by the determined date shall retain their balance in the fund.
- v. Employees of the Municipal Corporation including civil servants on transfer to the corporation shall be entitled to remain or become members of the RICB Provident fund on the same terms and conditions as Civil Servants.

PART III

FUNCTIONS, AUTHORITIES, AND OBLIGATIONS OF THE MUNICIPAL CORPORATION

SUBPART I: FUNCTIONS OF THE MUNICIPAL CORPORATION

General Functions

48. A Municipal Corporation constituted under this shall have the following functions:
- i. to provide such civil and other services as are essential for the general well-being of the residents of a Municipality;
 - ii. to ensure that the development occur in a planned and harmonious manner;
 - iii. to undertake any activity, consistent with the other relevant laws and policies of the Royal Government, which may preserve and promote the environment within the limits of a Municipal Corporation; and
 - iv. to perform any other function that the Royal government may assign.

Specific Functions

49. The Municipal Corporation carry out the following specific functions in consultation with the relevant government Authorities:

- i. **General Public services**
 - fire prevention and protection;
 - local emergency and safety services;
 - animal control;
 - waste impounding;
 - litter control;
 - operation of open markets;
 - public safety

ii. Social and Other Community Services

- Health awareness campaign;
- Public conveniences;
- Prevention and abatement of nuisance;
- Crematoriums;
- Sanitary inspection;

iii. Planning and Land Use

- Development control;
- Housing and other accommodation;
- Land budgeting.

iv. Property Services

- Drinking water supply, drainage and sewerage;
- Land development schemes;
- Registration/transfer of land ownership;
- Land subdivision and consolidation;
- Cadastral surveys.

v. Recreation and cultural services

- Halls and public buildings
- Sports, recreation and leisure;
- Parks, gardens and services;
- Public entertainment;
- Culture.

vi. Roads including-

- Bridges;
- Footpath, landscaping;
- Traffic control and signs;
- Street maintenance and cleaning;
- Lighting and drainage of roads.

vii. Any other functions relating to orderly and sustainable development of the Municipality including

- Parking;
- Transport;
- Information;
- Encouragement of commerce and industry;
- Environment control, protection and conservation;
- Weights and measures;
- Municipal administration;
- River Training;

SUBPART 2: AUTHORITY OF THE MUNICIPAL CORPORATION

General Authority

50. Subject to the laws and policies of the Royal government and the conditions specified in this Act, the Municipal Corporation may exercise any authority that it may consider essential for discharging its functions laid down in Parts III of this Act.

Specific Authority

51. Specifically the Municipal Corporation shall have the authority;
- i. to enter into contracts and agreements;
 - ii. to purchase, lease, or otherwise acquire land and property, and sell, lease, or otherwise dispose off it in the interest of the residents;
 - iii. sue in the Bhutanese courts and be sued;
 - iv. to raise, borrow, spend, and invest moneys for the support of its functions;
 - v. to establish rules for governing its affairs, including the affairs of the Committee;
 - vi. to define the functions and duties of its employees;
 - vii. to employ staff to the municipal Corporation, and terminate the employment in accordance with the Corporation's procedures; and
 - viii. to adopt and enforce rules for protecting the health, safety, and well being of the residents, and for preserving and promoting the quality of municipal environment.
52. The specific regulative and contracting powers of the Municipal Corporation are elaborated in Parts V and VI of this Act.

Common Seal of the municipal corporation

53. The Municipal corporation shall have a common seal, which must:
- i. bear the title of the Municipal Corporation and any other words, letters, or design determined by the committee;
 - ii. be kept at the Municipal Corporation office;
 - iii. be used in accordance with the rules of the Corporation;
 - iv. be used with signature of the appropriate authority.
54. All courts and persons shall take legal notice of the imprint of the seal of a Municipal Corporation on any document and shall presume that the document was properly sealed and signed until the contrary is provided.

Resolution of Disputes

55. Any disagreements or disputes arising between the Municipal Corporation and another public body shall be referred to the Competent Authority for resolution. Only if a party is not satisfied with the settlement the normal legal course shall be pursued.

National Laws and Policies

56. All laws and regulations of the Royal Government shall apply to all Municipal Corporation in Bhutan.

SUBPART 3: OBLIGATIONS OF THE MUNICIPAL CORPORATION

Community Obligations

57. The Municipal Corporation shall manage its affairs in an efficient and equitable manner, benefiting all residents of the Municipality.

Financial Obligations

58. The Municipal Corporation shall manage its finances prudently, and in a manner, which is consistent with sound financial practices. The Municipal Corporation shall exercise, in an appropriate manner, the powers that may be granted to it, by the Royal Government.

Obligations to the Royal government

59. The Municipal Corporation shall support, to the extent practicable and with its means and capacity, the development and other activities of the Royal Government as far as they relate to the municipality.
60. The Municipal Corporation shall maintain appropriate relations with Ministries of the Royal Government and other organizations which may be affected by its affairs.

Linkage with the competent Authority

61. The municipal corporation shall, in respect of matters relating to urban planning and development policies carry out its activities in a manner, which is consistent with the overall directions of the competent Authority.

Obligations to Employees

62. A Municipal Corporation shall seeks to enhance the well being of its employees. It

shall provide, to the extent permitted by its means and capacity, safe working conditions, and opportunities for training and promotion, and other service benefits.

PART IV

MUNICIPAL BOUNDARIES

Municipal Boundaries

63. The boundaries of the Municipality shall be those as defined by the Competent Authority on the day that its Charter is granted.

Procedure for Changing the Municipal boundaries

64. The competent Authority or municipal Corporation may propose inclusion of any land which lies outside of, but contiguous to the boundaries of the Municipality in the boundaries of the Municipal corporation, if it is in the best interests of the residents of the Municipality and the contiguous area. Likewise, it may propose the exclusion of any land which lies within, but contiguous to, the municipal boundaries of the Municipality from the Municipality, it is in the best interest of the residents of the Municipality and the area to be excluded.
65. i. Upon approval by the Government of the inclusion of any land in the boundaries of the Municipality provisions of this Act and related rules and regulations shall apply to the area included in the Municipality.
- ii. upon exclusion of any land from the boundaries of the Municipality, all provisions of this Act and related rules and regulations shall cease to apply to the excluded area.
66. The Royal government shall reserve the right to reject the proposal in which case the status quo in respect of municipal boundaries will be maintained.

PART V

REGULATIVE AUTHORITY OF THE MUNICIPAL CORPORATION

SUBPART 1: AUTHORITY TO ADOPT RULES

Local Rules-General

67. The Municipal Corporation may adopt rules to carry out its functions Specified in sections 48 and 49. These rules may relate but need not be restricted to:
- i. provision of services such AS water supply, sewerage services, solid waste management, drains, animal control, plantation, and other including the disposal of unclaimed bodies;
 - ii. promotion of planned development, pertaining to land use; building activity; subdivision, sale, purchase and transfer of land; control of squatter and illegal settlement; and commercial activities regulating in particular business timings, location, cleanliness, and waste disposal, shop signs and billboards, sale of alcohol, street vending, weekly market and other matters;
 - iii. protection and improvement of the city's environment, in particular, control of noise, reduction of pollution, regulation of parking, protection of parks and plantations, and other related matters.

Policy and Procedure for Existing Rules

68. Upon the incorporation of the Municipal Corporation, the Royal government's existing regulations, rules and codes of practice relating to building practice, water and sanitation, plumbing and electrification shall continue.

Land Administration Procedures

69. The registration of the ownership of land, subdivision, consolidation, transfer of land and all matters pertaining to the administration of land shall be in accordance with procedures adopted by the Municipal Corporation and any Act or Regulations, which cover urban land administration.

Compliance with the urban development plan

70. The municipal corporation shall prepare an Urban Development Plan or amendments to an approved urban development Plan to regulate and enforce land use and building activity in the municipality and shall submit such plans to the competent Authority for approval.
71. Upon the approval of the urban development plan or any approved amendments to the Plan, all development activities within the jurisdiction of the municipal corporation.

SUBPART 2: ENFORCEMENT OF RULES

72. The Municipal Corporation shall have the authority to enforce the existing or new rules. The enforcement methods indicated in the rules may include but need not be

limited to, public education and awareness, fines, disconnection of utilities, and stop-work orders.

73. The municipal Corporation shall have under this Act, the authority to remove, after the issuance of appropriate notices as established under the relevant rules, any construction or activity that is not approved or unauthorized.
74. the Municipal Corporation shall have the authority to protect its own property such as the water supply sources, and may take such actions it consider necessary for this purpose. Where such properties are shared with other bodies, such actions shall be taken jointly.
75. Any non-compliance to the enforcement of rules may be brought before the Dzongkhag Thrimkhag under which jurisdiction the Municipality is located.

SUBPART 3: COMPENSATION FOR ACQUISITION OF LAND

76. A Municipal Corporation may acquire, in accordance with the procedures laid down by the Royal Government, any land or property within its jurisdiction for the planned development of the Municipality. Compensation for such acquisition shall be payable as per the rates determined by the Royal government from time to time.

PART VI

OPERATIONS OF SERVICES BY THE MUNICIPAL CORPORATION

General

77. The Municipal Corporation shall operate and maintain those services it is required to provide under this Act.

Contracting of Services

78. The municipal Corporation may contract the operation and maintenance of any or all the services to private parties, if it is in the best interests of the Municipal Corporation and its residents. Such contract and the conditions of the contract shall be approved by the Competent Authority.
79. Upon the contracting of a service or services, the Municipal Corporation shall ensure that the services are provided as per the provisions of the contract and are in the best interest of the residents. In the event of any breach of the contract by the contractor the Corporation shall have the right to terminate the contract with a penalty or compensation as specified under the terms of the contract.

Discontinuation of Services

80. The Municipal Corporation, after seeking approval of, or being directed by the Royal government, may discontinue providing some or all of the services.

PART VII

FINANCES OF THE MUNICIPAL CORPORATION

SUBPART 1: POLICY

Financial Authority

81. The Municipal Corporation shall have the authority to the extent stated in this Act, to raise, spend, borrow and invest moneys and otherwise manage its finances prudently, and in a manner, which is consistent with sound financial practices.

Grants from the Royal Government

82. Grants from the Royal Government may be given to the Municipal Corporation when:
- i. the Municipal Corporation is required to undertake special responsibilities or provide additional services on behalf of the Royal Government;
 - ii. the Municipal Corporation is disadvantageously located or has an inadequate financial resource base; and
 - iii. the Municipal Corporation faces emergency situations.
83. Grants from the Royal Government may also be given to the Municipal Corporation for undertaking capital-intensive works.

Tax Exemptions

84. The Municipal Corporation shall be exempted from payment of taxes on its revenue incomes.

Shares and dividends

85. The municipal corporation shall not issue any shares or pay dividends.

SUBPART 2: FINANCIAL TRANSACTION

General

86. Upon the granting of a charter to the Municipal corporation, the Ministry of finance shall transfer all of the assets and liabilities that are associated with the municipal Corporation on the vesting date. The Ministry of finance shall certify in writing the assets and liabilities that have been transferred.

Definition of Assets and liabilities

87. For the purpose of Section 86, the assets and liabilities to be transferred to a Municipal Corporation may include, but not be limited to the following:
- i immovable property: office building(s), vacant government lands, staff quarters, garage(s), water treatment and distribution system, landfill(s), sewerage and drainage system, cremation grounds, nurseries and all other property and infrastructure that is expected to be managed by the Municipal corporation;
 - ii movable property: vehicles that are attached to the functions that a Municipal corporation is expected to perform;
 - iii equipment, tools, materials, and supplies as related to the services and infrastructure, expected to be managed by the Municipal Corporation; and
 - iv all debts and financial obligations, financial assets and work under progress associated with I, ii and iii on the vesting date except for debts related to capital works.

Registration of Vehicles

88. All vehicles that are transferred to or purchased by the Municipal Corporation shall be registered and insured by the Municipal Corporation according to the Road Safety and transport Act of Bhutan.

Contracts and Arrangements

89. Except as otherwise stated in this Act, or directed by the Royal Government, all contracts and arrangements between the Royal government and private parties in respect of the affairs of the Municipal corporation agreed upon prior to the coming into effect of this Act shall continue to be operative.

Provident fund

90. The Municipal Corporation shall assume all obligations, financial and others, in respect of Provident Fund that may exist on the vesting date for employees who may be

transferred to the Municipal Corporation and for other employees not coming from the government.

SUBPART 3: BUDGET

91. The Thrompen shall, at least two months prior to the beginning of a fiscal year, prepare a draft budget for its regular operations of the corporation and submit the same to the Committee for approval.
92. The Thrompen shall, in addition, following the same procedure, prepare a draft budget for capital expenditure and submit the same to the Committee for approval.

SUBPART 4: REVENUES OF THE MUNICIPAL CORPORATION

General

93. The revenues of the municipal corporation may consist of such taxes, fees, charges, fines and penalties as assigned to it by the Royal government.

Tax Revenue

94. The Municipal Corporation may levy and collect the following taxes in a manner, and at such rates, as may be determined by the Royal Government:
 - i. land tax,
 - ii. urban house tax,
 - iii. under development land tax,
 - iv. property transfer tax,
 - v. entertainment tax.

Non – Tax revenue

95. The Municipal Corporation may impose the following fees, charges, fines and penalties in a manner, and at rates approved by the Committee:
 - i. land development and subdivision fee
 - ii. land demarcation fee
 - iii. building plan processing fee
 - iv. land registration fee
 - v. site plan fee
 - vi. vehicle parking fee
 - vii. market vendor fee
 - viii. advertisement fees
 - ix. water and sewerage charges (including pipe realignment and connection fees)
 - x. other service charges
 - xi. fines and penalties

- xii. environment surcharge

Borrowings

- 96. A Municipal corporation may, with the prior approval of the royal government, borrow funds to finance capital works.
- 97. Borrowed funds shall be spent only for the purpose for which they were raised.

Funds for Capital projects

- 98. The municipal corporation may fund capital works and projects through grants or loans from the Royal Government, the international and bilateral donor agencies, and other sources approved by the Royal government. In case of emergency, the Royal Government may make special provision for capital works to be undertaken by a Municipal Corporation.
- 99. Where projects of the municipal Corporation are financed by a loan, the municipal Corporation may levy a special tax or a special service charge on the residents of the Municipality for purpose of repaying the loan funds.
- 100. Funds received for capital works and projects shall be spent only for the purpose for which they were received.

SUBPART 5: EXPENDITURE OF THE MUNICIPAL CORPORATION

General

- 101. The Municipal Corporation may spend funds only on carrying out the functions specified in this Act, and in a manner, which is consistent with sound financial management practices.

Authority to Spend

- 102. The Authority of the Municipal Corporation to spend shall extend to the following:
 - i. the total operating funds that a Municipal corporation may raise in any fiscal year, by the levying of taxes provided for in Section 94 of this Act, and imposition of fees, charges, fines, and penalties as provided for in Section 95 of this Act, and any grant on revenue account that it may receive from the royal Government, and for which budget proposals have been approved by the Committee;

- ii. any unspent amount from the previous fiscal year(s);
- iii. the capital budget of the Municipal Corporation for which appropriations have been approved by the Royal Government;
- iv. the funds that it may receive for capital works and projects from the international donor agencies and countries;
- v. the funds that it may receive for emergency relief works (Section 103).

Expenditure for Meeting Emergency Situations

103. The Municipal Corporation when facing extraordinary and emergency situations, shall seek, through the Competent Authority assistance from the royal Government. Such funds shall be spent only in accordance with the conditions specified with the granting of such funds.

Audit

104. The Royal government shall in accordance with its procedures, audit the accounts of the Municipal corporation once a year. The Municipal Corporation shall provide the auditors with full access to all accounts and records.

SUBPART 6: MISCELLANEOUS

Financial Management Practices

105. The Municipal Corporation shall manage its finances relating to the operating budget in accordance with financial management practices, as laid down in the Financial Manual of the corporation.
106. The Municipal Corporation shall manage its finances relating to funds received from the Royal Government, and the international, bilateral and other sources in accordance with the procedures laid down by the Ministry of Finance.

Gratuity Fund

107. The Municipal Corporation must, in addition to the fund, establish a gratuity fund for its employees, or to contribute, with the approval of the Competent Authority, to a similar fund established by other agencies.

Investment of Excess Funds

108. The Municipal corporation may, with the approval of the Competent Authority invest any excess or inactive funds in a recognized Bhutanese financial institution.

Annual Report

109. Not later than four months after the closing of each financial year the Municipal Corporation shall submit to the Competent Authority an annual report of its operations including:
- i. the annual financial statements;
 - ii. a statement of corporate objectives and policies;
 - iii. an assessment of the extent to which corporate objectives and policies have been achieved during the year;
 - iv. an evaluation of the achievement of performance against standards during the year;
 - v. an inventory of assets.

PART VIII

DUTIES AND FUNCTIONS OF THE COMPETENT AUTHORITY

110. The Competent Authority may draft and recommend for adoption by the Cabinet, regulations and amendments to regulations in accordance with this Act:
- i. Those matters set out in Sections 11, 12 & 13 pertaining to the number and election of Committee Members.
 - ii. Determining the conditions under which the Thrompen shall be employed and the circumstances whereby he/she may be dismissed.
 - iii. Planning matters referred to in Sections 70 & 71.
111. The competent Authority shall recommend to the government the incorporation of a Municipal Corporation.
112. The Competent authority shall guide and assist the Thrompen in carrying out those functions referred to in Sections 13, 14, 15, 16 and 17 when an election for Committee Members is held for the first time for a Municipal Corporation.
113. If required by the regulations for a Municipal Corporation, the Competent Authority shall appoint Committee Members to the Municipal Corporation.
114. In accordance with the provisions of Section 64:
- i. Where the Competent Authority after consultations with the Municipal Corporations consider the boundary of a Municipal should be altered, it shall make recommendations to the government.

- ii. When a Municipal seeks to alter its boundary, it shall submit its request to the Competent Authority, which in turn shall forward it to the Cabinet with its recommendations relating to the proposal.
115. The Competent Authority shall consider all rules passed by the Municipality. If it deems the rules to be ill founded or against the interest of the Municipality, it shall revoke the rule.
116. The Competent Authority shall examine every Urban Development Plan, or modification to such plan submitted to it in accordance with Section 70. In its examination, the Competent Authority may seek guidance from any authority or person it considers appropriate.
117. The competent Authority shall for any plan submitted in accordance with Section 116;
- i. approve the plan, or
 - ii. direct that certain changes be made to the plan before it is approved, or
 - iii. refuse approval of the plan.
118. The Competent Authority any carry out a planning Audit in any Municipality at any time to determine whether or not any violation to the Urban Development plan has happened.
119. Upon creation of a Municipal corporation, the Royal Government shall determine the assets and liabilities referred to Section 87 to be transferred to the Municipality.
120. In accordance with Section 82 & 83, the competent Authority shall recommend to the Royal Government any grants that should be given to the Municipal Corporation for inclusion in the National Budget.
121. Upon receipt of Annual Reports submitted by the Municipal Corporation in accordance with Section 109, the competent Authority shall submit a compiled municipal Corporations report to the Royal Government.
122. Prior to a Municipality levying and collecting any of the taxes set out in Section 94, the Competent should seek the Royal government's approval on the rates of the taxes to be imposed and the manner in which they may be collected.
123. Before a Municipal Corporation obtains a loan to carry out capital works, it must, as required by Section 96, obtain approval from the Competent Authority.
124. In respect of Section 98, the Competent Authority shall recommendations for grants or loans on behalf of the Municipal Corporation to the Royal Government.
125. the Competent Authority shall assist any Municipal Corporation facing extraordinary or emergency situations under section 82 in obtaining assistance from the Royal Government.

PART IX

AMENDMENT AND VALIDITY OF THE ACT

126. This Act or any part or sub-part or section of the Act, may, as and when considered necessary, be amended by the National Assembly. Such an amendment shall not affect the parts, subparts or sections that are not amended.
127. In the event of any part, sub-part or section being rendered invalid, the reminder of Act and its application shall remain unaffected.
- N.B. If under any provision of this Act, there arises any differences in the interpretation of different terminology, the interpretation as expressed and understood in the Dzongkha text shall prevail.**

Schedule 1.

ARTICLES OF INCORPORATION (CHARTER) OF THE THIMPHU MUNICIPAL CORPORATION.

I. NAME

The name of the Corporation is the Thimphu Municipal Corporation.

II. REGISTERED OFFICE AND AGENT

The registered agent and the office of the Corporation is:

**Thrompen
Thimphu Municipal Corporation
PO Box 215
Thimphu.**

III. CONSTITUTION

The Committee is responsible for representing the Municipal residents and the Royal Government in the governance and development of the municipality and for enforcing

regulations, resolutions and decisions. The regulations shall be consistent with the Bhutan Municipal Act, 1999 and with all other laws and policies of the Royal Government.

VI. FUNCTIONS AND RESPONSIBILITIES OF THE CORPORATION

Thimphu Municipal Corporation is organized as a non-profit, municipal governance Corporation. The principal functions and responsibilities of the Corporation are to:

- i. provide such civic services as are essential for the general well-being of the residents of Thimphu Municipality;
- ii. ensure that development and other activities within the boundaries of Thimphu Municipal Corporation occur in a planned and harmonious manner;
- iii. support the Royal Government in the general maintenance of the municipality;
- iv. carry on any activity consistent with the laws and policies of the Kingdom which may preserve and promote the environment within the limits of the Municipal corporation; and
- v. perform any other functions that the Royal government may assign from time to time.

V ASSETS AND LIABILITIES

The capital assets of the Thimphu Municipal Corporation consists of:

- i. Immovable: Office buildings, garage, water treatment and distribution system, landfill sites for solid waste disposal, staff quarters, nurseries, sewerage system, drainage system, parks and play grounds and all other properties and municipal infrastructure including vacant and unregistered government land attached to or managed by the Corporation;
- ii. Moveable: All vehicles that are attached to the Corporation;
- iii. All equipment, tools, materials, and supplies in the possession of the Corporation; and
- iv. All debts and financial obligations, and financial assets except for debts related to capital works.

The Corporation shall have the authority to raise, spend and invest money and to otherwise manage its financial affairs to the extent stated in the Bhutan Municipal Act, 1999.

The Corporation shall not issue shares, shall not pay dividends, shall be exempted from commercial taxes and shall be exempted from the other corporate commercial requirements stated in the Companies Act of the kingdom of Bhutan, 1989.

Disposal of any properties including land shall be strictly in line with the land and other related policies of the Royal Government.

VI. DISSOLUTION

The Corporation may be dissolved by the Royal Government.

VII. DECLARATION

It is hereby declared to form the Thimphu Municipal Corporation with these Articles and with the provisions of the Bhutan Municipal Act, 1999, and all other requirements of the Royal Government of Bhutan, with effect from-----1999.

Dated-----

Signature

Competent Authority

Royal Government of Bhutan.