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Authoritative English Text of this Department notification No.UD-A (3)-7/2011-II, dated:.....as required under clause (3) of article 348 of the Constitution of India)

Government of Himachal Pradesh
Department of Urban Development.
No.UD-A(3)-7 /2011-II, dated: Shimla-2, the 11.2.2016.

NOTIFICATION

In exercise of powers conferred by section 31 of the Himachal Pradesh Municipal Corporation Act, 1994 (Act No.12 of 1994), the Governor, Himachal Pradesh, in consultation with the State Election Commission, makes the following rules further to amend the Himachal Pradesh Municipal Corporation (Election) Rules, 2012, notified vide this Department Notification No.UD-A (3)-7/2011 dated 23.3.2012, published in Rajpatra, Himachal Pradesh, on 24.3.2012, namely:-

- Short title. ✓ These rules may be called the Himachal Pradesh Municipal Corporation (Election) Amendment Rules, 2016.
- Amendment 2 In the Himachal Pradesh Municipal Corporation Election Rules, 2012 of rule 2. (hereinafter referred to as the said rules), in rule 2, in sub-rule (1) ,-
- (a) in clause (viii) , the sign and words, "Mayor and Deputy Mayor" shall be omitted.; and ;
 - (b) for clause (xiv), the following clause shall be substituted, namely:-
"(xiv) "Office Bearer" means a person elected as Councillor by the voter of the Corporation;"
- Amendment 3 In rule 10 of the said rules, for sub-rule (3), the following sub-rule of rule 10. shall be substituted, namely:-
"(3) Subject to the provisions of sub-rule (5), out of the seats reserved for members of Scheduled Castes and Scheduled Tribes, one-half of the seats shall be reserved for women members belonging to Scheduled Castes and Scheduled Tribes having highest percentage of women in the ward in relation to total population of that ward."
- Substitution 4 For rule 12 of the said rules, the following rule shall be substituted. of rule 12. namely:-
"12. Reservation and rotation of the office of Mayor.-(1) The reservation for the office of Mayor shall be as under:-
(i) During the first two & half years SC

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|---|---------|
| (ii) During the second two & half years | ST |
| (iii) During the next two & half years | General |
| (iv) During the next two & half years | Woman |

Provided that where the population of any class of persons referred to above is less than fifteen percent of the total population of the Corporation area, the office of Mayor shall not be reserved for that class and same shall be thrown open to all the categories.

(2) The roster of reservation in sub-rule (1) shall be repeated after every ten years".

Amendment 5 In rule 14 of the said rules, in sub-rule (1), after the first proviso, the of rule 14. following proviso shall be inserted, namely:-
"Provided further that the State Election Commission may use data base of the Election Commission of India for the preparation of the draft electoral rolls for the elections under these rules."

Insertion of 6 After rule 16 of the said rules, the following new rule shall be new rule 16-A inserted, namely:-
"16-A **Making of false declaration.**-If any person makes false declaration in connection with,-
(a) the preparation, revision or correction of an electoral rolls, or
(b) the inclusion or exclusion of any entry in or from the electoral rolls, or
(c) a statement or declaration in writing which is false and which he either knows or believes to be false,
shall be punishable with imprisonment for a term which may extend to one year or with fine or with both."

Amendment 7 In rule 32 of the said rules, after sub-rule (2), the following sub-rules of rule 32. shall be inserted, namely:-

"(3) The Commission may nominate observer who shall be the officers of the State Government to watch the conduct of election in a Corporation or a group of Corporation and to perform such other functions as may be entrusted to them by the State Election Commission.

(4) The observer (s) nominated under sub-rule (3) shall have the power to direct the Returning Officer for Corporation for which they have been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result, if in the opinion of the observers, booth capturing has taken place at a large number of polling stations or at

places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained:

Provided that where an observer(s) have directed the Returning Officer under this sub-rule to stop counting of votes or not to declare the result, the observer shall forthwith report the matter to the Commission and thereupon the Commission shall, after taking all material circumstances into account, issue appropriate direction."

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|------------------------------|----|---|
| Ommition of rule 36. | 8 | Rule 36 of the said rules shall be omitted. |
| Amendment of rule 37. | 9 | In rule 37 of the said rule, for sub-rule (1), the following sub-rule shall be substituted, namely:-
"(1) Any person registered as voter within the Corporation, may be nominated as a candidate for the office of Councillor of a ward by another person who is registred voter in the electoral roll of that ward of the Corporation." |
| Amendment of rule 38. | 10 | In rule 38 of the said rule, in sub-rule (1), clause (a) shall be omitted. |
| Amendment of rule 43 | 11 | In rule 43 of the rules, for sub-rule (1), following rule shall be substituted, namely:-
"43. Allotment of symbols to candidates.- (1) After the list of contesting candidates is prepared and if the number of candidates is more than one, the Returning Officer shall allot symbol to each contesting candidate according to the serial number in the list of contesting candidates and of the approved symbols in accordance with the serial number of the symbols specified in the notification under rule 35:

Provided that there shall not be any choice of symbols for a candidate. |
| Ommition of rule 44. | 12 | Rule 44 of the said rules shall be omitted. |
| <u>Amendment of rule 48.</u> | 13 | <u>In rule 48 of the said rules, for sub-rule (1), the following sub-rule shall be substituted, namely:-</u> |

"(1) The maximum limit of election expenditure to be incurred by a contesting candidate or his authorized agent shall not exceed one lac rupees:

Provided that the State Government may enhance limit of maximum election expenditure to be incurred by a contesting candidate or his authorized agents in consultation with the Commission."

Amendment 14 In rule 58 of the said rules, after sub-rule (2), the following proviso of rule 58. shall be inserted, namely:-

"Provided that after the name and symbol of last candidate, there shall be a column with the words "**None of the above**" written therein. The size of the column shall be same as used for other candidates."

Amendment 15 In rule 80 of the said rules, for sub-rule (3), the following sub-rule of rule 80. shall be substituted, namely :-

"(3) The ballot papers taken out of each box shall be mixed-up with other ballot papers taken out of other ballot boxes concerning the same office. The result of councillors of Corporation shall be declared on **Form 46** after preparing the result sheet on **Form 47**:

Provided that before declaring the result on Form 46 and after the counting of all valid votes of polling station has been completed, the Returning Officer who have made the entries on a result sheet in Form-47 shall announce the particulars. After such announcement has been made, a candidate or, in his absence, his election agent or any of his counting agents may apply in writing to the Returning Officer to recount the votes either wholly or in part stating the grounds on which he demands such recount. On such an application being made, the Returning Officer shall decide the matter and may allow the application ;in whole or in part or may reject it if it appears to him to be frivolous or unreasonable. Every decision of the Retuning Officer on such application shall be in writing and contain the reasons therefor.

Amendment 16 In rule 81 of the said rules,-
of rule 81.

- (a) In sub-rule (1) the signs and words "/ 'Mayor/Deputy Mayor" wherever these occur shall be omitted. ; and
- (b) sub-rule (2) shall be ommitted.

Insertion of 17
 new rules
 81-A, 81-B,
 81-C, 81-D
 and 81-E.

After rule 81 of the said rules, the following new rules shall be inserted, namely :-

"81-A. Election of Mayor.-(1) Immediately after an oath is taken or an allegiance is subscribed by the elected Councillor under rule 81, or before the expiry of each term of office under sub-section (2) of section 36 of the Act, the Director shall convene the meeting and shall preside over the meeting for the conduct of election to the Mayor

(2) Quorum for the meeting for the election of Mayor shall be $\frac{3}{4}$ of the total elected Councillors. In case the quorum is not complete, the Director presiding Over the meeting shall postpone the meeting to a later date not being more than three days from the day of its first meeting. For the postponed meeting no quorum shall be required.

(3) If only one candidate for the office is proposed, he shall declare such a candidate as duly elected to fill the said office.

(4) If there are more candidates, then, the poll shall be held.

(5) Ballot papers to be used at the election of the Mayor, shall be in Form-47-A and the particulars there in shall be in Hindi Devnagri script.

81-B. Method of voting at the election of Mayor.- (1) The procedure of voting at the election of mayor shall be as under.-

(a) before issuing the ballot paper to the Councillors, the Director, shall put his signatures on the back of each ballot paper in token of distinguishing mark;

(b) the Councillors on receipt of the ballot papers, shall make a cross(x) against the name of the candidate for whom he intends to vote;

(c) after making cross, the councilor shall fold the ballot papers so as to conceal his vote; and

(d) the Councillor shall insert the folded ballot paper into

the ballot box kept for the purpose in front of the Director functioning as the Presiding Officer.

(2) After polling is over, the Presiding Officer shall open the ballot box and shall, in the presence of the Councillor, count the votes.

EXPLANATION.- For determining whether a vote polled is valid or invalid, the provision of rule 79 shall apply.

(3) A candidate obtaining largest number of votes shall be

declared to be elected to fill the office:

Provided that if, after the counting of the votes tie is found to exist between any candidates and the addition of one vote will entitle any of these candidate to be declared elected, that shall forthwith be decided between these candidates by lot, and the candidate on whom the lot falls shall be considered to have received an additional vote and shall be declared to be duly elected.

(4) all ballot papers used for such voting shall be put in a stout envelope and sealed by the presiding officer in full view of the Councillors present there and the description of the election to which the ballot papers relate shall be inscribed thereon. The Commissioner, Municipal Corporation, shall preserve the envelope, intact either in his office or at such other place as he may specify in writing until the expiry of one year from the date of election and shall then subject to any direction to the contrary given by the competent court or the State Election Commission cause it to be disposed off with its contents in such manner as he may deem fit.

11 (5) The Director, shall prepare and forward the result of election in Form-49 to the State Government as well as to the State Election Commission for information and record.

(6) The State Government on receipt of the election result under sub-rule (5) shall notify the election of the Mayor and forward a copy of the same to the State Election Commission .

81-C. Election of the Deputy Mayor.- After the election of the mayor, the Director, shall hold the election to the office of the Deputy Mayor in the same manner as provided for the election of mayor under rules 81-A and 81-B of these rules.

81-D. No. confidence motion against the Mayor or the Deputy Mayor.- (1) A motion or no confidence motion against the Mayor or the Deputy Mayor of a Corporation may be brought through a requisition given in writing addressed to the Director, signed by not less than majority of its total elected councillors:

Provided that the Councillors who have made such a requisition may withdraw the same before the meeting is convened for the purpose:

Provided further that motion of no confidence under this rule shall not be maintainable within six months of the date of his election to such office and any subsequent motion of no confidence shall not be maintainable within the interval of six months of the last motion of no confidence.

(2) The Director or such other officer under his control not below the rank of an Officer of the Himachal Pradesh Administrative Service, authorized by him in this behalf, shall circulate to each councillor a copy of the requisition for their information .

(3) The Director or such other officer authorized by the Director under sub-rule (2), shall convene a special meeting by giving a notice of not less than fifteen days for the consideration of the motion referred to in sub-rule(1) and shall preside over at such meeting.

(4) A motion or no-confidence shall be carried in accordance with the provisions of sub-section (2) of section 37 of the Act.

81-E. Fresh Election- If the office of the Mayor or the Deputy is vacated during his tenure on account of no-confidence motion a fresh election for the reminder of the period shall be held under these rules for the office of Mayor or the Deputy Mayor, as the case may be, within a period of one month from the date of occurrence of vacancy."

81-E

Amendment 18 In Forms 21,22,23,24,25,26,27 and 33 appended to the said rules, of Forms the words and sign, "Mayor/Deputy Mayor, wherever these occur 21,22,23,24, shall be omitted. 25,26,27 and 33

Substitution 19 For Form-35 appended to the said rules, the following form shall be of Form-35. substituted, namely:-

" Form-35

See rule 58(1)

BALLOT PAPER

Election of Councillor from ward No..... of Municipal Corporation.....

Ward/Municipal Corporation-----

Serial No. of voter-----

Number-----

14

Signature/thumb impression

No. and name of ward/Municipal Corporation.....

Name of candidate	Symbol
1.	
2.	
None of the above(NOTA)	

Amendment 20 In Forms 39,40,41,42,43,45 and 46.appended to the said rules, the of Forms words and sign, "Mayor/Deputy Mayor, wherever these occur shall 39,40,41,42, be omitted. 43,45 and 46.

Insertion of 21 After Form 47 appended to the said rules, the following new Form Form-47-A. 47-A shall be inserted, namely:-

" FORM-47-A

[see rule 81-A and 81-C]

**BALLOT PAPER FOR THE ELECTION OF
MAYOR/DEPUTY MAYOR**

Name of Corporation.....

Sr. No.	Name of candidate	Space for marking
1		
2		
3		
4		

By Order,

Manisha Nanda
Addl. Chief Secretary (UD) to

the

Government of Himachal

Pradesh.

Endst. No. as above, dated: Shimla-2, the

11.2.2016

Copy forwarded for information and necessary action to :-

1. The DLR-cum-Deputy Secretary Law (Legislation) to the Govt. of H.P.
2. The Secretary, State Election Commission, Shimla-2.
3. The Director, Urban Development, Palika Bhawan, Talland, Shimla-2.
4. The Deputy Commissioners, District Shimla and Kangra, HP.

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5. The Commissioner, Municipal Corporation, Shimla-1
6. The Commissioner, Municipal Corporation, Dharmshala, Distt. Kangra, HP.

(Urmil Krar)
Addl. Secretary (UD) to the
Government of Himachal Pradesh.